

## Guideline

Community Local Law 2021

Made at Council Meeting 22 November 2021

Commenced 9 December 2021

These guidelines are an aid in the exercise of discretion by Council and authorised officers, including for considering and deciding permit applications. These guidelines are not intended to be binding.

Also an Example in the local law are a legislative item. These are recognised by the *Interpretation of Legislation Act 1984*. A local law is a subordinate instrument to which the *Interpretation of Legislation Act 1984* applies. The Act says—

### **36A Examples**

- (1) If an Act or subordinate instrument includes at the foot of a provision under the heading "**Example**" or "**Examples**" an example of the operation of the provision, the example—
  - (a) is not exhaustive; and
  - (b) may extend, but does not limit, the meaning of the provision.

## Part 1

### Clause 1

In exercising any discretion under the local law, Council and an authorised officer must have regard to the objectives.

### Clause 2

1. At Council Meeting on 28 June 2021, Council resolved to commence public notice on 29 June 2021 for the making of the local law.
2. On 1 July 2021, Part 5 of the *Local Government Act 1989* for the making of the local law was repealed.
3. The *Local Government Act 2020* includes Part 10—Savings and transitional. Section 328(2) in Part 10 says any decision, action, proceeding or matter, made taken or commenced under a relevant provision of the *Local Government Act 1989* repealed by the 2020 Act may be implemented or continued under the 1989 Act as if the relevant provision had not been repealed.
4. For s328(2) of the *Local Government Act 2020* the making of the local law continued under Part 5 of the *Local Government Act 1989*.

### Clause 3

A local law comes into operation at the beginning of the day.

### Clause 4

1. Some clauses only apply to the **urban area**. For example—
  - Clause 53. c. iii.
  - Clause 54. a.
  - Clause 55.
  - Clause 57. b.
  - Clause 64. a.
  - Clause 66. a.
  - Clause 66. b.
2. Some clauses only apply to **farm land**. For example, clause 66. d.
3. Some clauses only apply to land that is neither **urban area** nor **farm land**. For example—
  - Clause 57. c.
  - Clause 66. c.
4. Some clauses only apply to **road, road related area, or Council land**. For example—
  - Clause 36.
  - Clause 39.
  - Clause 41.
  - Clause 44.
  - Clause 47.
  - Clause 48.
  - Clause 49.
  - Clause 50.
  - Clause 51.
  - Clause 57. a.
  - Clause 62.
5. Some clauses refer to waterways managed by Council. Examples of waterways managed by Council per Government Gazette S220 28 June 2012—

- Green Lake
  - Lake Natimuk
  - Lake Toolondo
  - the Wimmera river within the boundaries of Horsham Rural City.
6. Also the Horsham Aerodrome is under the control of Council.

## Clause 5

### 5.a.

1. An authorised officer is a person, other than a Councillor, appointed by Council to carry out a compliance function or an enforcement function for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.
2. At the first date of this Guideline an authorised officer would have been appointed under—
  - section 224 of the *Local Government Act 1989*
  - section 72 of the *Domestic Animals Act 1994*.

## Clause 6

1. Section 76 of the *Local Government Act 2020* says prescriptions are applied, adopted or incorporated matter. This means there are publication and availability requirements for prescriptions.
2. The publication and availability of any prescription of a person or class of person for clause 6 is subject to the *Privacy and Data Protection Act 2014*.

## Clause 7

### Part 2

## Clause 8

1. Incorporation means making a document binding as if it was part of the local law.
2. Section 76 of the *Local Government Act 2020* provides for the publication and availability of the incorporated documents—
  - At the commencement of clause 8; and
  - When incorporated documents are amended.

## Clause 9

### construction work

- has the same meaning as in the *Building and Construction Industry Security of Payment Act 2002*
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—

## 5 Definition of *construction work*

- (1) In this Act, *construction work* means any of the following work—
- (a) the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of buildings or structures forming, or to form, part of land (whether permanent or not);
  - (b) the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of any works forming, or to form, part of land, including walls, roadworks, power-lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for the purposes of land drainage or coast protection;
  - (c) the installation in any building, structure or works of fittings forming, or to form, part of land, including heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems;

- (d) the external or internal cleaning of buildings, structures or works, so far as it is carried out in the course of their construction, alteration, repair, restoration, maintenance or extension;
  - (e) any operation which forms an integral part of, or is preparatory to or is for rendering complete, work of the kind referred to in paragraph (a), (b) or (c), including—
    - (i) site clearance, earth-moving, excavation, tunnelling and boring; and
    - (ii) the laying of foundations; and
    - (iii) the erection, maintenance or dismantling of scaffolding; and
    - (iv) the prefabrication of components to form part of any building, structure or works, whether carried out on-site or off-site; and
    - (v) site restoration, landscaping and the provision of roadways and other access works;
  - (f) the painting or decorating of the internal or external surfaces of any building, structure or works;
  - (g) any other work of a kind prescribed for the purposes of this subsection.
- (2) Despite subsection (1), **construction work** does not include any of the following work—
- (a) the drilling for, or extraction of, oil or natural gas;
  - (b) the extraction (whether by underground or surface working) of minerals, including tunnelling or boring, or constructing underground works, for that purpose;
  - (c) any other work of a kind prescribed for the purposes of this subsection.

and no other work had been prescribed.

