

3.4 Sunset Review of the Amenity Local Law

Abstract

The Amenity Local Law is one of six Local Laws created by Council under the *Local Government Act* 1989. The purpose of the Amenity Local Law is to protect amenity, community safety and the local environment. The Amenity Local Law 2009 is due to sunset on 25 December 2019, necessitating a comprehensive review to inform its update and renewal.

The objectives of the review are:

- To explore feedback and the experiences of key stakeholders including the community and officers from Local Laws and other relevant departments in relation to the relevance, utility, clarity and enforceability of the Amenity Local Law; and
- To apply a best practice approach throughout the review process, including compliance with the *Local Government Act* 1989 and other relevant legislation.

In accordance with section 119 of the *Local Government Act* 1989, the draft Amenity Local Law 2019 (**Attachment 1**) was publically exhibited from 24 September to 24 October 2019. A total of twenty-four (24) written submissions were received during this period.

This report presents to the Services Special Committee (SSC) a summary of the key issues raised during the consultation and officers' response for consideration (**Attachment 2**). In addition, officers present minor amendments (reflected in an updated version of the Amenity Local Law 2019 in **Attachment 3**), which are designed to respond to the community feedback. Officers consider it appropriate to make the suggested changes and these have been supported by Council's lawyers.

All of the submissions received by Council relate to one or more of the following proposed Clauses:

- **Clause 27** - Trading Activities (specifically Clause 27.5. with linked reference also made to Clause 6. – definitions and Clause 8. – permits);
- **Clause 28** - Appeals and Collections (specifically Clause 28.3.);
- **Clause 29** - Charity Bins;
- **Clause 33** - Filming and Photography on Council Land;
- **Clause 35** - Use of Vehicles on Council-controlled land, as it relates to bicycles (specifically Clauses 35.1.2. and 35.1.3.);
- **Clause 37** - E-Scooter Share Scheme;
- **Clause 39** - Model Aircraft, as it relates to the flying of drones;
- **Clause 43** - Dangerous and Unsightly Land and Nuisances (specifically Clause 43.3.);
- **Clause 44** - Open Air Burning (specifically Clause 44.2.2.); and
- **Clause 55** - Dogs (specifically Clauses 55.1. and 55.2.).

Support was demonstrated for Clause 29 – Charity Bins, whereas queries were raised in relation to the remaining clauses. The key issues are discussed within the report and can be summarised as follows:

1. The risk of undue regulation of filming and photography, especially for amateur filmmakers and photographers and those using drones for photography purposes;
2. Concern the restriction placed on where a person may ride and/or 'park' their bicycle is overly prohibitive and a potential disincentive to families and children to be active through bike riding;
3. Concern the regulation of advertising may restrict civil, political and religious discourse and freedoms, introducing potential issues in respect of the Human Rights Charter;
4. Concern over the potential health and environmental risk posed by smoke pollution should open air burning be permitted for heating purposes;
5. Potential duplication of existing regulations for drone flying (enforced by the Civil Aviation Safety Authority - CASA);
6. The potential for e-scooter share scheme operators to be deterred from conducting their business in Boroondara;
7. Concern over soil and sediment spilling onto footpaths;
8. Interest to create a requirement for residents to maintain naturestrips; and
9. The need for further penalty for second and subsequent offences for failure to pick up and remove dog excrement.

The following amendments are also reflected in the updated Amenity Local Law (**Attachment 3**):

- removal of the requirement to have a permit to fly a drone on or over Council-controlled land through an amendment to the definition for 'model aircraft' to exclude drones;
- The creation of an exemption for bicycles to be parked in an area that is not set aside for vehicle parking, provided it is done in a manner so as not to cause an obstruction; and
- An amendment to the wording of Clause 33 to remove the requirement for a permit for the use of a tripod for filming and photography, provided in doing so there will be no obstruction caused.

In summary, the report presents the key issues raised during the community consultation period and proposes minor amendments to the draft Amenity Local Law 2019 to improve its clarity, utility, relevance, fairness and enforceability.

Officers' recommendation

That the Services Special Committee resolve to:

1. Receive and note the submissions on the proposed Amenity Local Law 2019 (as reflected in **Attachment 3**).
2. Refer the matter to the Council Meeting on 9 December 2019 for determination.

**Responsible director: Shiran Wickramasinghe
City Planning**

1. Purpose

The purpose of this report is to present to the Services Special Committee, for consideration, the public submissions received in response to the proposed Amenity Local Law 2019. In addition, the report presents for consideration an updated Amenity Local Law 2019 which reflects changes designed to improve its clarity, utility, relevance, fairness and enforceability.

2. Policy implications and relevance to community plan and council plan

Council is committed to the maintenance of services, public areas, safety, amenity and the local environment. This commitment is demonstrated through the objectives of the proposed Amenity Local Law 2019. There is clear alignment between the purpose of the Amenity Local Law and the following strategic objectives of the Boroondara Community Plan:

Strategic Objective 1: Community Services and facilities are high quality, inclusive and meet a variety of needs now and into the future.

Strategy 1.6: Create and maintain public areas, facilities, amenities, footpaths and spaces that are inviting, clean and appropriately lit to increase social connection and improve perceptions of safety.

Strategy 1.10: Develop a strategic response to improving the safety of public places, Council's facilities and events and take action as required to help protect community participation.

Strategic Objective 4: Protect the heritage and respect the character of the City to maintain amenity and liveability, whilst recognising the need for appropriate, well-designed development for future generations.

Strategy 4.6: Engage with owners and developers to achieve a balance between development and protection of neighbourhood characters, heritage and amenity.

Strategic Objective 6: A vibrant local economy and shops that are accessible, attractive and a centre of community life.

Strategy 6.1: Improve and upgrade the amenity, accessibility and unique sense of place of shopping strip infrastructure and streetscapes to increase activation of local shopping areas.

3. Background

Under Section 111(1) of the *Local Government Act 1989*, Council may make local laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under this or any other Act.

Council currently has in force six local laws, comprising:

- Protection of Council Assets and Control of Building Sites Local Law, which came into operation on 1st September 2011;
- Tree Protection Local Law, which commenced operation on 26 November 2016;
- Meeting Procedure Local Law, which commenced operation on 7 April 2017;
- Amenity Local Law, which came into operation on 25 December 2009;
- Street Numbering Local Law, which came into operation on 6 August 2010; and
- Smoke-free Areas Local Law, which commenced operation on 28 August 2012.

Since its adoption in 2009, the Amenity Local Law 2009 has undergone two amendments, including an amendment in September 2012 to introduce provisions relating to unsightly land and shopping trolleys.

The Amenity Local Law is due to sunset on 25 December 2019, necessitating this review to inform its renewal. As a result, a comprehensive review has been undertaken resulting in the proposed draft Amenity Local Law 2019.

The review looked to examine gaps, issues, challenges and opportunities, in addition to achieving improved drafting for the purpose of clarity in the application of the Local Law. The review was framed by best practice principles in the making of local laws (Local Government Victoria Guidelines for Local Laws Manual, 2010). Specifically, the review sought to understand the extent to which the Amenity Local Law meets standards of consistency, accessibility, transparency, efficiency, currency and enforceability. Furthermore, a key consideration related to the compatibility of the Local Law with national competition principles and human rights as described in the Victorian Charter for Human Rights and Responsibilities. A Local Law should not be unduly incompatible with human rights.

Importantly, there should also be no duplication or conflict with existing legislation. The specific objectives of the review were:

- To explore feedback and the experiences of key stakeholders including the community and officers from Local Laws and other relevant departments in relation to the relevance, utility, clarity and enforceability of the Amenity Local Law; and
- To apply a best practice approach throughout the review process, including compliance with the *Local Government Act* 1989 and other relevant legislation.

The review has been conducted with a staged approach, commencing with a comprehensive administrative review. There have been two rounds of internal consultation at either end of the process. The first round of consultations sought feedback on issues identified by different departments and how the local law could be improved to achieve its objectives and better support customer experience. The second and final round of internal consultation sought to validate and further understand these issues within a context of existing legislation and other available controls.

The review also responds to the needs of the community, as informed through service requests, customer interactions with officers when conducting infield duties (such as park patrols) and feedback gained through engagement opportunities.

Other key stakeholders including local laws officers have been regularly consulted throughout the process of the review in order to understand any implementation issues/challenges/opportunities relevant to the Amenity Local Law and its enforcement.

Benchmarking of the local laws of 15 other councils, including City of Stonnington, City of Yarra and City of Port Phillip was undertaken during the review to compare approaches to regulation (the extent of use of permit approvals) and penalties for infringements.

The community was invited to make written submissions on the proposal from 24 September to 24 October 2019.

4. Outline of key issues/options

Council received 24 written submissions during the public consultation. The following Clauses prompted response from the community through the consultation period:

- **Clause 27** - Trading Activities (specifically Clause 27.5. with linked reference also made to Clause 6 – definitions and Clause 8 - permits);
- **Clause 28** - Appeals and Collections (specifically Clause 28.3.);
- **Clause 29** - Charity Bins;
- **Clause 33** - Filming and Photography on Council Land;
- **Clause 35** - Use of Vehicles on Council-controlled land, as it relates to bicycles (specifically Clauses 35.1.2. and 35.1.3.);
- **Clause 37** - E-Scooter Share Scheme;
- **Clause 39** - Model Aircraft, as it relates to the flying of drones;
- **Clause 43** - Dangerous and Unsightly Land and Nuisances (specifically Clause 43.3.);
- **Clause 44** - Open Air Burning (specifically Clause 44.2.); and
- **Clause 55** - Dogs (specifically Clauses 55.1. and 55.2.).

Support was demonstrated for Clause 29 – Charity Bins, whereas queries were raised in relation to the remaining clauses. The key issues can be summarised as follows and are discussed and responded to below and in **Attachment 2**:

1. The risk of undue regulation of filming and photography, especially for amateur filmmakers and photographers and those using drones for photography purposes;
2. Concern the restriction placed on where a person may ride and/or 'park' their bicycle is overly prohibitive and a potential disincentive to families and children to be active through bike riding;
3. Concern the regulation of advertising may restrict civil, political and religious discourse and freedoms, introducing potential issues in respect of the Human Rights Charter;
4. Concern over the potential health and environmental risk posed by smoke pollution should open air burning be permitted for heating purposes;

5. Potential duplication of existing regulations for drone flying (enforced by the Civil Aviation Safety Authority - CASA);
6. The potential for e-scooter share scheme operators to be deterred from conducting their business in Boroondara;
7. Concern over soil and sediment spilling onto footpaths;
8. Interest to create a requirement for residents to maintain naturestrips; and
9. The need for further penalty for second and subsequent offences for failure to pick up and remove dog excrement.

4.1. Filming and Photography on Council-controlled land

Community concern was raised over the proposal to introduce a Clause on Filming and Photography into the Amenity Local Law. Specifically, the risk of over-regulation of filming and photography was identified by amateur filmmakers and photographers.

The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.

The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Council's approach to filming is in step with other like councils and complies with the *Filming Approvals Act 2014*. In recognition and support of a wide range of filming activities in the municipality, Council has recently introduced a half day permit for filming, as well as a low impact filming permit. In addition, there is no fee for community based/non-commercial based filming or student filming.

Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity, particularly for photography.

In line with Council's commitment to maintaining community participation in hobbies, arts and culture, officers are of the view a more balanced approach can be achieved through an exemption for a permit in circumstances whereby tripods or other such equipment or items are placed so as not to cause an obstruction.

The exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances where risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity.

In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.

However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes) involving the placement of equipment causing an obstruction. In this case, a distinction is made only in relation to the permit cost.

There would be no cost for a permit for a group of students, but a permit fee would be applied where the activity was for commercial purposes.

In addition, officers are proposing the removal of the requirement for a permit to fly a drone (refer to section 4.5. below). This would enable photographers and filmmakers to use drones for the purpose of filming and photography in accordance with CASA regulations but without the requirement of a permit from Council.

To assist filmmakers and photographers to understand Council requirements, guidelines and a checklist will be developed and available via Council's website.

4.2. Bicycles on Council-controlled land

Considerable concern was raised through the public consultation in relation to Clause 35.1. and the potential disincentive it may create for families and children to be active through bike riding. A number of submission spoke to the way the Clause was overly restrictive in terms of both riding and resting one's bicycle on Council-controlled land. These are addressed separately below.

4.2.1. Riding a bicycle on a 'formed path'

It is important to note this Clause 35.1.2. 'Use of Vehicles on Council-controlled land' remained relatively unchanged in the proposed Amenity Local Law 2019 (**Attachment 1**). Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers therefore sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to provide a wider range of path options for cyclists. A 'formed path' means a path provided by Council and used for the purpose of active travel including shared paths. In other words, this allows for the use of bicycles on other paths for active travel and not just designated bicycle pathways. But it does not allow for riding bicycles on areas outside of 'formed paths' such as a grassed, recreational area. This is consistent with Council's Bicycle Strategy.

The Clause is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons, i.e. to avoid a pothole or move around an unexpected obstruction or to rest on the grass. These are minor incidental issues that are unforeseeable by the rider. In such circumstances, it is expected officers would apply 'reasonableness' by relying on the basic intent of the provision.

In summary, officers have reviewed this provision taking into account the feedback and the need to also consider the risk of safety to all users of Council-

controlled land. Whilst officers recognise removal of the provision would give greater flexibility to bike riders, it would expose Council and the community to risk and an inability to continue to respond to relevant community safety concerns.

Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019.

4.2.2. Parking or resting a bicycle in area that is not set aside for vehicle parking

Clause 35.1.3. prohibits the placement of a bicycle on Council-controlled land unless in an area set aside for vehicle parking. This requirement has been in place for the life of the existing Amenity Local Law 2009 and therefore has not introduced any additional regulation of bicycles on Council land.

The purpose of this clause is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.

Nevertheless, community feedback raised through public consultation has enabled officers to further examine this clause and its unintended consequences. For example, the submissions spoke to the challenges this may create for bike riders given the limited availability and accessibility of bicycle parking.

Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than stopping bicycle users from parking their vehicle whilst resting or taking a break in a location that is not set aside for parking.

Council is committed to promoting active transport for its known health and environmental benefits. Accordingly, officers do not seek to create barriers to bike riding through its undue regulation in terms of where a bicycle may be parked. In addition, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking, if requiring them to be parked in an appropriate area set aside for vehicle parking.

In order to achieve a more reasonable and practical application of this clause for bicycles, officers propose the creation of an exemption for bicycles through the introduction of clause 35.2.2. provided no obstruction is caused (refer to **Attachment 3**). This provision has been supported by Council's lawyers. Community education messages will be developed to support the implementation of this provision.

4.3. Advertising signs

Clauses 27 and 28 relate to Trading Activities and Appeals and Collections on Council-controlled land or a road and are designed to control:

- the placement of **advertising signs** and associated items;
- the selling of goods and services;
- collections and the soliciting of custom;
- the distribution of advertising and / or promotional material; and
- Spruiking for commercial purposes.

The provisions do not prohibit any of these activities, rather they introduce a permit requirement to ensure these activities are conducted in accordance with conditions designed to protect community safety and amenity.

In officers' experience, one of the key amenity issues related to advertising and promotional activity is litter and waste.

For example, printed materials such as flyers can cause littering when they are distributed on mass and become discarded when unwanted.

Considerable attention was given through the review to issues associated with election advertising by political candidates. This resulted in an updated definition for 'advertising signs' being introduced into the proposed Amenity Local Law 2019 and an exemption in the definition for 'Advertising Signs' for political candidates where the advertising is attached to or on any vehicle or trailer, as follows:

- a. a registered political party or a person's candidature or prospective candidature at an election; and

In addition, recognition was given to the need for any regulation of advertising signs to not inadvertently capture instances where a local business may advertise on their vehicle and/or trailer. As such, the following exemption was also created in the definition for 'Advertising Signs':

- b. the use of a vehicle or trailer if its use is ancillary to another use connected with activities being carried out on land (ie. A landscaper advertising their business).

Despite these exemptions, two submissions raised concerns about provisions relating to Trading Activities (Clause 27) and Appeals and Collections (Clause 28) and the potential for the regulation of advertising, publicity materials and spruiking or promotional activities (as they relate to these Clauses) to restrict civil, political and religious discourse. Specifically, concerns related to the implications of the provisions for the way local sporting, church-affiliated and other community-based organisations communicate and promote their messages to the community.

In response, officers advise Clauses 27 and 28 are designed to control advertising and spruiking for commercial purposes and not to place restrictions on community conversations and messaging. A person has every right to promote a local community-based organisation and its purpose in this way and such activity remains unregulated.

However, once a person seeks to more formally conduct promotions, through for example, the distribution of printed materials, the placement of a sign on Council-controlled land and/or the operation of a stall, a permit is required. In other words, Council is not unduly restricting the promotional activity, since it may still be undertaken with a permit. The intention is to control the potential amenity, local environment and community safety risks through conditions associated with the permit, as previously outlined.

In summary, officers are of the view no change is required since there is no undue restrictions placed on freedom of expression. In addition, exemptions

have already been made for political advertising through the definition of Advertising Signs.

4.4. Smoke from open air burning

The existing Amenity Local Law 2009 only allows for open air burning for the purposes of cooking on a purpose-built device. The review has considered the need to recognise and accommodate the increasingly common use of devices such as braziers, chimineas, fire pits and pizza ovens for cooking and/or heating purposes.

A single submission received during the consultation cautions against the permitting of open air burning for both cooking and heating purposes, given the established health risks associated with smoke.

In response, officers advise Clause 44.1. prohibits a person from burning or causing to burn any substance that is likely to endanger health or any person or animal. Furthermore, where smoke may become a nuisance, the issue can be dealt with under separate legislation. Council officers will investigate matters of nuisance caused by smoke under the *Public Health and Wellbeing Act 2008*.

On this basis, officers are of the view, no change to Clause 44 in the draft Amenity Local Law 2019 is required.

4.5. Drones

The proposal to introduce a requirement for a permit to fly a drone on, over or above Council-controlled land was based on the need to ensure such devices would not cause danger to or unreasonably interfere with a person's use and enjoyment of Council land, or adversely impact amenity.

Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones. As discussed previously, a local law should not duplicate or conflict with existing legislation.

Officers note CASA is in the process of applying mandatory registration for all remotely piloted aircraft systems (RPAS) or 'drones' and the requirement for operators to successfully complete a basic competence test regarding the safe use of RPAS. CASA has developed a proposed registration and accreditation scheme for drones weighing 250 grams or less and used for recreational purposes only. Upon adoption in April 2020, the scheme will augment the existing regulations already in place and enforced by CASA.

Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.

4.6. E-scooter share schemes

The introduction of bike share schemes to Victoria in 2017 resulted in a range of amenity issues and complaints to Council relating to obstruction to pedestrian access and careless dispersal of bikes. The proposed Amenity Local Law 2019 introduced new provisions for both bike share schemes (Clause 36) and e-scooter share schemes (Clause 37) in order to allow Council to better regulate and address the potential amenity and community safety risks associated with these schemes.

A single submission received by Council reflects concern operators of e-scooter share schemes may be deterred from conducting their business in the municipality. In response, officers advise the purpose of the provision is to ensure e-scooter share schemes operate in accordance with a permit and specified conditions designed to protect amenity and community safety and management of risk. Council does not intend to preclude operators of e-scooter share schemes from conducting their business in the municipality. The requirement for a permit is consistent with the way other clauses apply to commercial operators conducting business on Council-controlled land.

In summary, officers are of the view no change is required.

4.7. Soil and sediment

Through the review officers identified the need to introduce a new provision (43.3.) under Clause 43 – Dangerous and Unsightly Land and Nuisances - to prevent the movement of soil and sediment from any land onto adjacent roads.

One submission suggested the need to ensure this provision captures footpaths. In response, officers advise Clause 43.3. already captures this circumstance given footpaths are defined as roads in the Local Law in accordance with the definition for 'road' in the *Local Government Act 1989*. Therefore no change is required.

4.8. Maintenance of naturestrips

A single submission was received during the consultation which expressed concern over the unsightliness of unkept naturestrips, citing experience of declining responsibility by neighbours to maintain their naturestrip in a pleasing manner.

Consideration was given through the review to the creation of the requirement for residents to maintain naturestrips. This was proposed in order to improve Council's ability to manage the way in which naturestrips are kept. However, officers determined it would be unreasonable to create an offence for failure to maintain a naturestrip given it is Council's land and by extension, Council's responsibility. Accordingly, the maintenance of a naturestrip remains a civic responsibility only.

