

Management report to Council**Agenda item 6.2****Proposed New Local Laws 2023****Council****Presenter:** Kim Wood, Chief Legal Counsel**29 August 2023****Purpose and background**

1. The purpose of this report is to seek endorsement from Council to commence the community engagement process to make the Activities Local Law 2023 and Environment Local Law 2023 under the *Local Government Act 2020* (LGA 2020).
2. At its meeting on 28 March 2023, Council resolved as follows:
 1. *That Council requests from management proposals to make the Activities Local Law 2023 and Environment Local Law 2023. These proposals should:*
 - 1.1 *Replicate the terms of the Activities Local Law 2019 and the Environment Local Law 2019, other than as directed below;*
 - 1.2 *With regard to the Activities Local Law 2019, replicate the number of penalty units for offences under clauses 6, 7 and 9, and halve the number of penalty units for offences under all other clauses;*
 - 1.3 *With regard to the Environment Local Law 2019, translate all penalties into penalty units as appropriate;*
 - 1.4 *With regard to both Local Laws, update any out-of-date references and make any other changes deemed by management to be necessary or beneficial;*
 - 1.5 *Be accompanied by a program of community engagement and explanatory text to show how the proposals will satisfy Sections 73 and 74 of the Local Government Act 2020; and*
 - 1.6 *Aim to have the new Local Laws commence within the first quarter of FY23-24.*

Key issues

3. A draft Activities Local Law 2023 (Attachment 2) and Environment Local Law 2023 (Attachment 3) have been prepared showing the proposed changes from the existing local laws. As well as changes in line with the Council resolution of 28 March 2023, the documents have been reviewed against the local law requirements set out in the LGA 2020. The requirements include the local law must not be inconsistent with any Act including the *Charter of Human Rights and Responsibilities Act 2006*.
4. The process has been delayed due to changes in the Australian Government budget in respect to vaping by prescription only. Whilst there may be changes in the Victorian *Tobacco Act 1987* in the future, management recommends the controls in respect to vaping remain unchanged save the current definition of e-cigarette in the *Tobacco Act 1987* be included in the Activities Local Law 2023.
5. The LGA 2020 sets out the process to be followed by Council in proposing a local law, including requiring the local law be made in accordance with Council's Community Engagement Policy.
6. It is intended the community engagement and notices in respect to the proposed new local laws (Attachments 4 and 5) also include Attachments 2 and 3 to indicate the specific changes to enable the public to focus attention on what is different. This does not alter the right of the community to comment on other parts of the proposed local laws.

Recommendation from management

7. That Council:
 - 7.1. Proposes to make the Activities Local Law 2023 (Attachment 4 of the report from management) and Environment Local Law 2023 (Attachment 5 of the report from management) (Proposal) to be the subject of a community engagement process in accordance with section 73 of the *Local Government Act 2020* (LGA 2020).
 - 7.2. Notes the proposed local laws reflect the resolution of Council of 28 March 2023, and the changes from the current Activities Local Law 2019 (Attachment 2 of the report from management) and Environment Local Law 2019 (Attachment 3 of the report from management) will be provided to the public as a part of the Proposal.
 - 7.3. Requests management give notice of the proposed local laws in accordance with the LGA 2020 and carry out a community engagement process in accordance with Council's Community Engagement Policy.
 - 7.4. Notes the results of the community engagement process and recommendations on the Proposal will be the subject of a future report to Council.

Attachments:

1. Supporting Attachment (Page 3 of 131)
2. Draft Activities Local Law 2023 showing changes from the Activities Local 2019 (Page 4 of 131)
3. Draft Environment Local Law 2023 showing changes from the Environment Local 2019 (Page 47 of 131)
4. Clean version of the proposed Activities Local Law 2023 (Page 68 of 131)
5. Clean version of the proposed Environment Local Law 2023 (Page 111 of 131)

Supporting Attachment

Legal

1. Division 3 of Part 3 of the LGA 2020 sets out Council's powers to make local laws. Section 71 of the LGA 2020 provides that a local law must be consistent with the local law requirements set out in section 72.
2. Section 73 of the LGA 2020 prescribes the procedure that must be followed by Council when proposing to make a local law including:
 - 2.1. publication of notices
 - 2.2. ensuring copies of the proposed local law are available for inspection at the Council's office and on the Council's internet site
 - 2.3. conducting a community engagement process.
3. Section 11 of the LGA 2020 provides that the Council cannot delegate the power to make, amend or revoke a local law.

Finance

4. The costs of the Proposal will be absorbed within the current approved budget. .

Conflict of interest

5. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

6. Local laws are a key tool used by local government to protect the community.

Stakeholder consultation

7. If the recommendation is approved, the Proposal will be the subject of a community engagement process in accordance with the requirements of the LGA 2020. As the Proposal involves technical changes from the current local laws, the consultation will be limited. A full community engagement will occur at the stage where either or both local laws are holistically reviewed.

Relation to Council policy

8. Local laws support numerous Council policies.

Environmental sustainability

9. The proposed local laws address issues in respect to the protection of the public realm and the disposal of waste. In addition, the proposed Environment Local Law 2023 sets standards for owners and occupiers of premises within the municipality.



Melbourne City Council

Activities Local Law 202319

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Part 1 Preliminary

Title

1.1 This Local Law is called the “Activities Local Law ~~2023~~19”.

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) promote a physical and social environment free from hazards to health, in which the residents of and visitors to the *municipality* can enjoy a quality of life that meets the general expectations of the community;
- (b) control noise, behaviour, *liquor* consumption, *animals*, *spruiking*, busking, *advertising sign*, works and obstructions on *roads*, street trading, the use of *toy vehicles* and other activities;
- (c) protect the use of *public places* and control activities in or near them;
- (d) provide for safety in *public places*;
- (e) regulate and manage the legitimate display of *street art*, in or within view from, a *public place* so as to facilitate a vibrant urban culture;
- (f) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;
- (g) regulate the number and manner of keeping of *animals*;
- (h) control, prevent and abate *nuisances*;
- ~~(i) repeal the Activities Local Law 2019;~~ and
- (i) provide for the peace, order and good government of the *municipality*.

1.3 This Local Law contributes to the Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under ~~the provisions of Part 5~~Division 3 of Part 3 of the *Local Government Act 2020*~~1989~~.

When does this Local Law commence?

1.5 This Local Law commences on the ~~first day of July 2019~~[date to be inserted]~~date its making is published in a notice in the Victorian Government Gazette.~~

Repeal of the Activities Local Law 2019

1.6 The Council's Activities Local Law 2019 is repealed from the commencement of this Local Law.

To what part of the *municipality* does this Local Law apply?

1.~~76~~ Subject to clauses 1.~~87~~, 1.~~98~~ and 1.~~109~~, this Local Law applies throughout the whole of the *municipality*.

1.87 Clauses 3.1 to 3.3 inclusive apply as follows:

- (a) to that part of the *municipality* which is *prescribed* by the *Council* for the purposes of this clause 1.87(a), throughout the whole of each year; and
- (b) to that part of the *municipality* which is prescribed by the *Council* for the purposes of this clause 1.87(b), during:
 - (i) prescribed days or periods; or
 - (ii) on each day during the race period within the meaning of the *Australian Grand Prix Act 1994* (or its successor legislation) and to 8.00 a.m. on the day immediately following the last day of the race period; or
 - (iii) on any day during the period specified in a notice signed by the *Council's* Chief Executive Officer as being the period during which Melbourne Moomba Waterfest Festival or any other festival is to occur and to 8.00 a.m. on the day immediately following the last day of the period specified in the notice.

Are there any exemptions from this Local Law?

1.98 Nothing in this Local Law prevents a member, officer or employee of:

- (a) the Commonwealth or State Government;
- (b) the Victoria Police;
- (c) ~~the Metropolitan Fire Brigade~~ Fire Rescue Victoria;
- (d) ~~the Ambulance Service~~—Victoria;
- (e) any first-aid or emergency service organisation;
- (f) any military or civil-defence force; or
- (g) a *public body* other than the *Council*;

from performing any of the duties ~~he or she is~~ they are lawfully entitled or required to perform while engaged in those duties, provided that:

- (i) 48 hours notice of the person's intention to perform the activity is given to the *Council* beforehand, or
- (ii) in the event of an emergency, notice is given as soon as practicable after the activity has been carried out.

1.109 Nothing in this Local Law relating to an *animal* prevents:

- (a) a blind or deaf *person* being entitled at all times and in all places to be accompanied by a guide dog or registered assistance animal; or
- (b) a member of the Victoria Police in charge of a police dog or police horse from carrying out police duties.

1.110 The *Council* may *prescribe* specified *persons*, *premises* or areas within the *municipality* to be exempt from a provision of this Local Law for a specified time and on specified conditions.

Definitions

1.124 The words identified in italics throughout this Local Law are intended to have the following meaning:

"*acceptable no smoking sign*" has the same meaning as in the *Tobacco Act 1987*.

"*Act*" means the *Local Government Act 1989*.

"*advertising sign*" includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying:

- (a) the existence of the sale or use of any *goods* or services; or
- (b) the holding of an event or function; or
- (c) the promotion of any person, company, organisation or thing.

"*animal*" includes a bird, fish and reptile.

"*authorised officer*" means:

- (a) a *person* appointed by the *Council* to be an authorised officer under section 224 of the *Act*; or
- (b) in respect to the enforcement of Part 3 of this Local Law, upon the *Council* publishing a notice in the Government Gazette under section 224A of the *Act*, any police officer.

"*bicycle*" has the same meaning as in the *Road Safety Road Rules 2017*.

"*body of water*" includes a cascade, fountain, pond, pool and watercourse but does not include a *swimming pool*.

"*building*" includes a part of a building and the whole or any part of a structure, temporary building or structure, fence, gate, wall, *pavement light*, outbuilding, service installation, mast, pole and other appurtenance of a building.

"*building works*" includes works, activities, events and practices for or in connection with the construction, alteration, demolition or removal of a building.

"*central city*" means the area depicted in the *Plan*.

"*child care centre*" means *premises* located on *Council land* used by a person to care for 4 or more children under the age of 13 years, in the absence of their parents or guardians, for the payment of a fee or other consideration.

"*children's playground*" means *Council land* set aside or used for the predominant purpose of a children's play area.

"*Code*" means the Code of ~~Good p~~Practice for ~~building, c~~Construction ~~and works~~Sites adopted by the ~~former Docklands Authority~~*Council* on ~~22 March 2002~~15 February 2022, as amended from time to time by the *Council*.

"*construction management plan*" means a description of the proposed strategy to be implemented in relation to the *building works* to ensure:

- (a) public amenity and safety are maintained;
- (b) *Council* and community assets are protected;
- (c) the impact on *green infrastructure* is minimised;
- (d) *nuisances* are controlled and prevented;

- (e) compliance with the provisions of the *Environment Local Law*;
- (f) disruptions to traffic are minimised;
- (g) *waste* is managed appropriately; and
- (h) appropriate environmental controls are in place.

"*Council*" means the Melbourne City Council.

"*Council land*" means land, buildings and facilities which are owned or occupied by or vested in the *Council* or in respect of which the *Council* has the care and management to which the public has access whether an entry fee is paid or not.

"*crossing*" means a crossing for *vehicles* on or over a *road* for the purposes of enabling access to be gained to land next to a *road*.

"*designated sound level*" is the maximum sound level *prescribed* by the *Council* for the purposes of any part of this Local Law.

For the avoidance of doubt the *Council* may:

- (a) set more than one *designated sound level* based on factors including the location, the nature of the sound, the activity resulting in the sound; and
- (b) *prescribe* the method by which compliance with the *designated sound level* is measured.

"*design and construction standards*" means the Design and Construction Standards for Public Infrastructure Works as amended from time to time by the *Council*.

"*e-cigarette*" ~~has the same meaning as in the *Tobacco Act 1987*.~~ means:

- (a) a device (other than a device that is prescribed to be not an e-cigarette for the purposes of the *Tobacco Act 1987*) that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited tobacco product; or
- (b) any other device prescribed by regulations made under the *Tobacco Act 1987*.

"*encroachment*" includes any object or thing projecting from a *building* on, over or in a *public place*.

"*Environment Local Law*" means the *Council's* Environment Local Law ~~2019-2023~~ as amended from time to time.

"*gas regulator vent stack*" means any ventilation stack used to vent gas located in a *public place* as *prescribed* by the *Council*.

"*goods*" includes food.

"*green infrastructure*" means:

- (a) plants, including street and community gardens
- (b) plants contained within a pot or container which may be on the ground or suspended from or connected to a building or structure
- (c) composting facilities

- (d) any item or thing attached to a *tree*
- (e) any other infrastructure that supports greening in the *municipality* as *prescribed* by the *Council*.

"*green waste*" has the same meaning as in the *Environment Local Law*.

"*handbill*" includes a placard, notice, book, pamphlet, paper and advertisement other than an advertisement affixed to any *building* abutting any *road* or public highway, but does not include a newspaper, magazine or book sold by a news vendor or other *person* authorised by the *Council* nor any *handbill* containing material of an exclusively political nature distributed by hand to any *person*.

"*hard waste*" has the same meaning as in the *Environment Local Law*.

"*liquor*" means a beverage intended for human consumption with an alcoholic content of 0.5 per centum by volume or greater.

"*minor building work*" means *building work* valued at less than \$5,000.00 but excludes demolition and removal of buildings and structures (regardless of value).

"*moor*" means to hold, tether, berth or secure a *vessel* in a location by a cable, chain, anchor or other means.

"*municipality*" means the municipality of the *Council*.

"*Notice to Comply*" means a notice given under clause 174.9 of this Local Law.

"*nuisance*" has its ordinary common meaning in this Local Law, except for Part 129, where it is also to include:

- (a) any *building works* that emit dust, odour, waste, noxious gases or other *wind blown refuse* beyond the construction site;
- (b) the leaving of open and unguarded pits, excavations or basements on a building site which may constitute a risk to public safety or property;
- (c) any temporary structure, material, condition or practice constituting a fire hazard or impairing the extinguishing of any fire;
- (d) any *building works* that exceed the *designated sound level* prescribed by the *Council*;
- (e) any vibrations exceeding the level *prescribed* by the *Council*.

"*occupier*" of *premises* means:

- (a) a *person* having the charge, management or control of the *premises*, and
- (b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the *person* receiving the rent from the tenants or lodgers.

"*owner*" of *premises* means the following:

- (a) where the *premises* are Crown land, the owner of the *premises* is the lessee or licensee of the land from the Crown,
- (b) where the *premises* are other than Crown land, the owner of the *premises* is:
 - (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and

- (ii) every *person* who is, or would be, entitled to receive, or is in receipt of, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

“*pavement light*” means a device incorporated into the footpath or roadway adjacent to *premises* for the provision of natural light to those areas of the *premises* below ground level.

“*pedestrian service signs*” means signs for the benefit of pedestrians and includes-

- (a) identification signs indicating names of areas and precincts;
- (b) directional signs indicating direction to areas, attractions and features;
- (c) civic maps and maps of an area; and
- (d) historical signs, historical plaques, walls and information panels.

“*permit*” means a permit granted under Part 163 of this Local Law.

“*person*” includes an individual, a corporation, an association incorporated under the *Associations Incorporation Reform Act 2012-1984*, a partnership and an unincorporated association.

“*place*” when used as a verb includes allow to remain.

“*Plan*” means the plan appended to this Local Law.

“*Planning Scheme*” means an applicable planning scheme under the *Planning and Environment Act 1987*.

“*premises*” includes the whole or part of any land, a lot on a plan of subdivision and a *building* or *building* under construction.

“*prescribe*” and “*prescribed*” includes decided or specified by the *Council*.

“*proprietor*” means the *owner*, *occupier*, lessee, licensee, manager or any other *person* in control or charge of any place or *premises*.

“*public body*” means any government department or municipal council or body established for a public purpose by legislation.

“*public place*” has the same meaning as in the *Summary Offences Act 1966* and, to the extent that it does not include the following, also includes:

- (a) any place *prescribed* by the *Council* as a public place, other than an interior part of a *building* which is not occupied by the *Council* or a *public body* unless that part has been *prescribed* by the *Council*;
- (b) any place to which the public whether upon or without payment for admittance have or are permitted to have access, but does not include a shopping centre;
- (c) any park, garden, reserve or other place of public recreation or resort;
- (d) any vacant land or vacant space adjoining any *road*;
- (e) any wharf, pier or jetty; and
- (f) a *Council building*.

“*recyclable material*” has the same meaning as in the *Environment Local Law*.

"road" has the same meaning as in the *Act*.

"sailboard" means a surfboard or other light weight device equipped with a sail designed to be propelled on water and includes a windsurfer.

"segway" means a two-wheeled, self-balancing electric form of transportation.

"sell" includes:

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and
- (b) sell for re-sale.

"ski" includes a water ski, jet ski and surf ski.

"smoke" means to:

- (a) smoke, hold or otherwise have control over an ignited *tobacco product*;
- (b) light a *tobacco product*; or
- (c) use an *e-cigarette* to generate or release an aerosol or vapour.

"smoke free area" means an area:

- (a) identified in Part A of Schedule 2 to this Local Law; or
- (b) *prescribed* to be a *smoke free area* in accordance with clause 43A.3.

"special event" means an organised sporting, recreational, cultural, commercial or social gathering of people which is held on a *road* or any other *public place prescribed* by the *Council*.

"spruik" includes haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter *premises*, purchase *goods* or both.

"street art" means artwork in the form of a mural but excludes graffiti such as tagging or stand-alone stencils.

"swimming pool" means a facility owned by, vested in or used or arranged by the *Council* for public bathing or swimming purposes, whether managed directly by the *Council* or by others and includes areas of land associated with that facility including all forms of exercise, recreational and associated areas within the enclosure which houses the swimming pool and associated facilities.

"tobacco product" has the same meaning as in the *Tobacco Act 1987*.

"tout" includes soliciting business to *premises* whether by addressing members of the public directly or the emission of music or other noise calculated to attract business to *premises*.

"toy vehicle" means equipment designed to be propelled on land by human power and includes a skateboard, scooter, roller skates and in-line skates but does not include a *bicycle*.

"traffic control item" means any sign, mark, structure or device displayed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a *traffic control signal*.

"*traffic control signal*" means a device, however operated, which uses words symbols or lights to control or regulate traffic.

"*tree*" includes the trunk, branches, canopy and root system of the tree.

"*vehicle*" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, *bicycle*, *toy vehicle* or *wheelchair*.

"*vesse*" means a craft for travelling on water and includes a boat, dinghy, yacht and catamaran but does not include a *sailboard* or *ski*.

"*waste*" has the same meaning as in the *Environment Protection Act 2017-1970*.

"*waste container*" means a bin, cart or other receptacle of a kind approved by the *Council* for the purpose of *waste* collection within the *municipality* or part of the *municipality*.

"*wheelchair*" means a vehicle capable of a speed of no greater than 10 kilometres per hour propelled by human or mechanical power used for personal mobility by a *person* with a disability.

"*wind blown refuse*" means refuse from a building site which is, if left outdoors, capable of or susceptible to being blown away without any human intervention by winds of a strength ordinarily encountered within the municipality in the course of a year.

1.12 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

Part 2 Behaviour

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling behaviour in *public places* and by prohibiting persons from causing damage to *public places* or acting in a socially unacceptable manner.

Prohibited activities in *public places*

2.1 A *person* must not in, on or within the hearing or sight of a *public place*:

- (a) cause or commit any *nuisance*;
- (b) adversely affect the amenity of that *public place*;
- (c) interfere with the use or enjoyment of that *public place* or the personal comfort of another *person* in or on that *public place*;
- (d) annoy, molest or obstruct any other *person* in or on that *public place*;
- (e) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience; or
- (f) commit an indecent or offensive act; or
- (g) use any threatening, abusive or insulting words.

2.2 A *person* must not in or on a *public place*:

- (a) destroy, damage, alter, mark, deface or remove any property or thing;
- (b) walk on or over any plant bed, plant box or garden plot except with the consent of the *proprietor*;
- (c) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, *building*, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the *Council*) except with the consent of the *proprietor*;
- (d) after having been directed to leave by an *authorised officer*, enter or remain in any area, place, *building* or structure that is not open to the public; or
- (e) enter any area, place, *building* or structure in respect of which the *Council* has *prescribed* an entry fee, unless the entry fee has been paid to an *authorised officer* or authorised representative of the *Council* or the *person* enters in accordance with the written consent of the *Council* or the *proprietor*.