#### *farm land*

- has the same meaning as in the *Valuation of Land Act 1960*;
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—

**farm land** means any rateable land—

- (a) that is not less than 2 hectares in area; and
- (b) that is used primarily for grazing (including agistment), dairying, pig-farming, poultry-farming,

fish-farming, tree-farming,  
bee-keeping, viticulture, horticulture,  
fruit-growing or the growing of crops  
of any kind or for any combination  
of those activities; and

- (c) that is used by a business—
- (i) that has a significant and substantial commercial purpose or character; and
  - (ii) that seeks to make a profit on a continuous or repetitive basis from its activities on the land; and
  - (iii) that is making a profit from its activities on the land, or that has a reasonable prospect of making a profit from its activities on the land if it continues to operate in the way that it is operating;

#### *footpath*

- has the same meaning as the *Road Safety Road Rules 2017*;
- those Rules will be amended from time to time
- at the first date of this Guideline the definition is—

***footpath***, except in rule 13(1), means an area open to the public that is designated for, or has as one of its main uses, use by pedestrians;

#### **Note**

Rule 13 defines *road related area*.

#### *freight container*

- has the same meaning as the *Road Safety Act 1986*;
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—

***freight container*** means—

- (a) a re-usable container of the kind mentioned in Australian/New Zealand Standard AS/NZS 3711.1:2000, *Freight containers—Classification, dimensions and ratings*, that is designed for repeated use for the transport of goods by one or more modes of transport; or
- (b) a re-usable container of the same or a similar design and construction to a container referred to in paragraph (a) though of different dimensions; or
- (c) a container of a kind specified by the regulations for the purposes of this definition—

but does not include anything declared by the regulations to be excluded from this definition;

and the *Road Safety (General) Regulations 2019* did not exclude anything from the definition.

### *livestock*

- includes any animal of a kind listed or prescribed as livestock for the *Livestock Management Act 2010* including any animal kept other than for primary production;
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—

***livestock*** means—

- (a) any animal kept for the purposes of primary production, including cattle, sheep, pigs, poultry, ratites, buffalo, camels, alpacas, goats and deer; or
- (b) horses, including where used for recreation; or
- (c) any animals prescribed as livestock;

and no other animals were prescribed as livestock.

### *motor vehicle*

- has the same meaning as in the *Road Safety Act 1986*;
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—

***motor vehicle*** means a vehicle that is used or intended to be used on a highway and that is built to be propelled by a motor that forms part of the vehicle but does not include—

- (a) a vehicle intended to be used on a railway or tramway; or
- (b) a motorised wheel-chair capable of a speed of not more than 10 kilometres per hour which is used solely for the conveyance of an injured or disabled person; or
- (c) a vehicle that is not a motor vehicle by virtue of a declaration under subsection (2)(b);

### *nature strip*

- has the same meaning as in the *Road Safety Road Rules 2017*;
- those Rules will be amended from time to time
- at the first date of this Guideline the definition is—

***nature strip***, except in rule 13(1), means an area between a road (except a road related area) and adjacent land, but does not include the shoulder of a road or a bicycle path, footpath or shared path;

#### **Notes**

- 1 *Adjacent land* and *footpath* are defined in this dictionary. *Bicycle path* is defined in rule 239, *road* and *shoulder* are defined in rule 12 and *shared path* is defined in rule 242.
- 2 Rule 13 defines a *road related area*.

### *prescribe*

- means decided or specified by Council, the details of which are published on Council's website;

- Schedule 1 to this Guideline provides more information about existing and possible prescriptions

#### *road and road related area*

- have the same meaning as in the *Road Safety Act 1986* where the **road** and where the **road related area** are under the control or management of Council for the relevant matter in this local law;
- that Act will be amended from time to time
- at the first date of this Guideline the definitions are—

##### ***road means—***

- (a) an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles; or
- (b) a place that is a road by virtue of a declaration under subsection (2)(a)—

but does not include a place that is not a road by virtue of a declaration under subsection (2)(a);

##### ***road related area means—***

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is open to the public and is designated for use by cyclists or animals; or
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles; or
- (e) a place that is a road related area by virtue of a declaration under subsection (2)(a)—

but does not include a place that is not a road related area by virtue of a declaration under subsection (2)(a);

#### *unsolicited document*

- has the same meaning as in the *Environmental Protection Regulations 2021*;
- that Act will be amended from time to time
- at the first date of this Guideline the definition is—



***unsolicited document*** means a document that is, or is intended to be, deposited in, on or at, or affixed to, a place or premises without—

- (a) being addressed by name to a person who owns, occupies or manages the place or premises; or
- (b) the express consent of the owner, occupier or manager of the place or premises;

but does not include the following—

- (c) any stamped mail delivered by, or on behalf of, Australia Post;
- (d) any material that has a political purpose if deposited in accordance with regulation 55(2)(a);
- (e) a newspaper or magazine or any material folded or inserted into a newspaper;
- (f) any public notice issued by a litter authority or a body supplying electricity, gas, water, transport, communications or other service;
- (g) any document issued under, or for the purposes of, any Act or Commonwealth Act or regulations made under any Act or Commonwealth Act;
- (h) any other document issued by, or on behalf of, a council, a public sector body or a Commonwealth entity within the meaning of the Public Governance, Performance and Accountability Act 2013 of the Commonwealth;

**Examples**

- 1 Junk mail.
- 2 An advertising leaflet placed under the windshield wiper of a car without the consent of the owner.
- 3 A poster or bill pasted onto a wall without the consent of the owner.