4.9. Penalties applied for failure to pick up and remove excrement

A single submission was received in relation to Clause 55 – Dogs. The submission raises concerns the penalty for this Clause is not an adequate disincentive for non-compliance (in this case, for failure to pick up after one's dog).

Officers acknowledge the need to regulate instances of failure to pick up after one's dog, but also recognise the challenges with the enforcement of this particular type of behaviour. Most infringements are issued for a breach of 55.1. (failure to carry a receptacle for the removal of any dog deposits) rather than 55.2. (failure to pick up after one's dog). Whilst on patrol, officers actively encourage people to comply with the requirements set under this Clause. According to officers, a repeat offence is relatively uncommon.

Nevertheless, Council officers are of the view the newly proposed Penalty Schedule (in the appendix to the Amenity Local Law 2019) sets out, in accordance with Clauses 23 and 24 (penalties and infringement notices) an option through prosecution to apply up to a maximum of 20 penalty units (one penalty unit equates to \$100).

Therefore, officers are of the view this Clause is an effective tool for bringing about compliance and there is no need to increase infringement penalty values.

4.10. Other suggested changes in response to feedback

A single submission queried the removal of Clause 8.5.3. from the proposed Amenity Local Law 2019. Concerns were raised this change created an inability to freely make submissions and/or objections. In response, officers advise this Clause was removed to avoid duplication since the ability for any person to make submissions and/or objections in relation to the Amenity Local Law is captured in Clauses 8.5.2. and 19 (Appeals).

5. Consultation/communication

From September 24 2019 to October 24 2019 and in accordance with Section 119 of the *Local Government Act* 1989, the opportunity was provided to the public to make written submissions on the proposed Amenity Local Law. During the consultation period a total of 24 written submissions were received.

A range of internal departments across Council have been consulted during the review, including Local Laws, Economic Development, Building Services, Parks and Infrastructure Services, Asset Management, Legal Services, Customer Service, Statutory Planning, Health, Active Ageing and Disability Services, Traffic and Transport, Environment and Sustainable Living and Governance.

6. Financial and resource implications

There are no foreseeable financial and resource implications arising from this report. Should the Amenity Local Law 2019 be adopted by Council, any costs associated with the implementation of the Local Law would be met through the Local Laws Department operating budget.

7. Governance issues

The officers responsible for this report have no direct or indirect interests requiring disclosure.

No issues emerge from this matter in respect to the Human Rights Charter.

8. Social and environmental issues

The purpose of the Amenity Local Law 2019 is to protect amenity, community safety and the local environment. A number of issues were raised during the consultation period which may have social and environmental impacts. In response, officers have given further consideration to these issues and make suggestions for material changes to ensure the best application and outcomes of the Amenity Local Law 2019. For example, there are no longer unnecessary restrictions placed on the use of tripods for filming and photography purposes, provided no obstruction is caused. Similarly, bicycles may now be parked or placed in an area not set aside for vehicle parking, provided no obstruction is caused in doing so. In addition, the proposed requirement for a permit to fly a drone has been removed.

9. Conclusion

This report presents to the Services Special Committee for consideration a summary of the feedback received on the proposed Amenity Local Law 2019 during the public consultation period. In addition, the report identifies a number of changes designed to respond to the feedback and to improve the clarity, utility, relevance, fairness and enforceability of the proposed Amenity Local Law (as reflected in the updated version provided in **(Attachment 3)**).

Manager: Michael Somerville, Local Laws

Report officers: Belinda Crockett, Coordinator Local Laws Project and Strategy
Louise Parzatka, Acting Coordinator Local Laws Projects and Strategy



CITY OF BOROONDARA
AMENITY LOCAL LAW

Date Resolved By Council: [] 2019

Commencement Date: 26 December 2019

Revocation Date: 26 December 2029

Responsible Directorate: Chief Executive Office

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PART A – PRELIMINARY**1. Local Law**

- 1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

This objectives of this Local Law are to provide for:

- 2.1. the peace, order and good government of the **municipality**;
- 2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- 2.3. the safe and equitable use and enjoyment of **public places**;
- 2.4. the protection and enhancement of the amenity and environment of the **municipality**;
- 2.5. the fair and reasonable use and enjoyment of **private land**; and
- 2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building**, **vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

- (a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or

- (b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 42 means either:

- (a) the boundaries of the premises from which the **retailer** conducts his or her business; or
- (b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 42.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

Council – means Boroondara City Council;

Council- controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

e-scooter – means a scooter that is or can be propelled by an electric motor;

e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hoofed animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules 2017*;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

- (a) enclosed in any **building**;
- (b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or
- (c) licensed under the provisions of the *Environment Protection Act 1970*;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner**, **occupier** or manager of that land;

model aircraft – includes any airborne device that is similar to a model aircraft and which is powered, such as a drone;

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

occupier – means the person who is for the time being in charge of land;

offence – means an offence against or a breach of a provision of this Local Law, or of a **permit, notice to comply** or direction issued under this Local Law;

open air – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act 1958*;

owner – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;

parking permit - means a **permit** issued under the **Parking Permit Policy**;

Parking Permit Holder – means a person to whom a **parking permit** has been issued;

Parking Permit Policy – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;

pavement light – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;

Penalty Units – has the same meaning as in section 110(2) of the *Sentencing Act 1991*;

permit – means a permit issued under this Local Law;

planning permit – means a **permit** issued under the **Planning Scheme**;

Planning Scheme – means the Boroondara Planning Scheme;

private land – means all land other than **Council-controlled land** and **roads**;

public place – has the same meaning as in section 3 of the *Summary Offences Act 1966*;

residential area – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;

residential land or premises – means land or premises that is or are developed or used predominately for residential purposes;

retailer – means a person who sells goods by retail and provides shopping trolleys to his or her customers;

road – has the same meaning as in the *Local Government Act 1989*;

security bond – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;

shared path – has the same meaning as in the *Road Safety Road Rules 2017*;

storage container – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as “traffic control devices” in the *Road Safety Road Rules 2017*;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled toy – has the same meaning as in *Road Safety Road Rules 2017*; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION

8. Permits

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

- 8.1.1. grant the **permit**;
- 8.1.2. refuse to grant the **permit**;
- 8.1.3. grant the **permit** subject to conditions; or
- 8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

- 8.2.1. made in writing and include the following particulars:
 - 8.2.1.1. the name and address of the **applicant**;

*Amenity Local Law**Attachment 1*

- 8.2.1.2. the capacity in which the **applicant** makes the application;
- 8.2.1.3. a statement of the purpose for which the **permit** is sought;
- 8.2.1.4. the location of the proposed activity;
- 8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;
- 8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and
- 8.2.1.7. such other particulars as **Council** may require;
- 8.2.2. true and correct;
- 8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and
- 8.2.4. in the form approved by **Council** from time to time.
- 8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.
- 8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.
- 8.5. In considering an application for a **permit**, **Council** must consider:
 - 8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;
 - 8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and
 - 8.5.3. any other relevant matter.
- 8.6. A **permit** will be in the form approved by **Council** from time to time and may include any condition which **Council** considers to be reasonable and appropriate, including:
 - 8.6.1. a requirement that a **security bond**, release, indemnity and/or guarantee (in a form specified) be lodged with or given to **Council** to secure the proper performance of the **permit**;
 - 8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;
 - 8.6.3. a time limit on the **permit** or on the activities authorised by it;
 - 8.6.4.** provision for extension of the **permit**;
 - 8.6.5. the payment of a fee or charge;

- 8.6.6. a standard to be applied;
 - 8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;
 - 8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
 - 8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.
- 8.7. Unless otherwise stated in the **permit**, a **permit**:
- 8.7.1. authorises only the person or persons named on the **permit** to carry out the activity authorised by the **permit**, including by engaging contractors or appointing agents; and
 - 8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

- 10.1. **Council** may correct a **permit** if the **permit** contains:
- 10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.
- 10.2. **Council** may cancel, suspend or amend any **permit** at any time if:
- 10.2.1. it is requested to do so by the **permit**-holder; or
 - 10.2.2. it considers that there has been:
 - 10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;
 - 10.2.2.2. any material mistake in relation to the grant of the **permit**; or
 - 10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or
 - 10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.
- 10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:
- 10.3.1. **permit** condition; or

10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.

10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

- 11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:
- 11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or
 - 11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.
- 11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.
- 11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.
- 11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

- 12.1. **Council** may from time to time by resolution determine:
- 12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and
 - 12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.
- 12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.
- 12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

- 13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:
- 13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and
 - 13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.

- 13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

- 14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:
- 14.1.1. requires the person to stop the conduct constituting the **offence**;
 - 14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;
 - 14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or
 - 14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.
- 14.2. A **notice to comply** must include information about:
- 14.2.1. the name of the alleged offender (if known);
 - 14.2.2. the **offence**, and the provision of this Local Law it infringes;
 - 14.2.3. the action required to stop the conduct constituting the **offence**;
 - 14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;
 - 14.2.5. the time for compliance;
 - 14.2.6. the date on which it was issued; and
 - 14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

- 15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.
- 15.2. In determining what is reasonable, **Council** will consider:
- 15.2.1. the amount of work involved;
 - 15.2.2. the degree of difficulty;
 - 15.2.3. the availability of necessary materials or other items;
 - 15.2.4. climatic conditions;
 - 15.2.5. the degree of risk or potential risk to third parties and the public generally; and
 - 15.2.6. any other relevant factors.

16. Failure to adhere to a notice to comply

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

- 17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;
- 17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;
- 17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

- 18.1. **Council** may seize and impound any thing which is, has been or is being used or possessed in contravention of this Local Law.
- 18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.
- 18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:
 - 18.3.1. its **owner**; or
 - 18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.
- 18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:
 - 18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or
 - 18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

19. Appeals

- 19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.
- 19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

- 20.1. In deciding to grant a **permit**, **Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.
- 20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.
- 20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.
- 20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

- 21.1. **Cypress Hedges Policy**; and
- 21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT**22. Offences**

- 22.1. A person is guilty of an **offence** if the person:
- 22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;
- 22.1.2. fails to do something which a provision of this Local Law requires to be done;
- 22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;
- 22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
- 22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.

- 22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.
- 22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

- 23.1. not exceeding 20 **Penalty Units**; and
- 23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

- 24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.
- 24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND

25. Behaviour – Generally

- 25.1. A person must not on any **Council-controlled land**:
- 25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;
- 25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;
- 25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or
- 25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.
- 25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:
- 25.2.1. substantially occupies the **Council-controlled land** or **road**; or
- 25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.

- 25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

- 26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:
- 26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or
- 26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.
- 26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:
- 26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or
- 26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.
- 26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.
- 26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act 1998* is exempt from the application of this clause 26.

27. Trading Activities

- 27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:
- 27.1.1. place any **advertising sign**;
- 27.1.2. display or sell any goods;
- 27.1.3. place any **street furniture** or associated items;
- 27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
- 27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:
- 27.1.5.1. **vehicle**; or
- 27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.

- 27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.
- 27.3. Clause 27.1 does not apply to activities ancillary to residential use of **residential land or premises**.
- 27.4. A person must not, without a **permit**:
- 27.4.1. sell or offer for sale goods or services or solicit custom door to door, or permit or cause another person to do so, in a **residential area**; or
- 27.4.2. solicit custom or collect donations or subscriptions door to door, or permit or cause another person to do so, in a **residential area**.
- 27.5. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services on any **Council-controlled land or road**.

28. Appeals and Collections

- 28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.2. A person must not, without a **permit**, hand out or distribute any handbill, placard, notice, pamphlet, book, paper, advertising material or similar thing, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.3. A person must not, without a **permit**, erect or place, or permit or cause another person to erect or place, on any **Council-controlled land, road**, any **vehicle**, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.
- 28.4. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act 1986* does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

- 30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:
- 30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land or road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land or road**, or with street lighting.

- 30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:
- 30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
 - 30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting,
- except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.
- 30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.
- 30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road**, or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

- 32.1. A person must not, without a **permit** or **licence**:
- 32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or
 - 32.1.2. remove anything from **Council-controlled land** or a **road**.
- 32.2. A person must not, without a **permit** or **licence**:
- 32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or
 - 32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road**.

33. Filming and Photography on Council Land

A person must not, without a **permit**, conduct any filming or photography for commercial purposes, public exhibition or purposes associated with formal study which involves the placement or use of a tripod, other equipment or items or **vehicles** on any **Council-controlled land** or a **road**.

34. Repair of Vehicles and Storage of Heavy Vehicles

- 34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a

road, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land** or **road**.

34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:

34.2.1. allow a **heavy vehicle** to be kept or stored; or

34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land** or **Council-controlled land**.

35. Use of Vehicles on Council-controlled land

35.1. A person must not, on any **Council-controlled land**:

35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or

35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or

35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.

35.2. A person does not commit an **offence** against this clause 35 if that person is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force.

36. Bike Share Scheme

36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.

36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.

36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.

36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:

36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;

36.4.2. left or placed in a place that detrimentally affects the amenity of that place.

36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:

- 36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;
- 36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and
- 36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

- 37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.
- 37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.
- 37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.
- 37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:
 - 37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 37.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:
 - 37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;
 - 37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and
 - 37.5.3. comply with the conditions of a **permit**.

38. Wheeled Recreational Devices and Wheeled Toys

A person must not use any **wheeled recreational device**, **wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

39. Model Aircraft

- 39.1. A person must not, without a **permit**, operate any **model aircraft** on, over or from any **Council-controlled land**.
- 39.2. A person must not, without a **permit**, convene, or participate in, an organised group of persons operating **model aircraft** on, over or from any **Council-controlled land**.

40. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

- 40.1. lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;
- 40.2. charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;
- 40.3. give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or
- 40.4. allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

41. Caravans and Camping

- 41.1. A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.
- 41.2. A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.
- 41.3. A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

42. Shopping Trolleys

- 42.1. A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.
- 42.2. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.
- 42.3. Subject to clause 42.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:
 - 42.3.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and
 - 42.3.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.
- 42.4. Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 42.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.

- 42.5. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:
- 42.5.1. the period within which the shopping trolley is to be removed; and
- 42.5.2. that it is an **offence** for the **retailer** not to remove the shopping trolley.
- 42.6. On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:
- 42.6.1. the period within which the shopping trolleys must be claimed;
- 42.6.2.** that unclaimed shopping trolleys may be disposed of by **Council** after the period; and
- 42.6.3. that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.
- 42.7. Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.
- 42.8. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 42.6 may be disposed of by **Council** without further notice to any person.
- 42.9. A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 42.5 or 42.6 is guilty of an **offence**.
- 42.10. Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT

43. Dangerous and Unsightly Land and Nuisances

- 43.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:
- 43.1.1. is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;
- 43.1.2. does not constitute a **fire hazard**;
- 43.1.3. does not contain grass or weeds in excess of 150 mm in height;
- 43.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:
- 43.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;
- 43.1.4.2. **storage containers**;

- 43.1.4.3. scrap metal, timber, building materials or building refuse;
- 43.1.4.4. waste paper, cardboard, bottles or other refuse;
- 43.1.4.5. soil or similar materials;
- 43.1.4.6. overgrown vegetation; or
- 43.1.4.7. **buildings** on the land which have been damaged;
- 43.1.5. is kept free of any **graffiti**; and
- 43.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.
- 43.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.
- 43.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.
- 43.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.
- 43.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 43 may include a direction that the **private land, building** or structure be:
 - 43.5.1. cleared of any substance, material or equipment;
 - 43.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;
 - 43.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;
 - 43.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or
 - 43.5.5. protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.

44. Open Air Burning and Incinerators

- 44.1. A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger health of any person or animal.
- 44.2. A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:
 - 44.2.1. in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food; or

- 44.2.2. in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating.
- 44.3. An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.
- 44.4. An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:
- 44.4.1. on becoming aware of such a fire; or
- 44.4.2. on being directed to extinguish the fire by:
- 44.4.2.1. an **Authorised Officer**;
- 44.4.2.2. a member of the Police Force; or
- 44.4.2.3. a member of the Metropolitan Fire Brigade or the Emergency Services Board.
- 44.5. If a person who has breached this clause 44 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.
- 45. Drains and Watercourses**
- 45.1. A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.
- 45.2. An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council's** drainage infrastructure.
- 45.3. An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.
- 45.4. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.
- 45.5. An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.
- 45.6. The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:
- 45.6.1. where construction has ceased or been completed; and
- 45.6.2. that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

46. Household, Recycling and Organic Waste Storage

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

- 46.1. only use an **approved waste receptacle** for **Council**-provided waste collections;
- 46.2. not dispose of any **e-waste** in an **approved waste receptacle**;
- 46.3. ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;
- 46.4. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and
- 46.5. store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

47. Hard Waste Collection

- 47.1. Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.
- 47.2. A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 47.1.

48. Bulk Rubbish and Trade Waste Storage

- 48.1. A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:
 - 48.1.1. a **bulk rubbish container**;
 - 48.1.2. any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.
- 48.2. Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:
 - 48.2.1. constructed of impermeable material;
 - 48.2.2. watertight;
 - 48.2.3. fly and vermin proof;
 - 48.2.4. equipped with a removable drainage plug, if required by the **permit**;
 - 48.2.5. emptied at least every seven (7) days, or otherwise as required by the **permit**; and
 - 48.2.6. maintained in a clean, inoffensive and sanitary condition.

48.3. If directed by **Council**, the person to whom a **permit** is issued under this clause 48 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:

- 48.3.1. has an impermeable surface;
- 48.3.2. is drained to a sewer or other outlet approved by **Council**;
- 48.3.3. is supplied with water from a tap and hose; and
- 48.3.4. is maintained in a clean, inoffensive and sanitary condition.

49. Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

- 49.1. unsightly;
 - 49.2. dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or
 - 49.3. detrimental to the general amenity of the neighbourhood;
- to:
- 49.4. install;
 - 49.5. repair;
 - 49.6. replace; or
 - 49.7. modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

50. Noise

- 50.1. In or adjacent to a **residential area** a person must not:
 - 50.1.1. leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;
 - 50.1.2. without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:
 - 50.1.2.1. before 9am or after 10pm on a public holiday;
 - 50.1.2.2. between 10pm on Friday and 9am the next day;
 - 50.1.2.3. between 10pm on Saturday and 7am the following Monday; or
 - 50.1.2.4. between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.

50.2. A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:

50.2.1. on a public holiday;

50.2.2. between 5pm on Friday and 8am the next day;

50.2.3. between 5pm on Saturday and 7am the following Monday; or

50.2.4. between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;

unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

51. Wasp Nests and Bees

Upon becoming aware of the existence of:

51.1. a wasp nest; or

51.2. bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS

52. Keeping Domestic Animals

52.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:

52.1.1. the number of **animals** specified in the table at clause 52.5; and

52.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 52.5 are cumulative.

52.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 52.5.

52.3. Clauses 52.1 and 52.2 do not apply where:

52.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or

52.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:

52.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and

- 52.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 52; or
- 52.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 28 consecutive days for the purpose of caring for **animals**:
 - 52.3.3.1. owned by another; and
 - 52.3.3.2. which are ordinarily kept on land occupied by that other.
- 52.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land**.
- 52.5. Number of **animals**:

Type of Animal	Maximum number of each type of animal permitted
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2
Rabbits, guinea pigs, rats and mice	5
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2

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Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

52.6. In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 52.5, **Council** must take into account:

- 52.6.1. the zoning of the **private land**;
- 52.6.2. the proximity of the area to adjoining **private land**;
- 52.6.3. the amenity of the area in which the **private land** is located;
- 52.6.4. the type and additional numbers of **animals** to be kept;
- 52.6.5. the area of **private land** available for keeping the **animals**;
- 52.6.6. the likely effects on adjoining **owners** or **occupiers**;
- 52.6.7. the adequacy of **animal** shelters; and
- 52.6.8. any other matter relevant to the circumstances associated with the application.

52.7. An **owner** or **occupier** of **private land** must:

- 52.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;
- 52.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;
- 52.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;

- 52.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and
- 52.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

53. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

54. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

55. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

- 55.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and
- 55.2. not permit the excrement of the dog to remain on that **Council-controlled land** or **road**.