Toy vehicles

2.3 A *person* must not:

- (a) use or allow to be used a *toy vehicle* so as to endanger, intimidate or unduly obstruct or hinder any other *person* or *vehicle* lawfully using or intending to use the same area; or
- (b) ride a *toy vehicle* in an area *prescribed* by the *Council* in accordance with Clause 2.4 or in breach of a *prescription* made by the *Council* under Clause 2.5.

- 2.4 The *Council* may *prescribe a public place* (other than a road or road related area) within the *municipality* for the purposes of this Clause 2.4 where it considers that the riding of *toy vehicles* is reasonably likely to cause physical damage to infrastructure located within the area to be *prescribed*.
- 2.5 The *Council* may *prescribe a public place* (other than a road or road related area) within the *municipality* where the riding of a *toy vehicle* is restricted at specified times and on specified conditions where it considers that the riding of *toy vehicles* is reasonably likely to interfere with the use and enjoyment of the locality by pedestrians and other members of the public.
- 2.6 For the purposes of Clauses 2.4 and 2.5, the terms “road” and “road related area” have the meaning as in the *Road Safety Act 1986*.

Note: Maps showing the prescribed area or areas where the riding of a *toy vehicle* is prohibited or restricted are available ~~from the Front Desk, Melbourne Town Hall or~~ by visiting the *Council's* web site at www.melbourne.vic.gov.au

Protection of *trees* and *green infrastructure*

- 2.7 Unless in accordance with a permit, a *person* must not in or on *Council Land* destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure* or allow any *person* to destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure*.

Camping in public places

- 2.8 Unless in accordance with a *permit*, a *person* must not camp in or on any *public place* in a *vehicle*, tent, caravan or any type of temporary or provisional form of accommodation.

Fencing vacant land

- 2.9 An *owner* or *occupier* of vacant land which is wholly or partially unfenced must, as soon as practicable after being directed to do so by the *Council* or an *authorised officer*, fence or cause to be fenced all or that portion of the vacant land which was the subject of the *Council's* or the *authorised officer's* direction.

Fences at intersections

- 2.10 The *owner* or *occupier* of any land situated at an intersection must not erect any fence on the land so as to obstruct the clear view:
- (a) by a driver, of any:
 - (i) Pedestrian;
 - (ii) *vehicle*; or
 - (iii) *traffic control item*; or
 - (b) by a pedestrian, of any:
 - (i) *vehicle*; or
 - (ii) *traffic control item*.
- 2.11 If an *owner* or *occupier* of land has erected a fence in breach or apparent breach of clause 2.9 or 2.10, a *Notice to Comply* may require the *owner* or *occupier* of the land to remove the fence or reconstruct the fence in the manner specified in the *Notice to Comply*.

Part 3 Consumption of *Liquor*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public, especially during major events. The provisions control the consumption of *liquor* in *public places* and other places within certain areas of the *municipality* and during certain periods of the year. Clause 1.87 identifies the areas and the periods during the year to which this Part applies.

Consumption and possession of *liquor* is prohibited in certain circumstances

3.1 A *person* must not:

- (a) in or at a *public place*; or
- (b) in or on a *vehicle* which is on or at a *public place*,

consume any *liquor* or have in ~~his or her~~their possession or control any *liquor* other than *liquor* in a sealed container in that part of the *municipality* *prescribed* by the *Council* pursuant to clause 1.87 of this Local Law.

Note: MA maps showing the *prescribed* area or areas where the consumption of *liquor* is prohibited throughout the year or at some times of the year are available ~~from the Front Desk, Melbourne Town Hall or by visiting the Council's web site at www.melbourne.vic.gov.au~~. To find out details of the area or areas where the consumption of liquor may be restricted at other times of the year contact the Council or visit the Council's web site at www.melbourne.vic.gov.au

3.2 Clause 3.1 does not apply to a *person*:

- (a) taking part in a festival or event in respect of which the *Council* has granted a *permit* for *persons* to consume *liquor* or to have in their possession or control any *liquor* other than *liquor* in a sealed container; or
- (b) within authorised premises or licensed premises under the *Liquor Control Reform Act 1998* or any subsequent legislation relating to the serving and consumption of *liquor*.
- (c) who has been granted a *permit* to take *liquor* into an area *prescribed* by the *Council* pursuant to clause 1.87.

3.3 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3.1, the *authorised officer* may direct the *person* to seal any container or dispose of the contents of any unsealed container.

Part ~~43A~~

No Smoking in *Smoke Free Areas*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public. The following clauses prohibit smoking a tobacco products or using an e-cigarette in *smoke free areas* within the *municipality*.

Prohibition on smoking

~~43A.1~~ A person must not smoke ~~a tobacco product~~ in a *smoke free area*.

~~43A.2~~ Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause ~~43A.1~~, the *authorised officer* may direct the *person* to extinguish or cease using and then dispose of the *tobacco product or e-cigarette*.

Council may prescribe smoke free areas

~~43A.3~~ In addition to the *smoke free areas* identified in Part A of Schedule 2 to this Local Law, the *Council* may *prescribe* any other area within the *municipality* to be a *smoke free area*.

~~43A.4~~ The *Council* must follow the guidelines incorporated in Part B of Schedule 2 to this Local Law when deciding whether to prescribe an area as a *smoke free area* under clause ~~43A.3~~.

~~43A.5~~ The *Council* or an *authorised officer* may erect, or cause to be erected, an *acceptable no smoking sign* in a *smoke free area*.

Note: maps showing *smoke free areas* are available ~~from the Front Desk, Melbourne Town Hall or~~ by visiting www.melbourne.vic.gov.au

Part 53B Animals

Introduction: This Part aims to provide for the responsible care and management of *animals* within the *municipality* including regulating the number and types of *animals* a *person* may keep without a *permit*.

Application of Part 53B

53B.1 This Part does not apply to any land:

- (a) on which a pet shop is located;
- (b) on which an animal hospital or veterinary practice is located; or
- (c) if the use of the land for this purpose is permitted under the Planning Scheme.

Keeping of *animals*

53B.2 A *person* must not, without a *permit*, keep or allow to be kept any more of each species or group of *animal* than *prescribed* by the *Council*.

435B.3 Any structure or location used for housing an *animal* must be maintained:

- (a) in a clean, inoffensive and sanitary condition;
- (b) so as not to cause any *nuisance*; and
- (c) to the satisfaction of the *Council*.

***Animals* in a public place**

53B.4 A *person* must not feed or leave food for an *animal* in a *public place*.

53B.5 Whenever an *animal* is in or on a *public place*, the owner of the *animal* must have in ~~his or her~~their possession means for the effective collection and removal of any excrement that may be deposited by the *animal*.

53B.6 The owner of an *animal* must immediately collect and remove all excrement deposited by the *animal* in a *public place*.

53B.7 For the purposes of clauses 53B.5 and 53B.6:

- (a) the owner of an *animal* includes the *person* who has the *animal* in ~~his or her~~their care for the time being whether the *animal* is restrained, confined or at large; and
- (b) *animal* does not include a bird, fish or reptile.

Part 64

Advertising and Use of Shopfronts and *Public Places*

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling the placement of *advertising signs* in *public places* and on and between *buildings* and *street art* in, or within view from, a *public place* within the *municipality* and the placement of *goods* and the like in *public places*.

Authorisation required for *advertising sign* or other thing on or between *buildings*

64.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or the *Planning Scheme* or a planning permit issued under it; or
- (c) no part of the *advertising sign* or other thing is in, on or over a *public place*,

a *person* must not hang, *place* or affix any *advertising sign* or other thing on or between any part of a *building*, plant, pole, post or other structure or allow that to occur.

Authorisation required for *street art* in, or within view from, a *public place*

64.2 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with a planning permit issued under the *Planning Scheme*,

a *person* must not apply *street art*, or allow or suffer to allow, *street art* on any part of an outside wall of a *building* such that the *street art* is in, or within view from, a *public place*.

Note: Nothing in this clause is intended to affect the operation of the *Graffiti Prevention Act 2007*.

64.3 Where *street art* is on a *building* in breach of clause 64.2, in addition to any other powers the *Council* has under this Local Law, the *Council* may serve a *Notice to Comply* on the *owner* or *occupier* of the *building* requiring the removal of the *street art*.

64.4 If the person served with a notice under clause 64.3 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *building* into compliance with the notice.

64.5 Any costs incurred by the *Council* in taking action under clause 64.4, unless otherwise agreed by the *Council*, must be paid by the person served with the notice under clause 64.4 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises* on which the *building* is situated.

Authorisation required for portable *advertising signs* or other things in *public places*

64.6 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it,

a *person* must not *place* or erect a portable *advertising sign* or other thing in, on or over a *public place* or allow that to occur.

Authorisation required for *goods* in a *public place*

64.7 Subject to clause 64.8, a *person* must not hang, pile or place any *goods* or allow that to occur:

- (a) on the roof of or other portion of a verandah; or
- (b) on any shopfront or outside wall of *premises*.

64.8 Clause 64.7 does not apply if the placement of an item:

- (a) does not protrude over or into a *public place* or cause an obstruction or risk of injury to a *person* or damage to property; or
- (b) is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it.

64.9 Unless in accordance with:

- (a) a *permit*; and
- (b) the consent of the *proprietor* of that place,

a *person* must not place or allow to be placed in a *public place* any planter or similar structure or thing.

Part 74A
Greening Melbourne

Introduction: This Part aims to support greening of and biodiversity within the *municipality* by creating a *permit* process to enable the placing of *green infrastructure* on *Council land* and any other *public place prescribed* by the *Council*.

Authorisation required for *green infrastructure*

74A.1 Without limiting the generality of clause **64.6** of this Local Law, unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issue under it, on which an animal hospital or veterinary practice is located;

a person must not *place* or erect *green infrastructure* in, on or over *Council land* or any other *public place prescribed* by the *Council*.

Part 85 Street Trading and *Special Events*

Introduction: This Part contains provisions which aim to manage and facilitate responsible trading and entertainment on streets and *public places* to increase the attractiveness and comfort of these places, by controlling the soliciting of gifts and money, busking, *selling* and other behaviour on *public places*.

Permit required for the soliciting of money etc.

85.1 Unless in accordance with a *permit*, a *person* must not solicit or collect a gift of money or subscription or *sell* a raffle ticket in or on a *public place*.

Soliciting trade and similar activities

85.2 Unless in accordance with a *permit*, a *person* must not in a *public place* or from *premises* adjacent to a *public place*, offer to *sell goods* or solicit or try to attract trade or business or *tout* or *spruik* or allow any *person* to solicit or try to attract trade or business or *tout* or *spruik*.

Permit required for selling in a *public place*

85.3 Unless in accordance with a *permit*, a *person* must not *sell* any *good* or service on or in a *public place* or from *premises* adjacent to a *public place* to a *person* in a *public place*.

Permit required for handbills

85.4 Unless in accordance with a *permit*, a *person* must not display or distribute to any *person* any *handbill* in or on a *public place* or allow that to occur.

Permit required for filming and *special events*

85.5 Unless in accordance with a *permit*, a *person* must not in or on a *road* or any other *public place* *prescribed* by the *Council*:

- (a) conduct any *special event*.
- (b) conduct any filming where the film is for a commercial purpose, public exhibition or as part of a course conducted by a tertiary institution.

Note: The *Council* will take into account the *Filming Approval Act 2014* in considering an application for a *permit* under clause **85.5(b)**.

Permit required for busking

85.6 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:

- (a) sound or play a musical instrument, sing, give a recitation or perform any conjuring, juggling, puppetry, mime or dance or other entertainment or do any of those things concurrently; or
- (b) draw any message, picture or representation on a wall or pavement surface.

85.7 Unless in accordance with a *permit* or in accordance with clause **152.8**, a *person* must not make any noise or allow it to be made by the use or operation of an amplifier or noise-making or enhancing device:

- (a) in a *public place*; or
- (b) in *premises* adjacent to the *public place* if the noise is capable of being heard in the *public place*.

85.8 Clause 85.7(b) does not apply where the noise involved would not contravene clauses (a) and (b) of clause 152.8.

Causing obstruction

85.9 A *person* must not:

- (a) without a *permit*, unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*; or
- (b) invite, encourage or allow the congregation of *persons* so as to unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*.

Furniture in a *public place*

85.10 Unless in accordance with a *permit*, a *person* must not place or cause to be placed any furniture in or on a *public place*.

Part 96

Works on Roads

Introduction: This Part contains provisions which aim to minimise the impact of works on *roads* on the amenity of the *municipality* and its residents by ensuring that obstructions do not interfere with the public's reasonable use of *roads*.

Permit required for road interference

96.1 Unless in accordance with a *permit*, a *person* must not:

- (a) erect a hoarding or overhead protective awning on a *road*;
- (b) install a temporary or permanent *crossing*;
- (c) occupy or fence off part of a *road*;
- (d) use a mobile crane, travel tower, lift or tackle on or above a *road*;
- (e) make a hole in, excavate, damage or remove part of any *road*; or
- (f) install, alter or remove:
 - (i) a *pavement light*;
 - (ii) any object including a sign, tactile indicator or planter box on in or over a *road*;
 - (iii) a fence, gate or retaining wall on or in a *road*;
 - (iv) an *encroachment*.
- (g) enter or leave a site where *building works* are being conducted from a point other than a temporary or permanent *crossing*.

96.2 A *person* who breaches clause 96.1(e) shall be liable to repair, replace or reconstruct the *road* within 30 days of being requested to do so by an *authorised officer*.

Part 107 **Building Standards**

Compliance with Code

107.1 A *person* must comply with any obligation imposed by the *Code*.

Compliance with the design and construction standards

107.2 A *person* to whom the *design and construction standards* apply must comply with any obligation imposed by the *design and construction standards*.

Notification of the Office of Gas Safety

107.3 Prior to considering an application for a *permit* or licence for any structure, event or occupation of any area within 39 metres of a *gas regulator vent stack*, the applicant for the *permit* or licence must refer the application to Energy Safe Victoria, which may require the refusal of the *permit* or licence or inclusion of conditions in any *permit* or licence issued. Details of the application must also be notified to Energy Safe Victoria.

107.4 The *Council* will consider any requirement of the Office of Gas Safety before deciding whether to grant or refuse an application of the type described in clause 107.3.

Part **118** Water Activities

Prohibition on water activities

118.1 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:

- (a) bathe, paddle, swim or wade in any *body of water* or allow an *animal* to do so, unless the *body of water* has been *prescribed* for that purpose; or
- (b) deposit, throw or otherwise place anything on or into any *body of water*.

Mooring

118.2 A *person* must not, without a *permit*, *moor* any vessel on or along any *body of water*.

Behaviour

118.3 A *person* must not, while aboard a vessel on a *body of water*:

- (a) engage in any activity which is dangerous to any other *person*;
- (b) use an amplifier or electronic device so as to interfere with the use or enjoyment of the *body of water* or any adjacent land by any other *person* except as permitted by the *Council* or an *authorised officer*; or
- (c) interfere with the reasonable use and enjoyment of a *body of water* or any adjacent land by any other *person*.

118.4 A *person* must not take a *sailboard* or *ski* onto a *body of water* other than in an area *prescribed* by the *Council* as being an area set aside for *sailboards* or *skis*.

Part **129** Building Works (Nuisance Abatement)

Introduction: This Part contains provisions which aim to improve the amenity of the *municipality*, in particular residential areas, by preventing *nuisances* caused by *building works*.

Notice to be given before commencing *building works*

129.1 A *person* must not commence to carry out *building works* (other than *minor building works*) unless ~~the~~ ~~or she~~ *person* gives at least 48 hours written notice to the *Council* of ~~his or her~~ *their* intention to do so.

129.2 A notice under clause **129.1** must be in the form *prescribed* by the *Council* and if requested, include a *construction management plan* which must be approved by the *Council* prior to commencement of *building works*.

Note: The *Council* requires a person to notify it prior to commencing any *building works* in order to ensure that all matters associated with the proposed *building works* are dealt with. This is to control and prevent potential damage to the environment and minimise any *nuisance* to those people in the vicinity of the *building works*.

129.3 A *construction management plan* may be modified with the consent of the *Council*.

129.4 A *person* involved in the carrying out of *building works* must comply with a *construction management plan* approved under clause **129.2** or modified under clause **129.3**.

Building works are confined to certain times and places

129.5 Except in the case of an emergency or in accordance with a *permit*, a *person* must not carry out *building works* or cause *building works* to be carried out unless the works are carried out between the hours of:

- (a) 7.00am and 7.00pm Monday to Friday; and
- (b) 8.00am and 3.00pm on Saturday.

Building works on a dwelling are confined to certain times and places

129.6 Notwithstanding clause **129.5**, a *person* may carry out *building works* or cause *building works* to be carried out on a dwelling:

- (a) if the works are carried out on any day between the hours of:
 - (i) 7.00am and 7.00pm Mondays to Fridays;
 - (ii) 8.00am and 6.00pm on Saturdays;
 - (iii) 9.00am and 6.00pm on Sundays; and
- (b) the *person* is the *owner* or *occupier* carrying out the *building works* ~~himself or herself~~ *themselves* and no other person is engaged for fee or reward; and
- (c) the *person* is complying or observing any direction, notice or order of the *Council*, *authorised officer* or any public authority.

129.7 Notwithstanding clause **129.6**, a *person* may carry out *minor building work* on a dwelling at times other than those specified in clause **129.6(a)** provided that the works do not exceed the *designated sound level* *prescribed* by the *Council*.

Wheels of *vehicles* to be kept clean

129.8 A *person* must not drive a *vehicle* on to any *road* from *premises* upon which any filling, excavation, landscaping, *building works* or demolition operation is being or has recently been carried out unless the wheels and undercarriage of the *vehicle* are clean.

Nuisances

129.9 A *person* must not carry out *building works* or cause *building works* to be carried out so as to create a *nuisance*.

Directions by authorised officer

129.10 An *authorised officer* may, either orally or in writing, direct any *person*:

- (a) found carrying out or suspected of carrying out *building works* in contravention of this Local Law or a *permit* granted under this Local Law; or
- (b) apparently in charge of *premises* where *building works* are being or are suspected of being carried out in contravention of this Local Law or a *permit* granted under this Local Law,
- ~~(c)~~ to cease carrying out those *building works* immediately or as soon as practicable.

Part 130

Dilapidated, Dangerous and Unsightly *Premises*

Introduction: This Part contains provisions which aim to ensure that the appearance of *buildings* in the *municipality* are consistent with an image of the *municipality* that is safe, attractive and well maintained by controlling *premises* that have been allowed to reach a dilapidated, unsightly or dangerous condition.

Dilapidated *premises*

130.1 Where in the opinion of the *Council*, *premises* are in a dilapidated state, including where:

- (a) the exterior of any *building* is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the property or the area in which it is located;
- (b) any architectural features of the *building* are not properly maintained; or
- (c) *pavement lights*, tactile indicators or other *encroachments* are in a state of disrepair which may be dangerous or likely to cause a danger to any *person*,

the *Council* may serve a *Notice to Comply* in accordance with clause 174.9 of this Local Law specifying the work required to correct the dilapidated state.

Dangerous and unsightly *premises*

130.2 An *owner* or *occupier* of *premises* must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire by regularly minimising the build-up of grass, weeds, scrub, undergrowth and any other material or substance on or in the *premises* and ensuring that there is no storage of such material likely to assist in the spread of fire.

130.3 Where the *Council* is of the opinion that the condition of any *premises* may contribute to the spread of fire, the *Council* may serve a *Notice to Comply* in accordance with clause 174.9 of this Local Law specifying the work required to correct the condition of the *premises*.

130.4 An *occupier* of *premises* must not cause or allow ~~his or her~~ their *premises* –

- (a) to be kept in a manner which in the opinion of the *Council* is dangerous or likely to cause danger to health or property; or
- (b) to contain, in the opinion of the *Council*, noxious weeds, insects, excessive vegetation growth or be a haven for vermin.

130.5 Where the *Council* is of the opinion that the condition of any *premises* is as described in Clause 130.4 the *Council* may serve a *Notice to Comply* in accordance with clause 174.9 of this Local Law specifying the work required to correct the condition of the *premises*.