*urban area*

- 1. at Natimuk the Township Zone that applies in the Horsham Planning Scheme is a map on the VicPlan Internet site
  - a. at the first date of this Guideline the relevant VicPlan Internet site—  
<https://www.planning.vic.gov.au/schemes-and-amendments/browse-planning-scheme/maps?f.Scheme|planningSchemeName=Horsham>
  - b. at the first date of this Guideline the relevant map is Map No 7
- 2. the locality of Horsham and the locality of Haven
  - a. are places for the *Geographic Place Names Act 1998*
  - b. are included in the Register of Geographic Names
  - c. at the first date of this Guideline the Register of Geographic Names is VicNames on the maps data base at this Internet site—

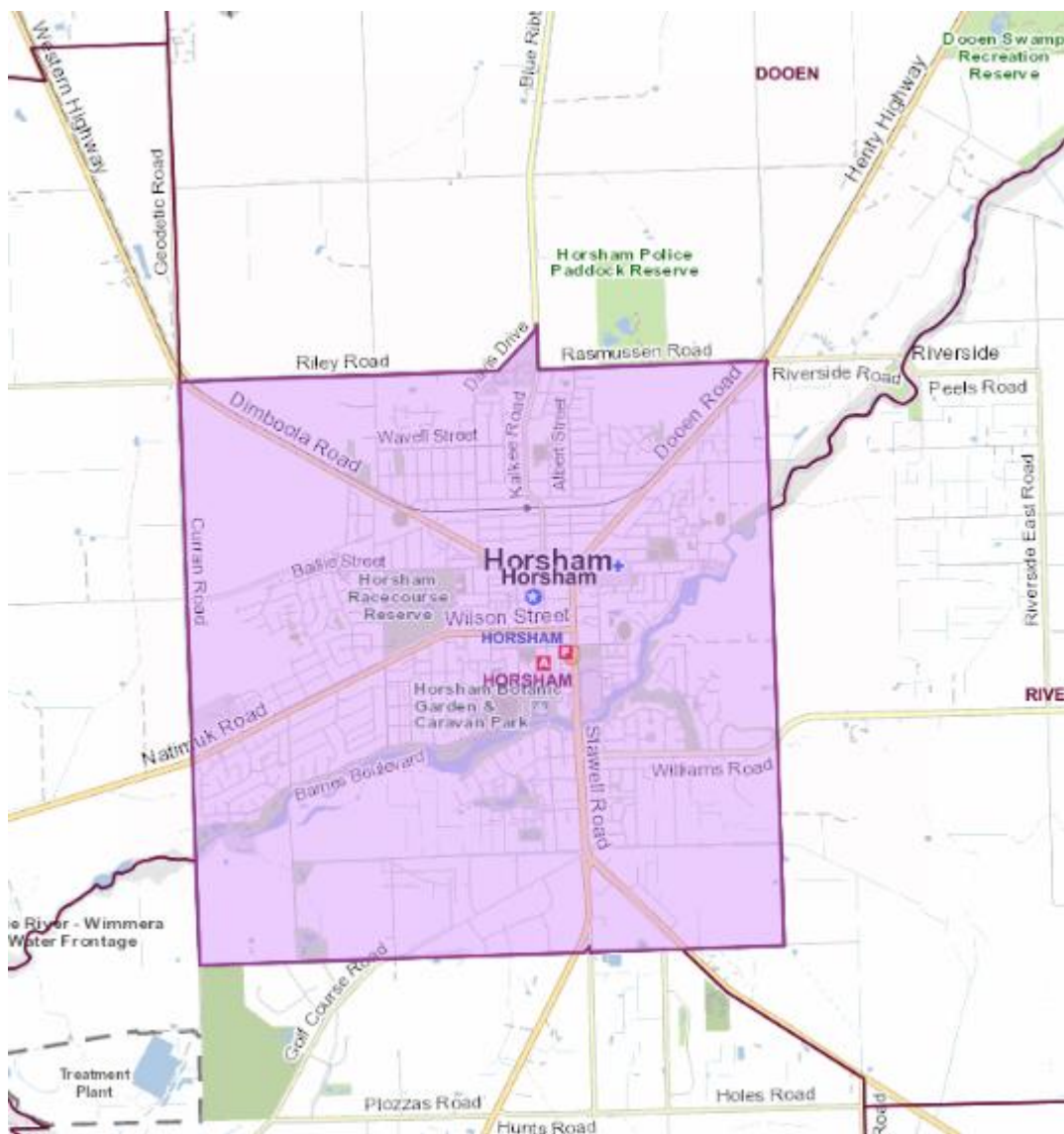
<https://discover.data.vic.gov.au/dataset/register-of-geographic-place-names-vicnames-current>