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	Failure to adhere to a Notice to Comply Fail to comply with a notice to comply or direction of an Authorised Officer	5	20
22.1.4.	Offences Fails to comply with the conditions of a permit	2.5	20
25	Behaviour Generally Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a permit or licence	3	20
26	Consumption and Possession of Alcohol	2	20
27.1	Trading Activities Display of advertising sign , place any structure, street furniture to sell or trade any goods or services without a permit	5	20
27.4	Selling goods or services or collect donations or subscriptions from door to door	3	20
28.1	Appeals & Collections Without a permit , solicit or collect any gifts, money or subscriptions from door to door	3	20
28.2	Without a permit hand out or distribute advertising material	3	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
28.3	Without a permit erect or place vehicle , caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	Charity Bins Place Charity Bin without a permit	5	20
30.1	Obstructions on Council-controlled land Advertising sign or other object obstructing Council-controlled land or other views	3	20
30.2	Vegetation obstructing Council-controlled land or other views	3	20
31	Obstructions on Roads Allowing a vehicle or trailer placed on any road to cause danger, hazard or interfere with use of a road or obstruct views	5	20
32.1	Changes to and Occupation of Council-Controlled Land Without a permit or licence cause change to or remove anything from Council-controlled land	5	20
32.2.1	Without a permit or licence occupy or put anything on Council-controlled land	3	20
32.2.2	Without a permit use a mobile crane or travel tower	5	20
33	Filming and Photography on Council-Controlled Land Without a permit conduct filming or photography which involves placement of equipment or other items on Council-controlled land	5	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
34.1	Repair of Vehicles and Storage of Heavy Vehicles Use Council-controlled land to repair, service or perform any work on a vehicle	5	20
34.2	Without a permit allow a heavy vehicle to be stored or perform any work on a heavy vehicle on land.	5	20
35.1	Use of Vehicles on Council-Controlled Land Use vehicles on Council-controlled land contrary to the requirements	3	20
36	Bike Share Scheme Own or operate Bicycle for the purpose of bike share scheme without a permit	3	20
37	E-Scooter Share Scheme Own or operate an e-scooter for the purpose of an e-scooter share scheme without a permit	3	20
38	Wheeled Recreational Devices and Wheeled Toys Use of wheeled recreational devices , wheeled toys or other similar devices on Council-controlled land to endanger, intimidate, obstruct and hinder	3	20
39.1	Model Aircraft Without a permit operate model aircraft on, over or from any Council-controlled land	2	20
39.2	Without a permit convene or participate in an organised group operating model aircraft on, over or from Council-controlled land	2	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
40.2	Parking Permits Fail to comply with obligations of a Parking Permit Holder	3	20
41.1	Caravans and Camping Place more than one (1) caravan, campervan, motor home on private land without a permit	3	20
41.2.	Occupy caravan, campervan, motor home, tent or similar on private land more than 3 weeks without a permit	3	20
41.3	Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on Council-controlled land	3	20
42.1	Shopping Trolleys Person leaves a shopping trolley other than in proper area	3	20
42.2	Shopping Trolley of a retailer left on a road or Council-controlled land	5	20
43.1	Dangerous and Unsightly Land and Nuisance Owner or occupier allows dangerous and unsightly land and nuisance	5	20
43.2	Owner or occupier allows building or other structure to become dilapidated	5	20
43.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from private land to the adjoining road .	3	20
43.4	Must ensure pavement lights are maintained so as not to fall into a state of disrepair.	5	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
44.1	Open Air Burning and Incinerators Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger health of person or animal	4	20
44.2	light a fire in the open air without a permit	5	20
44.3	Use or allow an incinerator to be used	5	20
44.4	Fail to extinguish a fire	5	20
45.1 and 45.2	Drains and Watercourses Without a permit or licence interfere with a drain	5	20
45.3	Fail to ensure drain discharges to an approved point of discharge	5	20
45.4	Allow drain to be in disrepair	5	20
45.5	Fail to notify Council if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
46	Household, Recycling and Organic Storage Failure to comply with any of the waste collection requirements	3	20
47.1	Hard Waste Collection Failure to comply with the hard waste collection requirements	5	20
47.2	Deposit or allow to deposit litter contrary to the requirements	5	20
48.1	Bulk Rubbish and Trade Waste Storage Without a permit place bulk rubbish container or any other thing on Council-controlled land or road ,	5	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
48.2	Fail to comply with the correct sanitary conditions for a bulk rubbish container	5	20
48.3	Fail to ensure that the area which a permit related to bulk rubbish container is kept in accordance with Council direction	5	20
49	Screening Bins and Containers Fail to meet the conditions for approved waste receptacles or bulk rubbish container	5	20
50.1.1	Noise Leave the engine of a stationary heavy vehicle running	5	20
50.1.2	Without a permit deliver outside of hours	5	20
50.2	Without a permit carry out or allow to be carried out non-residential building work outside of hours	5	20
52.1	Keeping Domestic Animals Without a permit keeps excessive animals	2	20
52.2	Without a permit must not keep any animal that is not specified in table 52.5.	2	20
52.4	Without a permit must not keep any animal on vacant land .	2	20
52.7	Fails to comply with the conditions where animals are kept	2	20
52.7.1	Must ensure any animals kept on private land are contained and prevented from escape	2	20
53.	Treatment of Animals Poultry kept contrary to requirements	2	20

Amenity Local Law

Attachment 1

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
54	Nuisances Animals or birds causing nuisance	2	20
55.1	Dogs Carry receptacle or receptacles suitable for removal of excrement	2	20
55.2	Allow excrement to remain on Council-controlled land	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

)
)
)

..... Mayor/Councillor

..... Chief Executive Officer

..... Date

ATTACHMENT 2

Table 1: Submissions and officers' responses

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
1	27.9.2019	<p>Clause 37 - E-scooter share scheme</p> <ul style="list-style-type: none"> May deter operators of e-scooter share schemes from conducting their business in Boroondara 	<ul style="list-style-type: none"> Would deter e-scooter operators out of fear. Sub-clause 37.7. would already cover owners of scooters in the necessary ways. I would suggest that it should be stated in 37.5 that you are guilty of an offense for violation, similarly to 37.4. 	<p>The introduction of bike share schemes to Victoria in 2017 resulted in a range of amenity issues and complaints to Council relating to obstruction to pedestrian access and careless dispersal of bikes.</p> <p>The proposed Amenity Local Law 2019 introduced new provisions for both bike share schemes (Clause 36) and e-scooter share schemes (Clause 37) in order to allow Council to better regulate and address the potential amenity and community safety risks associated with these schemes.</p> <p>In response to this submission, officers advise the purpose of the provision is to ensure e-scooter share schemes operate in accordance with a permit and specified conditions designed to protect amenity and community safety and management of risk. Council does not intend to preclude operators of e-scooter share schemes from conducting their business in the municipality. The requirement for a permit is consistent with the way other clauses apply to commercial operators conducting business on Council-controlled land.</p> <p>In summary, officers are of the view no change is required.</p>

ATTACHMENT 2

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
2	28.9.2019	<p>Clause 39 - Model aircraft</p> <ul style="list-style-type: none"> • Duplication of CASA controls. • CASA is the Authority over airspace. • Unsafe drone activities are reported to CASA. • Privacy concerns are regulated by the rules of CASA • Emergency services should not have to obtain a permit for the use of Drones 	<ul style="list-style-type: none"> • Clause 39 should be deleted from the Proposed Amenity Local Law. • Duplication of the Civil Aviation Safety Authority (CASA). • CASA is the Federal Statutory Authority for air space and air safety. • CASA already have drone rules in place that are designed to protect other people in the air and on the ground. • Council have no statutory authority to control who flies OVER Council-controlled land as the airspace is governed by CASA • CASA's rules can be updated as often as needed without changing laws. • CASA is bringing in a drone registration and accreditation scheme requiring completion of online education and accreditation. • There are apps which drone users use to show Australian sub 2kg drone flyers where they can and can't fly their drone ('OpenSky') • This same proposal was put to the City of Casey, who in turn removed the requirement for a permit from their local laws. • Unsafe drone activities are reported through CASA's website, therefore negating the need for Council to be involved with monitoring illegal drone activity or checking on permits. EVERYONE should have the right and freedom to use Council land without the need for a Council issued permit. • Sporting ovals, when not in use, make great open spaces where people can fly their drone safely when training. 	<p>Submitters 2, 8, 11, 3, 16, 17, 20, 23 provided submissions addressing the same or similar issues. Officers therefore provide a collective response. Where substantially new or different issues are introduced in subsequent submissions, officer response is given accordingly and at the end of the collective response.</p> <p>Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p>model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>

ATTACHMENT 2

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
			<ul style="list-style-type: none"> • Privacy is understandably an issue for a lot of people, but everyone flying a drone is bound by CASA's rules which are there to protect the privacy of others. • That there should only be one statutory authority making rules for drone use, it becomes too confusing, and then becomes a matter of which statutory body has the statutory authority over the other. • Drones are now being used extensively by Emergency Services who also should not have to obtain a permit to fly in or over Council-controlled land. 	
3	28.9.2019	<p>Clause 35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> • Lack of bike related infrastructure. • Inability to find suitable areas set aside for bike vehicle parking. 	<ul style="list-style-type: none"> • Clause 35.1.3. is highly draconian as it applies to bicycles. • Difficult enough to cycle in Boroondara because of high traffic speeds and the lack of infrastructure. • Difficult to travel by bike to many venues because of the difficulty of finding an "area set aside for vehicle parking". • Most of the council's areas set aside for vehicle parking are not suitable for bikes. 	<p>Submitters 3, 5, 9, 10, 12, 15 and 23 all made submissions based on the same or very similar issues, as noted in the 'Summary of Submitter Response' column. Therefore, officers provide a collective response to these submissions as follows:</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p>

ATTACHMENT 2

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p>

ATTACHMENT 2

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p> <p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
4	30.9.2019	Clause 33 - Filming and Photography on Council-controlled land	<ul style="list-style-type: none"> Propose "public exhibition" or "purposes associated with formal study" be removed from this Clause. 	<p>Submitters 4, 6, 7, 8, 11, 12, 13, 14, 17 and 20 all made submissions based on the same or very similar issues, as noted in the 'Summary of Submitter Response' column. Therefore, officers</p>

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
		<ul style="list-style-type: none"> The terms 'formal study' and 'public exhibition' should be removed so as not to unduly regulate photography and filming activity. 	<ul style="list-style-type: none"> Boroondara has many resident amateur photographers. The Camberwell Camera Club, for example, has 110 active members. Club members often enter in club competitions, these are displayed publicly on the club's website. The use of a tripod while taking such photographs will be illegal under the proposed Local Law. The reference to "purposes associated with formal study," also seems to be an impediment to the benign photographic activities of the many students enrolled in the excellent schools in Boroondara. 	<p>provide a collective response to these submissions as follows:</p> <p>Clause 33 - Filming and Photography on Council-controlled land. The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through</p>

ATTACHMENT 2

#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause.</p>
5	1.10.2019	Clause 35 - Use of Vehicles on Council-controlled land	<ul style="list-style-type: none"> • This restriction for clause 35.1.2. is excessive and unnecessary. • Children and adults may occasionally ride bicycles on some areas that are not formed paths or areas 	<p>Clause 35 - Use of Vehicles on Council-controlled land.</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too</p>

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		<ul style="list-style-type: none"> • Excessive restriction preventing adults and children utilising other areas to ride and rest their bikes. • Areas set aside for vehicle parking is not suited to bicycles 	<p>set aside for vehicle parking. I consider this to be an appropriate use of public open space.</p> <ul style="list-style-type: none"> • This restriction in clause 35.1.3. is excessive and unnecessary. Children and adults riding bicycles may occasionally stop and rest at locations and areas that are not set aside for vehicle parking. • People riding bicycles may stop and rest at grassy areas, recreation facilities and other locations that do not have vehicle parking. • The majority of vehicle parking locations on Boroondara Council land do not include facility for securely parking bicycles. 	<p>restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p> <p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p>

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p> <p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p>

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
6	1.10.2019	<p>Clause 33 - Filming and Photography on Council-controlled land</p> <ul style="list-style-type: none"> Purpose for introduction of clause 33. 	<ul style="list-style-type: none"> Would like details of the reasoning behind this proposed clause 33. Filming and Photography. 	<p>Clause 33 - Filming and Photography on Council-controlled land. The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p>

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
				<p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p>
7	1.10.2019	Clause 33 - Filming and Photography on	<ul style="list-style-type: none"> I would like to strongly object to the section 33 of the draft proposal. 	Clause 33 - Filming and Photography on Council-controlled land.

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
		<p>Council-controlled land</p> <ul style="list-style-type: none"> • Public exhibition' seems to encapsulate all photographers whom may exhibit their photos on a website or social media. • 'formal study' and 'use of tripods' unduly regulate photography and filming activity. • Removal of references to "public exhibition" and "formal study" will eliminate unnecessary restrictions on public photography. 	<ul style="list-style-type: none"> • It is not stated what problem the proposed regulation is aiming to address. • It introduces unnecessary, onerous, and ridiculously broad rules that will essentially prohibit almost any photography by the members of general public and rate-payers on council-owned land. • All definitions of "public exhibition" that I am aware of include dissemination of images by electronic media such as social networks and image-sharing websites. • Social networks is where the majority of pictures taken by everyday people are published; hence the section 33 as it currently stands essentially prohibits publishing any photograph taken on council land (e.g. a snap of one's child on a playground or a sidewalk) on Facebook or photo-sharing websites without council permit, which is ridiculous. • "formal study" and "use of a tripod" - taking a picture of my own house at sunset (which requires a tripod) if it's done from a sidewalk will require a council permit. • Taking a picture of a pretty flower on a bush (which may require a tripod and/or is considered a formal study) will require a council permit. • The whole section 33 should be removed until and unless the problem it is aiming to solve is clearly defined. • This section should be changed to read 'A person must not, without a permit, conduct any filming or photography for commercial purposes, which involves the placement or use of a tripod, other 	<p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively</p>

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#	Date	Clause(s) and key issues identified in submission	Summary of Submitter Response	Officer response
			<p>equipment or items or vehicles on any Council-controlled land or a road.'</p> <ul style="list-style-type: none"> • Removal of references to "public exhibition" and "formal study" will eliminate unnecessary restrictions on public photography. 	<p>unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p>
8	2.10.2019	<p>Clause 33 - Filming and Photography on Council-controlled land and</p> <ul style="list-style-type: none"> • Public exhibition' seems to encapsulate all photographers whom may exhibit their photos on a 	<p>Clause 33.</p> <ul style="list-style-type: none"> • What is the rationale and the purpose of these laws? • Council should be upfront in, detailing the approval process for the permits and any fees Council intend to charge. • Given posting an image online could be considered Public Display, this clause as written would cover practically every photographer. • What is the rationale for permits for tripods? 	<p>Clause 33 - Filming and Photography on Council-controlled land.</p> <p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in</p>

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		<p>website or social media.</p> <ul style="list-style-type: none"> Creates undue regulation of filming and photography for hobby photographers by use of tripods. <p>Clause 39 - Model Aircraft</p> <ul style="list-style-type: none"> Duplication of CASA controls. CASA is the Authority over airspace. 	<ul style="list-style-type: none"> What is the process (and any fees) for getting a permit? What is the current problem with the short term & considerate use of a small tripod by hobby photographers? I note the penalty for doing this is 5 units or \$826, which is an outrageous amount for hobby photography. Suggests clause 33 is either removed or reworded to only effect larger commercial productions, given that for hobby photographers this would effectively kill all night photography. <p>Clause 39</p> <ul style="list-style-type: none"> What is the rationale for the permit? What is defined as a model aircraft? Does a paper plane count? A small 100gram foam park flyer? What is the approval process? What, if any, fees will be charged? What specific incidents have happened within Boroondara that have led to this? Why does Council feel that it is in a better place to regulate model aircraft than CASA? Airspace is not the domain of councils, it seems that Clause 7 would overrule Clause 39 and it is therefore legal to over fly council land if done in accordance with CASA Pt 101. Clause 39 is removed completely, as CASA are the appropriate organization to manage airspace issues. 	<p>accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-</p>

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				<p>commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p> <p>Clause 39 - Model Aircraft Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above</p>

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				<p>Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p style="text-align: center;">model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone.</p> <p>This definition demonstrates a model aircraft is defined as a device which is powered and therefore a paper or foam model plane is not captured. It follows a paper or foam model plane may be flown without a permit.</p>
9	4.10.2019	<p>Clause 35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> • Excessive restriction preventing children utilising other areas to ride their bikes. • Lack of alternatives for bike parking. 	<ul style="list-style-type: none"> • Does clause 35.1.2. mean if I and my children ride their bicycles on the grass in Foley Park (our local park), your officers may fine us? • Does clause 35.1.3. mean that I can no longer chain up to a pole if the designated bicycle parking area is full or non-existent? • What are you trying to deter? • Provide solid facts and evidence that this is a problem. 	<p>Clause 35 - Use of Vehicles on Council-controlled land.</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p>

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				<p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p> <p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather</p>

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				<p>than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p> <p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
10	4.10.2019	<p>Clause 35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> • Excessive restriction on 	<ul style="list-style-type: none"> • The City of Boroondara will ban the stopping or parking of bicycles on Council land. • This will mean you cannot chain a bike to a pole at a park, library, recreation centre, etc. 	<p>Clause 35 - Use of Vehicles on Council-controlled land.</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of</p>

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		parking and stopping Bicycles • Prevents Bicycles from being chained to alternative infrastructure i.e. pole at a park	<ul style="list-style-type: none"> • Try to be pro-active transport not anti. It's not hard. Or do you prefer your residents drive instead of ride a bike? • I hope you reconsider such an anti-bicycle proposal and ditch it. 	<p>designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p> <p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in</p>

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				<p>the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p> <p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person: 35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p>

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				It is officers view this exemption adequately addresses the community concerns raised through community consultation.
11	4.10.2019	<p>Clause 33 - Filming and Photography on Council-controlled land and</p> <ul style="list-style-type: none"> Public exhibition' seems to encapsulate all photographers whom may exhibit their photos on a website or social media. Creates undue regulation of filming and photography for hobby photographers by use of tripods. <p>Clause 39 - Model Aircraft</p> <ul style="list-style-type: none"> Duplication of CASA controls. Restricts drone photography 	<p>Clause 33.</p> <ul style="list-style-type: none"> The proposed regulations are directed at high impact film or event photography, with a crew, film trucks, lights etc. Targeting such a blunt instrument at members of a camera club or individual photographers will completely stifle all creativity and spontaneity. Photographers share images publicly and engage with our community, which adds value to life in Boroondara. Yes, we do need to use tripods (and take great care that they do not impede access, as bumping of a tripod can cause damage to expensive camera gear), photography on this small scale does not impinged on the rights of others in the community, I submit that this level of regulation of our amenities and freedom of expression is unnecessary and a total misuse of council resources. <p>Clause 39.</p> <ul style="list-style-type: none"> Places restrictions on drone photography. Control of Drone photography in Australia is strictly regulated by CASA The CASA regulations are sensible. The requirement for an additional level of regulation is not made. The circumstances in which a permit will be granted or denied is not transparent and again adds an 	<p>Clause 33 - Filming and Photography on Council-controlled land.</p> <p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will</p>

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		<ul style="list-style-type: none"> Permit condition are not transparent 	<p>extra level of unnecessary bureaucracy which stifles creativity.</p> <ul style="list-style-type: none"> The CASA regulations are stringent and the penalties that they impose are severe. In Boroondara we are blessed with many fine parks which are completely unused at times. When I operate my drone in a park, I do so when nobody is around and if a groundkeeper is present I engage with them to inform them of my presence. I have never seen an incident of concern or heard of a complaint, and there are already severe enough regulations and penalties imposed by CASA. 	<p>impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p> <p>Clause 39 - Model Aircraft Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in</p>

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				<p>regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p>model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>
12	6.10.2019	<p>Clause 29 - Charity bins</p> <ul style="list-style-type: none"> Supports introduction of Clause <p>Clause 33 - Filming and Photography and Clause</p>	<p>Clause 29</p> <ul style="list-style-type: none"> This proposed Clause is most welcome. There seem to have been a recent proliferation of charity bins in sometimes inappropriate locations around Boroondara. <p>Clause 33</p> <ul style="list-style-type: none"> This proposed Clause in the local law is unclear. Nodefinitions of 'commercial purposes, public exhibition or purposes associated with formal study' are provided. 	<p>Clause 29 - Charity Bins Officers are pleased to hear of your support for Clause 29.</p> <p>Clause 33 - Filming and Photography on Council-controlled land. The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law</p>