130.6 An *occupier* of *premises* must not cause or allow ~~his or her~~ their *premises* to be kept in a condition which in the opinion of the *Council* is unsightly or is detrimental to the general amenity of the neighbourhood.

130.7 Where the *Council* is of the opinion that the *premises* –

- (a) contains unconstrained rubbish; or
- (b) contains disused excavation or *waste* material;
- (c) for any other reason that may be determined by the *Council* from time to time is unsightly or detrimental to the general amenity of the neighbourhood,

the *Council* may serve a *Notice to Comply* in accordance with clause 174.9 of this Local Law specifying the work required to correct the condition of the *premises*.

Compliance with a Notice

130.8 A *Notice to Comply* is to be served on the *occupier* of the *premises* or, if one of the following circumstances exist, on the *owner* of the *premises*:

- (a) the *occupier* of the *premises* cannot, after reasonable enquiry, be located; or
- (b) the *occupier* no longer occupies the *premises*; or
- (c) the *premises* are unoccupied.

130.9 In addition to any other means of enforcement provided by this Local Law, if the *person* served with a notice under clauses 130.1, 130.3, 130.5 and 130.7 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *premises* into compliance with the notice.

130.10 Any costs incurred by the *Council* in taking action under clause 130.9 (including, without limitation, the cost of carrying out *building work*, the erection of hoardings and barricades and the removal of material from the *premises*), must be paid by the *person* served with the notice under clause 130.1, 130.3, 130.5 and 130.7 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises*.

Part 141

Naming of *Roads* and Numbering of *Premises*

Introduction: This Part contains provisions to provide for the making of clear signage of *road* names and street numbers to assist in the management of the *municipality* and assist emergency services.

Naming of *roads*

141.1 No person may give, approve or allot a name to any *road* without the approval of the *Council*.

Allocation of numbering

141.2 The *Council* may allot to *premises* within the *municipality* such numbers as it considers necessary to identify these *premises* and may from time to time make such changes as it deems fit.

Requirement to number *premises*

141.3 The *owner* of *premises* must clearly mark ~~his or her~~their *premises* with the numbers allotted by the *Council* and must renew the numbers as often as may be necessary.

141.4 Where the *Council* is unable to find or identify the *owner* of *premises*, the *occupier* of those *premises* must comply with clause 141.3.

Council may number *premises*

141.5 The *Council* may where *premises* are not marked by the *owner* or *occupier* with the number allotted, cause the *premises* to be numbered and recover the cost of doing so from the *owner* or *occupier* (as the case may be) as a debt due to the *Council*.

Interfering with numbers and street signs

141.6 A *person* must not:

- (a) destroy, pull down, obliterate or deface the name of any *road*, or the name or number of any *premises*; or
- (b) paint, affix or set up any name to any *road*, or any name or number to any *premises*, contrary to the provisions of this Local Law.

Removal of unlawful sign or number

141.7 The *Council* may cause a *road* name or number unlawfully or incorrectly painted, affixed or set up to be removed, obliterated or destroyed.

Part 152 Miscellaneous

Introduction: This Part contains provisions that aim to regulate and prohibit activities in *public places* not elsewhere covered by this Local Law to improve the amenity of the *municipality* and to protect other assets of the *Council* (such as *pedestrian service signs*).

Authorisation required for discharges

152.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or approval issued under it,

a *person* must not allow any material including dust, wastewater, *waste*, mud, concrete, paint, oil or chemicals to be blown, conveyed, deposited or discharged in, on or across any *public place* (whether from a *building* in the course of construction, alteration, demolition or otherwise).

Prohibition on *vehicles* remaining in *public places*

152.2 Unless in accordance with a *permit*, a *person* must not:

- (a) bring a *vehicle* into or on or allow it to remain in or on a *public place*; or
- (b) ride a *segway* or *bicycle* in or on a *public place*,
except:
- (c) where that *public place* is a road or road related area; or
- (d) in the case of a *bicycle*, where that *public place* is a pathway designated for use by *bicycles*.

152.3 In clause 152.2(c), road and road related area have the meanings as defined in the *Road Safety Act 1986*.

Repairing *vehicles*

152.4 A *person* must not dismantle, paint, carry out maintenance or repair a *vehicle* on a road except where it is necessary to enable the *vehicle* to be removed or so that it can be driven away within one hour of a request by an *authorised officer*.

Interfering with a pedestrian service sign

152.5 A *person* must not:

- (a) destroy, remove, paint, obliterate or deface a *pedestrian service sign*; or
- (b) install or cause to be installed a *pedestrian service sign* without the approval of the *Council*.

Removal of unlawful signs

152.6 The *Council* may cause any unlawfully erected *pedestrian service sign* to be removed and disposed of.

General obstructions

152.7 A *person* must not allow any vegetation, *building* or thing to protrude from *premises* so as to obstruct or interfere with the passage of pedestrians or vehicular traffic in or on a *public place*.

Prohibition against causing excessive noise

152.8 Unless specifically authorised by and in accordance with legislation, a *person* must not in, on or over a *public place* or in *premises* adjacent to such a *public place* make or allow the making of a noise which:

- (a) is capable of interfering with the reasonable comfort of any *person* who may be in the vicinity in that *public place*; or
- (b) at a point:
 - (i) if the noise comes from *premises* adjacent to a *public place*:
 - (A) not less than 3 metres from but outside and adjacent to the frontage of the *premises*; or
 - (B) outside but near the rear boundary of the *premises*; or
 - (C) outside but near the side boundary or extension of the side boundary of the *premises*; or
 - (ii) if the noise comes from a *public place*, not less than 3 metres from the source of the noise,

exceeds the *designated sound level* when measured on sound level measuring equipment.

Deliveries to and collections of *goods* from *premises*

152.9 Deliveries of any *goods* to or collections of any *goods* from any non-residential *premises* must only be made on such days and at such times as are *prescribed* by the *Council*.

Waste

152.10 Waste including *hard waste*, *green waste* and *recyclable material* from any *premises* must only be collected on such days and at such times as are *prescribed* by the *Council*.

152.11 A *person* must not collect waste or allow waste to be collected from an area *prescribed* by the *Council* between 11.01pm and 5.59am on the following day.

12.12 A *person* must not, unless in accordance with a *permit*, collect waste or allow waste to be collected from:

- (a) an area *prescribed* by the *Council* between 6.00am and 11.00pm on the same day; or
- (b) any part of the *central city*.

152.13 A *permit* granted under clause 152.12 may contain conditions requiring the holder of the *permit* to:

- (a) ensure that each *waste container* left out for collection is marked with a unique identification number and details of the frequency with which waste is intended to be collected from the *waste container*;
- (b) maintain a database of *waste containers*, showing the occupier of *premises* in respect of which each *waste container* was issued; and

- (c) ensure that the *permit* or a copy of the *permit* is at all times prominently displayed on each *vehicle* used in the collection of the *waste*.

152.14 A *person* must not leave or allow to be left a *waste container* in or on a *public place* unless it is:

- (a) marked with the address of the *premises* in respect of which it was issued and a telephone contact number;
- (b) clean on all external surfaces including being free from visible food matter and other debris;
- (c) airtight, securely closed and sealed; and
- (d) for the purpose of having *waste* collected and not before 6.00pm the evening before the collection day.

152.15 Further to the requirement in clause 152.14 a *person* must not leave or allow to be left a *waste container* in or on an area *prescribed* by the *Council* unless it is locked, provided that the *Council* takes into account the following matters before *prescribing* such an area:

- (a) pedestrian and vehicular traffic;
- (b) safety;
- (c) noise;
- (d) any other consideration it deems relevant.

152.16 Between the hours of 7am and 7pm, once *waste* has been collected from a *waste container*, a *person* must not keep or allow that *waste container* to remain in or on a *public place* other than an area *prescribed* by the *Council* for the storage of *waste containers*, for more than 3 hours in the *central city* or other area *prescribed* by the *Council* and 24 hours in all other locations.

Part 163 Permits

When is a *permit* required under this Local Law?

- 163.1 Where in this Local Law a *person* is prohibited from doing a thing “unless in accordance with a *permit*”, a *person* who does the thing which is prohibited to be done without first obtaining a *permit* from the *Council* under this Part is guilty of an offence.
- 163.2 The *Council* may grant a *permit* subject to such conditions as it thinks fit.

Fee required

- 163.3 The fee payable for the granting of a *permit* is the fee that is *prescribed* by the *Council*.

Further information may be required

- 163.4 The *Council* may require an applicant to provide it with more information before it deals with the application for a *permit*.

Notice may be required

- 163.5 The *Council* may require the applicant to give notice of the application for a *permit* in the manner *prescribed* by the *Council*.

Duration of *permit*

- 163.6 Except where expressly stated in this Local Law or in a *permit*, a *permit* operates from the date it is issued and expires one year after the date of issue.

Correction of *permits*

- 163.7 The *Council* may correct a *permit* if that *permit* contains:
- (a) an unintentional error or an omission; or
 - (b) a material miscalculation or a material mistake in the description of a *person*, thing or property.
- 163.8 The *Council* must notify a *permit* holder in writing of any correction under clause 163.7.

Exemptions

- 163.9 The *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times;
- 163.10 An exemption under clause 163.9 may be granted subject to conditions.
- 163.11 A *person* must comply with the conditions of an exemption under clause 163.9.
- 163.12 An exemption under clause 163.9 may be cancelled or corrected as if it were a *permit*.

Cancellation of a *permit*

- 163.13 The *Council* may cancel a *permit* if it considers that:
- (a) there has been a serious or ongoing breach of the conditions of the *permit*;

- (b) a *Notice to Comply* has been issued, but not complied with within seven days after the time specified in the *Notice to Comply*;
- (c) there was a significant error or misrepresentation in the application for the *permit*; or
- (d) in the circumstances, the *permit* should be cancelled.

163.14 Before it cancels a *permit* under clause 163.13, the *Council* must provide to the *permit* holder an opportunity to make comment on the proposed cancellation.

Part 174 Enforcement

Offences

174.1 A *person* who:

- (a) fails to comply with this Local Law; or
 - (b) fails to comply with a condition of a *permit*; or
 - (c) fails to do anything directed to be done under this Local Law; or
 - (d) knowingly submits erroneous, inaccurate or misleading information in an application for a *permit*; or
 - (e) refuses or fails to obey directions of an *authorised officer* to leave a *public place* where in the opinion of that *authorised officer* the person has failed to comply or is failing to comply with this Local Law; or
 - (f) fails to comply with a sign erected by the *Council*,
- is guilty of an offence.

Infringement notices

174.2 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

- (a) has done one or more of the things described in clause 174.1; or
- (b) is reasonably suspected of having done one or more of the things described in clause 174.1.

174.3 The fixed penalty in respect of an infringement notice is the amount set out in the Schedule to this Local Law. For offences not specified in Schedule 1 the penalty is 1 penalty unit.

Offences by Corporations

174.4 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

174.5 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 174.4 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without ~~his or her~~their knowledge or consent.

Court fines

174.6 A *person* guilty of an offence against this Local Law is liable to a penalty:

- (a) not exceeding 20 penalty units; and
- (b) for a continuing offence, not exceeding 2 penalty units for each day after the conviction during which the contravention continues.

Costs incurred by the *Council* to be paid

174.7 All costs incurred by the *Council* under this Local Law must be paid by the *owner* or *occupier* of the *premises* concerned and until such costs are paid with any interest payable, the costs remain a charge on the *premises*.

Notice to Comply and directions

174.8 An *authorised officer* may either orally or in writing direct a *person* to leave a *public place* if in the opinion of the *authorised officer* the *person* is failing to comply or has failed to comply with this Local Law.

174.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a *person* who the *authorised officer* reasonably suspects to be in breach of this Local Law.

174.10 A *Notice to Comply* under clause 174.9 must be in writing and in a form approved by the *Council*.

174.11 A *Notice to Comply* under clause 174.9 may do one or more of the following things:

- (a) direct the *person* to comply with this Local Law;
- (b) direct the *person* to stop the conduct which constitutes the breach of this Local Law;
- (c) direct the *person* to deliver up to the *authorised officer* or to some specified person or some specified location any item or property of the *person* which constitutes the breach of this Local Law;
- (d) direct the *person* to remove or cause to be removed any item, *goods*, equipment or other thing that constitutes a breach of this Local Law;
- (e) direct the *person* to leave an area within the time specified in the notice that constitutes a breach of this Local Law.

174.12 A *Notice to Comply* under clause 174.9 must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions in clause 174.11.

174.13 The time required by a *Notice to Comply* under clause 174.9 must be reasonable in the circumstances having regard to:

- (a) the amount of work involved; and
- (b) the degree of difficulty; and
- (c) the availability of necessary materials or other necessary items; and
- (d) climatic conditions; and
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

174.14 A *person* served with a *Notice to Comply* under clause 174.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

174.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *Notice to Comply* provided:

- (a) ~~he or she~~ *the authorised officer* considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *Notice to Comply*, may place a *person, animal, property* or thing at risk or in danger; and
- (b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

174.16 The action taken by an *authorised officer* under 174.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Power of *authorised officer* to confiscate

174.17 Where a *person* owning or responsible for items, *goods, equipment, vessel, bicycle* or other property or thing has ignored a direction from an *authorised officer* to remove them, the items, *goods, equipment, vessel, bicycle* or other property or thing may be confiscated and impounded.

174.18 If an *authorised officer* has confiscated anything in accordance with this Local Law, the *Council* may refuse to release it until the appropriate fee or charge *prescribed* by the *Council* for its release has been paid to the *Council*.

174.19 As soon as it is reasonably practicable to do so, the *authorised officer* must serve a written notice in a form that is prescribed by the *Council* from time to time on the *owner* or person responsible for the confiscated item setting out the fees and charges payable and time by which the item must be retrieved.

174.20 If after the time required in a notice a confiscated item is not retrieved, an *authorised officer* may take action to dispose of the confiscated item according to the following principles:

- (a) where the item has no saleable value, it may be disposed of in the most economical way; and
- (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause (a);
- (c) where the *owner* has advised the *Council* in writing that the *Council* may dispose of the *goods* because ~~he or she~~ *the owner* does not intend to retrieve them, the *Council* may dispose of them by the method identified in sub-clauses (a) and (b).

Part 185 Delegations

185.1 The *Council* may by instrument of delegation delegate any of its powers, functions and duties under this Local Law to a member of its staff.

185.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:

- (a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*;
- (b) a *person* acting in that capacity; or
- (c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

Activities Local Law
Schedule 1
Penalties Fixed for Infringements

Clause	Offence	Penalty (Penalty Units)
2.1; 2.2	Prohibited activities in <i>public places</i>	1.252.5
2.3	Misuse of <i>toy vehicles</i>	0.54
2.7	Destroying or causing damage to <i>trees</i>	2.5
2.8	Camping in <i>public places</i>	1.252.5
2.9	Fencing vacant land	2.55
2.10	Fences at intersections	12
3.1; 3.3	Consumption / possession of <i>liquor</i> in prohibited area	0.54
43A.1	<i>smoke</i> in a <i>smoke free area</i>	0.54
53B.2	Keeping of <i>animals</i>	1.252.5
53B.3	Housing of <i>animals</i>	1.252.5
53B.4	Feeding of <i>animals</i> in a <i>public place</i>	0.54
53B.5; 53B.6	<i>animal waste</i> disposal	1.252.5
64.1	Unauthorised <i>advertising sign</i> or thing on or between <i>buildings</i>	2.55
64.2	Unauthorised display of <i>street art</i> in, or within view from, a <i>public place</i>	540
64.6	Unauthorised portable <i>advertising sign</i> or other thing in <i>public place</i>	1.252.5
64.7; 64.9	Unauthorised display of <i>goods</i> in a <i>public place</i>	2.55
74A.1	Unauthorised <i>green infrastructure</i>	1.252.5
85.1	Soliciting/collecting for money or subscription or <i>selling</i> a raffle ticket without a <i>permit</i>	1.252.5
85.2	Soliciting trade, or <i>touting</i> or <i>spruiking</i> without a <i>permit</i>	2.55
85.3	<i>selling</i> without a <i>permit</i> in a <i>public place</i>	52.5
85.4	Distribution/display of <i>handbills</i> without a <i>permit</i>	2.55
85.5	Filming or conducting a <i>special event</i> without a <i>permit</i>	5
85.6	Busking without a <i>permit</i>	2.55
85.7	Causing excessive noise	52.5
85.9	Causing pedestrian / vehicular obstruction	52.5
85.10	Placing furniture in a <i>public place</i> without a <i>permit</i>	540
96.1	<i>road works</i> undertaken without a <i>permit</i>	10
107.1	Failure to comply with the <i>Code</i>	20
107.2	Failure to comply with the <i>design and construction standards</i>	20
107.3	Failure to refer application to the Office of Gas Safety	10
118.1	Water activities without a <i>permit</i>	1.252.5
118.2	<i>mooring</i> without a <i>permit</i>	540
118.3	Prohibited behaviour on a <i>vessel</i>	52.5

Clause	Offence	Penalty (Penalty Units)
<u>118.4</u>	Prohibited activities on water	<u>52.5</u>
<u>129.1</u>	Failure to give 48 hours notice before commencing <i>building works</i>	10
<u>129.4</u>	Failure to comply with a <i>construction management plan</i>	20
<u>129.5</u>	<i>building works</i> out of hours without a <i>permit</i>	20
<u>129.6</u>	<i>building works</i> on a dwelling out of hours	5
<u>129.7</u>	<i>building works</i> carried out on a dwelling exceeding the <i>designated sound level</i>	10
<u>129.8</u>	Dirty wheels / undercarriage of construction <i>vehicles</i>	10
<u>129.9</u>	<i>building works</i> creating a <i>nuisance</i>	10
<u>141.1</u>	Unauthorised naming of <i>roads</i>	<u>1.252.5</u>
<u>141.3</u> ; <u>141.4</u>	Failure to clearly number <i>premises</i>	<u>1.252.5</u>
<u>141.6</u>	Interference with numbers or street signs	<u>1.252.5</u>
<u>152.1</u>	Unauthorised discharge of material in a <i>public place</i>	<u>540</u>
<u>152.2</u>	<i>vehicle, bicycle</i> or <i>segway</i> without a <i>permit</i> in or on a <i>public place</i>	<u>1.252.5</u>
<u>152.4</u>	Repairing a <i>vehicle</i> on a <i>road</i>	<u>52.5</u>
<u>152.5</u>	Interfering with a <i>pedestrian service sign</i>	<u>1.252.5</u>
<u>152.7</u>	General obstructions from <i>premises</i> into a <i>public place</i>	<u>1.252.5</u>
<u>152.8</u>	Causing excessive noise	<u>2.55</u>
<u>152.9</u>	Delivery or collection of <i>goods</i> causing a <i>nuisance</i>	<u>2010</u>
<u>152.10</u>	Collection of <i>waste</i> from <i>premises</i>	<u>2010</u>
<u>152.11</u>	Collection of <i>waste</i> from <i>prescribed area</i>	<u>2010</u>
<u>152.12</u>	Collection of <i>waste</i> from <i>prescribed area</i> or <i>central city</i>	<u>2010</u>
<u>152.14</u>	Leaving <i>waste container</i> in or on <i>public place</i>	<u>540</u>
<u>152.15</u>	requiring <i>waste container</i> be locked in <i>prescribed areas</i>	<u>540</u>
<u>152.16</u>	Leaving <i>waste container</i> for more than the permitted time	<u>540</u>
2.11, <u>174.9</u> , <u>174.14</u>	Failure to comply with a <i>Notice to Comply</i>	<u>540</u>

Schedule 2

Part A – Smoke Free Areas

The following areas are *smoke free areas* for the purposes of clause ~~43A~~ of this Local Law:

1. any *children's playground*, and any area abutting such *children's playground*, prescribed by the Council; and
2. any parcel of land on which a *child care centre* is located, and any area abutting such parcel of land, prescribed by the Council.

Part B – Guidelines for Prescribing Smoke Free Areas

When determining whether to *prescribe* a *smoke free area* for the purposes of clause ~~43A~~.3 of this Local Law, the Council must have regard to the following factors:

1. the size of the proposed *smoke free area*;
2. the opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*;
3. the proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*;
4. the extent and outcome of any public consultation on the proposed *smoke free area*;
5. any benefits to the community which would be achieved by the Council *prescribing* the proposed *smoke free area*; and
6. any detriments to the community which would be caused by the Council *prescribing* the proposed *smoke free area*.