search images copied on each of the next pages for convenience

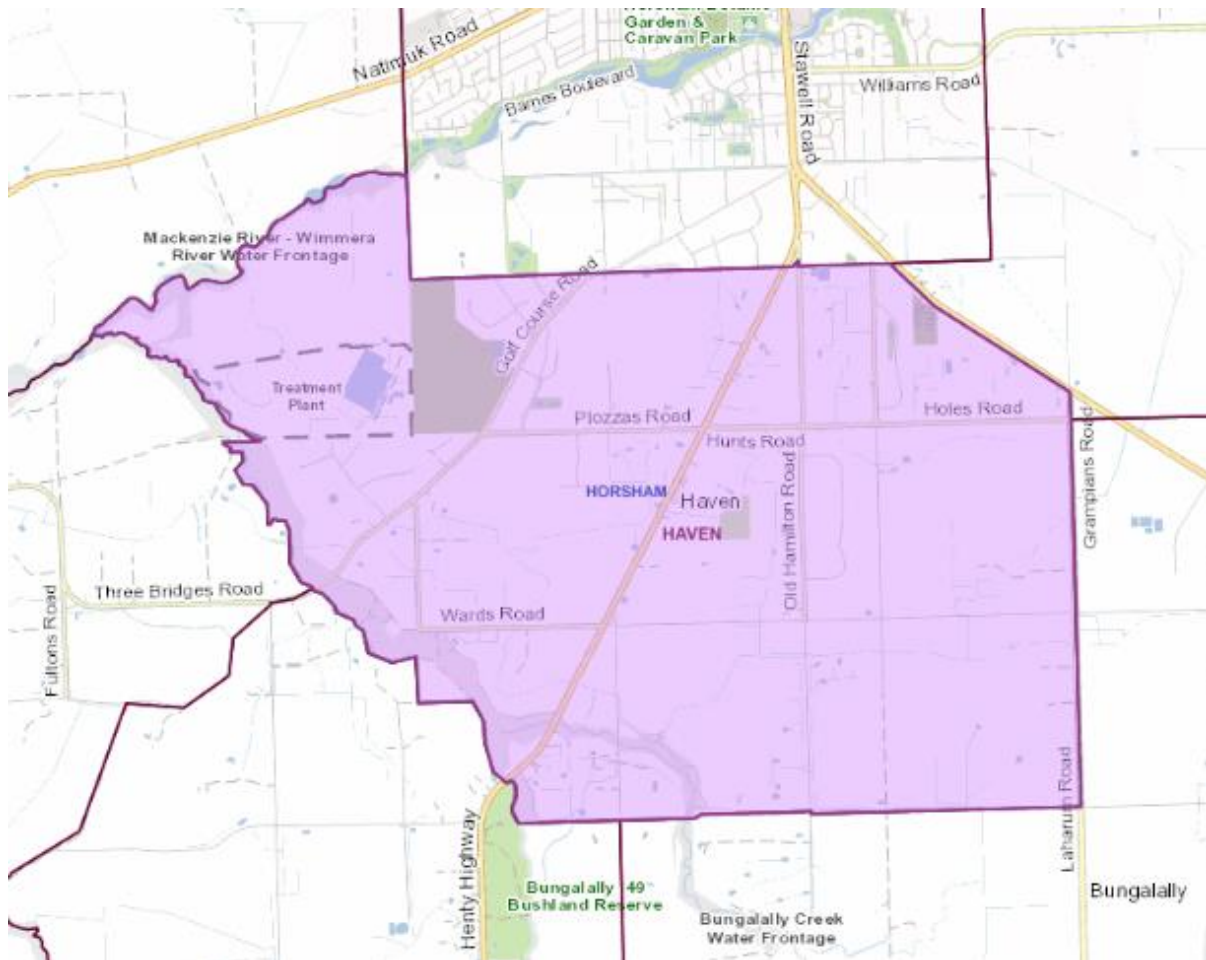
- d. at the first date of this Guideline, Search for streetlights on any road in the locality of Horsham or the locality of Haven at *Report a faulty streetlight* on the PowerCor Internet site—

<https://www.powercor.com.au/>

Locality of Horsham from the maps data base at the first date of this Guideline—



Locality of Haven from the maps data base at the first date of this Guideline—



#### *wheeled recreational device*

- has the same meaning as in the *Road Safety Road Rules 2017*;
- those Rules will be amended from time to time
- at the first date of this Guideline the definition is—

***wheeled recreational device*** means a wheeled device, built to transport a person, propelled by human power or gravity (or in the case of a scooter, propelled by a person pushing one foot against the ground, or by an electric motor or motors, or by a combination of these), and ordinarily used for recreation or play, and—

- (a) includes rollerblades, rollerskates, a skateboard, a scooter (other than an electric scooter) that is not a motor vehicle, or similar wheeled device; but
- (b) does not include the following—
  - (i) a golf buggy, pram, stroller or trolley;
  - (ii) a bicycle;
  - (iii) an electric scooter (whether or not the electric scooter is a motor vehicle);
  - (iv) an electric personal transporter;
  - (v) a wheelchair or wheeled toy;
  - (vi) a scooter that is a motor vehicle;

#### **Note**

*Bicycle, electric personal transporter, electric scooter, trolley, wheelchair and wheeled toy* are defined in this dictionary. *Scooter* is defined in rule 244A.

Also the VicRoads Internet site provides more information about what is and what is not a wheeled recreational device—

<https://www.vicroads.vic.gov.au/safety-and-road-rules/road-rules/a-to-z-of-road-rules/scooters-and-wheeled-recreational-devices>

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#### Clause 10

Permits are listed in Schedule 3.

#### Clause 11

##### *11.a.*

1. The Council can ask the applicant to provide more information about a proposal, either for itself or for the bodies listed in clause 13. e.
2. The request for additional information must—
  - be in writing
  - set out the information to be provided
  - specify a date by which the information must be received.
3. Applicants can minimise the likelihood of requirements for more information and inevitable delay in considering the application by—
  - having prior communication with Council to determine what information is required
  - seeking agreement from bodies listed in clause 13. E. before making an application
  - considering in advance the matters which Council must take into account when considering the application such as any Act and relevant policies

#### 11. b.

1. Council must directly consider the likely effect of the proposal—
  - a permit is unlikely to have a significant impact
  - a permit would not cause material detriment to any person, by reference to things such as, unreasonable noise, restriction of access, whether it is appropriate to use public land rather than private land, any potential impacts on community use and enjoyment or the the service levels for the asset
  - the proposal generally complies with a policy or plan that has been previously subject to public scrutiny as part of adoption of the policy or plan by Council
2. If the applicant is required to give the notice, Council needs to be satisfied that this has been done.
3. The responsibility for ensuring that the notice is correctly given rests with the applicant. The applicant should be able to verify that correct notice was given in case of complaint on the grounds that a person should have been given notice but was not. A false claim to have given the notices required is an offence for clause 26 g. and h.