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		<ul style="list-style-type: none"> • Lack of definition for 'commercial purposes, public exhibition and formal study' • All photographers are captures by 'Public exhibition' through the posting of photos online • Restrict clause to commercial businesses <p>35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> • Does not account for exemptions when requiring to deviate for obstructions • Define 'stopped' in context of both vehicles and bicycles 	<ul style="list-style-type: none"> • I take many photographs throughout Boroondara which I make publicly available on my website. This could be construed as 'public exhibition.' • Tighten the criteria to restrict this Clause to what I believe is the unintended audience (commercial businesses using Council land to make a profit) to avoid unintended consequences on activities like mine described above. • Provide clear and unambiguous definitions of each circumstance under which this Clause would apply. <p>Clause 35</p> <ul style="list-style-type: none"> • This Clause seems to also have some potential unintended consequences. • Vehicle stopped at a traffic light or intersection could feasibly be violating this clause. • The definition of a 'formed path' only includes paths provided by Council. Therefore, it excludes paths that are owned or managed by other entities or private owners, such as VicRoads or CityLink (eg. Gardiners Creek Trail). • There are also circumstances when people riding a bike may need to deviate from a 'formed path' i.e. obstruction, Fallen branches, construction works, potholes, flooding. • The Victorian Road Safety Road rules provide an exemption related to bike lanes where it may be permitted to not ride in the lane if impractical to do so. Such an exemption should be added into the revised Local Law. • Provide a clear definition of 'stopped' in the context of a vehicle, to exclude vehicles that are occupied 	<p>2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer</p>

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		<ul style="list-style-type: none"> • Creates limitations for bike users who require to move off paths to regroup and hydrate • Definition of formed path excludes paths owned and managed by other entities or private owners such as Vic Roads/City Link. 	<p>but stopped due to traffic regulations (eg. A stop sign</p> <ul style="list-style-type: none"> • Exclude bicycles or other similar vehicles that are stopped in places like grassed areas while its riders rest, drink water, etc. • Clarify the definition of a 'formed path' to include circumstances where Council may not own or maintain a path that bike riders can legally use. • Include a caveat similar to the Road Safety Road Rules 2017 for Clause 35.1.2. where this requirement applies '... unless it is unsafe or impractical to do so.' See Regulation 284 of the Road Safety Road Rules 2017. 	<p>(commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p> <p>Clause 35 - Use of Vehicles on Council-controlled land.</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p>

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				<p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p>

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				<p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p> <p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
13	7.10.2019	Clause 33 - Filming and Photography on Council-controlled land	<p>Clause 33</p> <ul style="list-style-type: none"> I'm part of the administration team of the Melbourne Drone Flyers group. We're a state-wide group, with over 3,000 members and we encourage the safe 	<p>Clause 33 - Filming and Photography on Council-controlled land. The introduction of the Clause does not establish any new requirements that are not already in place.</p>

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		<ul style="list-style-type: none"> • Unfair restriction for photographers and the use of tripods for photographers if images are published. <p>Clause 39 - Model aircraft</p> <ul style="list-style-type: none"> • Duplication with CASA regulations • CASA regulates drones in airspace • Drone use by Industries becoming more recognised • Restricts drone photography • Unnecessary use of Council resources 	<p>and legal flying of drones. Our members include aerial and ground-based photographers.</p> <ul style="list-style-type: none"> • Our group is primarily focused on aerial photography; however, we have concerns about the permit requirements for filming and photography and “the use of a tripod or other equipment” as we have members who fall in the category in proposed local law no. 33. A number of our members are also in camera clubs, so regularly have their images on public display. • Individuals take images for the purpose of improving their techniques and skills, without earning any income from these activities. The “use of a tripod” is essential to capture some images, particularly when taking time exposure images such as star trails, night shots or wanting to capture a group photo of family and or friends on a time delay, many of these images ending up on public display or for study purposes • It is unfair that anyone should require a permit to use a tripod or other equipment that is not going to cause permanent damage to the Council land or road • As many of our members using tripods would have their photographic works fall in the public exhibition category, I would make the recommendation that proposed local law no. 33 not apply to any low impact filming or photography. • Low impact filming could be defined as: <ul style="list-style-type: none"> ○ a filming activity of six people or less (includes all production crew and talent) ○ no more than one camera, one tripod, and handheld sound recording equipment 	<p>Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this</p>

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			<ul style="list-style-type: none"> ○ public safety is maintained at all times and all public pathways, footpaths and roads must not be blocked. <p>Clause 39</p> <ul style="list-style-type: none"> • It is with great concern that Council propose to introduce new local laws relating to model aircraft and drones. • Council should consider alternatives before introducing additional Local Laws. • In proposed local law no. 39, Council wants to duplicate managing air space Council are proposing to regulate in an area that is already regulated at a federal government level. • This would be an unnecessary use of Council resources as CASA is bringing in a Drone Registration and Accreditation Scheme for drone operators over 16 years of age and for drones weighing more than 250g. This will allow CASA to have a database of all drone users. • CASA as the responsible authority for air space have the power to investigate and fine drone operators who do the wrong thing • City of Greater Geelong Council decided to make all new applications and renewals valid for 2 years • There are only a couple of Councils where flying of drones is not permitted, being Melbourne City Council, who has a strict No Fly Policy for recreational flyers, which is easily understandable, with frequent aircraft in the area and being a populous area. A permit is required in Moonee Valley Council, but flying is not recommended by 	<p>case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p> <p>Clause 39 - Model Aircraft</p> <p>Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition</p>

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			<p>the Melbourne Drone Flyers Group as it is primarily a No Fly Zone due to Essendon Airport</p> <ul style="list-style-type: none"> • Ballarat Council are not the only ones to do a backflip on their local laws when referencing drones. Casey Council updated their local laws, making it a requirement that you needed a permit to fly a drone on private land. • Casey’s legal advice found it was likely that a court would find that the local law duplicated CASA’s regulations, according to a council report in February - ie. “This does not invalidate the Local Law, it simply casts doubt on the enforceability of (the local law) in its current form.” • In Australia the use of drones and the technology they provide is being used in quite a few industries. CASA is the statutory authority to oversee all these activities. • My recommendation for the City of Boroondara local law review is to remove proposed local laws 39 and the reference to model aircraft, drones and the permit requirements, as the federal laws that are already in place through CASA are likely to be a duplication • Proposed local law 39.2 is discriminatory. Whilst there are existing laws in place for the use of model aircraft and drones, provided people follow CASA’s rules, there is no reason why any drone flying member of the public should be required to hold a council permit. Families and friends getting together and participants in sporting activities, such as cricket, soccer, football and netball are groups of persons using council controlled land, but aren’t required to obtain a permit to use it. 	<p>of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for ‘model aircraft’ be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p>model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>

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			<ul style="list-style-type: none"> CASA has the ability to make changes as required, where Council local laws, once set in place, are normally for a 10- year period and are unlikely to keep up with the progression in federal legislation. 	
14	8.10.2019	<p>Clause 33 - Filming and Photography on Council-controlled land</p> <ul style="list-style-type: none"> Clause 33 should focus on the impact rather than the 'purpose' 	<ul style="list-style-type: none"> As an amateur photographer and film-maker, I am concerned that the proposed law relates to the "purpose" of the photography or film-making activity, rather than its impact. I commend to you the requirements of the City of Melbourne, which focus on the impact of the activity, rather than its purpose The City of London takes a somewhat similar approach. In both cities, with greater populations and much more intense photographic and film-making activity, the use of a tripod, is of itself, not regarded as problematic, nor is the purpose of "the shoot". 	<p>Clause 33 - Filming and Photography on Council-controlled land.</p> <p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p>

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				<p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p> <p>In addition, the words 'public exhibition' have been removed from the Clause</p>

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15	17.10.2019	<p>Clause 43.3. - Dangerous and Unightly Land and Nuisances (movement of soil and sediment)</p> <ul style="list-style-type: none"> Controls for the movement of sediment and soil should extend to footpaths (not just roads) <p>Clause 35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> Excessive restriction preventing adults and children utilising other areas to ride and rest their bikes. Limits the ability for young riders to practice bike skills on favourable surface such as grassed areas during bike 	<p>Clause 43.3</p> <ul style="list-style-type: none"> That “footpath and shared path” be specifically included in addition to “road”. Silt and slurry from construction sites is hazardous for pedestrians and riders using Boroondara’s network of footpaths and shared paths. This is of particular concern to the elderly who may be more prone to falls and the risk of serious injury in the event of a fall can be significant. <p>Clause 35</p> <ul style="list-style-type: none"> The reference to “bicycle” should be removed from 35.1.3 and section 35.1.2 I’ve taught Bike Ed in schools since 2008. The program is designed by VicRoads and the Department of Education and includes riding skills, road rules, and roads, footpaths and shared paths courtesy. Practise riding skills on a grassed oval destination are a favourable learning surface for many young riders and novices of all ages as it is more forgiving to falls than paved surfaces. However this is prohibited under 35.1.2 Regular stops along the shared path to regroup and allow students to rehydrate from bottles in their backpack are a necessity. Regrouping is also common with family and social rides (to do this safely, riders move off the path onto council controlled land, so as not to obstruct the path for other users) this practice is encouraged and taught to Bike Ed Instructors as part of the Victorian Road Rules and basic path etiquette. 	<p>Officers are of the view no change is required to this Clause given it already captures the circumstance of soil and sediment spilling onto footpaths. This is because a ‘road’ includes ‘footpaths’ as defined in the Amenity Local Law in accordance with the definition for ‘road’ in the <i>Local Government Act 1989</i>.</p> <p>Clause 35 - Use of Vehicles on Council-controlled land. This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term ‘designated bicycle pathway’ with the newly defined ‘formed path’ to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p> <p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a ‘formed path’ for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction</p>

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		<p>education programs.</p> <ul style="list-style-type: none"> • Creates limitations for bike users who require to move off paths to regroup and hydrate so as to not obstruct other users. • Bicycle related infrastructure is not readily available. • Prevents a cyclist securing their bicycle when bike rails are unavailable • More appropriate to suggest bicycles should not be parked so as to cause an obstruction 	<ul style="list-style-type: none"> • Section 35.1.3 also raises the issue of bike parking. The simple primary message conveyed to instructors by VicRoads is “Bicycles should be not be parked so as to cause an obstruction”. • There is very little bike specific parking in Boroondara and just one Parkiteer cage in the municipality. • Encouraging the use of bikes to activity centres frees up the demand on available car parking. • Bicycle owners prefer to secure the bike where there it can be seen and it is not in an isolated area where the risk of bike theft is increased, this results in street signs or the like, near the riders destination, being used to secure the bike when bike rails are not available. • 35.1.3 provides inadequate guidance for parking bicycles • More appropriate to suggest that “bikes should not be parked so as to cause an obstruction and should not parked along the immediate shop fronts”. • Section 35. 1.3 states that bicycles should only be parked in “an area set aside for vehicle parking”, is the image <i>below what council has in mind?</i> 	<p>these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply ‘reasonableness’ and that it would rely on the basic intent of the provision.</p> <p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p> <p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of</p>

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				<p>Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows: 35.2. A person does not commit an offence against this clause 35 if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p> <p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
16	20.10.2019	<p>Clause 39 - Model Aircraft</p> <ul style="list-style-type: none"> • Unduly restricts recreational drone photography/ filming and flying 	<ul style="list-style-type: none"> • Please do not make recreational drone flying require permits. • Many drone people enjoy taking photographs and video of the landscape and do aerial landscape photography. • This is no different than people doing it with their phones. • I am against the proposal of this required permits for recreational drone photography and video. 	<p>Clause 39 - Model Aircraft</p> <p>Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above</p>

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				<p>Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p>model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>
17	21.10.2019	<p>Clause 33 - Filming and Photography on Council-controlled land</p> <ul style="list-style-type: none"> • Permit requirement for use of permit creates undue regulation of filming and photography, particularly for non-commercial based activity i.e. amateur photography and placement of tripods. • Restricts photography that may be published 	<p>Clause 33</p> <ul style="list-style-type: none"> • The Camera Club represents around 130 members and is one of Australia's leading amateur photography organisations. • The Club is very active in the Boroondara Community (and beyond). • Held successful photography exhibition at Camberwell Junction in conjunction with the Camberwell Traders Association. • Camera club run a very popular 'Beyond Point and Short' course, which teaches participants techniques to improve their photography (including use of tripods). • Aspects of the proposed Amenity Laws will directly impact our members and other photographers working in Boroondara, both residents and visitors. • Clause 33 proposes that a permit be required to use a tripod when the images might be displayed publically. • The wording of this requirement is vague and unenforceable. 	<p>Clause 33 - Filming and Photography on Council-controlled land.</p> <p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential obstruction. Nonetheless, the review process and</p>

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		<ul style="list-style-type: none"> Prevents photographers from capturing unplanned images for publication. <p>Clause 39 - Model Aircraft</p> <ul style="list-style-type: none"> Duplication of CASA regulations. CASA are better placed to regulate Drone activity. 	<ul style="list-style-type: none"> Concerned the intent is to restrict photography that may be published. The use of tripods and other equipment for images that will not be published remains unrestricted, as does the use of easels and stools in the non-photographic arts. Tripods have no impact on public safety or amenity. Restricting the use of tripods will reduce the ability of photographers to capture images of difficult subjects or in difficult lighting conditions, the very situations that lead to the most striking images. The cost and effort will be beyond the means of amateur photographers. It will also mean that capturing unplanned images for publication will not be possible. Council runs the 'Boroondara Photograph Competition' and there are other community activities such as 'Kew Photo Competition'. These will be negatively impacted by the proposed regulation. Assuming, it is not Council's intent to impact amateur and community photography we suggest that the rule provide specific detail about activities and equipment that require a permit. Is the intent to restrict all types of commercial photography such as, for example, individual portrait photography, wedding photography, event photography, etc.? <p>Clause 39</p> <ul style="list-style-type: none"> Drones are now a common photography tool and, as with tripods, allow the capture of striking images. 	<p>the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p> <p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council's website.</p>

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			<ul style="list-style-type: none"> Use of drones is already heavily regulated by the Civil Aviation Safety Authority (CASA) CASA have very clearly defined and enforceable safety requirements and, in the future, will be introducing mandatory drone registration and training. CASA are far better placed to provide regulation of drone activity than Council. Furthermore, this regulation puts Boroondara out of step with other Councils, such as Casey who do not require a permit or Geelong who will issue a two-year general permit at no cost. We would encourage Council adopt laws similar to these councils. 	<p>In addition, the words 'public exhibition' have been removed from the Clause</p> <p>Clause 39 - Model Aircraft Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for 'model aircraft' be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p style="padding-left: 40px;">model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>
18	23.10.2019	Clause 6 - Definitions ('advertising signs')	<ul style="list-style-type: none"> In my view, the current laws are inappropriate unless they are redrafted. Their application seems to prevent political, civil and religious activity. 	<p>Clauses 27 and 28 relate to Trading Activities on and Appeals and Collections on Council-controlled land or a road and are designed to control:</p>

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		<ul style="list-style-type: none"> • Redefine 'advertising sign' to allow for an exemption for purpose of promoting social, community, sporting or religious groups in the Council area that don't promote the sale of a service, lottery, or appeal; <p>Clause 27 - Trading Activities & Clause 28 - Appeals and Collections</p> <ul style="list-style-type: none"> • Inhibits the right to freedom of expression • Contravenes the Charter of Human rights. • Prevents the local community communicating religious, political or social matters. • Makes it an offence to source 	<ul style="list-style-type: none"> • I believe that the current and proposed local laws unduly inhibit the right to freedom of expression and will prevent basic communication across residents in the Council area. • In my view, they breach the Victorian Human rights Charter and seek to prevent citizens' implied right of political expression under the Constitution. • As presently drafted, the 'ALL' could prevent the local community communicating religious, political or social matters on Council land. • I am therefore seeking changes to Section 6 to ensure that activities like those set out below and which we are aware occur within the Council area, are not captured in the definition of "Advertising" and therefore do not require a permit. • <u>Sourcing of players for local football teams or scout groups is currently illegal.</u> • Is it the Council's intention that to approach parents and kids with an invitation to a practice game or training session requires a permit without changes to Section 6, and 28 they could be. • Furthermore, if no pamphlet is given out under the common definition of "spruiking" or "soliciting custom" (both terms and used in the ALL) to talk to kids or parents on Council land would be an offence under Section 27.5. • As sports grounds are Council land, even talking with players or parents at Council games or handing out game schedules could be deemed an offence • <u>Bringing the word of religion into people lives is currently illegal.</u> 	<ul style="list-style-type: none"> • the placement of advertising signs and associated items; • the selling of goods and services; • collections and the soliciting of custom; • the distribution of advertising and / or promotional material; and • spruiking nuisance. <p>The intention is not to place restrictions on community conversations and messaging. There is no restriction placed on a person's right to verbally promote a local community-based organisation and its purpose, for example. Nor is the intent to unduly restrict a person's right to cultural, religious and political freedoms.</p> <p>The provisions do not prohibit any activity, rather they introduce a permit requirement to ensure the activities are conducted in accordance with conditions designed to protect community safety and amenity. In officers' experience, printed materials such as flyers can cause amenity issues such as littering when they are distributed on mass and become discarded when unwanted.</p> <p>Officers are of the view 'spruiking' should remain broadly defined and not narrowed to commercial activities only.</p> <p>Attention was paid through the review to issues and amenity concerns associated with advertising signs and the display and promotion of advertising</p>

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		<p>players for local football teams or scout groups.</p> <ul style="list-style-type: none"> • Bringing the word of religion into people’s lives is currently illegal. • Carrying a social message to the community is currently illegal. • Define ‘spruiking solicit custom’ to limit the application of 27.5 to commercial activities and not basic civil, political and religious communication. • To consider a definition for spruiking and solicit custom specific to mean encouraging members of the public to enter premises, purchase goods or both and to include pre-recorded speeches or messages. 	<ul style="list-style-type: none"> • Current many religious groups engage in social outreach and invite residents to events or services in the community. Is it the Council’s intention that the handing out of material promoting religious observance is prevented? • To promote the Christmas service or even an ANZAC day service with a flyer requires a permit and talking about the service could be “spruiking” and both would be deemed an offence. • <u>Carrying a social message to the community is illegal.</u> • We are blessed within this community to have many groups promoting important social matters of significant importance, including messages from safe sex, to partner abuse, alcohol management and depression management. They bring their messages on to the streets at markets and will often hand out a flyer about support available. It could involve an invitation handed out on the street about the Men’s Shed, Grandmothers speaking out against cruel refugee detention or concerned parents about pill testing. • Is the Council seeking to make it an offence for community social groups to talk to people on the street or hand them an invitation or flyer when they carry no commercial purpose, • I would like the Council to consider changes to Section 6 of the ALL so that Advertising Signs and Advertising Material are clearly defined as relating to commercial activities and not confused with basic community, religious, social or political communication. 	<p>material, particularly in relation to election advertising by political candidates. In addition, recognition was given to the need for any regulation of advertising signs to not inadvertently capture instances where a local business may advertise on their vehicle and/or trailer. This resulted in an updated definition for ‘advertising signs’ being introduced into the proposed Amenity Local Law 2019, providing exemptions for both:</p> <ul style="list-style-type: none"> a registered political party or a person’s candidature or prospective candidature at an election; and b. the use of a vehicle or trailer if its use is ancillary to another use connected with activities being carried out on land (ie. A landscaper advertising their business). <p>NB. This submitter also made reference to Clause 8 in so far as permits are required for activities relating Clauses 27 and 28.</p> <p>In summary, officers are of the view no changes are required.</p>

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			<ul style="list-style-type: none"> • It also needs to be clear what “spruiking and soliciting custom” actually is, and how it should only relate to commercial activities. • Change 1 Advertising sign or advertising material – means any placard, board, poster, banner, sign, card, flyer, structure or other similar device, whether portable or affixed or attached to any land, building, vehicle, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card, flyer or similar device itself or attached to or on any vehicle or trailer <ul style="list-style-type: none"> (a) and used for the purpose of promoting a registered political party, a political message or a person’s candidature or prospective candidature at an election; or (b) and used for the purpose of promoting social, community, sporting or religious groups in the Council area that don’t promote the sale of a service, lottery, or appeal; or (c) if the use of the vehicle or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a vehicle or trailer in connection with building or commercial activities being carried out on land); • Change 2 – Section 28 that deals with Appeals and Lotteries requires amendment because otherwise, as occurred during the Federal election, Council staff could try and claim that this clause (as a result 	