Annexure (Plan)



This document is issued by the Melbourne City Council.



Melbourne City Council

Environment Local Law 2023~~19~~

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Part 1 - Preliminary

Title

1.1 This Local Law is called the “Environment Local Law ~~2023~~19”.

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) provide for the peace, order and good government of the *municipality*;
- (b) control, protect and conserve the environment;
- (c) control, protect and maintain the amenity of the *municipality*;
- (d) provide standards and conditions for certain activities in relation to the physical and visual environment within the *municipality*;
- ~~(e)~~ repeal the Environment Local Law 2019; and
- ~~(f)~~ adopt, apply and ensure compliance with the *Council’s Environment Management Plan*.

1.3 This Local Law contributes to Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under the provisions of Division 3 of Part 3 ~~Part 5~~ of the *Local Government Act ~~2020~~1989*.

When does this Local Law commence?

1.5 This Local Law commences on the [date to be inserted] ~~first day of July 2019~~.

Repeal of the Environment Local Law 2019

1.6 The Council’s Environment Local Law 2019 is repealed from the commencement of this Local Law.

To what part of the *municipality* does this Local Law apply?

1.~~78~~ Subject to clauses 1.~~109~~ and 1.~~101~~ this Local Law applies throughout the whole of the *municipality*.

1.~~89~~ Clauses 2.3 and 2.4 do not apply to premises during the period when any *building works* are being carried out at the premises provided that a *Construction Management Plan* approved by Council for the *premises* is in place.

Are there any exemptions from this Local Law?

1.1~~19~~ The Council may *prescribe* specified *persons, premises* or *areas* within the *municipality* to be exempt from all or any of the provisions of this Local Law for a specified time and on specified conditions.

Definitions

1.1~~24~~ The words identified in italics throughout this Local Law and *Environment Management Plan* are intended to have the following meaning:

"*Act*" means the *Local Government Act 1989*.

"*Activities Local Law*" means the Melbourne City Council *Activities Local Law 20~~23~~19* as amended from time to time.

"*Appropriate site*" means a site approved by the *Council* for the storage of *waste* and any re-useable containers.

"*approved green infrastructure*" means green infrastructure permitted or authorised pursuant to clauses ~~7~~4A.1(a) or (b) of the *Activities Local Law*.

"*Authorised officer*" means a person appointed by the *Council* to be an *authorised officer* under section 224 of the Act.

"*Building works*" has the same meaning as in the *Activities Local Law*.

"*Construction Management Plan*" has the same meaning as in the *Activities Local Law*.

"*Council*" means the Melbourne City Council.

"*Direction to Vary*" is a direction given under clause 4.1 of this Local Law.

"*Environment Management Plan*" means the document incorporated into this Local Law by clause 2.2 of this Local Law.

"*green infrastructure*" has the same meaning as in the *Activities Local Law*.

"*Green Waste*" includes:

- (a) manageable bundles of vines, creepers and weeds;
- (b) leaves, lawn clippings, flowers, branches, prunings or trunks not greater than 20cm in diameter;
- (c) prunings tied in bundles of no more than one metre in length and thirty centimetres in diameter.

“*Hard Waste*” includes white goods, broken furniture, electrical goods, hot water services, televisions and mattresses up to a maximum of one cubic metre per household, but does not include car parts or building materials.

“*Hazardous waste*” includes all kitchen, bathroom, workshop, garden, commercial and industrial chemicals such as pharmaceuticals, paints, poisons and motor fluids.

“*Liquid Waste*” includes grey water, sewerage, oil used for cooking purposes and hazardous waste that is also in a liquid form;

“*Municipality*” means the municipal district of the *Council*.

“*Notice to Comply*” is a notice given under clause 5.9 of this Local Law.

the “*Occupier*” of premises means the following:

- (a) a *person* having the charge, management or control of the premises, and
- (b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the person receiving the rent from the tenants or lodgers.

the “*Owner*” of premises means the following:

- (a) where the *premises* are Crown land, the *owner* of the *premises* is the lessee or licensee of the land from the Crown,
- (b) where the *premises* are other than Crown land, the *owner* of the *premises* is:
 - (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and
 - (ii) every such *person* who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial *owner*, trustee, mortgagee in possession or otherwise.

“*Person*” includes an individual, a corporation, an association incorporated under the *Associations Incorporation Reform Act 2021-1981*, a partnership and an unincorporated association.

“*Premises*” includes the whole or part of any land, building or building under construction.

“*Prescribe and Prescribed*” includes decided or specified by the *Council*.

“*Recyclable material*” includes glass bottles and jars, aluminium and steel cans, gable top and square cartons, plastic bottles identified as being recyclable and paper cardboard, but does not include ceramics, window glass, mirrors, light globes, pyrex, waxed cardboard, batteries, plastic bags and clingwrap.

“*Tobacco Waste*” includes all waste and litter produced by any tobacco product or items associated with such tobacco products.

"*Tobacco Waste Container*" means a receptacle approved by the *Council* for the collection of tobacco waste".

"*Waste*" has the same meaning as in the *Environment Protection Act* ~~2017~~1970.

Part 2 – Environment Management Plan

Introduction: This Part contains provisions that aim to promote responsible land management throughout the *municipality* via the *Council's Environment Management Plan* which sets performance standards designed to involve the least burden and the greatest advantage on the community. The *Environment Management Plan* is incorporated into this Local Law.

What is the *Environment Management Plan*

2.1 The *Environment Management Plan*:

- (a) was adopted by the *Council* as the *Environment Management Plan* for the purposes of this Local Law,
- (b) sets Objectives, Performance Requirements and Prescribed Requirements for activities that may affect the environment of the neighbourhood in which the activities are conducted and may include:
 - waste management and disposal;
 - burning of material in the open and open fires;
 - the generation of noise; and
 - the generation of offensive odours and fumes,
- (c) is available ~~by visiting the Council's web site at www.melbourne.vic.gov.au for inspection at the Town Hall Information Counter and all Council Service~~
~~Centres.~~

2.2 The whole of the *Environment Management Plan* is incorporated into and forms part of this Local Law.

How does the *Environment Management Plan* apply to premises?

2.3 Unless the *Environment Management Plan* is varied in relation to specific premises under Parts Three or Four of this Local Law, the *Environment Management Plan* applies to all *premises* within the *municipality*.

2.4 Subject to clause 2.5, the *occupier of premises* must, in relation to those *premises*:

- (a) comply with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*,
- (b) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (c) not allow a *person* to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

2.5 Where:

- (a) the *occupier of premises* cannot, after reasonable enquiry, be located, or
- (b) the *occupier* no longer occupies the *premises*, or
- (c) the *premises* are unoccupied,

then the *owner* of the *premises* must, in relation to those *premises*:

- (d) comply with the Performance Requirements and Prescribed Requirements of *the Environment Management Plan*,
- (e) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (f) not allow a person to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

Amending the *Environment Management Plan*

2.6 The *Council* may amend the *Environment Management Plan* from time to time.

2.7 An amendment to the *Environment Management Plan* does not take effect until notice of the *Council's* decision to amend the *Environment Management Plan* is published in the Government Gazette.

Part 3 – Variations to the Environment Management Plan

Introduction: This Part contains provisions to allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the request of the *owner* or *occupier* of the *premises*.

Application for a variation to the Environment Management Plan by an owner or occupier

3.1 Where the *owner* or the *occupier* of *premises* believes that, because of the nature of the activities conducted at the *premises*, the *Environment Management Plan* applying to the *premises* is not appropriate, the *owner* or *occupier* may apply to the *Council* to vary the *Environment Management Plan* that applies to his *premises*.

How is an application for variation made?

3.2 Where an application to vary the *Environment Management Plan* is made by the *occupier* of the *premises*, the application must be accompanied by evidence that the *owner* of the *premises* consents to the variation of the *Environment Management Plan*.

3.3 An application under clause 3.1 must be in a form approved by the *Council* and be accompanied by the fee (if any) determined by the *Council*.

3.4 The *Council* may from time to time set or alter the fee to apply to an application under clause 3.1.

3.5 The *Council* may waive, reduce or alter the fee with or without conditions.

3.6 The *Council* may require a *person* making an application under clause 3.1 to:

- (a) give notice of the application to persons whom the *Council* considers may be affected by the grant of the variation, or
- (b) publish notice of the application in a newspaper circulating generally within the *municipality*.

3.7 The *Council* may require an applicant to provide such information as required and to provide additional information before dealing with an application under clause 3.1.

What matters will the Council take into account?

3.8 In considering whether to vary the *Environment Management Plan* in relation to the applicant's *premises*, the *Council* may consider:

- (a) the reason or reasons given by the applicant for making the application,
- (b) any report on the application by an *authorised officer*,
- (c) any submission made by a *person* to whom notice of the application was given,
- (d) the applicant's particular circumstances,

- (e) the nature of the activities conducted on the applicant's *premises*,
- (f) the environment of the neighbourhood within which the applicant's *premises* are located, and
- (g) any other matter the *Council* considers relevant.

The *Council* may grant permission subject to conditions

3.9 A variation to the *Environment Management Plan* in relation to the applicant's premises may be granted subject to such conditions as the *Council* determines, including conditions relating to:

- (a) the payment of a fee or charge,
- (b) a standard to be applied,
- (c) a time limit to be applied, specifying either the duration, commencement or completion date,
- (d) the linking of the variation to the happening of an event, and
- (e) the rectification, remedying or restoration of a situation or circumstance.

What is the effect of the *Council* granting a variation to the *Environment Management Plan*?

3.10 Upon the *Council* granting a variation to the *Environment Management Plan* in relation to the applicant's *premises*, the *Environment Management Plan* applying to the applicant's *premises* is the *Environment Management Plan* in its varied form.

3.11 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

3.12 The *Council* must:

- (a) keep a record of all variations granted under this Part, and
- (b) make the record available to be inspected by members of the public.

Part 4 – Variation of the *Environment Management Plan* by an *authorised officer*

Introduction: This Part contains provisions that allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the direction of an *authorised officer*.

Direction to vary the Environment Management Plan by an authorised officer

- 4.1 Where, because of the nature of the activities conducted on *premises*, an *authorised officer* considers that the *Environment Management Plan* applying to those *premises* does not adequately protect the environment in the vicinity of the *premises*, the *authorised officer* may give to the *owner* and the *occupier* of the *premises* a *Direction to Vary* in accordance with this Part.
- 4.2 A *Direction to Vary* under clause 4.1 must be in writing and be in a form approved by the *Council*.
- 4.3 A *Direction to Vary* under clause 4.1 may require the *owner* and the *occupier* to:
- (a) give reasons in the manner specified and within a specified time as to why the *Environment Management Plan* applying to the *premises* should not be varied in the manner specified in the *Direction to Vary*, or
 - (b) submit to the *Council* in the manner specified and within a specified time an alternative *Environment Management Plan* to substitute for the *Environment Management Plan* applying to the *premises*.
- 4.4 The times specified in a *Direction to Vary* under clause 4.1 must be reasonable in the circumstances and what will be reasonable will depend on the nature of the requirement being placed on the *person* receiving the *Direction to Vary*, but should take into account:
- (a) the amount of work required to achieve compliance,
 - (b) the degree of difficulty in achieving compliance,
 - (c) the availability of resource materials and expertise to achieve compliance,
 - (d) the impact of the *Direction to Vary* on the *person* receiving the *Direction to Vary*, and
 - (e) any other relevant factor.

What is the effect of a *Direction to Vary* under clause 4.3(a)?

- 4.5 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to give reasons in accordance with clause 4.3(a), the *person* receiving the *Direction to Vary* must give the reasons in the manner specified and within the time specified.
- 4.6 If:
- (a) no reasons are given to the *authorised officer* in accordance with clause 4.5, or

- (b) the reasons given are not in the manner specified or the time specified in the *Direction to Vary*, or
- (c) in the opinion of the *authorised officer*, the reasons given are not sufficient to not vary the *Environment Management Plan* in the manner specified in the *Direction to Vary*,

the *Environment Management Plan* applying to the *premises* is deemed to be varied in the manner specified in the *Direction to Vary*.

- 4.7 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* referred to in clause 4.6 as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

What is the effect of a *Direction to Vary* under clause 4.3(b)?

- 4.8 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to submit to the *Council* an alternative *Environment Management Plan*, the *person* receiving the *Direction to Vary* must submit to the *Council* an alternative *Environment Management Plan* in the manner specified and within the time specified.

- 4.9 A *person* who fails to comply with clause 4.8 is guilty of an offence.

How many times may *Directions to Vary* be given in relation to particular premises?

- 4.10 An *authorised officer* may give more than one *Direction to Vary* under clause 4.1 in relation to *premises* and compliance with one *Direction to Vary* does not preclude the *authorised officer* or another *authorised officer* from giving another *Direction to Vary* under clause 4.1 should, in the opinion of the *authorised officer*, the circumstances warrant it.

Can a *person* appeal against a *Direction to Vary*?

- 4.11 A *person* who is aggrieved about being given a *Direction to Vary* under clause 4.1 may appeal in writing to the *Council* to be heard and may make a written submission for consideration by the *Council*.
- 4.12 An appeal under clause 4.11 must be made within 7 days of being given the *Direction to Vary*.
- 4.13 The *Council* must consider any written submission made to it under clause 4.11 (provided the application is made within 7 days of the *Direction to Vary* being given) and then make its determination in writing.
- 4.14 If an appeal is made under clause 4.11, the *Direction to Vary* which is the subject of the appeal (including any time limits specified in the *Direction to Vary*) does not take effect until the *Council* has given a written determination under clause 4.13.

Part 5 - Enforcement

Introduction: This Part provides a means for enforcing this Local Law.

Offences

5.1 A person who:

- (a) fails to comply with this Local Law (including the *Environment Management Plan* incorporated into this Local Law),
- (b) fails to comply with a condition of a variation granted under this Local Law, or
- (c) knowingly submits erroneous or misleading information in an application or an appeal made under this Local Law,

is guilty of an offence.

Court fines

5.2 A person who is guilty of an offence is liable to a penalty:

- (a) for the offence, not exceeding ~~\$2,000.00~~ 20 penalty units, and
- (b) for a continuing offence, not exceeding ~~\$200.00~~ 2 penalty units for each day after the conviction for an offence during which the contravention continues.

Infringement Notices

5.3 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

- (a) has done one of the things described in clause 5.1, or
- (b) is reasonably suspected of having done one of the things described in clause 5.1.

~~5.4 A person served with an infringement notice may pay the penalty specified in the notice to the cashier of the Council, within 28 days of service, failing which a prosecution can be instituted against that person.~~

~~5.5 Any person served with an infringement notice is entitled to disregard the notice and defend any subsequent prosecution in court.~~

~~5.6 The Council may, following consideration of correspondence from any person served with an infringement notice, waive the notice (even if the penalty has been paid).~~

~~5.7 If the penalty shown on the infringement notice is paid in the manner described in clause 5.4 or before the Council issues a Charge and Summons in respect of the offence, no further proceedings may be taken in respect of the offence.~~

5.8 The penalties fixed for an infringement notice under this Local Law are as follows:

- (a) where the offence is a failure to comply with a Category 1 requirement of the *Environment Management Plan*, the penalty is 20 penalty units;
- (b) where the offence is a failure to comply with a Category 2 requirement of the *Environment Management Plan*, the penalty is 10 penalty units;
- (c) where the offence is a failure to comply with a Category 3 requirement of the *Environment Management Plan*, the penalty is 5 penalty units;
- (d) where the offence is a failure to comply with a *Direction to Vary* (clause 4.8), the penalty is 5 penalty units;
- (e) where the offence is a failure to comply with a *Notice to Comply* (clause 5.9), the penalty is 5 penalty units;
- (f) for all other offences, the penalty is 5 penalty units.

Note: The Environment Management Plan contains notes which specify whether a requirement is a Category 1 requirement, a Category 2 requirement or a Category 3 requirement. By referring to the notes contained in the Environment Management Plan a person can ascertain what the infringement notice penalty is should there be a failure to comply with the requirement.

Notices to comply

5.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a person who the *authorised officer* reasonably suspects to be in breach of this Local Law.

5.10 A *Notice to Comply* under clause 5.9 must be in writing and be in a form approved by the Council.

5.11 A *Notice to Comply* under clause 5.9 must do one or more of the following things:

- (a) direct the *person* to comply with the Local Law,
- (b) direct the *person* to stop within such time as specified in the notice the conduct which constitutes the breach of the Local Law,
- (c) direct the *person* to deliver up to the *authorised officer* or to some specified *person* or some specified location any item or property of the person which constitutes the breach of the Local Law,

- (d) direct the *person* to carry out the works specified in the notice within the time specified in the notice.

5.12 A *notice to comply* under clause 5.9 must specify the time and date by which the *person* specified in the *notice to comply* must comply with the directions in clause 5.11.

5.13 The time required by a *notice to comply* under clause 5.9 must be reasonable in the circumstances having regard to:

- (a) the amount of work involved; and
- (b) the degree of difficulty; and
- (c) the availability of necessary materials or other necessary items; and
- (d) climatic conditions; and
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

5.14 A *person* served with a *Notice to Comply* under clause 5.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

5.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *notice to comply* provided:

- (a) ~~he or she~~ the *authorised officer* considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *notice to comply*, may place a *person*, *animal*, property or thing at risk or in danger; and
- (b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

5.16 The action taken by an *authorised officer* under clause 5.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Offences by Corporations

5.17 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

5.18 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 5.17 with the same offence may also be convicted of the offence and is liable to the penalty for that

offence unless that *person* proves that the act or omission constituting the offence took place without ~~their~~*his or her* knowledge or consent.

Part 6 - Delegations

- 6.1 The *Council* may by instrument of delegation delegate each of the powers, functions and duties under this Local Law to any member of its staff.
- 6.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:
- (a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*,
 - (b) a *person* acting in that capacity, or
 - (c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

This document is issued by the Melbourne City Council.

The City of Melbourne's
Environment Management Plan
Under the Environment Local Law 2023~~19~~

1 Purpose of the Environment Management Plan

The Environment Management Plan (“**EMP**”) for the City of Melbourne is the cornerstone of the Council’s Environment Local Law. The intention is to provide a better urban environment for the *municipality* by setting out specific commitments for *owners* and *occupiers* of *premises* through the EMP. It allows for variations to the EMP as it applies to particular *premises* to suit individual situations.

Note: Practical models providing assistance as to how an owner or occupier or premises can comply with the requirements of the *Environment Management Plan* are available by visiting the Council's web site at www.melbourne.vic.gov.au his from the Front Desk Town Hall Swanston Street, Melbourne. Please telephone the Council for further information.

2 Objectives of the Environment Management Plan

The objectives of the EMP are to:

- (a) set performance standards designed to maintain a high level of community amenity and the ecosystems that support it;
- (b) facilitate and promote a safe, clean and healthy environment for all people living, working in and visiting the *municipality*;
- (c) facilitate and promote responsible land, water, atmosphere, noise and *waste* management throughout the *municipality*;
- (d) support approved *green infrastructure* throughout the *municipality*.

3 Performance Requirements of the Environment Management Plan

Note: This clause sets out performance standards. An owner or occupier is required to comply with such standards but the manner in which compliance is achieved is at the discretion of the owner or occupier. Contact the Council if you require any information on how you can ensure compliance with the performance requirements.

- 3.1 *Waste* material must be stored so as to prevent leakage, be watertight and be impervious to rodents and insects. (**Category 3 offence**).
- 3.2 *Waste* material must be stored in such a way that it does not detrimentally affect the neighbourhood by reason of smell, visual pollution, air pollution, noise pollution and the like. (**Category 3 offence**).
- 3.3 All necessary steps must be taken to ensure that all *recyclable material* and *green waste* is separated from other *waste* material. (**Category 3 offence**).
- 3.4 The area:
 - (a) immediately surrounding the container in which the *waste* material is stored; and
 - (b) immediately adjacent to the *premises*

must be maintained in a clean and hygienic state. **(Category 3 offence)**.

- 3.5 Any equipment used on the *premises* from which gas emissions may occur must be regularly and properly serviced and maintained. **(Category 2 offence)**.
- 3.6 The stormwater drainage connection from the *premises* must be maintained in good order and repair and free from blockages. **(Category 3 offence)**.
- 3.7 In relation to *premises* all necessary steps must be taken to ensure any adverse impact on the amenity of the adjoining areas arising from:
- (a) *nuisances* caused or constituted by the storage and disposal of *waste* and *recyclable material*; or
 - (b) noise and emissions,
- as a result of the use or operation of *premises* is controlled and prevented. **(Category 1 offence)**.