### Clause 12

#### 12. a.

A schedule of fees is adopted by Council in conjunction with the Council budget and community engagement for that budget for the *Local Government Act 2020*.

#### 12. b.

1. Council prescribed forms at the Council Meeting on 22 November 2021.
2. Forms are prescribed by resolution of Council or by a delegate.
3. The power to prescribe forms can be delegated under ss11 and 47 of the *Local Government Act 2020*.
4. Prescribed forms are published on Council Internet site for s76 of the *Local Government Act 2020*.

### Clause 13

#### 13. a.

#### 13. c.

At the first date of this Guideline, relevant policies include—

1. For HRCC Policy – Human Rights Policy No: C04/098, Council made certain human rights commitments, including that Council decision-making properly considers human rights issues and impacts so that stakeholder expectations of fair and appropriate decision-making processes and outcomes by the Council are met<sup>i</sup>
2. For HRCC Policy – Public Transparency Policy No: C04/015, Council decision making processes must be transparent, except when Council is dealing with information that is confidential under an Act of Parliament or public availability of the information would be contrary to the public interest<sup>ii</sup>. The Public Transparency Policy due by 1 September 2020 is part of the implementation of new provisions of the *Local Government Act 2020* to support one of the five primary principles of that Act.
3. For HRCC Policy – Asset Management Policy No: C04/037, the Asset Management Plans for roads, footpaths and bicycle paths, drainage, aerodrome, parks, buildings etc. that outline the asset activities and programs to provide a defined level of service so as to improve alignment of assets with service and community expectations<sup>iii</sup>. Review of the Asset Management Plans

due by Thursday 30 June 2022 is part of the implementation of new provisions of the *Local Government Act 2020*.

4. For HRCC Policy – Agreements for the Use of Council Facilities Policy No: C04/033 principles for commercial operations with or without a community benefit and for community purposes whether single or multi-use<sup>iv</sup>
5. For HRCC Policy – Pricing Policy for Sporting and Recreation Reserves for a list of reserves with sporting ovals and for a list of other sporting reserves in rural areas<sup>v</sup>
6. For HRCC Policy – Tourism Events and Festivals Promotional Sponsorship Policy for the definition of a tourism event<sup>vi</sup>
7. For HRCC Policy – Mobile Food Vehicle Policy No: C04/014, for mobile food vehicles—
  - on roads under the control of Council
  - does not apply to mobile food vans
    - associated with an event
    - applications for the siting of a mobile food van
      - for a single day
      - adjacent to public open space areas which is at the discretion of Council<sup>vii</sup>

#### 13. d.

1. There is no closing date for objections.
2. An objection must—
  - be in writing
  - state reasons for the objection
  - state how the objector would be affected by the grant of a permit
  - typed or clearly written
  - addressed to Council and is clearly marked as an objection
  - includes the permit application reference number and the address of any land the subject of the application
  - includes the objector's name and current contact details
  - be signed and dated including in the way required for any electronic lodgement process
3. A group of people may make one objection. They should nominate one contact person. If no person is named, Council will normally send a notice only to the first named individual who signed the objection.
4. An objection will carry more weight if it is rational, specifically addresses the proposal and clearly describes how the objector will be affected. Constructive suggestions on how any impacts could be reduced (or even eliminated) by possible changes to the proposal are also useful.
5. Applicants should try to address reasonable concerns.
6. Council may reject an objection it considers to have been made primarily to secure or maintain a direct or indirect commercial advantage for the objector.
7. Council must consider any objection it receives up until the deadline for any—
  - Council Report for a Council decision on the application
  - report to the delegate requesting the application be decided.

### Clause 14

#### 14. a.

1. The state government is renewing Victoria's public land legislation, such that any public land rules for that legislation may require a suitable economic return for the use of public land. See—



<https://engage.vic.gov.au/renewing-victorias-public-land-legislation>

Victoria's public land (including marine areas) covers approximately 9 million hectares of the state (close to 40 per cent). It includes national and other parks, State forests and foreshores. It also includes a diverse range of reserves and buildings used for specific purposes, including sporting fields, public halls and boat ramps.

2. In the local law, public land includes **road, road related area** and most **Council land**.

#### Clause 15

1. If it is intended that a proposal be permitted only—
  - until a particular event occurs; or
  - for a fixed period of time; or
  - for a period of time specified by Council (who may wish to review the operation of the proposal afterwards)

then the permit should include a condition that the use or activity must cease (and that any goods used by the permit holder etc. be removed) at that time.

2. A permit cannot be extended.
3. A fresh application for a new permit is required.

#### Clause 16

1. The majority of permits are for activities on or use of land that is public land.
2. Local law permits are not real property interests.
3. The processes and approval to grant real property interests in public land are in Acts not local laws.
4. At the first date of this Guideline the state government is renewing Victoria's public land legislation, such that public land rules are expected to change the process for and type of agreement for the use of public land. See—

<https://engage.vic.gov.au/renewing-victorias-public-land-legislation>

Victoria's public land (including marine areas) covers approximately 9 million hectares of the state (close to 40 per cent). It includes national and other parks, State forests and foreshores. It also includes a diverse range of reserves and buildings used for specific purposes, including sporting fields, public halls and boat ramps.

5. In the local law, public land includes **road, road related area** and most **Council land**.
6. Permits cannot be transferred or assigned (that is the permit holder cannot change) so that the public land rules can be implemented.