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			<p>of is poor drafting) prevents any person or group or any person handing to another person any communication in a paper form in the Council area.</p> <ul style="list-style-type: none"> • Therefore, please make section 28.2 and 28.3 consistent to both focus specifically on appeals and lotteries. This section is currently headed “ Appeals and Collections “ and therefore the placard, notice, pamphlet etc. must be for the purpose of “appeals and collections” such as the selling or offering goods or services, raffle or lottery. Unless Council wants to prevent all community groups from promoting their existence, membership or functions, clause 28.2 should be limited, just like clause 28.3, to restrict activities that have “the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery” • Change 3 - Appropriately define “Spruiking and solicit custom” should be included in section 6 so that Section 27.5 is limited in its application to commercial activities and not basis civil, political and religious communication. • I ask that this Council adopts a clear definition of what both ‘Spruiking and solicit custom’ actually means I n Section 6 limiting it to commercial activities. • Melbourne City Council has addressed this matter and has made it clear that Spruiking and Solicit Custom is defined to only mean “encouraging members of the public to enter premises, purchase goods or both”. They have made it clear that it should also include the annoying prerecorded speeches and messages that encourage members of the public to enter premises, purchase good or 	

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			<p>both. I agree with that, as I don't want to be dragged into restaurants and shops, but it must be clear that talking to people about politics, religion or the local footy team is not spruiking.</p> <ul style="list-style-type: none"> Any claim, as occurred at the last Federal election, that political candidate, community group or religious group needs a permit to undertake such activities, including a permit the exercise their Human Rights or Constitutional Rights is simply not on. 	
19	23.10.2019	<p>Clause 44. Open Air Burning</p> <ul style="list-style-type: none"> The generation of smoke and pollution endangers the health and wellbeing of residents. Heating in an open fire is likely to last much longer than cooking and release much more smoke. The introduction of 44.2.2. Conflicts with 44.1. 	<ul style="list-style-type: none"> Council would now be allowing someone to have an open fire in their yard that is not for the purposes of cooking. It would now allow a fire for "heating". 44.2.2 is a backward step and dangerous to our health The generation of smoke from burning wood poses a significant risk to human health, according to doctors, scientists and health professionals the world over. Consider, for instance, the following from Doctors and Scientists Against Wood Smoke Pollution: "Wood smoke exposure is associated with the same variety of illnesses and diseases that are associated with smoking and secondhand smoke exposure, including ear infections, cataracts, lung infections, asthma, COPD, heart attacks, strokes and cancer." "Both wood and tobacco are natural plant materials, and when they are burned they emit a similar toxic brew of carcinogens and other harmful chemicals. When wood is burned, however, it releases a much 	<p>Officers advise Clause 44.1. prohibits a person from burning or causing to burn any substance that is likely to endanger health or any person or animal. Furthermore, where smoke may become a nuisance, the issue can be dealt with under separate legislation. Council officers will investigate matters of nuisance caused by smoke under the <i>Public Health and Wellbeing Act 2008</i>.</p> <p>On this basis, officers are of the view, no change to Clause 44 is required.</p>

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			<p>larger volume of these toxins than cigarettes do, by orders of magnitude.”</p> <ul style="list-style-type: none"> • And this from the EPA: “Wood smoke contains particles that are harmful to you, your family, and your neighbours.” • And considering that burning wood creates great quantities of particulate pollution: “Small particulate pollution [has] health impacts even at very low concentrations — indeed no threshold has been identified below which no damage to health is observed.” (World Health Organization) • ‘Heating’ in an open fire is likely to last much longer than ‘cooking’, releasing much more smoke. This new law is in conflict with proposed law 44.1 which clearly states that if a fire “is likely to endanger health of any person or animal” then it is unlawful. • It seems quite clear from medical, scientific and other health professional sources that smoke by its very nature is “likely to endanger health”. • It is not just smoke from a fire that drifts across a fence into a neighbour’s backyard that is a problem. • Wood smoke particles are extremely fine and easily penetrate neighbours’ houses, even with all doors and windows closed. Even “weather-proof” insulation fails to stop them. • Whitehorse Council, only a few streets away from our home, does not permit a fire to be lit in the open air for any reason. Given all the health risks associated with smoke, this decision by Whitehorse Council makes total sense. • It is local, state and federal governments’ duty to protect the health of the public. If Council allows this revised Law to be passed as currently drafted, 	

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			it is effectively condemning its constituents to a significant health risk. This would be a gross dereliction of your duty to the residents of Boroondara.	
20	23.10.2019	<p>Clause 8 - Permit</p> <ul style="list-style-type: none"> The deletion of 8.5.3. from the proposed Amenity Local Law 2009 removes the opportunity to freely make submissions and/or objections. <p>Clause 33 - Filming and Photography on Council-controlled land</p> <ul style="list-style-type: none"> Inhibits the right to freedom of expression Contravenes the Charter of Human rights. <p>Clause 39 - Model Aircraft</p>	<p>Clause 8</p> <ul style="list-style-type: none"> The permit scheme contained in part B of the proposed law does not adequately incorporate the right of permit applicants to a fair hearing. Furthermore, the opportunity to freely make submissions and or objections was removed by the proposed Law and Council does not advise why (Referring to clause 8.5.3.) <p>Clause 33</p> <ul style="list-style-type: none"> The use of the words 'filming and photography' are vague and appear to encompass still and photography which, in the industry, is considered distinct from filming and does not necessarily require the use of a tripod A photographer with a tripod has a minimal impact on his/her working area and subsequently, could hardly be considered impeding the "safe and equitable use and enjoyment of public spaces" or undermining "the protection and enhancement of the amenity and environment of the municipality" It is clear the intention is to restrict the use of Tripods and associated equipment on Council-controlled-land. There is nothing in S33 insofar as to it relates to filming and photography which would facilitate the objectives of the proposed law nor 	<p>In response to the point raised in regards to Clause 8, officers advise this Clause was removed to avoid duplication since the ability for any person to make submissions and/or objections in relation to the Amenity Local Law is captured in Clauses 8.5.2. and 19 (Appeals).</p> <p>Clause 33 - Filming and Photography on Council-controlled land. The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where</p>

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		<ul style="list-style-type: none"> Restricting drone photography as an art form 	<p>suppress the mischief which the proposed law seeks to remedy.</p> <ul style="list-style-type: none"> S33 unfairly reduces the rights of photographers to participate in public life or exercise their freedom of expression by way of art. <p>Clause 39</p> <ul style="list-style-type: none"> The definition of Model Airplane specifically targets Drones but does not specify what a drone is. A separate definition for drone should be included. The AIPP is of the view that the use of drones is an art form which may comprise the creative process for some of its members. In respect of the Proposed Law undermining rights enshrined by the Charter. The restrictions placed on the use of "model aircraft" under s.39 are confusing, unclear and expansive. For example, s.39 restricts the use of drones over or from any Council- controlled land. For the sake of clarity, can Council confirm whether this applies to persons operating drones from an area outside the City of Boroondara but whose drone flies over Council-controlled land? If this is the case, this seems to overlap with regulations imposed by the Civil Aviation Safety Authority (CASA) which controls all airspace above Australia Council has made publically available tables detailing the amendments to the Amenity Local Law as in force in 2009 but which are reflected by the Proposed Law. However, it has not detailed the overlap with CASA regulations. To avoid any issues 	<p>equipment may cause a potential obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the 'purpose' of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p>

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			<p>of inconsistency, Council is asked to provide such detail.</p> <ul style="list-style-type: none"> • Additionally, Council should require that commercial drone operators who are granted a permit clarify whether their drone operations are registered with CASA. Again, this could be a condition imposed under s.8.6 of the Proposed Law. 	<p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council’s website.</p> <p>In addition, the words ‘public exhibition’ have been removed from the Clause</p> <p>Clause 39 - Model Aircraft Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land.</p> <p>Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for ‘model aircraft’ be amended to exclude drones.</p> <p>The amended definition is as follows:</p>

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				model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;
21	24.10.2019	<p>Clause 43 - Dangerous and Unightly Land and Nuisances</p> <ul style="list-style-type: none"> Maintenance of nature strips should be considered made a legal responsibility Emphasis should be placed on the requirement to maintain properties in a pleasing manner <p>Penalties - (specifically related to Clause 55.1. & 55.2.)</p> <ul style="list-style-type: none"> Repeat offences should be set with an increased penalty value 	<p>Clause 43</p> <ul style="list-style-type: none"> The residential environment in Boroondara has declined significantly in the last fifteen years Much of the decline is due to property owners, many of which are absentee, not maintaining their properties tidily. What used to be regarded by the great majority of property owners as the "right thing to do" is now treated by many with indifference. Greater emphasis should be placed in the Amenity Local Law upon the requirement to maintain properties in a pleasing manner. It appears that in the administration of this provision of the Amenity Law particular attention has been given to ensuring properties do not constitute a fire hazard. This is important, but in the process it appears that what constitutes unsightly land appears to have been lost sight of to some degree. An associated issue relates to the maintenance of nature strips. It is understood that this is the legal responsibility of Council. Nevertheless, it has been a longstanding convention that nature strips be maintained in good order by property owners. Serious attention should be given to the matter, including examining the possibility of land holders being required to assume legal responsibility for the maintenance of nature strips. 	<p>Officers gave consideration through the review to the creation of the requirement for residents to maintain naturestrips. This was proposed in order to improve Council's ability to manage the way in which naturestrips are kept. However, officers determined it would be unreasonable to create an offence for failure to maintain a naturestrip given it is Council's land and by extension, Council's responsibility. Accordingly, the maintainance of a naturestrip remains a civic responsibility only.</p> <p>Officers acknowledge the need to regulate instances of failure to pick up after one's dog, but also recognise the challenges with the enforcement of this particular type of behaviour. Most infringements are issued for a breach of 55.1. (failure to carry a receptacle for the removal of any dog deposits) rather than 55.2. (failure to pick up after one's dog). Whilst on patrol, officers actively encourage people to comply with the requirements set under this Clause. According to officers, a repeat offence is relatively uncommon.</p> <p>Nevertheless, Council officers are of the view the newly proposed Penalty Schedule (in the appendix to the Amenity Local Law 2019) sets out, in accordance with Clauses 23 and 24 (penalties and</p>

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		specifically for 55.1 and 55.2.	<p>Penalties (55.1. & 55.2)</p> <ul style="list-style-type: none"> Infringement of Clauses 55(1) and 55 (2) provides for a penalty of 2 penalty units (\$200). It is recommended that provision should be made for such penalties be increased for repeat offences. Advice should be provided on the number of infringement notices issued by Council for such infringements in each of the last five years. 	<p>infringement notices) an option through prosecution to apply up to a maximum of 20 penalty units.</p> <p>Therefore, officers are of the view this Clause is an effective tool for bringing about compliance and there is no need to increase infringement penalty values.</p>
22	24.10.2019	<p>Clause 27 - Trading Activities & Clause 28 - Appeals and Collections</p> <ul style="list-style-type: none"> Inhibits the right to freedom of expression Contravenes the Charter of Human rights. The proposed Local Law is inappropriate to regulate Political Activities. 	<ul style="list-style-type: none"> In our view the current laws are inappropriate in their application to political activity in the CoB and the proposed changes don't remedy this problem. We believe that the current and proposed local laws unduly inhibit the right to freedom of expression and therefore contravene the Charter of Human Rights and Responsibilities Act 2006 and the implied right of freedom of communication on political matters derived from the Australian Constitution. The proposed Local Laws are inappropriate for political activities Current and proposed laws require someone wishing to undertake political activity to apply for a permit, pay a fee (unless a registered charity), obtain public liability insurance, seek approval of the business they will be standing in front of and comply with any other conditions applied by Council. The application must be lodged some time before the activity commences. These requirements are the same as those applicable to a trader wishing to engage in an advertising activity or other commerce, indeed in the Act the section relevant for this activity (section 27) is described by the heading "Trading Activities". 	<p>As noted previously, attention was paid through the review to issues and amenity concerns associated with advertising signs and the display and promotion of advertising material, particularly in relation to election advertising by political candidates.</p> <p>This resulted in an updated definition for 'advertising signs' being introduced into the proposed Amenity Local Law 2019, providing exemptions for political candidates under the definition of 'Advertising Signs' as follows:</p> <ul style="list-style-type: none"> a registered political party or a person's candidature or prospective candidature at an election; <p>The intention of Clauses 27 and 28 is not to place restrictions on community conversations and messaging. There is no restriction placed on a person's right to verbally promote a local community-based organisation and its purpose, for example. Nor is the intent to unduly restrict a person's right to cultural, religious and political freedoms.</p>

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			<ul style="list-style-type: none"> • There is a great difference in the way in which commercial and political activities should be governed and different considerations should be applied when regulating each. • Political activity is rightly valued in our society and given a special place because it is usually conducted by people acting in the interests of the common good without a view to personal gain. • Activities which might be frowned upon or be an annoyance in the commercial context, such as handing out flyers, should be valued in the political context as a sharing of ideas. • The types of political activity which people generally want to conduct include placing A-frames and/or a table on the footpath and handing out flyers. These might be people representing political parties or other public interest campaigns and the activities do not only occur following the announcement of an election. Most of the time the purpose of this activity is to inform and influence people's decision making and those conducting the activity have no interest in being disruptive. • Having to apply for permission to conduct a democratic activity implies that it is possible that issues around safety and order will arise. Evidence suggests otherwise. • We do however recognize that the placement of an A-frame and/or table in front of a shop conducting trade can lead to a restriction in their commercial activity and as a consequence we accept Council's right to regulate the placement of these objects, other than when they are placed in an open public 	<p>In summary, officers are of the view no changes are required.</p>

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			<p>space or in front of a closed or vacant shop, so long as pedestrian traffic is not impeded.</p> <ul style="list-style-type: none"> • There should be no restrictions placed on individuals simply handing out flyers or seeking signatures as there are no public safety or public order issues associated with these activities. • We consider that any contention that a public order issue arises due to littering is at best mistaken. Our experience over many years is that almost without exception people only take public interest material if they want to keep it; furthermore, that there is no reason why having a permit would decrease any littering. • We understand that Council has valid reasons to be aware of upcoming political activity in the CoB. In our view this interest can be satisfied by those proposing to conduct this activity being required to register that activity with Council, rather than to seek its permission. • No fees should be charged for registration and no registration should be required for people handing flyers or seeking signatures where A-frame signs and tables are not involved. • This process could be achieved by Council providing an on line registration form to be completed a few days beforehand that automatically accepts registration if certain information is provided - contact details, number of people likely to participate, purpose of activity, location of activity, length of time, public liability insurance details and agreement to follow relevant local laws. 	

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			<ul style="list-style-type: none"> • If an online facility is difficult to arrange then a form could be completed at one of the Council offices and should the specified information be provided then the registration is completed. No fee should apply and the local laws should be amended to include a separate section for political activities that would describe this process. • In addition, from a practical perspective there have been instances where the application of relevant Council rules has been inconsistently applied by Council staff. For example, Oliver Yates was advised in writing by the Manager of Local Laws that he did not require a permit to hand out material when walking on Council land. Sometimes Council has been willing to provide a shopping centre wide permit and other times applicants have been required to provide specific addresses. • Further the Australian Constitution is recognised as containing an implied freedom of communication on political matters. • The current and proposed local laws impinge on these freedoms by: • Restricting the timing of the exercise of the right by having a waiting period for the issue of the permit and imposing conditions in the permit which restrict the times when the freedom may be exercised. • Restricting the place where the freedom may be exercised by requiring the permit to be issued for a particular location. This includes excluding the political activity if another person has a permit for the same location. This has been interpreted by Council officers to mean excluding activity in the 	

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			<p>whole of a shopping centre where another party has obtained a permit for that shopping centre.</p> <ul style="list-style-type: none"> • Requiring the applicant to obtain the permission of the premises outside which they conduct political activity which means the freedom can only be exercised if a sympathetic shop keeper can be found. This is clearly unreasonable where no exception is made for vacant or closed shops. • Charging a fee for the exercise of the right which is a barrier to freedom for those who are unable to pay the fee. • Requiring the permit applicant to have public liability insurance which is a barrier to those who cannot afford the insurance or who do not understand how to obtain it. We see no justification requiring this insurance where the only activity is handing out flyers or having petitions signed. In other circumstances we suggest that the Council provide a low cost option for those where registration of their activity with Council is required. • Subsection 15 (3) of the Act provides: • “(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary— • to respect the rights and reputation of other persons; or • for the protection of national security, public order, public health or public morality” • To comply with this legislation, local laws that affect the freedom of expression can only be made when it is necessary to protect national security, public order, public health, public morality and to respect 	

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			<p>the rights of others. In our view handing out flyers or having an A-frame and table in a public space or outside a closed or vacant shop cannot be characterized as endangering national security, public order, public health, public morality or being disrespectful of others.</p> <ul style="list-style-type: none"> • The application of the proposed laws is in breach of Section 15 of the Charter of Human Rights and Responsibilities Act 2006. We also believe that the implied right of freedom of communication on political matters derived from the Australian Constitution is infringed by the existing and proposed laws. • These local laws are clearly appropriate for the matters generally covered by amenity law, but they are not appropriate for the administration of democracy, as democracy requires greater freedoms than have been provided through the drafting of these laws. • Our proposed administrative change to register political activity with Council rather than to seek permission from Council wouldn't breach the Charter as it balances the Councils reasonable need to be aware of political activity with the free and fair conduct of the democratic process. • Council must be both impartial and be seen to be so. At present this law aides the maintenance of the status quo and hinders the democratic process. • We feel strongly that the CoB's current and proposed local amenity laws are in contravention of the Charter of Human Rights and Responsibilities Act 2000 and the implied right of freedom of communication on political matters derived from the 	

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			Australian Constitution. If this breach is not rectified we will pursue this matter further.	
23	24.10.2019	<p>Clause 35 - Use of Vehicles on Council-controlled land</p> <ul style="list-style-type: none"> Creates limitations for bike users who require to find appropriate bicycle parking 	<ul style="list-style-type: none"> The effect of this law would be to require me, as a cyclist, to vie with the owners of the Teutonic tankmobiles for on-road parking spaces outside venues such as Tocano's, Leo's and the Riv. It may have escaped your notice, but since the demise of the Kew Flyer (see http://kewhistoricalsociety.org.au/khs/wp-content/uploads/Histories/The-Kew-Flyer1.pdf), 21st century velocipedes are rarely equipped with 'kick stands' to enable to remain vertical, unsupported, while parked. The effect of this is likely to see legally parked bicycles flattened under reversing SUVs quicker than you can say "Sorry I didn't see you!" Perhaps the law is designed to enforce the use hoops or other bicycle parking structures in the municipality, but these are few and far between. The number of bicycles vastly exceeds the number of hoops available. Or perhaps the intent of this law is to prevent footpaths and other public spaces ever being littered with share bikes like the recent O-bike invasion. If so, that is a laudable aim but, as drafted, the law will have other consequences that frustrate rather than promote cycling in Boroondara. I beseech Council not to enact this draconian law: cycling in Melbourne is enough of a struggle as it is and it would deprive us of that tiny pleasure of parking our bikes, safely and out of the way, against No Parking signs. 	<p>Clause 35 - Use of Vehicles on Council-controlled land.</p> <p>This Clause remained relatively unchanged in the proposed Amenity Local Law 2019. Through the review this clause was considered to be too restrictive by limiting cyclists to the use of designated bicycle pathways and not other paths. Officers sought to replace the term 'designated bicycle pathway' with the newly defined 'formed path' to now mean a path provided by Council and used for the purpose of active travel including shared paths. This was designed to allow for the use of bicycles on other paths for active travel and not just designated bicycle pathways.</p> <p>Officers recognise these provisions may result in unintended consequences as reflected in the submissions.</p> <p>Clause 35.1.2. is designed to address the risk associated with bicycles when in motion and actively travelling at speed from point A to B. It is not designed to capture the circumstances whereby a cyclist may need to momentarily depart from a 'formed path' for practical reasons i.e. to avoid a pothole or move around an unexpected obstruction these are minor incidental issues that are unforeseeable by Council and or the rider. In such circumstances it is expected Council would apply 'reasonableness' and that it would rely on the basic intent of the provision.</p>