4 Prescribed Requirements of the Environment Management Plan for Non Residential Premises

Note: The requirements detailed in these clauses 4 and 5 are mandatory. An owner and an occupier must comply with these requirements in the manner specified.

~~4.1~~ — deleted

4.12 Deliveries of any goods to or collections of any goods from any *premises* must only be made on such days and at such times as are prescribed by the *Council*. **(Category 1 offence)**

4.23 *Waste* containers and any re-useable containers must be stored within the premises, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**

~~4.4~~ — deleted

4.35 Sufficient *tobacco waste containers* must be provided to contain all *tobacco waste* generated as a result of the use or operation of the *premises*. **(Category 3 offence)**

4.46 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**

4.57 *Liquid waste* must not be placed directly in a *waste* collection container. **(Category 1 offence)**

4.68 *Waste* material must not be poured, emptied, swept, thrown or otherwise discharged onto a *road* or into a stormwater drain. **(Category 2 offence)**

4.79 *Waste* material must not be incinerated or otherwise burned in the open on any premises. **(Category 2 offence)**

5 Prescribed Requirements of the Environment Management Plan for Residential Premises

~~5.1~~ deleted

5.12 *Waste material and recyclable material* must be stored in a container approved by the *Council* for such purposes.

5.23 *Waste containers and any re-useable containers* must be stored within the *premises*, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**

~~5.4~~ deleted

5.35 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**

5.46 *Liquid waste* must not be placed directly into a *waste* collection container. **(Category 1 offence)**

5.57 *Waste material* must not be poured, emptied, swept, thrown or otherwise discharged onto a road or into a stormwater drain. **(Category 2 offence)**

5.68 *Waste material* must not be incinerated or otherwise burned in the open on any *premises*. **(Category 2 offence)**

6. Council Guidelines

6.1 In addition to any Performance Requirements and Prescribed Requirements, any guidelines *prescribed* by the *Council* for:

6.1.1 the storage and collection of *waste*;

6.1.2 the burning of material in the open;

6.1.3 the use of open fires;

6.1.4 the management of noise;

6.1.5 supporting *approved green infrastructure*; or

6.1.6 any other matter that it considers appropriate

must be complied with.

This document is issued by the Melbourne City Council.



Melbourne City Council

Activities Local Law 2023

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Part 1 Preliminary

Title

1.1 This Local Law is called the “Activities Local Law 2023”.

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) promote a physical and social environment free from hazards to health, in which the residents of and visitors to the *municipality* can enjoy a quality of life that meets the general expectations of the community;
- (b) control noise, behaviour, *liquor* consumption, *animals*, *spruiking*, busking, *advertising sign*, works and obstructions on *roads*, street trading, the use of *toy vehicles* and other activities;
- (c) protect the use of *public places* and control activities in or near them;
- (d) provide for safety in *public places*;
- (e) regulate and manage the legitimate display of *street art*, in or within view from, a *public place* so as to facilitate a vibrant urban culture;
- (f) provide for, control and manage the use of *premises* and *vehicles* in particular circumstances;
- (g) regulate the number and manner of keeping of *animals*;
- (h) control, prevent and abate *nuisances*;
- (i) repeal the Activities Local Law 2019; and
- (i) provide for the peace, order and good government of the *municipality*.

1.3 This Local Law contributes to the Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under Division 3 of Part 3 of the *Local Government Act 2020*.

When does this Local Law commence?

1.5 This Local Law commences on the [date to be inserted].

Repeal of the Activities Local Law 2019

1.6 The Council's Activities Local Law 2019 is repealed from the commencement of this Local Law.

To what part of the *municipality* does this Local Law apply?

1.7 Subject to clauses 1.8, 1.9 and 1.10, this Local Law applies throughout the whole of the *municipality*.

1.8 Clauses 3.1 to 3.3 inclusive apply as follows:

- (a) to that part of the *municipality* which is *prescribed* by the *Council* for the purposes of this clause 1.8(a), throughout the whole of each year; and
- (b) to that part of the *municipality* which is prescribed by the *Council* for the purposes of this clause 1.8(b), during:
 - (i) prescribed days or periods; or
 - (ii) on each day during the race period within the meaning of the *Australian Grand Prix Act 1994* (or its successor legislation) and to 8.00 a.m. on the day immediately following the last day of the race period; or
 - (iii) on any day during the period specified in a notice signed by the *Council's* Chief Executive Officer as being the period during which Melbourne Moomba Festival or any other festival is to occur and to 8.00 a.m. on the day immediately following the last day of the period specified in the notice.

Are there any exemptions from this Local Law?

1.9 Nothing in this Local Law prevents a member, officer or employee of:

- (a) the Commonwealth or State Government;
- (b) the Victoria Police;
- (c) Fire Rescue Victoria;
- (d) Ambulance Victoria;
- (e) any first-aid or emergency service organisation;
- (f) any military or civil-defence force; or
- (g) a *public body* other than the *Council*;

from performing any of the duties they are lawfully entitled or required to perform while engaged in those duties, provided that:

- (i) 48 hours notice of the person's intention to perform the activity is given to the *Council* beforehand, or
- (ii) in the event of an emergency, notice is given as soon as practicable after the activity has been carried out.

1.10 Nothing in this Local Law relating to an *animal* prevents:

- (a) a blind or deaf *person* being entitled at all times and in all places to be accompanied by a guide dog or registered assistance animal; or
- (b) a member of the Victoria Police in charge of a police dog or police horse from carrying out police duties.

1.11 The *Council* may *prescribe* specified *persons*, *premises* or areas within the *municipality* to be exempt from a provision of this Local Law for a specified time and on specified conditions.

Definitions

1.12 The words identified in italics throughout this Local Law are intended to have the following meaning:

"*acceptable no smoking sign*" has the same meaning as in the *Tobacco Act 1987*.

"*Act*" means the *Local Government Act 1989*.

"*advertising sign*" includes any letter, figure, symbol, device, poster, sign, banner or message used for notifying:

- (a) the existence of the sale or use of any *goods* or services; or
- (b) the holding of an event or function; or
- (c) the promotion of any person, company, organisation or thing.

"*animal*" includes a bird, fish and reptile.

"*authorised officer*" means:

- (a) a *person* appointed by the *Council* to be an authorised officer under section 224 of the *Act*; or
- (b) in respect to the enforcement of Part 3 of this Local Law, upon the *Council* publishing a notice in the Government Gazette under section 224A of the *Act*, any police officer.

"*bicycle*" has the same meaning as in the *Road Safety Road Rules 2017*.

"*body of water*" includes a cascade, fountain, pond, pool and watercourse but does not include a *swimming pool*.

"*building*" includes a part of a building and the whole or any part of a structure, temporary building or structure, fence, gate, wall, *pavement light*, outbuilding, service installation, mast, pole and other appurtenance of a building.

"*building works*" includes works, activities, events and practices for or in connection with the construction, alteration, demolition or removal of a building.

"*central city*" means the area depicted in the *Plan*.

"*child care centre*" means *premises* located on *Council land* used by a person to care for 4 or more children under the age of 13 years, in the absence of their parents or guardians, for the payment of a fee or other consideration.

"*children's playground*" means *Council land* set aside or used for the predominant purpose of a children's play area.

"*Code*" means the Code of practice for building, construction and works adopted by the *Council* on 15 February 2022, as amended from time to time by the *Council*.

"*construction management plan*" means a description of the proposed strategy to be implemented in relation to the *building works* to ensure:

- (a) public amenity and safety are maintained;
- (b) *Council* and community assets are protected;
- (c) the impact on *green infrastructure* is minimised;
- (d) *nuisances* are controlled and prevented;
- (e) compliance with the provisions of the *Environment Local Law*;
- (f) disruptions to traffic are minimised;

- (g) *waste* is managed appropriately; and
- (h) appropriate environmental controls are in place.

"*Council*" means the Melbourne City Council.

"*Council land*" means land, buildings and facilities which are owned or occupied by or vested in the *Council* or in respect of which the *Council* has the care and management to which the public has access whether an entry fee is paid or not.

"*crossing*" means a crossing for *vehicles* on or over a *road* for the purposes of enabling access to be gained to land next to a *road*.

"*designated sound level*" is the maximum sound level *prescribed* by the *Council* for the purposes of any part of this Local Law.

For the avoidance of doubt the *Council* may:

- (a) set more than one *designated sound level* based on factors including the location, the nature of the sound, the activity resulting in the sound; and
- (b) *prescribe* the method by which compliance with the *designated sound level* is measured.

"*design and construction standards*" means the Design and Construction Standards for Public Infrastructure Works as amended from time to time by the *Council*.

"*e-cigarette*" means:

- (a) a device (other than a device that is prescribed to be not an e-cigarette for the purposes of the *Tobacco Act 1987*) that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited *tobacco product*; or
- (b) any other device prescribed by regulations made under the *Tobacco Act 1987*.

"*encroachment*" includes any object or thing projecting from a *building* on, over or in a *public place*.

"*Environment Local Law*" means the *Council's* Environment Local Law 2023 as amended from time to time.

"*gas regulator vent stack*" means any ventilation stack used to vent gas located in a *public place* as *prescribed* by the *Council*.

"*goods*" includes food.

"*green infrastructure*" means:

- (a) plants, including street and community gardens
- (b) plants contained within a pot or container which may be on the ground or suspended from or connected to a building or structure
- (c) composting facilities
- (d) any item or thing attached to a *tree*
- (e) any other infrastructure that supports greening in the *municipality* as *prescribed* by the *Council*.

"green waste" has the same meaning as in the *Environment Local Law*.

"handbill" includes a placard, notice, book, pamphlet, paper and advertisement other than an advertisement affixed to any *building* abutting any *road* or public highway, but does not include a newspaper, magazine or book sold by a news vendor or other *person* authorised by the *Council* nor any *handbill* containing material of an exclusively political nature distributed by hand to any *person*.

"hard waste" has the same meaning as in the *Environment Local Law*.

"liquor" means a beverage intended for human consumption with an alcoholic content of 0.5 per centum by volume or greater.

"minor building work" means *building work* valued at less than \$5,000.00 but excludes demolition and removal of buildings and structures (regardless of value).

"moor" means to hold, tether, berth or secure a *vessel* in a location by a cable, chain, anchor or other means.

"municipality" means the municipality of the *Council*.

"Notice to Comply" means a notice given under clause 17.9 of this Local Law.

"nuisance" has its ordinary common meaning in this Local Law, except for Part 12, where it is also to include:

- (a) any *building works* that emit dust, odour, waste, noxious gases or other *wind blown refuse* beyond the construction site;
- (b) the leaving of open and unguarded pits, excavations or basements on a building site which may constitute a risk to public safety or property;
- (c) any temporary structure, material, condition or practice constituting a fire hazard or impairing the extinguishing of any fire;
- (d) any *building works* that exceed the *designated sound level* prescribed by the *Council*;
- (e) any vibrations exceeding the level *prescribed* by the *Council*.

"occupier" of *premises* means:

- (a) a *person* having the charge, management or control of the *premises*, and
- (b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the *person* receiving the rent from the tenants or lodgers.

"owner" of *premises* means the following:

- (a) where the *premises* are Crown land, the owner of the *premises* is the lessee or licensee of the land from the Crown,
- (b) where the *premises* are other than Crown land, the owner of the *premises* is:
 - (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and
 - (ii) every *person* who is, or would be, entitled to receive, or is in receipt of, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

"*pavement light*" means a device incorporated into the footpath or roadway adjacent to *premises* for the provision of natural light to those areas of the *premises* below ground level.

"*pedestrian service signs*" means signs for the benefit of pedestrians and includes-

- (a) identification signs indicating names of areas and precincts;
- (b) directional signs indicating direction to areas, attractions and features;
- (c) civic maps and maps of an area; and
- (d) historical signs, historical plaques, walls and information panels.

"*permit*" means a permit granted under Part 16 of this Local Law.

"*person*" includes an individual, a corporation, an association incorporated under the *Associations Incorporation Reform Act 2012*, a partnership and an unincorporated association.

"*place*" when used as a verb includes allow to remain.

"*Plan*" means the plan appended to this Local Law.

"*Planning Scheme*" means an applicable planning scheme under the *Planning and Environment Act 1987*.

"*premises*" includes the whole or part of any land, a lot on a plan of subdivision and a *building* or *building* under construction.

"*prescribe*" and "*prescribed*" includes decided or specified by the *Council*.

"*proprietor*" means the *owner*, *occupier*, lessee, licensee, manager or any other *person* in control or charge of any place or *premises*.

"*public body*" means any government department or municipal council or body established for a public purpose by legislation.

"*public place*" has the same meaning as in the *Summary Offences Act 1966* and, to the extent that it does not include the following, also includes:

- (a) any place *prescribed* by the *Council* as a public place, other than an interior part of a *building* which is not occupied by the *Council* or a *public body* unless that part has been *prescribed* by the *Council*;
- (b) any place to which the public whether upon or without payment for admittance have or are permitted to have access, but does not include a shopping centre;
- (c) any park, garden, reserve or other place of public recreation or resort;
- (d) any vacant land or vacant space adjoining any *road*;
- (e) any wharf, pier or jetty; and
- (f) a *Council building*.

"*recyclable material*" has the same meaning as in the *Environment Local Law*.

"*road*" has the same meaning as in the *Act*.

"*sailboard*" means a surfboard or other light weight device equipped with a sail designed to be propelled on water and includes a windsurfer.

"*segway*" means a two-wheeled, self-balancing electric form of transportation.

"*sell*" includes:

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or allow to be sold or offered for sale; and
- (b) sell for re-sale.

"*ski*" includes a water ski, jet ski and surf ski.

"*smoke*" means to:

- (a) smoke, hold or otherwise have control over an ignited *tobacco product*;
- (b) light a *tobacco product*; or
- (c) use an *e-cigarette* to generate or release an aerosol or vapour.

"*smoke free area*" means an area:

- (a) identified in Part A of Schedule 2 to this Local Law; or
- (b) *prescribed* to be a *smoke free area* in accordance with clause 4.3.

"*special event*" means an organised sporting, recreational, cultural, commercial or social gathering of people which is held on a *road* or any other *public place prescribed* by the *Council*.

"*spruik*" includes haranguing or addressing members of the public (whether directly or by the use of pre-recorded speech or messages) to encourage members of the public to enter *premises*, purchase *goods* or both.

"*street art*" means artwork in the form of a mural but excludes graffiti such as tagging or stand-alone stencils.

"*swimming pool*" means a facility owned by, vested in or used or arranged by the *Council* for public bathing or swimming purposes, whether managed directly by the *Council* or by others and includes areas of land associated with that facility including all forms of exercise, recreational and associated areas within the enclosure which houses the swimming pool and associated facilities.

"*tobacco product*" has the same meaning as in the *Tobacco Act 1987*.

"*tout*" includes soliciting business to *premises* whether by addressing members of the public directly or the emission of music or other noise calculated to attract business to *premises*.

"*toy vehicle*" means equipment designed to be propelled on land by human power and includes a skateboard, scooter, roller skates and in-line skates but does not include a *bicycle*.

"*traffic control item*" means any sign, mark, structure or device displayed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a *traffic control signal*.

"*traffic control signal*" means a device, however operated, which uses words symbols or lights to control or regulate traffic.

"*tree*" includes the trunk, branches, canopy and root system of the tree.

"*vehicle*" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, *bicycle*, *toy vehicle* or *wheelchair*.

"*vessel*" means a craft for travelling on water and includes a boat, dinghy, yacht and catamaran but does not include a *sailboard* or *ski*.

"*waste*" has the same meaning as in the *Environment Protection Act 2017*.

"*waste container*" means a bin, cart or other receptacle of a kind approved by the *Council* for the purpose of *waste* collection within the *municipality* or part of the *municipality*.

"*wheelchair*" means a vehicle capable of a speed of no greater than 10 kilometres per hour propelled by human or mechanical power used for personal mobility by a *person* with a disability.

"*wind blown refuse*" means refuse from a building site which is, if left outdoors, capable of or susceptible to being blown away without any human intervention by winds of a strength ordinarily encountered within the municipality in the course of a year.

1.12 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning.

Part 2 Behaviour

Introduction: This Part contains provisions which aim to protect the amenity of *public places* for all citizens by controlling behaviour in *public places* and by prohibiting persons from causing damage to *public places* or acting in a socially unacceptable manner.

Prohibited activities in *public places*

2.1 A *person* must not in, on or within the hearing or sight of a *public place*:

- (a) cause or commit any *nuisance*;
- (b) adversely affect the amenity of that *public place*;
- (c) interfere with the use or enjoyment of that *public place* or the personal comfort of another *person* in or on that *public place*;
- (d) annoy, molest or obstruct any other *person* in or on that *public place*;
- (e) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience; or
- (f) commit an indecent or offensive act; or
- (g) use any threatening, abusive or insulting words.

2.2 A *person* must not in or on a *public place*:

- (a) destroy, damage, alter, mark, deface or remove any property or thing;
- (b) walk on or over any plant bed, plant box or garden plot except with the consent of the *proprietor*;
- (c) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, *building*, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the *Council*) except with the consent of the *proprietor*;
- (d) after having been directed to leave by an *authorised officer*, enter or remain in any area, place, *building* or structure that is not open to the public; or
- (e) enter any area, place, *building* or structure in respect of which the *Council* has *prescribed* an entry fee, unless the entry fee has been paid to an *authorised officer* or authorised representative of the *Council* or the *person* enters in accordance with the written consent of the *Council* or the *proprietor*.

Toy vehicles

2.3 A *person* must not:

- (a) use or allow to be used a *toy vehicle* so as to endanger, intimidate or unduly obstruct or hinder any other *person* or *vehicle* lawfully using or intending to use the same area; or
- (b) ride a *toy vehicle* in an area *prescribed* by the *Council* in accordance with Clause 2.4 or in breach of a *prescription* made by the *Council* under Clause 2.5.

- 2.4 The *Council* may *prescribe a public place* (other than a road or road related area) within the *municipality* for the purposes of this Clause 2.4 where it considers that the riding of *toy vehicles* is reasonably likely to cause physical damage to infrastructure located within the area to be *prescribed*.
- 2.5 The *Council* may *prescribe a public place* (other than a road or road related area) within the *municipality* where the riding of a *toy vehicle* is restricted at specified times and on specified conditions where it considers that the riding of *toy vehicles* is reasonably likely to interfere with the use and enjoyment of the locality by pedestrians and other members of the public.
- 2.6 For the purposes of Clauses 2.4 and 2.5, the terms “road” and “road related area” have the meaning as in the *Road Safety Act 1986*.

Note: Maps showing the prescribed area or areas where the riding of a *toy vehicle* is prohibited or restricted are available by visiting the *Council’s* web site at www.melbourne.vic.gov.au

Protection of *trees* and *green infrastructure*

- 2.7 Unless in accordance with a permit, a *person* must not in or on *Council Land* destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure* or allow any *person* to destroy, damage, remove or otherwise interfere with a *tree* or *green infrastructure*.

Camping in public places

- 2.8 Unless in accordance with a *permit*, a *person* must not camp in or on any *public place* in a *vehicle*, tent, caravan or any type of temporary or provisional form of accommodation.

Fencing vacant land

- 2.9 An *owner* or *occupier* of vacant land which is wholly or partially unfenced must, as soon as practicable after being directed to do so by the *Council* or an *authorised officer*, fence or cause to be fenced all or that portion of the vacant land which was the subject of the *Council’s* or the *authorised officer’s* direction.

Fences at intersections

- 2.10 The *owner* or *occupier* of any land situated at an intersection must not erect any fence on the land so as to obstruct the clear view:
- (a) by a driver, of any:
 - (i) Pedestrian;
 - (ii) *vehicle*; or
 - (iii) *traffic control item*; or
 - (b) by a pedestrian, of any:
 - (i) *vehicle*; or
 - (ii) *traffic control item*.
- 2.11 If an *owner* or *occupier* of land has erected a fence in breach or apparent breach of clause 2.9 or 2.10, a *Notice to Comply* may require the *owner* or *occupier* of the land to remove the fence or reconstruct the fence in the manner specified in the *Notice to Comply*.