#### Clause 17

1. Council can correct a permit where it contains a clerical mistake or omission, a miscalculation of figures or a mistake in any description of a person, thing or property.
2. A copy of the corrected permit should be prepared with the original date of issue.
3. A note should be included at the end of the permit indicating the nature and date of the correction.
4. If possible, copies of the original incorrect permit should be recovered and marked superseded. Then the corrected permit can simply be substituted.
5. A copy of the corrected permit should be sent to the owner, the applicant and any relevant body for clause 13. e.



6. The correction must be noted in the register of permits held by Council.

#### Clause 18

1. An application to amend a permit, including any plans, drawings or other documents approved under a permit, follows the same process as an application for a permit.
2. The assessment for an application to amend a permit focuses only on the amendment itself and does not re-assess issues with the original proposal.
3. A copy of the amended permit should be prepared with the original date of issue.
4. A note should be included at the end of the permit indicating the nature and date of the amendment.
5. The amendment must be noted in the register of permits held by Council.
6. Amending a permit does not change its expiry date.

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#### Clause 24

1. A schedule of fees is adopted by Council in conjunction with the Council budget and community engagement for that budget for the *Local Government Act 2020*.

#### Clause 25

1. Security about the matters in a local law permit are aimed at ensuring that permit holders carry out the conditions of the permit such as removing rubbish at the end of an event or repairing damage to kerb and channel and vehicle crossovers.
2. This means the amount of security will depend on the activities authorised by the permit and will depend on the type of Council assets that may be damaged or how the service levels for Council assets are diminished by the permit holder.
3. For example Council policy or a future version of these guidelines may say how the security is to be determined for a 3 day sport carnival and say how security is to be determined for heavy equipment and vehicles crossing onto construction sites over Council kerb and channel.
4. Council prescribes the amount of any security. This means Council may by resolution determine the amount of security. And this means Council can delegate this decision.

#### 25. c.

1. **unclaimed money** has the same meaning as in section 3 of the *Unclaimed Money Act 2008*
2. that Act will be amended from time to time
3. at the first date of this Guideline the definition is—

*unclaimed money* means—

(a) principal, interest, dividends, bonuses, profits, salaries, wages and any other sums of money that are legally payable to the owner and that have remained unpaid for not less than 12 months after that money became payable; or

(b) money that has been converted from unclaimed trust property within the meaning of section 14 by a trustee after the expiration of the required period under Division 2 of Part 3—

other than any amount the value of which is less than \$20 or the prescribed amount (whichever is higher);

4. All Victorian businesses and trustees holding \$20 or more in unclaimed money have a legal responsibility to record and keep the money for at least 12 months, and then lodge it with the State Revenue Office of Victoria.
5. Businesses include companies, partnerships, co-operatives, local councils, public hospitals, law practices and housing societies.
6. Businesses must lodge all unclaimed money they hold by 31 May each year. The lodgement must include entitlements (minus any reasonable expenses) that are at least 12 months old as of 1 March of that year.
7. Payment must be made via electronic funds transfer (EFT).
8. See unclaimed money on the Internet site of the State Revenue Office of Victoria—

<https://www.sro.vic.gov.au/unclaimed-money>

#### Clause 26

1. Proposed Community Local Law 2021 has two types of fines –
  - Court fines: sentences imposed by a court after finding the defendant guilty of an offence. The maximum court fine is provided for in clause 26 of the local law.
  - Infringement notice penalties: an administrative penalty allowing the defendant to ‘expiate’ (make amends for) the alleged offence by paying the fixed infringement penalty specified on the infringement notice. There is no need for a court hearing or a finding of guilt.
2. The infringement notice penalties are provided for in clause 33 and listed in the Table in Schedule 4 to this Guideline.
3. Section 55 of the *Sentencing Act 1991* says the court can also impose a fine on a director of a corporation (company)—
  - that Act will be amended from time to time
  - at the first date of this Guideline section 55 says—

**55 Liability of director if body corporate unable to pay fine**

(1) If the offender is a body corporate and the court is satisfied—

- (a) that the body will not be able to pay an appropriate fine; and
- (b) that immediately before the commission of the offence there were reasonable grounds to believe that the body would not be able to meet any liabilities that it incurred at that time—

the court may, on the application of the informant or police prosecutor, declare that any person who was a director of the body corporate at the time of the commission of the offence is jointly and severally liable for the payment of the fine.

4. The court fine for section 55 of the *Sentencing Act 1991* is an additional consideration to the matters in clause 27 of the local law.

**Clause 27**

1. The corporation is personally liable for the mental state and conduct of a directing mind (the board of directors, managing director or another person to whom a function of the board had been fully delegated) acting on the corporation's behalf.
2. In addition, where an employee or agent acting within the actual or apparent scope of his or her employment commits the physical element of the offence, a company may be held liable if it had expressly, tacitly or impliedly authorised or permitted the commission of the offence. Agent may be interpreted broadly to include individuals who are held out by the company to have its authority 'to act in some way'.
3. The physical element of an offence will be attributed to a body corporate where it is committed by an employee, agent or officer acting within the actual or apparent scope of his or her employment.
4. The fault element of intention, knowledge or recklessness will be attributed to a company if the company expressly, tacitly or impliedly authorises or permits the commission of an offence. A company may expressly, tacitly or impliedly authorise or permit the commission of an offence where it is proved that—
  - the corporation's board of directors intentionally or knowingly carried out the relevant conduct or expressly, tacitly or impliedly authorised or permitted the commission of the offence
  - a high managerial agent of the corporation intentionally or knowingly engaged in the relevant conduct or expressly, tacitly or impliedly authorised or permitted the commission of the offence
  - a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to noncompliance with the offence provision
  - the body corporate failed to create and maintain a corporate culture that required compliance with the relevant provision.
5. Corporate culture is an attitude, policy, rule or practice existing in the corporation generally or in the part of the corporation where the relevant offence was committed.
6. The conduct of any number of employees, agents or officers of the company can be aggregated. So that the prohibited conduct can be substantially attributable to inadequate corporate management, control or supervision of the conduct of one or more of its

employees, agents or officers or a failure to provide adequate systems for conveying relevant information to the relevant persons in the body corporate.