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				<p>Therefore, officers are of the view this provision should remain unchanged in the proposed Amenity Local Law 2019. Removal of the provision would expose Council to risk and an inability to continue to respond to relevant community concerns.</p> <p>However, officers propose an amendment to Clause 35.1.3. in response to the points raised in the submissions. The purpose of Clause 35.1.3. is to prevent vehicles from causing obstructions or creating a risk to others by stopping or parking in places that are not specifically designed for that purpose, i.e. a vehicle parking on a reserve where young children may be playing nearby.</p> <p>Officers recognise that for bicycles the intention is more around the prevention of obstruction rather than the over regulation of bicycle users stopping and parking whilst resting or taking a break.</p> <p>Equally, officers have taken into account the feedback in relation to the need for improved infrastructure and facilities to accommodate bicycle parking if requiring them to stop in an appropriate area set aside for vehicle parking.</p> <p>Accordingly, officers propose an exemption be applied for bicycles through the introduction of Clause 35.2.2. provided no obstruction is caused. This is designed to achieve a more reasonable and practical application of clause 35.1.3.</p> <p>Clause 35.2.2. reads as follows:</p>

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				<p>35.2. A person does not commit an offence against this clause if that person:</p> <p>35.2.2. parks a bicycle in an area that is not set aside for vehicle parking provided that in doing so the bicycle does not obstruct the free use of the area.</p> <p>It is officers view this exemption adequately addresses the community concerns raised through community consultation.</p>
24	24.10.2019	<p>Clause 33 - Filming and Photography & Clause 39 - Model Aircraft</p> <ul style="list-style-type: none"> • Impacts the introduction of drones use for teaching and learning purposes and course offerings • Duplication of CASA regulations 	<p>Clauses 33 & 39</p> <ul style="list-style-type: none"> • It is our understanding that a permit will be required under the Local Laws to conduct filming, photography or drone use which may cost several hundreds of dollars and take a number of days to obtain. Accordingly, Swinburne is concerned that this will have a significant adverse impact on a large number of our students both in terms of the practicality of having to obtain such a permit as part of their formal studies at Swinburne, as well as the financial impost this would have on our students. • Hundreds of students across a range of disciplines from architecture & urban design, film & television, photography, screen production, social media, journalism and design may be adversely impacted in conducting their activities in the broader Hawthorn campus area. • Remove the words “or purposes associated with formal study” from section 33 of the Local Laws as drafted; or 	<p>Clause 33 - Filming and Photography on Council-controlled land.</p> <p>The introduction of the Clause does not establish any new requirements that are not already in place. Moreover, it gives visibility of controls relating to Filming and Photography in the Amenity Local Law 2019. Council has always required permits for any filming or commercial photography where items are placed on or there is exclusive occupation of Council-controlled land. Permits to Occupy Council Controlled Land are issued for these purposes (in accordance with the requirements set out under Clause 33 of the existing Amenity Local Law 2009). There is no requirement for a permit if a hand-held camera is the only equipment being used.</p> <p>The intention has not been to unduly regulate filming and photography, rather to capture circumstances of commercial filming and photography and/or those instances where equipment may cause a potential</p>

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			<ul style="list-style-type: none"> • Council works with Swinburne to establish a standing arrangement whereby students are able to continue to engage in filming and photography on Council owned or controlled land as currently enjoyed. One possible solution may be a “standing permit” obtained by Swinburne that could be periodically reviewed and renewed which would allow this to occur. Swinburne welcomes the opportunity to explore this further with Council if required. • We note that the City of Melbourne and Monash Council, whilst regulating filming and photography as part of their respective local laws, have both made concessions to persons who conduct these activities for educational purposes and where the amenity impact of such activities is considered minimal or light. • Swinburne would also note the existing and growing role played by the Commonwealth Government’s Civil Aviation Safety Authority (CASA) in the regulation of drones generally in all public spaces (which would include all Council roads and paths). • At the commencement of section 39.1, add the words “Except for purposes associated with formal study and as notified to the Council,” from section 33 of the Local Laws as drafted; • Council works with Swinburne to establish a standing arrangement whereby students are able to use drones for educational purposes as part of formal study on Council owned or controlled land. One possible solution may be a “standing permit” obtained by Swinburne that could be periodically reviewed and renewed which would allow this to 	<p>obstruction. Nonetheless, the review process and the feedback received through the community consultation has given officers the opportunity to further consider a best practice approach to the regulation of this type of activity.</p> <p>An exemption is created to ensure the requirement for a permit is only triggered where the activity will impact community safety and amenity through obstructions caused by the placement of equipment and vehicles. In other words, the intent is to avoid capturing those circumstances whereby risk is negligible. Officers acknowledge the use of tripods is often likely to be largely momentary and relatively unplanned and thus unlikely to cause obstructions to pedestrian access. The permit exemption in this case is applied regardless of the ‘purpose’ of the activity. In other words, a wedding photographer (commercial) using a tripod in a way that does not cause any obstruction is exempt from a permit in the same way an amateur photographer (non-commercial) would be under the same circumstances.</p> <p>However, a permit would be required for a comparatively large-scale photographic shoot (for commercial purposes or non-commercial purposes such as formal study) involving the placement of equipment causing an obstruction.</p>

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			<p>occur. Swinburne welcomes the opportunity to explore this further with Council if required.</p>	<p>To assist filmmakers and photographers to understand Council requirements, guidelines will be developed and available via Council’s website.</p> <p>In addition, the words ‘public exhibition’ have been removed from the Clause.</p> <p>Clause 39 - Model Aircraft Whilst a permit requirement was originally proposed to regulate drone flying, officers have given further consideration to the issue and the role of CASA in regulating drone flying. This has involved additional benchmarking and investigation. There is conceivable risk an inconsistency would be created with the existing State legislation administered by CASA for the regulation of drones.</p> <p>Officers note the City of Casey removed their requirement for a permit to fly a drone in recognition of the CASA regulations. Officers similarly propose to remove the requirement for a permit to fly a drone on or over Council-controlled land. Nonetheless, officers suggest there remains a need to regulate the use of model aircraft on and above Council-controlled land. This can be achieved by treating model aircraft separately from drones and as such officers suggest the definition for ‘model aircraft’ be amended to exclude drones.</p> <p>The amended definition is as follows:</p> <p>model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;</p>

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				<p>Officers have considered all the concerns raised in relation to the inclusion of the requirement to obtain a permit for photography associated with 'formal study'.</p> <p>Officers are of the view, the approach to filming and photography is in step with other like councils and complies with the Filming Approvals Act 2014. Whilst the submission notes both the City of Melbourne and Monash make concessions for filming and photography for educational purposes, officers are of the view the proposed approach for the City of Boroondara is equally supportive of student filming and photography. Furthermore, there is no fee set for student permits and an exemption has been introduced for tripods and other equipment provided no obstruction is caused. In other words our approach is impact based and therefore, not dissimilar to the City of Melbourne approach.</p>



CITY OF BOROONDARA
AMENITY LOCAL LAW

Date Resolved By Council: [] 2019

Commencement Date: 26 December 2019

Revocation Date: 26 December 2029

Responsible Directorate: Chief Executive Office

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ATTACHMENT 3*Amenity Local Law***PART A – PRELIMINARY****1. Local Law**

- 1.1. This Local Law is called the 'Boroondara City Council Amenity Local Law' and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

This objectives of this Local Law are to provide for:

- 2.1. the peace, order and good government of the **municipality**;
- 2.2. a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- 2.3. the safe and equitable use and enjoyment of **public places**;
- 2.4. the protection and enhancement of the amenity and environment of the **municipality**;
- 2.5. the fair and reasonable use and enjoyment of **private land**; and
- 2.6. the uniform and fair administration of this Local Law.

3. Commencement

This Local Law commences on the day following the notice of its making being published in the Victoria Government Gazette.

4. Revocation Date

This Local Law ceases to operate on a date that is 10 years after its commencement date unless revoked earlier by **Council**.

5. Application of Local Law

This Local Law applies throughout the **municipality** unless specifically stated otherwise.

6. Definitions

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

active travel – includes walking, cycling and any other mode of non-motorised transport of people;

advertising sign – means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable or affixed or attached to any land, **building**, **vehicle**, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any placard, board, poster, banner, sign, card or similar device attached to or on any **vehicle** or trailer:

- (a) and used for the purpose of promoting a registered political party or a person's candidature or prospective candidature at an election; or

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- (b) if the use of the **vehicle** or trailer is ancillary to another use connected with activities being carried out on land (such as the use of a **vehicle** or trailer in connection with building or commercial activities being carried out on land);

alcohol – means a drink with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius;

alcohol-free zone – means an area prescribed by **Council** as an alcohol free zone;

animal – includes every species of quadruped and every species of bird (including, without limitation, poultry);

applicant – means a person who applies for a **permit** under this Local Law;

approved area – where used in clause 42 means either:

- (a) the boundaries of the premises from which the **retailer** conducts his or her business; or
- (b) such other area relating to the **retailer's** business that **Council** declares from time to time by resolution to be an approved area for the purposes of clause 42.

approved waste receptacle – means a household waste bin, a recycling waste bin, a green waste bin or other refuse receptacle supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

Authorised Officer – means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

bike share scheme – means any service in which bicycles are made available to individuals on a short-term basis for free or for a fee;

building – includes any building or structure whether temporary or permanent, or any part of a building or structure;

bulk rubbish container – includes trade waste storage bins, waste bins, mini-skips, shipping containers, pallets and any other structure designed to receive or store waste but does not include an **approved waste receptacle**;

charity bin – means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes;

commercial enterprise – means a business, partnership or an enterprise carried on for profit;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council**, owns, occupies, manages, has leased or licensed to another person or is otherwise under **Council's** control and management, other than a **road**;

Cypress Hedges Policy – means **Council's** 'Management of Cypress Hedges Policy' as adopted by **Council** on 24 October 2005 as amended or replaced from time to time;

dilapidated – means a **building** fallen into a state of disrepair, decayed, deteriorated, broken down or a partial ruin through neglect, misuse or vandalism;

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e-scooter – means a scooter that is or can be propelled by an electric motor;

e-scooter share scheme – means any service in which **e-scooters** are made available to individuals on a short-term basis for free or for a fee;

e-waste – means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

event – means an organised recreational, cultural, commercial or social event or gathering of people, including a carnival, festival, street party, procession or any similar activity;

farm animal – means a hoofed animal, such as a cow, sheep, pig or similar animal;

fire hazard – means a material, substance or action that increases the likelihood of an accidental fire occurring;

formed path – means a path provided by **Council** and used for the purpose of **active travel** and includes a **shared path**;

graffiti – means an unauthorised mark or marks, whether written, drawn, sprayed, scratched or otherwise made, which cannot readily be removed by wiping with a damp cloth;

hard waste – means garden refuse, rubbish of a size, shape, nature or volume that cannot be contained in an **approved waste receptacle**, a brick, concrete, masonry or engine part and any other type of rubbish specified by **Council** from time to time;

heavy vehicle – has the same meaning as in the *Road Safety Road Rules 2017*;

incinerator – includes a structure, device or piece of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and which is not:

- (a) enclosed in any **building**;
- (b) a purpose-built or constructed a barbecue, grill, pizza oven, brazier, portable fire pit constructed of fire resistant materials or similar, being used for the purpose of cooking food or providing heat; or
- (c) licensed under the provisions of the *Environment Protection Act 1970*;

infringement notice – means an infringement notice issued by an **Authorised Officer** in respect of an **offence** against this Local Law;

licence – means a licence to use or occupy land granted by **Council** as the **owner**, **occupier** or manager of that land;

model aircraft – includes any airborne device that is similar to a model aircraft and which is powered but excludes a drone;

multi-residential dwelling – means a dwelling being part of two or more dwellings on a single lot;

municipality – means the municipal district of **Council**;

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non-residential building work – means building works not pertaining to a residential dwelling, outbuilding or other structure ancillary to a residential dwelling;

notice to comply – means a notice to comply issued under this Local Law;

nuisance – means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal comfort;

occupier – means the person who is for the time being in charge of land;

offence – means an offence against or a breach of a provision of this Local Law, or of a **permit, notice to comply** or direction issued under this Local Law;

open air – has the same meaning as in Division 3 of Part III of the *Country Fire Authority Act 1958*;

owner – means the person or persons for the time being entitled to be registered on Title as the owner of land and, where more than one person, each of them jointly and severally;

parking permit - means a **permit** issued under the **Parking Permit Policy**;

Parking Permit Holder – means a person to whom a **parking permit** has been issued;

Parking Permit Policy – means the Parking Permit Policy adopted by **Council** on 22 August 2016 as amended or replaced from time to time;

pavement light – means a device incorporated into the footpath or roadway adjacent to **private land** for the provision of natural light to those parts of a **building** on that **private land** below ground level;

Penalty Units – has the same meaning as in section 110(2) of the *Sentencing Act 1991*;

permit – means a permit issued under this Local Law;

planning permit – means a **permit** issued under the **Planning Scheme**;

Planning Scheme – means the Boroondara Planning Scheme;

private land – means all land other than **Council-controlled land** and **roads**;

public place – has the same meaning as in section 3 of the *Summary Offences Act 1966*;

residential area – means an area zoned as residential under the **Planning Scheme** and includes an area which is predominantly in a residential zone under the **Planning Scheme**;

residential land or premises – means land or premises that is or are developed or used predominately for residential purposes;

retailer – means a person who sells goods by retail and provides shopping trolleys to his or her customers;

road – has the same meaning as in the *Local Government Act 1989*;

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security bond – means a payment or guarantee made to **Council** for the purposes of defraying costs to repair damage to assets or as required under this Local Law;

shared path – has the same meaning as in the *Road Safety Road Rules 2017*;

storage container – means a form of container that is moveable and is used for the purposes of storage and includes a shipping container or vessel of a similar nature;

street furniture – means tables and chairs, stools and benches, umbrellas, goods or other items for sale, wind frames (barriers) and similar items which are placed on any **road** or **Council-controlled land**;

traffic controls – means the same as “traffic control devices” in the *Road Safety Road Rules 2017*;

unsightly land – means land the condition of which is detrimental to the amenity of the locality in which it is situated;

vacant land – means land on which there is no house or other structure approved for human occupation;

vehicle – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled recreational device – has the same meaning as in *Road Safety Road Rules 2017*;

wheeled toy – has the same meaning as in *Road Safety Road Rules 2017*; and

work – includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods.

7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any other legislative instrument or the **Planning Scheme**.

PART B – ADMINISTRATION**8. Permits**

8.1. Wherever in this Local Law a **permit** is required, **Council** may:

- 8.1.1. grant the **permit**;
- 8.1.2. refuse to grant the **permit**;
- 8.1.3. grant the **permit** subject to conditions; or
- 8.1.4. determine that no **permit** is required.

8.2. An application for a **permit** must be:

- 8.2.1. made in writing and include the following particulars:
 - 8.2.1.1. the name and address of the **applicant**;

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- 8.2.1.2. the capacity in which the **applicant** makes the application;
- 8.2.1.3. a statement of the purpose for which the **permit** is sought;
- 8.2.1.4. the location of the proposed activity;
- 8.2.1.5. the day and the time when the proposed activity is to take place and its expected duration;
- 8.2.1.6. the signature of the **applicant** or a person authorised to sign for and on behalf of the **applicant**; and
- 8.2.1.7. such other particulars as **Council** may require;
- 8.2.2. true and correct;
- 8.2.3. forwarded to the person or office described on the application form with the fee, if any, payable to **Council** and in the amount as is fixed by **Council** from time to time; and
- 8.2.4. in the form approved by **Council** from time to time.
- 8.3. If required by **Council**, an **applicant** must provide such additional information as may be specified before the application for a **permit** will be processed and determined.
- 8.4. If required by **Council**, an **applicant** for a **permit** must give such notice of that application, or invite any person to make a submission, or do both, as may be specified.
- 8.5. In considering an application for a **permit**, **Council** must consider:
 - 8.5.1. any policy or guideline adopted by **Council** relating to the subject matter of the application for the **permit**;
 - 8.5.2. any written objection, submission or comment received in respect of the application, where they are invited under clause 8.4; and
 - 8.5.3. any other relevant matter.
- 8.6. A **permit** will be in the form approved by **Council** from time to time and may include any condition which **Council** considers to be reasonable and appropriate, including:
 - 8.6.1. a requirement that a **security bond**, release, indemnity and/or guarantee (in a form specified) be lodged with or given to **Council** to secure the proper performance of the **permit**;
 - 8.6.2. a requirement that notice be given to **Council** as to when the activities authorised by the **permit** will be carried out or will occur;
 - 8.6.3. a time limit on the **permit** or on the activities authorised by it;
 - 8.6.4. provision for extension of the **permit**;
 - 8.6.5. the payment of a fee or charge;

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- 8.6.6. a standard to be applied;
 - 8.6.7. that the **permit** is conditional on the happening of a certain event or prerequisite;
 - 8.6.8. that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
 - 8.6.9. where the **applicant** is not the **owner** of the relevant premises, that the consent of the **owner** be obtained.
- 8.7. Unless otherwise stated in the **permit**, a **permit**:
- 8.7.1. authorises only the person or persons named on the **permit** to carry out the activity authorised by the **permit**, including by engaging contractors or appointing agents; and
 - 8.7.2. is not transferable.

9. Compliance with permits

Every person to whom a **permit** is granted must do every act and thing that may be necessary to ensure compliance with the **permit** and its conditions.

10. Correction, amendment, cancellation and suspension

- 10.1. **Council** may correct a **permit** if the **permit** contains:
- 10.1.1. a clerical mistake or an error arising from any accident, slip or omission; or
 - 10.1.2. a material miscalculation of figures or a material mistake in the description of any person, premises, thing or property referred to in the **permit**.
- 10.2. **Council** may cancel, suspend or amend any **permit** at any time if:
- 10.2.1. it is requested to do so by the **permit**-holder; or
 - 10.2.2. it considers that there has been:
 - 10.2.2.1. a material misrepresentation or concealment of fact in relation to the application for the **permit**;
 - 10.2.2.2. any material mistake in relation to the grant of the **permit**; or
 - 10.2.2.3. any material change of circumstances which has occurred since the grant of the **permit**; or
 - 10.2.2.4. the **permit**-holder or his or her agent for the **permit** defaults in payment of the **permit**.
- 10.3. **Council** may cancel or suspend a **permit** at any time if **Council** is satisfied that there has been a substantial failure to comply with a:
- 10.3.1. **permit** condition; or

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10.3.2. **notice to comply** relating to the premises, item or activity to which the **permit** relates.

10.4. **Council** may cancel or suspend a **permit** at any time where **Council** determines that the **permit** may result in a hazard, danger or inconvenience to any other person, premises, thing or property.

11. General permit provisions

- 11.1. The holding of a **permit** or compliance with a condition included in a **permit** does not of itself relieve the **permit**-holder from:
- 11.1.1. compliance with any other legislation with respect to the subject matter of the **permit**; or
 - 11.1.2. liability for any damage sustained by any person as a result of an activity undertaken by or on behalf of the **permit**-holder pursuant to the **permit**.
- 11.2. A person applying for a **permit** or amendment of a **permit** must not make or allow to be made any false representation or declaration in or in relation to that application or **permit**.
- 11.3. A person who makes a false representation or declaration (whether oral or in writing), or who omits relevant information from an application for a **permit** or exemption, is guilty of an **offence**.
- 11.4. Except where expressly stated in this Local Law or in a **permit**, the **permit** will operate from the date it is granted and will expire on the following 30 June.

12. Fees and Charges

- 12.1. **Council** may from time to time by resolution determine:
- 12.1.1. the quantum of any fees, charges, guarantee or bond to apply under this Local Law; and
 - 12.1.2. an administrative, inspection or processing fee or charge in addition to a standard fee, charge, guarantee or bond applying under this Local Law.
- 12.2. In determining a fee or charge, **Council** may establish a system or schedule of fees and charges, including a minimum or maximum fee or charge, if it considers it appropriate to do so.
- 12.3. **Council** may waive, reduce, alter or refund, in whole or in part, any fee, charge, bond or guarantee with or without conditions.

13. Powers of Council

- 13.1. Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears everything that:
- 13.1.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and
 - 13.1.2. an **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.

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- 13.2. Clause 13.1.1 does not empower an **Authorised Officer** to exercise any power conferred by clause 12.3.