Part 3

Consumption of *Liquor*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public, especially during major events. The provisions control the consumption of *liquor* in *public places* and other places within certain areas of the *municipality* and during certain periods of the year. Clause 1.8 identifies the areas and the periods during the year to which this Part applies.

Consumption and possession of *liquor* is prohibited in certain circumstances

3.1 A *person* must not:

- (a) in or at a *public place*; or
- (b) in or on a *vehicle* which is on or at a *public place*,

consume any *liquor* or have in their possession or control any *liquor* other than *liquor* in a sealed container in that part of the municipality *prescribed* by the *Council* pursuant to clause 1.8 of this Local Law.

Note: Maps showing the *prescribed* area or areas where the consumption of *liquor* is prohibited throughout the year or at some times of the year are available by visiting the *Council's* web site at www.melbourne.vic.gov.au.

3.2 Clause 3.1 does not apply to a *person*:

- (a) taking part in a festival or event in respect of which the *Council* has granted a *permit* for *persons* to consume *liquor* or to have in their possession or control any *liquor* other than *liquor* in a sealed container; or
- (b) within authorised premises or licensed premises under the *Liquor Control Reform Act 1998* or any subsequent legislation relating to the serving and consumption of *liquor*.
- (c) who has been granted a *permit* to take *liquor* into an area *prescribed* by the *Council* pursuant to clause 1.8.

3.3 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 3.1, the *authorised officer* may direct the *person* to seal any container or dispose of the contents of any unsealed container.

Part 4

No Smoking in *Smoke Free Areas*

Introduction: This Part aims to provide for the responsible management of *public places* so as to enhance the enjoyment of them by the general public. The following clauses prohibit smoking a *tobacco product* or using an *e-cigarette* in *smoke free areas* within the *municipality*.

Prohibition on smoking

- 4.1 A *person* must not *smoke* in a *smoke free area*.
- 4.2 Where an *authorised officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 4.1, the *authorised officer* may direct the *person* to extinguish or cease using and then dispose of the *tobacco product* or *e-cigarette*.

Council may prescribe smoke free areas

- 4.3 In addition to the *smoke free areas* identified in Part A of Schedule 2 to this Local Law, the *Council* may *prescribe* any other area within the *municipality* to be a *smoke free area*.
- 4.4 The *Council* must follow the guidelines incorporated in Part B of Schedule 2 to this Local Law when deciding whether to prescribe an area as a *smoke free area* under clause 4.3.
- 4.5 The *Council* or an *authorised officer* may erect, or cause to be erected, an *acceptable no smoking sign* in a *smoke free area*.

Note: maps showing *smoke free areas* are available by visiting www.melbourne.vic.gov.au

Part 5 Animals

Introduction: This Part aims to provide for the responsible care and management of *animals* within the *municipality* including regulating the number and types of *animals* a *person* may keep without a *permit*.

Application of Part 5

5.1 This Part does not apply to any land:

- (a) on which a pet shop is located;
- (b) on which an animal hospital or veterinary practice is located; or
- (c) if the use of the land for this purpose is permitted under the Planning Scheme.

Keeping of *animals*

5.2 A *person* must not, without a *permit*, keep or allow to be kept any more of each species or group of *animal* than *prescribed* by the *Council*.

45.3 Any structure or location used for housing an *animal* must be maintained:

- (a) in a clean, inoffensive and sanitary condition;
- (b) so as not to cause any *nuisance*; and
- (c) to the satisfaction of the *Council*.

***Animals* in a public place**

5.4 A *person* must not feed or leave food for an *animal* in a *public place*.

5.5 Whenever an *animal* is in or on a *public place*, the owner of the *animal* must have in their possession means for the effective collection and removal of any excrement that may be deposited by the *animal*.

5.6 The owner of an *animal* must immediately collect and remove all excrement deposited by the *animal* in a *public place*.

5.7 For the purposes of clauses 5.5 and 5.6:

- (a) the owner of an *animal* includes the *person* who has the *animal* in their care for the time being whether the *animal* is restrained, confined or at large; and
- (b) *animal* does not include a bird, fish or reptile.

Part 6

Advertising and Use of Shopfronts and *Public Places*

Introduction: This Part contains provisions which aim to enhance the appearance of streets and *public places* by controlling the placement of *advertising signs* in *public places* and on and between *buildings* and *street art* in, or within view from, a *public place* within the *municipality* and the placement of *goods* and the like in *public places*.

Authorisation required for *advertising sign* or other thing on or between *buildings*

6.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or the *Planning Scheme* or a planning permit issued under it; or
- (c) no part of the *advertising sign* or other thing is in, on or over a *public place*,

a *person* must not hang, *place* or affix any *advertising sign* or other thing on or between any part of a *building*, plant, pole, post or other structure or allow that to occur.

Authorisation required for *street art* in, or within view from, a *public place*

6.2 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with a planning permit issued under the *Planning Scheme*,

a *person* must not apply *street art*, or allow or suffer to allow, *street art* on any part of an outside wall of a *building* such that the *street art* is in, or within view from, a *public place*.

Note: Nothing in this clause is intended to affect the operation of the *Graffiti Prevention Act 2007*.

6.3 Where *street art* is on a *building* in breach of clause 6.2, in addition to any other powers the *Council* has under this Local Law, the *Council* may serve a *Notice to Comply* on the *owner* or *occupier* of the *building* requiring the removal of the *street art*.

6.4 If the person served with a notice under clause 6.3 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *building* into compliance with the notice.

6.5 Any costs incurred by the *Council* in taking action under clause 6.4, unless otherwise agreed by the *Council*, must be paid by the person served with the notice under clause 6.4 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises* on which the *building* is situated.

Authorisation required for portable *advertising signs* or other things in *public places*

6.6 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it,

a *person* must not *place* or erect a portable *advertising sign* or other thing in, on or over a *public place* or allow that to occur.

Authorisation required for *goods* in a *public place*

6.7 Subject to clause 6.8, a *person* must not hang, pile or place any *goods* or allow that to occur:

- (a) on the roof of or other portion of a verandah; or
- (b) on any shopfront or outside wall of *premises*.

6.8 Clause 6.7 does not apply if the placement of an item:

- (a) does not protrude over or into a *public place* or cause an obstruction or risk of injury to a *person* or damage to property; or
- (b) is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issued under it.

6.9 Unless in accordance with:

- (a) a *permit*; and
- (b) the consent of the *proprietor* of that place,

a *person* must not place or allow to be placed in a *public place* any planter or similar structure or thing.

Part 7

Greening Melbourne

Introduction: This Part aims to support greening of and biodiversity within the *municipality* by creating a *permit* process to enable the placing of *green infrastructure* on *Council land* and any other *public place prescribed* by the *Council*.

Authorisation required for *green infrastructure*

7.1 Without limiting the generality of clause 6.6 of this Local Law, unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issue under it, on which an animal hospital or veterinary practice is located;

a person must not *place* or erect *green infrastructure* in, on or over *Council land* or any other *public place prescribed* by the *Council*.

Part 8

Street Trading and *Special Events*

Introduction: This Part contains provisions which aim to manage and facilitate responsible trading and entertainment on streets and *public places* to increase the attractiveness and comfort of these places, by controlling the soliciting of gifts and money, busking, *selling* and other behaviour on *public places*.

Permit required for the soliciting of money etc.

- 8.1 Unless in accordance with a *permit*, a *person* must not solicit or collect a gift of money or subscription or *sell* a raffle ticket in or on a *public place*.

Soliciting trade and similar activities

- 8.2 Unless in accordance with a *permit*, a *person* must not in a *public place* or from *premises* adjacent to a *public place*, offer to *sell goods* or solicit or try to attract trade or business or *tout* or *spruik* or allow any *person* to solicit or try to attract trade or business or *tout* or *spruik*.

Permit required for selling in a *public place*

- 8.3 Unless in accordance with a *permit*, a *person* must not *sell* any *good* or service on or in a *public place* or from *premises* adjacent to a *public place* to a *person* in a *public place*.

Permit required for handbills

- 8.4 Unless in accordance with a *permit*, a *person* must not display or distribute to any *person* any *handbill* in or on a *public place* or allow that to occur.

Permit required for filming and *special events*

- 8.5 Unless in accordance with a *permit*, a *person* must not in or on a *road* or any other *public place* *prescribed* by the *Council*:
- (a) conduct any *special event*.
 - (b) conduct any filming where the film is for a commercial purpose, public exhibition or as part of a course conducted by a tertiary institution.

Note: The *Council* will take into account the *Filming Approval Act 2014* in considering an application for a *permit* under clause 8.5(b).

Permit required for busking

- 8.6 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:
- (a) sound or play a musical instrument, sing, give a recitation or perform any conjuring, juggling, puppetry, mime or dance or other entertainment or do any of those things concurrently; or
 - (b) draw any message, picture or representation on a wall or pavement surface.
- 8.7 Unless in accordance with a *permit* or in accordance with clause 15.8, a *person* must not make any noise or allow it to be made by the use or operation of an amplifier or noise-making or enhancing device:
- (a) in a *public place*; or
 - (b) in *premises* adjacent to the *public place* if the noise is capable of being heard in the *public place*.

8.8 Clause 8.7(b) does not apply where the noise involved would not contravene clauses (a) and (b) of clause 15.8.

Causing obstruction

8.9 A *person* must not:

- (a) without a *permit*, unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*; or
- (b) invite, encourage or allow the congregation of *persons* so as to unreasonably obstruct or interfere with the passage of pedestrian or vehicular traffic in or on a *public place*.

Furniture in a *public place*

8.10 Unless in accordance with a *permit*, a *person* must not place or cause to be placed any furniture in or on a *public place*.

Part 9

Works on *Roads*

Introduction: This Part contains provisions which aim to minimise the impact of works on *roads* on the amenity of the *municipality* and its residents by ensuring that obstructions do not interfere with the public's reasonable use of *roads*.

***Permit* required for *road* interference**

9.1 Unless in accordance with a *permit*, a *person* must not:

- (a) erect a hoarding or overhead protective awning on a *road*;
- (b) install a temporary or permanent *crossing*;
- (c) occupy or fence off part of a *road*;
- (d) use a mobile crane, travel tower, lift or tackle on or above a *road*;
- (e) make a hole in, excavate, damage or remove part of any *road*; or
- (f) install, alter or remove:
 - (i) a *pavement light*;
 - (ii) any object including a sign, tactile indicator or planter box on in or over a *road*;
 - (iii) a fence, gate or retaining wall on or in a *road*;
 - (iv) an *encroachment*.
- (g) enter or leave a site where *building works* are being conducted from a point other than a temporary or permanent *crossing*.

9.2 A *person* who breaches clause 9.1(e) shall be liable to repair, replace or reconstruct the *road* within 30 days of being requested to do so by an *authorised officer*.

Part 10

Building Standards

Compliance with Code

10.1 A *person* must comply with any obligation imposed by the *Code*.

Compliance with the design and construction standards

10.2 A *person* to whom the *design and construction standards* apply must comply with any obligation imposed by the *design and construction standards*.

Notification of the Office of Gas Safety

10.3 Prior to considering an application for a *permit* or licence for any structure, event or occupation of any area within 39 metres of a *gas regulator vent stack*, the applicant for the *permit* or licence must refer the application to Energy Safe Victoria, which may require the refusal of the *permit* or licence or inclusion of conditions in any *permit* or licence issued. Details of the application must also be notified to Energy Safe Victoria.

10.4 The *Council* will consider any requirement of the Office of Gas Safety before deciding whether to grant or refuse an application of the type described in clause 10.3.

Part 11

Water Activities

Prohibition on water activities

- 11.1 Unless in accordance with a *permit*, a *person* must not in or on a *public place*:
- (a) bathe, paddle, swim or wade in any *body of water* or allow an *animal* to do so, unless the *body of water* has been *prescribed* for that purpose; or
 - (b) deposit, throw or otherwise place anything on or into any *body of water*.

Mooring

- 11.2 A *person* must not, without a *permit*, *moor* any vessel on or along any *body of water*.

Behaviour

- 11.3 A *person* must not, while aboard a vessel on a *body of water*:
- (a) engage in any activity which is dangerous to any other *person*;
 - (b) use an amplifier or electronic device so as to interfere with the use or enjoyment of the *body of water* or any adjacent land by any other *person* except as permitted by the *Council* or an *authorised officer*; or
 - (c) interfere with the reasonable use and enjoyment of a *body of water* or any adjacent land by any other *person*.
- 11.4 A *person* must not take a *sailboard* or *ski* onto a *body of water* other than in an area *prescribed* by the *Council* as being an area set aside for *sailboards* or *skis*.

Part 12

Building Works (Nuisance Abatement)

Introduction: This Part contains provisions which aim to improve the amenity of the *municipality*, in particular residential areas, by preventing *nuisances* caused by *building works*.

Notice to be given before commencing *building works*

12.1 A *person* must not commence to carry out *building works* (other than *minor building works*) unless the *person* gives at least 48 hours written notice to the *Council* of their intention to do so.

12.2 A notice under clause 12.1 must be in the form *prescribed* by the *Council* and if requested, include a *construction management plan* which must be approved by the *Council* prior to commencement of *building works*.

Note: The *Council* requires a *person* to notify it prior to commencing any *building works* in order to ensure that all matters associated with the proposed *building works* are dealt with. This is to control and prevent potential damage to the environment and minimise any *nuisance* to those people in the vicinity of the *building works*.

12.3 A *construction management plan* may be modified with the consent of the *Council*.

12.4 A *person* involved in the carrying out of *building works* must comply with a *construction management plan* approved under clause 12.2 or modified under clause 12.3.

Building works are confined to certain times and places

12.5 Except in the case of an emergency or in accordance with a *permit*, a *person* must not carry out *building works* or cause *building works* to be carried out unless the works are carried out between the hours of:

- (a) 7.00am and 7.00pm Monday to Friday; and
- (b) 8.00am and 3.00pm on Saturday.

Building works on a dwelling are confined to certain times and places

12.6 Notwithstanding clause 12.5, a *person* may carry out *building works* or cause *building works* to be carried out on a dwelling:

- (a) if the works are carried out on any day between the hours of:
 - (i) 7.00am and 7.00pm Mondays to Fridays;
 - (ii) 8.00am and 6.00pm on Saturdays;
 - (iii) 9.00am and 6.00pm on Sundays; and
- (b) the *person* is the *owner* or *occupier* carrying out the *building works* themselves and no other person is engaged for fee or reward; and
- (c) the *person* is complying or observing any direction, notice or order of the *Council*, *authorised officer* or any public authority.

12.7 Notwithstanding clause 12.6, a *person* may carry out *minor building work* on a dwelling at times other than those specified in clause 12.6(a) provided that the works do not exceed the *designated sound level* *prescribed* by the *Council*.

Wheels of *vehicles* to be kept clean

12.8 A *person* must not drive a *vehicle* on to any *road* from *premises* upon which any filling, excavation, landscaping, *building works* or demolition operation is being or has recently been carried out unless the wheels and undercarriage of the *vehicle* are clean.

Nuisances

12.9 A *person* must not carry out *building works* or cause *building works* to be carried out so as to create a *nuisance*.

Directions by authorised officer

12.10 An *authorised officer* may, either orally or in writing, direct any *person*:

- (a) found carrying out or suspected of carrying out *building works* in contravention of this Local Law or a *permit* granted under this Local Law; or
- (b) apparently in charge of *premises* where *building works* are being or are suspected of being carried out in contravention of this Local Law or a *permit* granted under this Local Law,

to cease carrying out those *building works* immediately or as soon as practicable.

Part 13

Dilapidated, Dangerous and Unsightly *Premises*

Introduction: This Part contains provisions which aim to ensure that the appearance of *buildings* in the *municipality* are consistent with an image of the *municipality* that is safe, attractive and well maintained by controlling *premises* that have been allowed to reach a dilapidated, unsightly or dangerous condition.

Dilapidated *premises*

13.1 Where in the opinion of the *Council*, *premises* are in a dilapidated state, including where:

- (a) the exterior of any *building* is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the property or the area in which it is located;
- (b) any architectural features of the *building* are not properly maintained; or
- (c) *pavement lights*, tactile indicators or other *encroachments* are in a state of disrepair which may be dangerous or likely to cause a danger to any *person*,

the *Council* may serve a *Notice to Comply* in accordance with clause 17.9 of this Local Law specifying the work required to correct the dilapidated state.

Dangerous and unsightly *premises*

13.2 An *owner* or *occupier* of *premises* must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire by regularly minimising the build-up of grass, weeds, scrub, undergrowth and any other material or substance on or in the *premises* and ensuring that there is no storage of such material likely to assist in the spread of fire.

13.3 Where the *Council* is of the opinion that the condition of any *premises* may contribute to the spread of fire, the *Council* may serve a *Notice to Comply* in accordance with clause 17.9 of this Local Law specifying the work required to correct the condition of the *premises*.

13.4 An *occupier* of *premises* must not cause or allow their *premises* –

- (a) to be kept in a manner which in the opinion of the *Council* is dangerous or likely to cause danger to health or property; or
- (b) to contain, in the opinion of the *Council*, noxious weeds, insects, excessive vegetation growth or be a haven for vermin.

13.5 Where the *Council* is of the opinion that the condition of any *premises* is as described in Clause 13.4 the *Council* may serve a *Notice to Comply* in accordance with clause 17.9 of this Local Law specifying the work required to correct the condition of the *premises*.

13.6 An *occupier* of *premises* must not cause or allow their *premises* to be kept in a condition which in the opinion of the *Council* is unsightly or is detrimental to the general amenity of the neighbourhood.

13.7 Where the *Council* is of the opinion that the *premises* –

- (a) contains unconstrained rubbish; or
- (b) contains disused excavation or *waste* material;
- (c) for any other reason that may be determined by the *Council* from time to time is unsightly or detrimental to the general amenity of the neighbourhood,

the *Council* may serve a *Notice to Comply* in accordance with clause 17.9 of this Local Law specifying the work required to correct the condition of the *premises*.

Compliance with a Notice

- 13.8 A *Notice to Comply* is to be served on the *occupier* of the *premises* or, if one of the following circumstances exist, on the *owner* of the *premises*:
- (a) the *occupier* of the *premises* cannot, after reasonable enquiry, be located; or
 - (b) the *occupier* no longer occupies the *premises*; or
 - (c) the *premises* are unoccupied.
- 13.9 In addition to any other means of enforcement provided by this Local Law, if the *person* served with a notice under clauses 13.1, 13.3, 13.5 and 13.7 fails to comply with the notice to the *Council's* satisfaction, the *Council* can take whatever action it considers is necessary to bring the *premises* into compliance with the notice.
- 13.10 Any costs incurred by the *Council* in taking action under clause 13.9 (including, without limitation, the cost of carrying out *building work*, the erection of hoardings and barricades and the removal of material from the *premises*), must be paid by the *person* served with the notice under clause 13.1, 13.3, 13.5 and 13.7 and until such costs are paid with any interest payable, the costs will remain a charge on the *premises*.

Part 14

Naming of *Roads* and Numbering of *Premises*

Introduction: This Part contains provisions to provide for the making of clear signage of *road* names and street numbers to assist in the management of the *municipality* and assist emergency services.

Naming of *roads*

14.1 No person may give, approve or allot a name to any *road* without the approval of the *Council*.

Allocation of numbering

14.2 The *Council* may allot to *premises* within the *municipality* such numbers as it considers necessary to identify these *premises* and may from time to time make such changes as it deems fit.

Requirement to number *premises*

14.3 The *owner* of *premises* must clearly mark their *premises* with the numbers allotted by the *Council* and must renew the numbers as often as may be necessary.

14.4 Where the *Council* is unable to find or identify the *owner* of *premises*, the *occupier* of those *premises* must comply with clause 14.3.

Council may number premises

14.5 The *Council* may where *premises* are not marked by the *owner* or *occupier* with the number allotted, cause the *premises* to be numbered and recover the cost of doing so from the *owner* or *occupier* (as the case may be) as a debt due to the *Council*.

Interfering with numbers and street signs

14.6 A *person* must not:

- (a) destroy, pull down, obliterate or deface the name of any *road*, or the name or number of any *premises*; or
- (b) paint, affix or set up any name to any *road*, or any name or number to any *premises*, contrary to the provisions of this Local Law.

Removal of unlawful sign or number

14.7 The *Council* may cause a *road* name or number unlawfully or incorrectly painted, affixed or set up to be removed, obliterated or destroyed.