28

#### Clause 29

1. A Notice to Comply must be on Council letterhead and must state the period within which the thing referred to must be remedied, considerations include, without limitation—
  - the amount of work involved;
  - the degree of difficulty;
  - the availability of necessary materials or other necessary items;
  - weather conditions; and
  - the degree of risk or potential risk.

#### 29. b.

Council works closely with social services and Department of Families Fairness & Housing where the clause may unfairly impact on persons currently experiencing vulnerability or disadvantage.

30

31

This is not an official warning for the *Infringements Act 2006*.

#### Clause 32

1. Proposed Community Local Law 2021 has two types of fines—
  - Court fines: sentences imposed by a court after finding the defendant guilty of an offence. The maximum court fine is provided for in clause 26 of the local law.
  - Infringement notice penalties: an administrative penalty allowing the defendant to 'expiate' (make amends for) the alleged offence by paying the fixed infringement penalty specified on the infringement notice. There is no need for a court hearing or a finding of guilt.
2. An offence under the local law is an infringement offence for the *Infringements Act 2006* if a person is given an infringement notice. Amongst other things the *Infringements Act 2006* means a person given an infringement notice—
  - can apply for internal review under Part 2 Division 3 of the *Infringements Act 2006*
  - can elect to have the matter of the infringement notice heard and determined in the Magistrates' Court.
3. The *Infringements Act 2006* anticipates that corporations will be the subject of infringement notices and contains specific provisions regarding the enforcement of infringement penalties against corporations.
4. *Infringements Act 2006*
  - Part 2 Division 2 – infringement notices
  - Part 2 Division 3 Internal reviews
  - Sentencing Act 1991*
  - Part 3B – Division 1 – Fines ss49 and 50 by court

Part 10 s110 meaning of penalty units, NB a local law is a subordinate instrument section 118 *Local Government Act 1989* and s71(4) of the *Local Government Act 2020*

#### Clause 33

1. The infringement notice penalties are provided for in clause 33 and listed in the Table in Schedule 4 to this Guideline.

2. *Monetary Units Act 2004*

s4 amount fixed from time to time by the Treasurer

s5 notice published in the Government Gazette and any indexation is fixed before 1 March each year

<https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>

34

### Part 3

#### Clause 35

1. The *Road Management Act 2004* says the principal object of road management, including by Council is that a network of roads is provided primarily for the movement of persons and goods and managed to—
  - minimise road safety hazards
  - avoid or minimise disruption of traffic.

#### Clause 36

1. The *Road Management Act 2004* provides for the management of specified works and infrastructure, not including the matters in clause 36.
2. The principles applying to the management of works and infrastructure under the *Road Management Act 2004* are as relevant to the matters in clause 36 as if those matters are under that Act—
  - the minimisation of road safety hazards;
  - the avoidance or minimisation of damage or disruption to infrastructure on roads;
  - the avoidance or minimisation of disruption to plans for the development of road infrastructure and non-road infrastructure;
  - the avoidance or minimisation of disruption to traffic;
  - the priority of different modes of transport on specified roads;
  - the avoidance or minimisation of disruption to the effective and efficient delivery of utility and public transport services;
  - the efficient use of resources of road authorities and infrastructure managers and the minimisation of cost to the community of infrastructure and services.
3. At the first date of this Guideline the state government is renewing Victoria's public land legislation, such that public land rules are expected to change the process for and type of agreement for the use of public land. See—

<https://engage.vic.gov.au/renewing-victorias-public-land-legislation>
4. Victoria's public land (including marine areas) covers approximately 9 million hectares of the state (close to 40 per cent). It includes national and other parks, State forests and foreshores. It also includes a diverse range of reserves and buildings used for specific purposes, including sporting fields, public halls and boat ramps.

5. In the local law, public land includes **road, road related area** and most **Council land**.
6. The matters in clause 36 are to be managed so that the public land rules can be implemented.

#### Clause 37

1. At the first date of this Guideline, the permit process and conditions of any permit are confined to the pre-printed application and conditions in the book kept at Customer Service.
2. Section 38(1)(h) of the *Road Management Act 2004* says, Council as a road authority, must have regard to any roadside management plan developed to protect flora and fauna.

#### Clause 38

1. At the first date of this guideline the Department of Transport Intranet site says—

What is a crossover?

A crossover is the connection of an accessway/driveway, from the edge of the property to the road, that often crosses a footpath, nature strip or kerb.

A crossover allows vehicles to move between the property and the road.