14. Notice to Comply

- 14.1. Where **Council** reasonably believes that a person has committed an **offence** against this Local Law, **Council** may issue to the person a written **notice to comply** which:
- 14.1.1. requires the person to stop the conduct constituting the **offence**;
 - 14.1.2. contains a direction indicating what action is required to stop the conduct constituting the **offence**;
 - 14.1.3. contains a direction indicating what action is required to achieve compliance with this Local Law; and/or
 - 14.1.4. contains a direction to remedy any consequences arising from the conduct constituting the **offence**.
- 14.2. A **notice to comply** must include information about:
- 14.2.1. the name of the alleged offender (if known);
 - 14.2.2. the **offence**, and the provision of this Local Law it infringes;
 - 14.2.3. the action required to stop the conduct constituting the **offence**;
 - 14.2.4. the action required to remedy any consequences arising from the conduct constituting the **offence**;
 - 14.2.5. the time for compliance;
 - 14.2.6. the date on which it was issued; and
 - 14.2.7. the name and signature of the **Authorised Officer** or **Council** delegate issuing the **notice to comply**.

15. Reasonable time to comply

- 15.1. The time for compliance with a **notice to comply** issued under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied.
- 15.2. In determining what is reasonable, **Council** will consider:
- 15.2.1. the amount of work involved;
 - 15.2.2. the degree of difficulty;
 - 15.2.3. the availability of necessary materials or other items;
 - 15.2.4. climatic conditions;
 - 15.2.5. the degree of risk or potential risk to third parties and the public generally; and
 - 15.2.6. any other relevant factors.

ATTACHMENT 3*Amenity Local Law***16. Failure to adhere to a notice to comply**

Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with it is guilty of an **offence**.

17. Power To Act in Urgent Circumstances

Council may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any **nuisance** arising, without serving a **notice to comply**, provided that:

- 17.1. the circumstance arises out of a person's use of **Council-controlled land** or a **road** or failure to comply with a provision of this Local Law;
- 17.2. **Council** considers the circumstance to be sufficiently urgent that the time necessary to serve, or the potential difficulty in serving, a **notice to comply** may place the person's life, health or property, or the animal or the environment at risk or in danger of substantial detriment;
- 17.3. the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- 17.4. the person on whom a **notice to comply** under clause 14 would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

18. Impounding

- 18.1. **Council** may seize and impound any thing which is, has been or is being used or possessed in contravention of this Local Law.
- 18.2. Where a thing has been impounded under this Local Law, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the **owner** of it.
- 18.3. On receipt of evidence that, to **Council's** reasonable satisfaction, shows that a person is the **owner** of an impounded thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to:
 - 18.3.1. its **owner**; or
 - 18.3.2. a person who provides satisfactory evidence to **Council** of his or her authority from the thing's **owner** to act on the **owner's** behalf.
- 18.4. Where an impounded thing has not been claimed within 30 days of notice being given in accordance with clause 18.2, or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with clause 18.2, **Council** may:
 - 18.4.1. sell the impounded thing and retain any proceeds of sale as general revenue; or
 - 18.4.2. if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group.

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- 19.1. A person may request that **Council** reviews an order, direction, decision or notice issued in relation to him or her under this Local Law.
- 19.2. Where a request for review has been made under clause 19.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction, decision or notice.

20. Security Bonds

- 20.1. In deciding to grant a **permit**, **Council** may require the **applicant** to lodge with **Council** a **security bond** in such amount and in such a manner as **Council** determines.
- 20.2. In the event that a person to whom a **permit** is issued breaches the **permit** conditions attached to the **permit** or this Local Law, **Council** may apply so much of the **security bond** as is necessary to remedy that breach and repair any damage caused by that breach.
- 20.3. Upon expiry of a **permit**, **Council** must release any remaining **security bond** to the person who paid it.
- 20.4. If, after 12 months from the date that the **security bond** would be released under clause 20.3, **Council** cannot locate a person entitled to the release of any **security bond** or remaining **security bond**, **Council** may, subject to law, retain the **security bond** or remaining **security bond** and pay the money into its general revenue.

21. Incorporated Documents

The following documents are incorporated into this Local Law:

- 21.1. **Cypress Hedges Policy**; and
- 21.2. **Parking Permit Policy**.

PART C – ENFORCEMENT**22. Offences**

- 22.1. A person is guilty of an **offence** if the person:
 - 22.1.1. does something which a provision of this Local Law prohibits to be done or makes an **offence**;
 - 22.1.2. fails to do something which a provision of this Local Law requires to be done;
 - 22.1.3. engages in an activity without a **permit** where a provision of this Local Law requires that person to obtain a **permit** before engaging in that activity;
 - 22.1.4. breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
 - 22.1.5. fails to comply with a **notice to comply** or a direction of **Council** under this Local Law.

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- 22.2. If a corporation is charged with an **offence** against this Local Law, any natural person who is concerned or takes part in the management of the corporation may also be charged with the same **offence**.
- 22.3. If a corporation is convicted of an **offence** against this Local Law, a natural person charged under clause 22.2 with the same **offence** may also be convicted of that **offence** and is liable to the penalty for that **offence** unless that natural person proves that the act or omission constituting the **offence** took place without his or her knowledge or consent.

23. Penalties

A person guilty of an **offence** under this Local Law is, where no other penalty is specified in Schedule 1 to this Local Law, liable to a penalty:

- 23.1. not exceeding 20 **Penalty Units**; and
- 23.2. for a continuing **offence**, not exceeding 2 **Penalty Units** for each day after the finding of guilt during which the contravention continues.

24. Infringement Notices

- 24.1. Where an **Authorised Officer** reasonably believes that a person has committed an **offence** against this Local Law, the **Authorised Officer** may issue and serve on that person an **infringement notice** as an alternative to a prosecution for that **offence**.
- 24.2. The infringement penalties fixed for **offences** against this Local Law are set out in Schedule 1 and, if no penalty is fixed for a particular **offence**, the penalty is two (2) **Penalty Units** for each **offence**.

PART D – ROADS AND COUNCIL-CONTROLLED LAND**25. Behaviour – Generally**

- 25.1. A person must not on any **Council-controlled land**:
- 25.1.1. interfere with another person's reasonable use and enjoyment of that **Council-controlled land**;
- 25.1.2. endanger or be likely to endanger a person's health, life or property or an animal;
- 25.1.3. without a **permit**, do anything contrary to a sign erected on the **Council-controlled land**; or
- 25.1.4. play or practise golf (whether by hitting a golf ball or other kind of ball, or by swinging a golf club or otherwise) except on **Council-controlled land** designated by **Council** as a golf course.
- 25.2. A person must not, without a **permit**, organise a function, **event** or entertainment on **Council-controlled land** or a **road** that:
- 25.2.1. substantially occupies the **Council-controlled land** or **road**; or
- 25.2.2. encroaches or impacts or is likely to encroach or impact, on another person's use and enjoyment of the **Council-controlled land** or **road**.

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- 25.3. A person must not, without a **permit** or **licence**, use any **Council-controlled land** or **road** for the purpose of conducting a business or for any other commercial purpose.

26. Consumption and Possession of Alcohol

- 26.1. A person or group of persons must not consume **alcohol** or have in his, her or their possession or control any open receptacle containing **alcohol**:
- 26.1.1. in a place which **Council** has resolved is an **alcohol-free zone** for the purposes of this Local Law; or
- 26.1.2. in any other place which **Council** resolves is a prescribed place for the purposes of this clause 26.
- 26.2. An **Authorised Officer** may, where that **Authorised Officer** reasonably believes that a person or group of persons has contravened or is contravening this clause 26, direct that person or group of persons to:
- 26.2.1. empty any open receptacle containing **alcohol** or reseal that open receptacle; or
- 26.2.2. surrender any open receptacle containing **alcohol** to the **Authorised Officer**.
- 26.3. A person or group of persons to whom a direction is given under clause 26.2 must comply.
- 26.4. If a person or group of persons to whom a direction is given under clause 26.2 does not comply with that direction the **Authorised Officer** may impound that open receptacle containing **alcohol**.
- 26.5. Notwithstanding the requirements of this clause 26, a person who consumes or possesses **alcohol** in any licensed premises or authorised premises as defined in *the Liquor Control Reform Act 1998* is exempt from the application of this clause 26.

27. Trading Activities

- 27.1. A person must not, without a **permit**, on or above **Council-controlled land** or a **road**:
- 27.1.1. place any **advertising sign**;
- 27.1.2. display or sell any goods;
- 27.1.3. place any **street furniture** or associated items;
- 27.1.4. place any structure for the purpose of selling or offering to sell any goods or services;
- 27.1.5. sell or trade, or offer for sale or trade, or display to give away, any:
- 27.1.5.1. **vehicle**; or
- 27.1.5.2. goods or services carried about or placed on the person or any other moveable thing.

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- 27.2. The person responsible for placement of an **advertising sign** contrary to clause 27.1.1 will, unless they can provide proof to the contrary, be the person who, or whose business, is identified on the **advertising sign**.
- 27.3. Clause 27.1 does not apply to activities ancillary to residential use of **residential land or premises**.
- 27.4. A person must not, without a **permit**:
- 27.4.1. sell or offer for sale goods or services or solicit custom door to door, or permit or cause another person to do so, in a **residential area**; or
- 27.4.2. solicit custom or collect donations or subscriptions door to door, or permit or cause another person to do so, in a **residential area**.
- 27.5. A person must not, without a **permit**, engage in, or permit or cause another person to engage in, spruiking or the promotion of goods or services on any **Council-controlled land or road**.

28. Appeals and Collections

- 28.1. A person must not, without a **permit**, solicit or collect any gifts, money or subscription, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.2. A person must not, without a **permit**, hand out or distribute any handbill, placard, notice, pamphlet, book, paper, advertising material or similar thing, or permit or cause another person to do so, on any **Council-controlled land or road**.
- 28.3. A person must not, without a **permit**, erect or place, or permit or cause another person to erect or place, on any **Council-controlled land, road, any vehicle**, caravan, trailer, table, stall or similar structure for the purpose of selling or offering for sale any goods or services or conducting a raffle or lottery.
- 28.4. Notwithstanding clause 28.1 a person participating in highway collections approved under the *Road Safety Act 1986* does not require a **permit** from **Council**.

29. Charity Bins

A person must not, without a **permit**, place, or cause or allow to be placed, a **charity bin** on **Council-controlled land** or a **road**.

30. Obstructions on Council-controlled land

- 30.1. An **owner** or **occupier** of **private land** must not allow an **advertising sign** or any other object to:
- 30.1.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
- 30.1.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land or road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land or road**, or with street lighting.

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- 30.2. An **owner** or **occupier** of **private land** must not allow any vegetation to:
- 30.2.1. extend over **Council-controlled land** or a **road** at a height less than 2.4 metres; or
 - 30.2.2. remain on that **private land** or be placed on that **private land** so as to obstruct the clear view of **traffic controls** by a person on the **Council-controlled land** or **road**, or otherwise interfere with **vehicle** or pedestrian use of the **Council-controlled land** or **road**, or with street lighting,
- except where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**.
- 30.3. Where the vegetation is a cypress hedge within the meaning of the **Cypress Hedges Policy**, an **owner** or **occupier** of that **private land** must take the action required under the **Cypress Hedges Policy**.
- 30.4. The **Cypress Hedges Policy** is hereby incorporated into this Local Law.

31. Obstructions on Roads

A person must not allow any **vehicle** or trailer whether or not registered with VicRoads or equivalent interstate road authorities, to be placed or remain on any **road** if the placement of such **vehicle** or trailer would cause a danger, hazard or substantially interfere with another **vehicle** or any person's use of the **road**, or obstruct the clear view of **traffic controls** by a person on the **road** or adjacent land.

32. Changes to and Occupation of Council-Controlled Land and Roads

- 32.1. A person must not, without a **permit** or **licence**:
- 32.1.1. cause any change to **Council-controlled land** or a **road** or anything on it; or
 - 32.1.2. remove anything from **Council-controlled land** or a **road**.
- 32.2. A person must not, without a **permit** or **licence**:
- 32.2.1. occupy any **Council-controlled land** or a **road** by storing on it any boat, trailer, caravan or **storage container**; or
 - 32.2.2. use a mobile vehicular or non-vehicular crane or travel tower or an extendable feed style concrete pump truck or other similar **vehicle** and/or machinery on, over or from **Council-controlled land** or a **road**.

33. Filming and Photography on Council Land

A person must not, without a **permit**, conduct any filming or photography for:

- 33.1. commercial purposes; or
- 33.2. purposes associated with formal study

which involves the placement or use of a tripod, other equipment or items or **vehicles** on any **Council-controlled land** or a **road**, so as to obstruct the **Council-**

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controlled land or road or create a hazard to any person on that **Council-controlled land or road**.

34. Repair of Vehicles and Storage of Heavy Vehicles

- 34.1. A person must not perform any work to a **vehicle**, including to repair, service, wash, clean or dismantle a **vehicle**, on any **Council-controlled land** or a **road**, except running repairs necessary to enable the **vehicle** to be removed from the **Council-controlled land or road**.
- 34.2. A person must not, without a **permit**, on any **private land** or **Council-controlled land** in a **residential area**:
- 34.2.1. allow a **heavy vehicle** to be kept or stored; or
- 34.2.2. perform any work on a **heavy vehicle**, including to repair, service, wash, clean or dismantle a **heavy vehicle**, except running repairs necessary to remove the **heavy vehicle** from the **private land or Council-controlled land**.

35. Use of Vehicles on Council-controlled land

- 35.1. A person must not, on any **Council-controlled land**:
- 35.1.1. ride or drive any motor car, motorcycle or similar **vehicle** other than on a designated roadway or in an area set aside for **vehicle** parking; or
- 35.1.2. ride any bicycle or similar **vehicle** other than on any **formed path** or in an area set aside for **vehicle** parking; or
- 35.1.3. stop or park any motor car, motorcycle, bicycle or other **vehicle** other than in an area set aside for **vehicle** parking.
- 35.2. A person does not commit an **offence** against this clause 35 if that person:
- 35.2.1. is directed to ride, drive, stop or park on **Council-controlled land** by an **Authorised Officer** or by a member of the Police Force; or
- 35.2.2. parks a bicycle in an area that is not set aside for **vehicle** parking provided that in doing so the bicycle does not obstruct the free use of the area.

36. Bike Share Scheme

- 36.1. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must not, without a **permit**, allow any bicycle owned or operated by that person to be within the **municipality**.
- 36.2. A person must not make available for use, or permit to be used, in the **municipality**, a bicycle used for the purpose of a **bike share scheme** that does not have a device which is attached to it and used so as to ensure the return of the bicycle to an area specifically designated for the storage of bicycles.
- 36.3. **Council** may exempt a person or a class of persons from the application of clause 36.1 if a bicycle used for the purpose of a **bike share scheme** is left or placed in an area designated by **Council**.

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- 36.4. A person who owns or operates a bicycle used for the purposes of a **bike share scheme** is guilty of an **offence** if such a bicycle is:
- 36.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 36.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 36.5. A person who owns or operates a bicycle used for the purpose of a **bike share scheme** must:
- 36.5.1. remove within 24 hours of notification any bicycle in contravention of clause 36.3;
 - 36.5.2. remove within 24 hours of notification any bicycle that is damaged or missing any part; and
 - 36.5.3. comply with the conditions of a **permit**.

37. E-Scooter Share Scheme

- 37.1. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must not, without a **permit**, allow any **e-scooter** owned or operated by that person to be within the **municipality**.
- 37.2. A person must not make available for use, or permit to be used, in the **municipality**, an **e-scooter** used for the purpose of an **e-scooter share scheme** that does not have a device which is attached to it and used so as to ensure the return of the **e-scooter** to an area specifically designated for the storage of **e-scooters**.
- 37.3. **Council** may exempt a person or a class of persons from the application of clause 37.1 if an **e-scooter** used for the purpose of an **e-scooter share scheme** is left or placed in an area designated by **Council**.
- 37.4. A person who owns or operates an **e-scooter** used for the purposes of an **e-scooter share scheme** is guilty of an **offence** if such an **e-scooter** is:
- 37.4.1. left or placed in a way that unreasonably interferes with the use of any **road**, footpath or other place;
 - 37.4.2. left or placed in a place that detrimentally affects the amenity of that place.
- 37.5. A person who owns or operates an **e-scooter** used for the purpose of an **e-scooter share scheme** must:
- 37.5.1. remove within 24 hours of notification any **e-scooter** in contravention of clause 37.3;
 - 37.5.2. remove within 24 hours of notification any **e-scooter** that is damaged or missing any part; and
 - 37.5.3. comply with the conditions of a **permit**.

ATTACHMENT 3*Amenity Local Law***38. Wheeled Recreational Devices and Wheeled Toys**

A person must not use any **wheeled recreational device, wheeled toy** or other similar device on any **Council-controlled land** so as to endanger, intimidate, obstruct or hinder a person, persons or **vehicle**.

39. Model Aircraft

39.1. A person must not, without a **permit**, operate any **model aircraft** on, over or from any **Council-controlled land**.

39.2. A person must not, without a **permit**, convene, or participate in, an organised group of persons operating **model aircraft** on, over or from any **Council-controlled land**.

40. Parking Permits

A **Parking Permit Holder** must not, and must ensure that his or her visitors, employees and sub-contractors do not:

40.1. lease out, rent out, lend or sell a **parking permit** to another person or duplicate a **parking permit**;

40.2. charge any person a fee to use a **parking permit** or accept any consideration (monetary or otherwise) from a person for the use of a **parking permit**;

40.3. give or otherwise provide a **parking permit** to any person not entitled to use the **parking permit** under the **Parking Permit Policy**; or

40.4. allow or assist any other person, not entitled to use a **parking permit** under the **Parking Permit Policy**, to misuse the **parking permit** contrary to the **Parking Permit Policy**.

41. Caravans and Camping

41.1. A person must not, without a **permit**, have more than one caravan, campervan, motor home or similar **vehicle** on **private land** within a **residential area**.

41.2. A person must not, without a **permit**, occupy or allow another person or persons to occupy a caravan, campervan, motor home or similar **vehicle**, tent or any other temporary or makeshift structure on any **private land** for more than three weeks in any one calendar year.

41.3. A person must not occupy or allow another person to occupy a caravan, campervan, motor home or similar **vehicle**, or tent or any other temporary or makeshift structure on any **Council-controlled land**.

42. Shopping Trolleys

42.1. A person must not leave a shopping trolley on any **road** or **Council-controlled land** other than in an area specifically designated for the storage of shopping trolleys.

42.2. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, the **retailer** who owns the shopping trolley is also guilty of an **offence**.

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- 42.3. Subject to clause 42.4, a **retailer** must not provide or make available for use or permit to be used, a shopping trolley which does not have:
- 42.3.1. attached to it a plate or other marking identifying the name, address and contact phone number of the **retailer**; and
- 42.3.2. a fully operating mechanism which disables or otherwise prevents the shopping trolley from being taken beyond the boundaries of the **approved area**.
- 42.4. Upon an application by a **retailer**, **Council** may resolve in its absolute discretion to exempt a **retailer** from the application of clause 42.3, either in whole or in part, temporarily or permanently and subject to such conditions as **Council** may determine.
- 42.5. If a shopping trolley is left on a **road** or **Council-controlled land** in contravention of clause 42.1, **Council** may, by notice provided to the address depicted on the shopping trolley, direct the **retailer** to remove the shopping trolley and state:
- 42.5.1. the period within which the shopping trolley is to be removed; and
- 42.5.2. that it is an **offence** for the **retailer** not to remove the shopping trolley.
- 42.6. On the first business day of each month, or as soon as possible thereafter, a list of shopping trolleys that have been impounded by **Council** will be forwarded to each **retailer** stating:
- 42.6.1. the period within which the shopping trolleys must be claimed;
- 42.6.2. that unclaimed shopping trolleys may be disposed of by **Council** after the period; and
- 42.6.3. that it is an **offence** for a **retailer** to not claim an impounded shopping trolley.
- 42.7. Any impounded shopping trolley may be claimed by the **retailer** that owns the shopping trolley after payment of the fee set by **Council**.
- 42.8. Any impounded shopping trolley not claimed within the time specified on the list of impounded shopping trolleys issued under clause 42.6 may be disposed of by **Council** without further notice to any person.
- 42.9. A **retailer** who does not remove a shopping trolley or claim an impounded shopping trolley within the period stated by **Council** under clauses 42.5 or 42.6 is guilty of an **offence**.
- 42.10. Clause 18, other than clause 18.1, does not apply to shopping trolleys.