Part 15

Miscellaneous

Introduction: This Part contains provisions that aim to regulate and prohibit activities in *public places* not elsewhere covered by this Local Law to improve the amenity of the *municipality* and to protect other assets of the *Council* (such as *pedestrian service signs*).

Authorisation required for discharges

15.1 Unless:

- (a) in accordance with a *permit*; or
- (b) to do so is specifically authorised by and in accordance with legislation or approval issued under it,

a *person* must not allow any material including dust, wastewater, *waste*, mud, concrete, paint, oil or chemicals to be blown, conveyed, deposited or discharged in, on or across any *public place* (whether from a *building* in the course of construction, alteration, demolition or otherwise).

Prohibition on *vehicles* remaining in *public places*

15.2 Unless in accordance with a *permit*, a *person* must not:

- (a) bring a *vehicle* into or on or allow it to remain in or on a *public place*; or
- (b) ride a *segway* or *bicycle* in or on a *public place*,
except:
 - (c) where that *public place* is a road or road related area; or
 - (d) in the case of a *bicycle*, where that *public place* is a pathway designated for use by *bicycles*.

15.3 In clause 15.2(c), road and road related area have the meanings as defined in the *Road Safety Act 1986*.

Repairing *vehicles*

15.4 A *person* must not dismantle, paint, carry out maintenance or repair a *vehicle* on a road except where it is necessary to enable the *vehicle* to be removed or so that it can be driven away within one hour of a request by an *authorised officer*.

Interfering with a pedestrian service sign

15.5 A *person* must not:

- (a) destroy, remove, paint, obliterate or deface a *pedestrian service sign*; or
- (b) install or cause to be installed a *pedestrian service sign* without the approval of the *Council*.

Removal of unlawful signs

15.6 The *Council* may cause any unlawfully erected *pedestrian service sign* to be removed and disposed of.

General obstructions

- 15.7 A *person* must not allow any vegetation, *building* or thing to protrude from *premises* so as to obstruct or interfere with the passage of pedestrians or vehicular traffic in or on a *public place*.

Prohibition against causing excessive noise

- 15.8 Unless specifically authorised by and in accordance with legislation, a *person* must not in, on or over a *public place* or in *premises* adjacent to such a *public place* make or allow the making of a noise which:
- (a) is capable of interfering with the reasonable comfort of any *person* who may be in the vicinity in that *public place*; or
 - (b) at a point:
 - (i) if the noise comes from *premises* adjacent to a *public place*:
 - (A) not less than 3 metres from but outside and adjacent to the frontage of the *premises*; or
 - (B) outside but near the rear boundary of the *premises*; or
 - (C) outside but near the side boundary or extension of the side boundary of the *premises*; or
 - (ii) if the noise comes from a *public place*, not less than 3 metres from the source of the noise,

exceeds the *designated sound level* when measured on sound level measuring equipment.

Deliveries to and collections of *goods* from *premises*

- 15.9 Deliveries of any *goods* to or collections of any *goods* from any non-residential *premises* must only be made on such days and at such times as are *prescribed* by the *Council*.

Waste

- 15.10 *Waste* including *hard waste*, *green waste* and *recyclable material* from any *premises* must only be collected on such days and at such times as are *prescribed* by the *Council*.
- 15.11 A *person* must not collect *waste* or allow *waste* to be collected from an area *prescribed* by the *Council* between 11.01pm and 5.59am on the following day.
- 12.12 A *person* must not, unless in accordance with a *permit*, collect *waste* or allow *waste* to be collected from:
- (a) an area *prescribed* by the *Council* between 6.00am and 11.00pm on the same day; or
 - (b) any part of the *central city*.
- 15.13 A *permit* granted under clause 15.12 may contain conditions requiring the holder of the *permit* to:
- (a) ensure that each *waste container* left out for collection is marked with a unique identification number and details of the frequency with which *waste* is intended to be collected from the *waste container*;
 - (b) maintain a database of *waste containers*, showing the occupier of *premises* in respect of which each *waste container* was issued; and

- (c) ensure that the *permit* or a copy of the *permit* is at all times prominently displayed on each *vehicle* used in the collection of the *waste*.

15.14 A *person* must not leave or allow to be left a *waste container* in or on a *public place* unless it is:

- (a) marked with the address of the *premises* in respect of which it was issued and a telephone contact number;
- (b) clean on all external surfaces including being free from visible food matter and other debris;
- (c) airtight, securely closed and sealed; and
- (d) for the purpose of having *waste* collected and not before 6.00pm the evening before the collection day.

15.15 Further to the requirement in clause 15.14 a *person* must not leave or allow to be left a *waste container* in or on an area *prescribed* by the *Council* unless it is locked, provided that the *Council* takes into account the following matters before *prescribing* such an area:

- (a) pedestrian and vehicular traffic;
- (b) safety;
- (c) noise;
- (d) any other consideration it deems relevant.

15.16 Between the hours of 7am and 7pm, once *waste* has been collected from a *waste container*, a *person* must not keep or allow that *waste container* to remain in or on a *public place* other than an area *prescribed* by the *Council* for the storage of *waste containers*, for more than 3 hours in the *central city* or other area *prescribed* by the *Council* and 24 hours in all other locations.

Part 16

Permits

When is a *permit* required under this Local Law?

- 16.1 Where in this Local Law a *person* is prohibited from doing a thing “unless in accordance with a *permit*”, a *person* who does the thing which is prohibited to be done without first obtaining a *permit* from the *Council* under this Part is guilty of an offence.
- 16.2 The *Council* may grant a *permit* subject to such conditions as it thinks fit.

Fee required

- 16.3 The fee payable for the granting of a *permit* is the fee that is *prescribed* by the *Council*.

Further information may be required

- 16.4 The *Council* may require an applicant to provide it with more information before it deals with the application for a *permit*.

Notice may be required

- 16.5 The *Council* may require the applicant to give notice of the application for a *permit* in the manner *prescribed* by the *Council*.

Duration of *permit*

- 16.6 Except where expressly stated in this Local Law or in a *permit*, a *permit* operates from the date it is issued and expires one year after the date of issue.

Correction of *permits*

- 16.7 The *Council* may correct a *permit* if that *permit* contains:
- (a) an unintentional error or an omission; or
 - (b) a material miscalculation or a material mistake in the description of a *person*, thing or property.
- 16.8 The *Council* must notify a *permit* holder in writing of any correction under clause 16.7.

Exemptions

- 16.9 The *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times;
- 16.10 An exemption under clause 16.9 may be granted subject to conditions.
- 16.11 A *person* must comply with the conditions of an exemption under clause 16.9.
- 16.12 An exemption under clause 16.9 may be cancelled or corrected as if it were a *permit*.

Cancellation of a *permit*

- 16.13 The *Council* may cancel a *permit* if it considers that:
- (a) there has been a serious or ongoing breach of the conditions of the *permit*;

- (b) a *Notice to Comply* has been issued, but not complied with within seven days after the time specified in the *Notice to Comply*;
- (c) there was a significant error or misrepresentation in the application for the *permit*; or
- (d) in the circumstances, the *permit* should be cancelled.

16.14 Before it cancels a *permit* under clause 16.13, the *Council* must provide to the *permit* holder an opportunity to make comment on the proposed cancellation.

Part 17

Enforcement

Offences

17.1 A *person* who:

- (a) fails to comply with this Local Law; or
 - (b) fails to comply with a condition of a *permit*; or
 - (c) fails to do anything directed to be done under this Local Law; or
 - (d) knowingly submits erroneous, inaccurate or misleading information in an application for a *permit*; or
 - (e) refuses or fails to obey directions of an *authorised officer* to leave a *public place* where in the opinion of that *authorised officer* the person has failed to comply or is failing to comply with this Local Law; or
 - (f) fails to comply with a sign erected by the *Council*,
- is guilty of an offence.

Infringement notices

17.2 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

- (a) has done one or more of the things described in clause 17.1; or
- (b) is reasonably suspected of having done one or more of the things described in clause 17.1.

17.3 The fixed penalty in respect of an infringement notice is the amount set out in the Schedule to this Local Law. For offences not specified in Schedule 1 the penalty is 1 penalty unit.

Offences by Corporations

17.4 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

17.5 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 17.4 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without their knowledge or consent.

Court fines

17.6 A *person* guilty of an offence against this Local Law is liable to a penalty:

- (a) not exceeding 20 penalty units; and
- (b) for a continuing offence, not exceeding 2 penalty units for each day after the conviction during which the contravention continues.

Costs incurred by the *Council* to be paid

- 17.7 All costs incurred by the *Council* under this Local Law must be paid by the *owner* or *occupier* of the *premises* concerned and until such costs are paid with any interest payable, the costs remain a charge on the *premises*.

Notice to Comply and directions

- 17.8 An *authorised officer* may either orally or in writing direct a *person* to leave a *public place* if in the opinion of the *authorised officer* the *person* is failing to comply or has failed to comply with this Local Law.
- 17.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a *person* who the *authorised officer* reasonably suspects to be in breach of this Local Law.
- 17.10 A *Notice to Comply* under clause 17.9 must be in writing and in a form approved by the *Council*.
- 17.11 A *Notice to Comply* under clause 17.9 may do one or more of the following things:
- (a) direct the *person* to comply with this Local Law;
 - (b) direct the *person* to stop the conduct which constitutes the breach of this Local Law;
 - (c) direct the *person* to deliver up to the *authorised officer* or to some specified person or some specified location any item or property of the *person* which constitutes the breach of this Local Law;
 - (d) direct the *person* to remove or cause to be removed any item, *goods*, equipment or other thing that constitutes a breach of this Local Law.
 - (e) direct the *person* to leave an area within the time specified in the notice that constitutes a breach of this Local Law.
- 17.12 A *Notice to Comply* under clause 17.9 must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions in clause 17.11.
- 17.13 The time required by a *Notice to Comply* under clause 17.9 must be reasonable in the circumstances having regard to:
- (a) the amount of work involved; and
 - (b) the degree of difficulty; and
 - (c) the availability of necessary materials or other necessary items; and
 - (d) climatic conditions; and
 - (e) the degree of risk or potential risk; and
 - (f) any other relevant factor.
- 17.14 A *person* served with a *Notice to Comply* under clause 17.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

- 17.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *Notice to Comply* provided:

- (a) the *authorised officer* considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *Notice to Comply*, may place a *person, animal*, property or thing at risk or in danger; and
- (b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

17.16 The action taken by an *authorised officer* under 17.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Power of *authorised officer* to confiscate

17.17 Where a *person* owning or responsible for items, *goods*, equipment, *vessel, bicycle* or other property or thing has ignored a direction from an *authorised officer* to remove them, the items, *goods*, equipment, *vessel, bicycle* or other property or thing may be confiscated and impounded.

17.18 If an *authorised officer* has confiscated anything in accordance with this Local Law, the *Council* may refuse to release it until the appropriate fee or charge *prescribed* by the *Council* for its release has been paid to the *Council*.

17.19 As soon as it is reasonably practicable to do so, the *authorised officer* must serve a written notice in a form that is prescribed by the *Council* from time to time on the *owner* or person responsible for the confiscated item setting out the fees and charges payable and time by which the item must be retrieved.

17.20 If after the time required in a notice a confiscated item is not retrieved, an *authorised officer* may take action to dispose of the confiscated item according to the following principles:

- (a) where the item has no saleable value, it may be disposed of in the most economical way; and
- (b) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause (a);
- (c) where the *owner* has advised the *Council* in writing that the *Council* may dispose of the *goods* because the *owner* does not intend to retrieve them, the *Council* may dispose of them by the method identified in sub-clauses (a) and (b).

Part 18

Delegations

18.1 The *Council* may by instrument of delegation delegate any of its powers, functions and duties under this Local Law to a member of its staff.

18.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:

- (a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*;
- (b) a *person* acting in that capacity; or
- (c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

Activities Local Law
Schedule 1
Penalties Fixed for Infringements

Clause	Offence	Penalty (Penalty Units)
2.1; 2.2	Prohibited activities in <i>public places</i>	1.25
2.3	Misuse of <i>toy vehicles</i>	0.5
2.7	Destroying or causing damage to <i>trees</i>	2.5
2.8	Camping in <i>public places</i>	1.25
2.9	Fencing vacant land	2.5
2.10	Fences at intersections	1
3.1; 3.3	Consumption / possession of <i>liquor</i> in prohibited area	0.5
4.1	<i>smoke</i> in a <i>smoke free area</i>	0.5
5.2	Keeping of <i>animals</i>	1.25
5.3	Housing of <i>animals</i>	1.25
5.4	Feeding of <i>animals</i> in a <i>public place</i>	0.5
5.5; 5.6	<i>animal waste</i> disposal	1.25
6.1	Unauthorised <i>advertising sign</i> or thing on or between <i>buildings</i>	2.5
6.2	Unauthorised display of <i>street art</i> in, or within view from, a <i>public place</i>	5
6.6	Unauthorised portable <i>advertising sign</i> or other thing in <i>public place</i>	1.25
6.7; 6.9	Unauthorised display of <i>goods</i> in a <i>public place</i>	2.5
7.1	Unauthorised <i>green infrastructure</i>	1.25
8.1	Soliciting/collecting for money or subscription or <i>selling</i> a raffle ticket without a <i>permit</i>	1.25
8.2	Soliciting trade, or <i>touting</i> or <i>spruiking</i> without a <i>permit</i>	2.5
8.3	<i>selling</i> without a <i>permit</i> in a <i>public place</i>	2.5
8.4	Distribution/display of <i>handbills</i> without a <i>permit</i>	2.5
8.5	Filming or conducting a <i>special event</i> without a <i>permit</i>	
8.6	Busking without a <i>permit</i>	2.5
8.7	Causing excessive noise	2.5
8.9	Causing pedestrian / vehicular obstruction	2.5
8.10	Placing furniture in a <i>public place</i> without a <i>permit</i>	5
9.1	<i>road works</i> undertaken without a <i>permit</i>	10
10.1	Failure to comply with the <i>Code</i>	20
10.2	Failure to comply with the <i>design and construction standards</i>	20
10.3	Failure to refer application to the Office of Gas Safety	10
11.1	Water activities without a <i>permit</i>	1.25
11.2	<i>mooring</i> without a <i>permit</i>	5
11.3	Prohibited behaviour on a <i>vessel</i>	2.5

Clause	Offence	Penalty (Penalty Units)
11.4	Prohibited activities on water	2.5
12.1	Failure to give 48 hours notice before commencing <i>building works</i>	10
12.4	Failure to comply with a <i>construction management plan</i>	20
12.5	<i>building works</i> out of hours without a <i>permit</i>	20
12.6	<i>building works</i> on a dwelling out of hours	5
12.7	<i>building works</i> carried out on a dwelling exceeding the <i>designated sound level</i>	10
12.8	Dirty wheels / undercarriage of construction <i>vehicles</i>	10
12.9	<i>building works</i> creating a <i>nuisance</i>	10
14.1	Unauthorised naming of <i>roads</i>	1.25
14.3; 14.4	Failure to clearly number <i>premises</i>	1.25
14.6	Interference with numbers or street signs	1.25
15.1	Unauthorised discharge of material in a <i>public place</i>	5
15.2	<i>vehicle, bicycle</i> or <i>segway</i> without a <i>permit</i> in or on a <i>public place</i>	1.25
15.4	Repairing a <i>vehicle</i> on a <i>road</i>	2.5
15.5	Interfering with a <i>pedestrian service sign</i>	1.25
15.7	General obstructions from <i>premises</i> into a <i>public place</i>	1.25
15.8	Causing excessive noise	2.5
15.9	Delivery or collection of <i>goods</i> causing a <i>nuisance</i>	10
15.10	Collection of <i>waste</i> from <i>premises</i>	10
15.11	Collection of <i>waste</i> from <i>prescribed area</i>	10
15.12	Collection of <i>waste</i> from <i>prescribed area</i> or <i>central city</i>	10
15.14	Leaving <i>waste container</i> in or on <i>public place</i>	5
15.15	requiring <i>waste container</i> be locked in <i>prescribed areas</i>	5
15.16	Leaving <i>waste container</i> for more than the permitted time	5
2.11,17.9, 17.14	Failure to comply with a <i>Notice to Comply</i>	5

Schedule 2

Part A – Smoke Free Areas

The following areas are *smoke free areas* for the purposes of clause 4 of this Local Law:

1. any *children's playground*, and any area abutting such *children's playground*, prescribed by the *Council*; and
2. any parcel of land on which a *child care centre* is located, and any area abutting such parcel of land, prescribed by the *Council*.

Part B – Guidelines for Prescribing Smoke Free Areas

When determining whether to *prescribe* a *smoke free area* for the purposes of clause 4.3 of this Local Law, the *Council* must have regard to the following factors:

1. the size of the proposed *smoke free area*;
2. the opinions of any *Person* who is the *Owner* or *Occupier* of any part of the proposed *smoke free area* or the area immediately adjoining the proposed *smoke free area*;
3. the proximity of the proposed *smoke free area* to a *public place*, part or all of which is not in a *smoke free area*;
4. the extent and outcome of any public consultation on the proposed *smoke free area*;
5. any benefits to the community which would be achieved by the *Council prescribing* the proposed *smoke free area*; and
6. any detriments to the community which would be caused by the *Council prescribing* the proposed *smoke free area*.

Annexure (Plan)



This document is issued by the Melbourne City Council.



Melbourne City Council

Environment Local Law 2023

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Part 1 - Preliminary

Title

1.1 This Local Law is called the “Environment Local Law 2023”.

What are the objectives of this Local Law?

1.2 The objectives of this Local Law are to:

- (a) provide for the peace, order and good government of the *municipality*;
- (b) control, protect and conserve the environment;
- (c) control, protect and maintain the amenity of the *municipality*;
- (d) provide standards and conditions for certain activities in relation to the physical and visual environment within the *municipality*;
- (e) repeal the Environment Local Law 2019; and
- (f) adop, apply and ensure compliance with the *Council’s Environment Management Plan*.

1.3 This Local Law contributes to Council's long term and responsible approach to the ongoing health, vitality, prosperity, security and welfare of the city's residents, businesses and environment.

What authorises this Local Law?

1.4 This Local Law is made under the provisions of Division 3 of Part 3 of the *Local Government Act 2020*.

When does this Local Law commence?

1.5 This Local Law commences on the [date to be inserted].

Repeal of the Environment Local Law 2019

1.6 The Council’s Environment Local Law 2019 is repealed from the commencement of this Local Law.

To what part of the *municipality* does this Local Law apply?

1.7 Subject to clauses 1.10 and 1.11 this Local Law applies throughout the whole of the *municipality*.

1.8 Clauses 2.3 and 2.4 do not apply to premises during the period when any *building works* are being carried out at the premises provided that a *Construction Management Plan* approved by Council for the *premises* is in place.

Are there any exemptions from this Local Law?

- 1.11 The Council may *prescribe* specified *persons, premises* or *areas* within the *municipality* to be exempt from all or any of the provisions of this Local Law for a specified time and on specified conditions.

Definitions

- 1.12 The words identified in italics throughout this Local Law and *Environment Management Plan* are intended to have the following meaning:

“*Act*” means the *Local Government Act 1989*.

“*Activities Local Law*” means the Melbourne City Council *Activities Local Law 2023* as amended from time to time.

“*Appropriate site*” means a site approved by the *Council* for the storage of *waste* and any re-useable containers.

“*approved green infrastructure*” means green infrastructure permitted or authorised pursuant to clauses 7.1(a) or (b) of the *Activities Local Law*.

“*Authorised officer*” means a person appointed by the *Council* to be an *authorised officer* under section 224 of the Act.

“*Building works*” has the same meaning as in the *Activities Local Law*.

“*Construction Management Plan*” has the same meaning as in the *Activities Local Law*.

“*Council*” means the Melbourne City Council.

“*Direction to Vary*” is a direction given under clause 4.1 of this Local Law.

“*Environment Management Plan*” means the document incorporated into this Local Law by clause 2.2 of this Local Law.

“*green infrastructure*” has the same meaning as in the *Activities Local Law*.

“*Green Waste*” includes:

- (a) manageable bundles of vines, creepers and weeds;
- (b) leaves, lawn clippings, flowers, branches, prunings or trunks not greater than 20cm in diameter;
- (c) prunings tied in bundles of no more than one metre in length and thirty centimetres in diameter.