PART E – THE ENVIRONMENT**43. Dangerous and Unightly Land and Nuisances**

- 43.1. An **owner** or **occupier** of **private land** must ensure that the **private land** and any **building** or other structure on the **private land**:

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- 43.1.1. is not a danger to health of any person or animal or property or likely to become a danger to health of any person or animal or property;
- 43.1.2. does not constitute a **fire hazard**;
- 43.1.3. does not contain grass or weeds in excess of 150 mm in height;
- 43.1.4. is not unsightly, or detrimental to the general amenity of adjoining land or the neighbourhood, including through the presence of:
- 43.1.4.1. stored unregistered or derelict **vehicles** or machinery or any parts of them;
 - 43.1.4.2. **storage containers**;
 - 43.1.4.3. scrap metal, timber, building materials or building refuse;
 - 43.1.4.4. waste paper, cardboard, bottles or other refuse;
 - 43.1.4.5. soil or similar materials;
 - 43.1.4.6. overgrown vegetation; or
 - 43.1.4.7. **buildings** on the land which have been damaged;
- 43.1.5. is kept free of any **graffiti**; and
- 43.1.6. is not used in any manner or left in any state that may cause a **nuisance** or become detrimental to the amenity of the immediate area.
- 43.2. An **owner** or **occupier** of **private land** must not allow any **building** or other structure on that **private land** to become **dilapidated**.
- 43.3. An **owner** or **occupier** of **private land** must take reasonable steps to prevent the movement of soil, sediment and other substances from the **private land** to the adjoining **road**.
- 43.4. An **owner** or **occupier** of **private land** which has the benefit of **pavement lights** must ensure that those **pavement lights** are maintained so as not to fall into a state of disrepair.
- 43.5. Without limiting the generality of clause 14.2, a **notice to comply** issued by an **Authorised Officer** with respect to an **offence** against this clause 43 may include a direction that the **private land, building** or structure be:
- 43.5.1. cleared of any substance, material or equipment;
 - 43.5.2. suitably fenced, screened or otherwise enclosed in the manner specified in the **notice to comply**;
 - 43.5.3. cleaned or painted in a manner that removes or obliterates **graffiti** specified in the **notice to comply**;
 - 43.5.4. boarded up or otherwise secured to prevent access or otherwise alleviate the danger, unsightliness, **nuisance**, detriment to general amenity or offending condition; and/or

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- 43.5.5. protected by warning signs or barriers to alert members of the public to the presence on the **private land** of a danger to persons entering the **private land**.

44. Open Air Burning and Incinerators

- 44.1. A person must not burn or cause or allow to be burned any substance that is likely to cause a risk of fire to the area surrounding the fire or to endanger health of any person or animal.
- 44.2. A person must not, without a **permit**, light a fire in the **open air**, or allow a fire to be lit or remain alight in the **open air**, unless the fire is lit:
- 44.2.1. in a purpose-built or constructed barbeque, grill, pizza oven, chiminea, brazier or similar for the purpose of cooking food; or
- 44.2.2. in a brazier, chiminea or purpose built or portable fire pit constructed of fire resistant materials while its being used for heating.
- 44.3. An **owner** or **occupier** of **private land** must not use an **incinerator** or allow an **incinerator** to be used on that **private land**.
- 44.4. An **owner** or **occupier** of **private land** on which a fire has been lit in breach of this Local Law, or a person who has lit a fire in breach of this Local Law, must immediately take all steps necessary to extinguish the fire:
- 44.4.1. on becoming aware of such a fire; or
- 44.4.2. on being directed to extinguish the fire by:
- 44.4.2.1. an **Authorised Officer**;
- 44.4.2.2. a member of the Police Force; or
- 44.4.2.3. a member of the Metropolitan Fire Brigade or the Emergency Services Board.
- 44.5. If a person who has breached this clause 44 is unable or unwilling to extinguish the fire, an **Authorised Officer** shall notify a member of the Metropolitan Fire Brigade or the Emergency Services Board.

45. Drains and Watercourses

- 45.1. A person must not, on any **private land** without a **permit** or **licence**, interfere with, excavate, build, pave or landscape within or over an easement in **Council's** favour, or cause any change or obstruction or damage to a drain, sewer, watercourse or associated infrastructure which **Council** controls or manages.
- 45.2. An **owner** or **occupier** of **private land** must not, without a **permit**, damage or otherwise interfere with any part of **Council's** drainage infrastructure.
- 45.3. An **owner** or **occupier** of **private land** must ensure that any drain on that **private land** properly discharges to an approved point of discharge being **Council's** drainage infrastructure.
- 45.4. An **owner** or **occupier** of **private land** must not allow a drain located on that **private land** to become blocked or otherwise fall into disrepair.

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- 45.5. An **owner** or **occupier** of **private land** on which a **Council**-maintained drain or associated infrastructure exists must notify **Council** if the drain or associated infrastructure becomes blocked, damaged or fails to operate effectively as soon as practicable after the **owner** or **occupier** becomes, or ought reasonably to have become, aware of the condition arising.
- 45.6. The requirement to obtain a **permit** or **licence** does not apply where **Council** has given its approval for the drain to be tapped into under legislation administered by it, except:
- 45.6.1. where construction has ceased or been completed; and
- 45.6.2. that this exemption does not permit an **owner** or **occupier** of **private land** to cause or sustain damage or blockage to a drain.

46. Household, Recycling and Organic Waste Storage

Where **Council** provides a waste collection service, the **owner** or **occupier** of **private land** must:

- 46.1. only use an **approved waste receptacle** for **Council**-provided waste collections;
- 46.2. not dispose of any **e-waste** in an **approved waste receptacle**;
- 46.3. ensure the lid of the **approved waste receptacle** is left closed after material is placed in or removed from it;
- 46.4. keep the **approved waste receptacle** in a clean, inoffensive and sanitary condition; and
- 46.5. store the **approved waste receptacle** on the **private land** to which the waste collection service is provided, except for a maximum of 24 hours prior to the scheduled collection and a maximum of 24 hours following it, when it may be placed in the adjacent footpath or nature-strip in accordance with **Council** guidelines as issued from time to time.

47. Hard Waste Collection

- 47.1. Where a **hard waste** collection has been booked by a resident or is otherwise provided by **Council**, a person must not place the items out for collection more than 48 hours prior to the scheduled collection and must comply with any written or verbal directions of **Council**.
- 47.2. A person must not deposit or allow to be deposited any **hard waste** contrary to the written or verbal directions pursuant to clause 47.1.

48. Bulk Rubbish and Trade Waste Storage

- 48.1. A person must not, without a **permit**, place, allow to be placed or cause to be placed on any **Council-controlled land** or a **road**:
- 48.1.1. a **bulk rubbish container**;
- 48.1.2. any other thing on **Council-controlled land** or a **road** which interferes with the use of the **Council-controlled land** or **road**.

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- 48.2. Unless exempted by **Council**, the person to whom a **permit** is issued under this clause must ensure that the **bulk rubbish container** to which the **permit** relates is:
- 48.2.1. constructed of impermeable material;
 - 48.2.2. watertight;
 - 48.2.3. fly and vermin proof;
 - 48.2.4. equipped with a removable drainage plug, if required by the **permit**;
 - 48.2.5. emptied at least every seven (7) days, or otherwise as required by the **permit**; and
 - 48.2.6. maintained in a clean, inoffensive and sanitary condition.
- 48.3. If directed by **Council**, the person to whom a **permit** is issued under this clause 48 must ensure that the area to which the permit relates and in which the **bulk rubbish container** is placed:
- 48.3.1. has an impermeable surface;
 - 48.3.2. is drained to a sewer or other outlet approved by **Council**;
 - 48.3.3. is supplied with water from a tap and hose; and
 - 48.3.4. is maintained in a clean, inoffensive and sanitary condition.

49. Screening of Bins and Containers

Council may, by notice in writing, direct the **owner** or **occupier** of **private land** on which there is an **approved waste receptacle** or **bulk rubbish container** that is:

- 49.1. unsightly;
 - 49.2. dangerous, or likely to become dangerous, to the health of any person, **animal** or property; or
 - 49.3. detrimental to the general amenity of the neighbourhood;
- to:
- 49.4. install;
 - 49.5. repair;
 - 49.6. replace; or
 - 49.7. modify

a fence or other means of screening the **approved waste receptacle** or **bulk rubbish container** from public view.

50. Noise

- 50.1. In or adjacent to a **residential area** a person must not:
- 50.1.1. leave the engine of a stationary **heavy vehicle** running for more than five (5) continuous minutes;

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- 50.1.2. without a **permit**, deliver to, or collect from, or cause or allow a delivery to or collection from, a **commercial enterprise** any goods, or provide any services, including waste collection services, to a **commercial enterprise**, or allow a refrigeration unit mounted on a **vehicle** to run:
- 50.1.2.1. before 9am or after 10pm on a public holiday;
- 50.1.2.2. between 10pm on Friday and 9am the next day;
- 50.1.2.3. between 10pm on Saturday and 7am the following Monday; or
- 50.1.2.4. between 10pm on Monday, Tuesday, Wednesday or Thursday and 7am the next day.
- 50.2. A person must not, without a **permit**, carry out or allow to be carried out **non-residential building work**:
- 50.2.1. on a public holiday;
- 50.2.2. between 5pm on Friday and 8am the next day;
- 50.2.3. between 5pm on Saturday and 7am the following Monday; or
- 50.2.4. between 6.30pm on any Monday, Tuesday, Wednesday or Thursday and 7am the next day;
- unless the **non-residential building work** is necessary to protect life or property or unless a **planning permit** has provided approval to do so.

51. Wasp Nests and Bees

Upon becoming aware of the existence of:

- 51.1. a wasp nest; or
- 51.2. bee hives or bee swarms that do not comply with any relevant Apiary Code of Practice or are not otherwise permitted by the **Planning Scheme**

on **private land**, the **owner** or **occupier** of that **private land** must immediately take steps to cause the nest, hives or swarms to be removed by an appropriately qualified contractor.

PART F – ANIMALS**52. Keeping Domestic Animals**

- 52.1. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any more than:
- 52.1.1. the number of **animals** specified in the table at clause 52.5; and
- 52.1.2. four different types of **animals**, in which case the numbers specified in the table at clause 52.5 are cumulative.

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- 52.2. An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that **private land** any **animal** that is not specified in the table at clause 52.5.
- 52.3. Clauses 52.1 and 52.2 do not apply where:
 - 52.3.1. a **planning permit** has been obtained for **private land** used for the purposes of **animal** boarding or breeding, or for any other purpose permitted by the **planning permit**; or
 - 52.3.2. an **owner** or **occupier** of **private land** keeps more than the specified number of **animals** on that **private land** at the commencement of this Local Law, provided that:
 - 52.3.2.1. those **animals** are kept in accordance with a **permit** issued under the previous Local Law (if one was required); and
 - 52.3.2.2. where one or more of those **animals** is permanently removed from the **private land**, that **animal**, or those **animals**, shall not be replaced unless a **permit** is first granted under this clause 52; or
 - 52.3.3. an **owner** or **occupier** of **private land** keeps more than the specified number or type of **animals** on that **private land** for no more than 14 consecutive days for the purpose of caring for **animals**:
 - 52.3.3.1. owned by another; and
 - 52.3.3.2. which are ordinarily kept on land occupied by that other.
- 52.4. An **owner** of **vacant land** must not, without a **permit**, keep, or allow to be kept, any **animal** on that **vacant land**.
- 52.5. Number of **animals**:

Type of Animal	Maximum number of each type of animal permitted
Private land with a single dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	2
Cats (over three months old)	2
Ferrets	2
Rabbits, guinea pigs, rats and mice	5
Farm animals	0
Birds	

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Roosters, peafowl or guinea fowl	0
Chickens and pheasants	6
Turkeys, ducks and geese	2
Poultry other than that specified above	4
Domestic Birds (caged, non-poultry birds)	20
Private land with a multi-residential dwelling	
Mammals (Domesticated)	
Dogs (over three months old)	1
Cats (over three months old)	2
Ferrets	0
Rabbits, guinea pigs, rats and mice	2
Farm animals	0
Birds	
Roosters, peafowl or guinea fowl	0
Chickens and pheasants	0
Turkeys, ducks and geese	0
Poultry other than that specified above	0
Domestic Birds (caged, non-poultry birds)	5

52.6. In determining whether to grant a **permit** for the keeping of **animals** where the number exceeds that determined by **Council** and which is set out in the table at clause 52.5, **Council** must take into account:

- 52.6.1. the zoning of the **private land**;
- 52.6.2. the proximity of the area to adjoining **private land**;
- 52.6.3. the amenity of the area in which the **private land** is located;
- 52.6.4. the type and additional numbers of **animals** to be kept;
- 52.6.5. the area of **private land** available for keeping the **animals**;
- 52.6.6. the likely effects on adjoining **owners** or **occupiers**;
- 52.6.7. the adequacy of **animal** shelters; and
- 52.6.8. any other matter relevant to the circumstances associated with the application.

52.7. An **owner** or **occupier** of **private land** must:

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- 52.7.1. ensure that any **animals** kept on the **private land** are contained to the **private land** at all times, unless the **animals** are removed from the **private land** for any reason, in which case the **animals** must be contained so as to prevent their escape while outside the **private land**;
- 52.7.2. ensure that the area where **animals** are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner so as not to give rise to any **nuisance** or offensive condition;
- 52.7.3. keep the area of **private land** within 3 metres of the area or structure in which **animals** are kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin or which may cause a health or safety risk to persons, **animals** or property;
- 52.7.4. keep all food or grain for **animals** on that **private land** in vermin-proof and fly-proof receptacles; and
- 52.7.5. drain the ground surrounding the place where **animals** are kept on that **private land**.

53. Treatment of Animals

Poultry must not be caged unless provided with ready access to an exercise run at least five metres long, two metres wide and one-and-a-half metres high.

54. Nuisances

An **owner** or **occupier** of **private land** must ensure that any **animal** or bird kept on that **private land** does not cause a **nuisance** to surrounding or neighbouring **owners** or **occupiers** of land.

55. Dogs

A person in charge of a dog on any **Council-controlled land** or a **road** must:

- 55.1. carry a receptacle or receptacles suitable for the removal of any excrement that may be deposited by the dog; and
- 55.2. not permit the excrement of the dog to remain on that **Council-controlled land** or **road**.

ATTACHMENT 3

Amenity Local Law

SCHEDULE 1

Infringement Notice value and Court penalty for contravention of this Local Law
(All values expressed in Penalty Units)

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
16	Failure to adhere to a Notice to Comply Fail to comply with a notice to comply or direction of an Authorised Officer	5	20
22.1.4.	Offences Fails to comply with the conditions of a permit	2.5	20
25	Behaviour Generally Person contravenes behaviour requirements	2	20
25.3	Conducts business or commercial activities without a permit or licence	3	20
26	Consumption and Possession of Alcohol	2	20
27.1	Trading Activities Display of advertising sign , place any structure, street furniture to sell or trade any goods or services without a permit	5	20
27.4	Selling goods or services or collect donations or subscriptions from door to door	3	20
28.1	Appeals & Collections Without a permit , solicit or collect any gifts, money or subscriptions from door to door	3	20
28.2	Without a permit hand out or distribute advertising material	3	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
28.3	Without a permit erect or place vehicle , caravan, trailer, table, stall or similar structure for purpose of selling goods or services or conducting a raffle or lottery	3	20
29	Charity Bins Place Charity Bin without a permit	5	20
30.1	Obstructions on Council-controlled land Advertising sign or other object obstructing Council-controlled land or other views	3	20
30.2	Vegetation obstructing Council-controlled land or other views	3	20
31	Obstructions on Roads Allowing a vehicle or trailer placed on any road to cause danger, hazard or interfere with use of a road or obstruct views	5	20
32.1	Changes to and Occupation of Council-Controlled Land Without a permit or licence cause change to or remove anything from Council-controlled land	5	20
32.2.1	Without a permit or licence occupy or put anything on Council-controlled land	3	20
32.2.2	Without a permit use a mobile crane or travel tower	5	20
33	Filming and Photography on Council-Controlled Land Without a permit conduct filming or photography which involves placement of equipment or other items on Council-controlled land	5	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
34.1	Repair of Vehicles and Storage of Heavy Vehicles Use Council-controlled land to repair, service or perform any work on a vehicle	5	20
34.2	Without a permit allow a heavy vehicle to be stored or perform any work on a heavy vehicle on land.	5	20
35.1	Use of Vehicles on Council-Controlled Land Use vehicles on Council-controlled land contrary to the requirements	3	20
36	Bike Share Scheme Own or operate Bicycle for the purpose of bike share scheme without a permit	3	20
37	E-Scooter Share Scheme Own or operate an e-scooter for the purpose of an e-scooter share scheme without a permit	3	20
38	Wheeled Recreational Devices and Wheeled Toys Use of wheeled recreational devices , wheeled toys or other similar devices on Council-controlled land to endanger, intimidate, obstruct and hinder	3	20
39.1	Model Aircraft Without a permit operate model aircraft on, over or from any Council-controlled land	2	20
39.2	Without a permit convene or participate in an organised group operating model aircraft on, over or from Council-controlled land	2	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
40.2	Parking Permits Fail to comply with obligations of a Parking Permit Holder	3	20
41.1	Caravans and Camping Place more than one (1) caravan, campervan, motor home on private land without a permit	3	20
41.2.	Occupy caravan, campervan, motor home, tent or similar on private land more than 3 weeks without a permit	3	20
41.3	Occupy or allow another to occupy a caravan, campervan, motorhome, tent or similar on Council-controlled land	3	20
42.1	Shopping Trolleys Person leaves a shopping trolley other than in proper area	3	20
42.2	Shopping Trolley of a retailer left on a road or Council-controlled land	5	20
43.1	Dangerous and Unsightly Land and Nuisance Owner or occupier allows dangerous and unsightly land and nuisance	5	20
43.2	Owner or occupier allows building or other structure to become dilapidated	5	20
43.3	Must take reasonable steps to prevent the movement of soil, sediment and other substances from private land to the adjoining road .	3	20
43.4	Must ensure pavement lights are maintained so as not to fall into a state of disrepair.	5	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
44.1	Open Air Burning and Incinerators Cause or allow to burn a substance that is likely to be offensive or cause fire risk or endanger health of person or animal	4	20
44.2	light a fire in the open air without a permit	5	20
44.3	Use or allow an incinerator to be used	5	20
44.4	Fail to extinguish a fire	5	20
45.1 and 45.2	Drains and Watercourses Without a permit or licence interfere with a drain	5	20
45.3	Fail to ensure drain discharges to an approved point of discharge	5	20
45.4	Allow drain to be in disrepair	5	20
45.5	Fail to notify Council if a drain or associated infrastructure becomes blocked, damaged or fails to operate	5	20
46	Household, Recycling and Organic Storage Failure to comply with any of the waste collection requirements	3	20
47.1	Hard Waste Collection Failure to comply with the hard waste collection requirements	5	20
47.2	Deposit or allow to deposit litter contrary to the requirements	5	20
48.1	Bulk Rubbish and Trade Waste Storage Without a permit place bulk rubbish container or any other thing on Council-controlled land or road ,	5	20

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Amenity Local Law

Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
48.2	Fail to comply with the correct sanitary conditions for a bulk rubbish container	5	20
48.3	Fail to ensure that the area which a permit related to bulk rubbish container is kept in accordance with Council direction	5	20
49	Screening Bins and Containers Fail to meet the conditions for approved waste receptacles or bulk rubbish container	5	20
50.1.1	Noise Leave the engine of a stationary heavy vehicle running	5	20
50.1.2	Without a permit deliver outside of hours	5	20
50.2	Without a permit carry out or allow to be carried out non-residential building work outside of hours	5	20
52.1	Keeping Domestic Animals Without a permit keeps excessive animals	2	20
52.2	Without a permit must not keep any animal that is not specified in table 52.5.	2	20
52.4	Without a permit must not keep any animal on vacant land .	2	20
52.7	Fails to comply with the conditions where animals are kept	2	20
52.7.1	Must ensure any animals kept on private land are contained and prevented from escape	2	20
53.	Treatment of Animals Poultry kept contrary to requirements	2	20

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Clause	Description of Offence	Infringement Notice Penalty Units	Maximum Penalty Units
54	Nuisances Animals or birds causing nuisance	2	20
55.1	Dogs Carry receptacle or receptacles suitable for removal of excrement	2	20
55.2	Allow excrement to remain on Council-controlled land	2	20

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:)
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)

..... Mayor/Councillor

..... Chief Executive Officer

..... Date