“*Hard Waste*” includes white goods, broken furniture, electrical goods, hot water services, televisions and mattresses up to a maximum of one cubic metre per household, but does not include car parts or building materials.

"*Hazardous waste*" includes all kitchen, bathroom, workshop, garden, commercial and industrial chemicals such as pharmaceuticals, paints, poisons and motor fluids.

"*Liquid Waste*" includes grey water, sewerage, oil used for cooking purposes and hazardous waste that is also in a liquid form;

"*Municipality*" means the municipal district of the *Council*.

"*Notice to Comply*" is a notice given under clause 5.9 of this Local Law.

the "*Occupier*" of premises means the following:

- (a) a *person* having the charge, management or control of the premises, and
- (b) in the case of *premises* that are let out in separate occupancies or a lodging house that is let out to lodgers, the person receiving the rent from the tenants or lodgers.

the "*Owner*" of premises means the following:

- (a) where the *premises* are Crown land, the *owner* of the *premises* is the lessee or licensee of the land from the Crown,
- (b) where the *premises* are other than Crown land, the *owner* of the *premises* is:
 - (i) every *person* who is jointly or severally entitled to the freehold estate of the land, and
 - (ii) every such *person* who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial *owner*, trustee, mortgagee in possession or otherwise.

"*Person*" includes an individual, a corporation, an association incorporated under the *Associations Incorporation Reform Act 2021*, a partnership and an unincorporated association.

"*Premises*" includes the whole or part of any land, building or building under construction.

"*Prescribe* and *Prescribed*" includes decided or specified by the *Council*.

"*Recyclable material*" includes glass bottles and jars, aluminium and steel cans, gable top and square cartons, plastic bottles identified as being recyclable and paper cardboard, but does not include ceramics, window glass, mirrors, light globes, pyrex, waxed cardboard, batteries, plastic bags and clingwrap.

"*Tobacco Waste*" includes all waste and litter produced by any tobacco product or items associated with such tobacco products.

"*Tobacco Waste Container*" means a receptacle approved by the *Council* for the collection of tobacco waste".

“Waste” has the same meaning as in the *Environment Protection Act 2017*.

Part 2 – Environment Management Plan

Introduction: This Part contains provisions that aim to promote responsible land management throughout the *municipality* via the *Council's Environment Management Plan* which sets performance standards designed to involve the least burden and the greatest advantage on the community. The *Environment Management Plan* is incorporated into this Local Law.

What is the *Environment Management Plan*

2.1 The *Environment Management Plan*:

- (a) was adopted by the *Council* as the *Environment Management Plan* for the purposes of this Local Law,
- (b) sets Objectives, Performance Requirements and Prescribed Requirements for activities that may affect the environment of the neighbourhood in which the activities are conducted and may include:
 - waste management and disposal;
 - burning of material in the open and open fires;
 - the generation of noise; and
 - the generation of offensive odours and fumes,
- (c) is available by visiting the Council's web site at www.melbourne.vic.gov.au.

2.2 The whole of the *Environment Management Plan* is incorporated into and forms part of this Local Law.

How does the *Environment Management Plan* apply to premises?

2.3 Unless the *Environment Management Plan* is varied in relation to specific premises under Parts Three or Four of this Local Law, the *Environment Management Plan* applies to all *premises* within the *municipality*.

2.4 Subject to clause 2.5, the *occupier of premises* must, in relation to those *premises*:

- (a) comply with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*,
- (b) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (c) not allow a *person* to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

2.5 Where:

- (a) the *occupier* of *premises* cannot, after reasonable enquiry, be located, or
- (b) the *occupier* no longer occupies the *premises*, or
- (c) the *premises* are unoccupied,

then the *owner* of the *premises* must, in relation to those *premises*:

- (d) comply with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*,
- (e) ensure compliance with the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*, and
- (f) not allow a person to breach the Performance Requirements and Prescribed Requirements of the *Environment Management Plan*.

Amending the *Environment Management Plan*

2.6 The *Council* may amend the *Environment Management Plan* from time to time.

2.7 An amendment to the *Environment Management Plan* does not take effect until notice of the *Council's* decision to amend the *Environment Management Plan* is published in the Government Gazette.

Part 3 – Variations to the Environment Management Plan

Introduction: This Part contains provisions to allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the request of the *owner* or *occupier* of the *premises*.

Application for a variation to the Environment Management Plan by an owner or occupier

3.1 Where the *owner* or the *occupier* of *premises* believes that, because of the nature of the activities conducted at the *premises*, the *Environment Management Plan* applying to the *premises* is not appropriate, the *owner* or *occupier* may apply to the *Council* to vary the *Environment Management Plan* that applies to his *premises*.

How is an application for variation made?

3.2 Where an application to vary the *Environment Management Plan* is made by the *occupier* of the *premises*, the application must be accompanied by evidence that the *owner* of the *premises* consents to the variation of the *Environment Management Plan*.

3.3 An application under clause 3.1 must be in a form approved by the *Council* and be accompanied by the fee (if any) determined by the *Council*.

3.4 The *Council* may from time to time set or alter the fee to apply to an application under clause 3.1.

3.5 The *Council* may waive, reduce or alter the fee with or without conditions.

3.6 The *Council* may require a *person* making an application under clause 3.1 to:

- (a) give notice of the application to persons whom the *Council* considers may be affected by the grant of the variation, or
- (b) publish notice of the application in a newspaper circulating generally within the *municipality*.

3.7 The *Council* may require an applicant to provide such information as required and to provide additional information before dealing with an application under clause 3.1.

What matters will the Council take into account?

3.8 In considering whether to vary the *Environment Management Plan* in relation to the applicant's *premises*, the *Council* may consider:

- (a) the reason or reasons given by the applicant for making the application,
- (b) any report on the application by an *authorised officer*,
- (c) any submission made by a *person* to whom notice of the application was given,
- (d) the applicant's particular circumstances,

- (e) the nature of the activities conducted on the applicant's *premises*,
- (f) the environment of the neighbourhood within which the applicant's *premises* are located, and
- (g) any other matter the *Council* considers relevant.

The *Council* may grant permission subject to conditions

3.9 A variation to the *Environment Management Plan* in relation to the applicant's premises may be granted subject to such conditions as the *Council* determines, including conditions relating to:

- (a) the payment of a fee or charge,
- (b) a standard to be applied,
- (c) a time limit to be applied, specifying either the duration, commencement or completion date,
- (d) the linking of the variation to the happening of an event, and
- (e) the rectification, remedying or restoration of a situation or circumstance.

What is the effect of the *Council* granting a variation to the *Environment Management Plan*?

3.10 Upon the *Council* granting a variation to the *Environment Management Plan* in relation to the applicant's *premises*, the *Environment Management Plan* applying to the applicant's *premises* is the *Environment Management Plan* in its varied form.

3.11 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

3.12 The *Council* must:

- (a) keep a record of all variations granted under this Part, and
- (b) make the record available to be inspected by members of the public.

Part 4 – Variation of the *Environment Management Plan* by an *authorised officer*

Introduction: This Part contains provisions that allow for variations to be made to the *Environment Management Plan* in relation to specific *premises* at the direction of an *authorised officer*.

Direction to vary the Environment Management Plan by an authorised officer

- 4.1 Where, because of the nature of the activities conducted on *premises*, an *authorised officer* considers that the *Environment Management Plan* applying to those *premises* does not adequately protect the environment in the vicinity of the *premises*, the *authorised officer* may give to the *owner* and the *occupier* of the *premises* a *Direction to Vary* in accordance with this Part.
- 4.2 A *Direction to Vary* under clause 4.1 must be in writing and be in a form approved by the *Council*.
- 4.3 A *Direction to Vary* under clause 4.1 may require the *owner* and the *occupier* to:
- (a) give reasons in the manner specified and within a specified time as to why the *Environment Management Plan* applying to the *premises* should not be varied in the manner specified in the *Direction to Vary*, or
 - (b) submit to the *Council* in the manner specified and within a specified time an alternative *Environment Management Plan* to substitute for the *Environment Management Plan* applying to the *premises*.
- 4.4 The times specified in a *Direction to Vary* under clause 4.1 must be reasonable in the circumstances and what will be reasonable will depend on the nature of the requirement being placed on the *person* receiving the *Direction to Vary*, but should take into account:
- (a) the amount of work required to achieve compliance,
 - (b) the degree of difficulty in achieving compliance,
 - (c) the availability of resource materials and expertise to achieve compliance,
 - (d) the impact of the *Direction to Vary* on the *person* receiving the *Direction to Vary*, and
 - (e) any other relevant factor.

What is the effect of a *Direction to Vary* under clause 4.3(a)?

- 4.5 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to give reasons in accordance with clause 4.3(a), the *person* receiving the *Direction to Vary* must give the reasons in the manner specified and within the time specified.
- 4.6 If:
- (a) no reasons are given to the *authorised officer* in accordance with clause 4.5, or

- (b) the reasons given are not in the manner specified or the time specified in the *Direction to Vary*, or
- (c) in the opinion of the *authorised officer*, the reasons given are not sufficient to not vary the *Environment Management Plan* in the manner specified in the *Direction to Vary*,

the *Environment Management Plan* applying to the *premises* is deemed to be varied in the manner specified in the *Direction to Vary*.

- 4.7 The provisions of clauses 2.4 and 2.5 apply to the *owner* and the *occupier* of the *premises* referred to in clause 4.6 as if the reference to the *Environment Management Plan* means the *Environment Management Plan* in its varied form.

What is the effect of a *Direction to Vary* under clause 4.3(b)?

- 4.8 If a *Direction to Vary* under clause 4.1 requires the *person* receiving the *Direction to Vary* to submit to the *Council* an alternative *Environment Management Plan*, the *person* receiving the *Direction to Vary* must submit to the *Council* an alternative *Environment Management Plan* in the manner specified and within the time specified.

- 4.9 A *person* who fails to comply with clause 4.8 is guilty of an offence.

How many times may *Directions to Vary* be given in relation to particular premises?

- 4.10 An *authorised officer* may give more than one *Direction to Vary* under clause 4.1 in relation to *premises* and compliance with one *Direction to Vary* does not preclude the *authorised officer* or another *authorised officer* from giving another *Direction to Vary* under clause 4.1 should, in the opinion of the *authorised officer*, the circumstances warrant it.

Can a *person* appeal against a *Direction to Vary*?

- 4.11 A *person* who is aggrieved about being given a *Direction to Vary* under clause 4.1 may appeal in writing to the *Council* to be heard and may make a written submission for consideration by the *Council*.
- 4.12 An appeal under clause 4.11 must be made within 7 days of being given the *Direction to Vary*.
- 4.13 The *Council* must consider any written submission made to it under clause 4.11 (provided the application is made within 7 days of the *Direction to Vary* being given) and then make its determination in writing.
- 4.14 If an appeal is made under clause 4.11, the *Direction to Vary* which is the subject of the appeal (including any time limits specified in the *Direction to Vary*) does not take effect until the *Council* has given a written determination under clause 4.13.

Part 5 - Enforcement

Introduction: This Part provides a means for enforcing this Local Law.

Offences

5.1 A *person* who:

- (a) fails to comply with this Local Law (including the *Environment Management Plan* incorporated into this Local Law),
- (b) fails to comply with a condition of a variation granted under this Local Law, or
- (c) knowingly submits erroneous or misleading information in an application or an appeal made under this Local Law,

is guilty of an offence.

Court fines

5.2 A *person* who is guilty of an offence is liable to a penalty:

- (a) for the offence, not exceeding 20 penalty units, and
- (b) for a continuing offence, not exceeding 2 penalty units for each day after the conviction for an offence during which the contravention continues.

Infringement Notices

5.3 As an alternative to prosecution, an *authorised officer* may serve an infringement notice on a *person* who:

- (a) has done one of the things described in clause 5.1, or
- (b) is reasonably suspected of having done one of the things described in clause 5.1.

5.8 The penalties fixed for an infringement notice under this Local Law are as follows:

- (a) where the offence is a failure to comply with a Category 1 requirement of the *Environment Management Plan*, the penalty is 20 penalty units;
- (b) where the offence is a failure to comply with a Category 2 requirement of the *Environment Management Plan*, the penalty is 10 penalty units;
- (c) where the offence is a failure to comply with a Category 3 requirement of the *Environment Management Plan*, the penalty is 5 penalty units;

- (d) where the offence is a failure to comply with a *Direction to Vary* (clause 4.8), the penalty is 5 penalty units;
- (e) where the offence is a failure to comply with a *Notice to Comply* (clause 5.9), the penalty is 5 penalty units;
- (f) for all other offences, the penalty is 5 penalty units.

Note: The Environment Management Plan contains notes which specify whether a requirement is a Category 1 requirement, a Category 2 requirement or a Category 3 requirement. By referring to the notes contained in the Environment Management Plan a person can ascertain what the infringement notice penalty is should there be a failure to comply with the requirement.

Notices to comply

- 5.9 Either as an alternative or in addition to an infringement notice, an *authorised officer* may serve a *Notice to Comply* under this clause on a person who the *authorised officer* reasonably suspects to be in breach of this Local Law.
- 5.10 A *Notice to Comply* under clause 5.9 must be in writing and be in a form approved by the Council.
- 5.11 A *Notice to Comply* under clause 5.9 must do one or more of the following things:
 - (a) direct the *person* to comply with the Local Law,
 - (b) direct the *person* to stop within such time as specified in the notice the conduct which constitutes the breach of the Local Law,
 - (c) direct the *person* to deliver up to the *authorised officer* or to some specified *person* or some specified location any item or property of the person which constitutes the breach of the Local Law,
 - (d) direct the *person* to carry out the works specified in the notice within the time specified in the notice.
- 5.12 A *notice to comply* under clause 5.9 must specify the time and date by which the *person* specified in the *notice to comply* must comply with the directions in clause 5.11.
- 5.13 The time required by a *notice to comply* under clause 5.9 must be reasonable in the circumstances having regard to:
 - (a) the amount of work involved; and
 - (b) the degree of difficulty; and
 - (c) the availability of necessary materials or other necessary items; and

- (d) climatic conditions; and
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

5.14 A *person* served with a *Notice to Comply* under clause 5.9 must comply with a direction contained in the notice.

Power of *authorised officer* to act in urgent circumstances

5.15 Any *authorised officer* may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a *notice to comply* provided:

- (a) the *authorised officer* considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *notice to comply*, may place a *person*, *animal*, property or thing at risk or in danger; and
- (b) details of the circumstances and remedying action are forwarded as soon as practicable to the *person* on whose behalf the action was taken.

5.16 The action taken by an *authorised officer* under clause 5.15 must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

Offences by Corporations

5.17 If a *person* charged with an offence against this Local Law is a corporation, any *person* who is concerned or takes part in the management of that corporation may be charged with the same offence.

5.18 If the corporation is convicted of an offence against this Local Law, a *person* charged under clause 5.17 with the same offence may also be convicted of the offence and is liable to the penalty for that offence unless that *person* proves that the act or omission constituting the offence took place without their knowledge or consent.

Part 6 - Delegations

6.1 The *Council* may by instrument of delegation delegate each of the powers, functions and duties under this Local Law to any member of its staff.

6.2 A reference in an instrument of delegation to a delegate by way of the delegate's position with the *Council* includes:

- (a) a *person* authorised to carry out the powers, duties and functions of that position at the *Council*,
- (b) a *person* acting in that capacity, or

- (c) if that position at the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the previous position.

This document is issued by the Melbourne City Council.

The City of Melbourne's Environment Management Plan Under the Environment Local Law 2023

1 Purpose of the Environment Management Plan

The Environment Management Plan (“**EMP**”) for the City of Melbourne is the cornerstone of the Council’s Environment Local Law. The intention is to provide a better urban environment for the *municipality* by setting out specific commitments for *owners* and *occupiers* of *premises* through the EMP. It allows for variations to the EMP as it applies to particular *premises* to suit individual situations.

Note: Practical models providing assistance as to how an owner or occupier or premises can comply with the requirements of the *Environment Management Plan* are available by visiting the Council's web site at www.melbourne.vic.gov.au his . Please telephone the Council for further information.

2 Objectives of the Environment Management Plan

The objectives of the EMP are to:

- (a) set performance standards designed to maintain a high level of community amenity and the ecosystems that support it;
- (b) facilitate and promote a safe, clean and healthy environment for all people living, working in and visiting the *municipality*;
- (c) facilitate and promote responsible land, water, atmosphere, noise and *waste* management throughout the *municipality*;
- (d) support approved *green infrastructure* throughout the *municipality*.

3 Performance Requirements of the Environment Management Plan

Note: This clause sets out performance standards. An owner or occupier is required to comply with such standards but the manner in which compliance is achieved is at the discretion of the owner or occupier. Contact the Council if you require any information on how you can ensure compliance with the performance requirements.

- 3.1 *Waste* material must be stored so as to prevent leakage, be watertight and be impervious to rodents and insects. (**Category 3 offence**).
- 3.2 *Waste* material must be stored in such a way that it does not detrimentally affect the neighbourhood by reason of smell, visual pollution, air pollution, noise pollution and the like. (**Category 3 offence**).
- 3.3 All necessary steps must be taken to ensure that all *recyclable material* and *green waste* is separated from other *waste* material. (**Category 3 offence**).
- 3.4 The area:
 - (a) immediately surrounding the container in which the *waste* material is stored; and
 - (b) immediately adjacent to the *premises*

must be maintained in a clean and hygienic state. **(Category 3 offence)**.

- 3.5 Any equipment used on the *premises* from which gas emissions may occur must be regularly and properly serviced and maintained. **(Category 2 offence)**.
- 3.6 The stormwater drainage connection from the *premises* must be maintained in good order and repair and free from blockages. **(Category 3 offence)**.
- 3.7 In relation to *premises* all necessary steps must be taken to ensure any adverse impact on the amenity of the adjoining areas arising from:
- (a) *nuisances* caused or constituted by the storage and disposal of *waste* and *recyclable material*; or
 - (b) noise and emissions,
- as a result of the use or operation of *premises* is controlled and prevented. **(Category 1 offence)**.

4 Prescribed Requirements of the Environment Management Plan for Non Residential Premises

Note: The requirements detailed in these clauses 4 and 5 are mandatory. An owner and an occupier must comply with these requirements in the manner specified.

- 4.1 Deliveries of any goods to or collections of any goods from any *premises* must only be made on such days and at such times as are prescribed by the *Council*. **(Category 1 offence)**
- 4.2 *Waste* containers and any re-useable containers must be stored within the premises, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**
- 4.3 Sufficient *tobacco waste containers* must be provided to contain all *tobacco waste* generated as a result of the use or operation of the *premises*. **(Category 3 offence)**
- 4.4 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**
- 4.5 *Liquid waste* must not be placed directly in a *waste* collection container. **(Category 1 offence)**
- 4.6 *Waste* material must not be poured, emptied, swept, thrown or otherwise discharged onto a *road* or into a stormwater drain. **(Category 2 offence)**
- 4.7 *Waste* material must not be incinerated or otherwise burned in the open on any premises. **(Category 2 offence)**

5 Prescribed Requirements of the Environment Management Plan for Residential Premises

- 5.1 *Waste material and recyclable material* must be stored in a container approved by the *Council* for such purposes.
- 5.2 *Waste containers and any re-useable containers* must be stored within the *premises*, or at an *appropriate site* outside of collection periods. **(Category 3 offence)**
- 5.3 *Hazardous waste* must not be placed on the roadside for collection regardless of the type of collection service employed. **(Category 1 offence)**
- 5.4 *Liquid waste* must not be placed directly into a *waste* collection container. **(Category 1 offence)**
- 5.5 *Waste material* must not be poured, emptied, swept, thrown or otherwise discharged onto a road or into a stormwater drain. **(Category 2 offence)**
- 5.6 *Waste material* must not be incinerated or otherwise burned in the open on any *premises*. **(Category 2 offence)**

6. Council Guidelines

- 6.1 In addition to any Performance Requirements and Prescribed Requirements, any guidelines *prescribed* by the *Council* for:
 - 6.1.1 the storage and collection of *waste*;
 - 6.1.2 the burning of material in the open;
 - 6.1.3 the use of open fires;
 - 6.1.4 the management of noise;
 - 6.1.5 supporting *approved green infrastructure*; or
 - 6.1.6 any other matter that it considers appropriate

must be complied with.

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