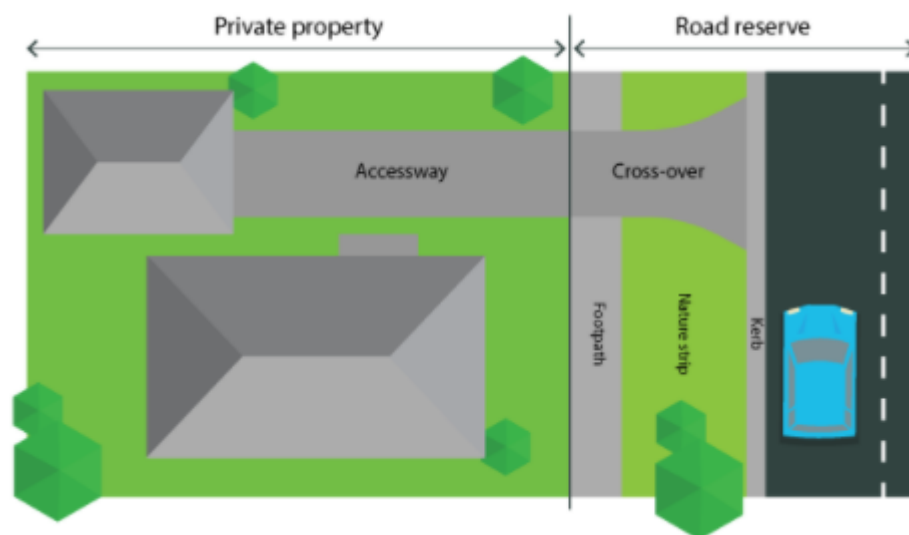
Crossovers are the pathway constructed within the road reserve to enable access from a property onto the road.

Differences between an accessway and a crossover

An accessway relates to:

- the path used to approach the road from within a property
- what is happening within the site only, not on the road reserve.

An accessway is also often referred to as a driveway. The image below outlines the difference between an accessway and a crossover.



See <https://transport.vic.gov.au/about/statutory-planning/crossovers>

2. If a vehicle crossing is constructed without a permit, without Council's inspection and approval or not constructed to Council standards, then Council may require the property owner or the

permit holder to reconstruct the vehicle crossing or completely remove it and reinstate the footpath, nature strip and kerb and channel. In addition, fines may apply.

3. Council considerations, include without limitation—

- The width and offsets (above or below) of any Council, public or private assets such as trees, pits, cables, pipes etc.
- that local residents, businesses and industry have the best possible access to limited available on-street parking
- that the *Road Safety Road Rules 2017* provisions for parking, stopping and leaving vehicles can be met—
  - You are not allowed to park, stop or leave your vehicle:
    - fully or partially across a driveway except for 2 minutes to pick up or drop off passengers (there is no defined measurement for parking near a driveway)
    - if there is fewer than 3 metres of clear road left for other traffic
    - on a footpath, nature strip or reservation (unless the vehicle is a motorcycle or bicycle)
    - across a footpath, bicycle path or passageway or footpath ramp, unless a sign allows it
  - You are allowed to park or leave your vehicle:
    - opposite a driveway as long as you leave 3 metres beside your vehicle
    - anywhere in a street where parking is permitted including in front of other homes or businesses.

#### Clause 39

1. The *Road Management Act 2004* says the principal object of road management, including by Council, is that a network of roads is provided primarily for the movement of persons and goods and managed to—

- minimise road safety hazards
- avoid or minimise disruption of traffic,

and that the primary object of the Act is the promotion of a road network at local levels and the responsible use of road reserves for other legitimate purposes.

2. That Act does not include storage of private property as a legitimate purpose.

#### Clause 40

1. The local law does not regulate power assisted bicycles. Power assisted bicycles are regulated by the *Road Safety Road Rules 2017*.

2. The VicRoads webpage A-Z of Road Rules says—

Definition of a power assisted bicycle

A power assisted bicycle is identical to a pedal powered bicycle, except it has an auxiliary motor. Power assisted bicycles have two definitions in Victoria:

- A bicycle with one or more auxiliary motors attached which has a combined maximum ungoverned continuous rated power output not exceeding 200 watts.
- An electrically power-assisted cycle (EPAC). These are pedal cycles with an electric motor that has a maximum continued rated power of 250 watts. The power-assistance progressively reduces as the speed increases and cuts off once a top

speed of 25 kilometres per hour is reached. EPACs require the rider to pedal to access the power.

Power assisted bicycles that meet the above definition are allowed to be ridden in Victoria as they are classed as bicycles.

#### Clause 41

##### 41. b.

9. **camp** has the same meaning as in section 21(2) of the *Road Management (General) Regulations 2016*
10. those Regulations will be amended from time to time
11. at the first date of this Guideline the definition is—

(2) In this regulation—

**camp** means—

- (a) to erect, occupy or use, for accommodation, a tent, tarpaulin or any similar form of accommodation, shelter or temporary structure; or
- (b) to occupy or use a swag or sleeping bag; or
- (c) to erect, occupy or use, for accommodation, a movable dwelling within the meaning of the **Residential Tenancies Act 1997**.

##### **Examples**

Examples of movable dwellings include caravans, camper trailers and mobile homes. An annexe attached to any of those dwellings is also a movable dwelling.

12. Council may issue a permit to camp through the events approval process on a case by case basis.

#### 42

#### Clause 43

1. In addition to the powers under the *Road Management Act 2004*, Council can exercise the powers in Schedule 11 of the *Local Government Act 1989*. Schedule 11 is still in place and includes item 12 which says—

##### **12 Power to restrict use of road by vehicles of a certain size etc.**

- (1) A Council may prohibit or restrict the use of a road by any motor vehicle of, or over, a certain size or weight.
- (2) Despite anything to the contrary in section 223, if in the opinion of the Council the use of a road by motor vehicles of, or over, a certain weight poses an immediate risk of danger to people or damage to property (including damage to the road itself), the Council may exercise a power under this clause before it makes a final decision on the exercise of the power.



2. Council considerations, include without limitation—
  - possible damage to road and road related areas;
  - the goods to be transported;
  - alternative routes;
  - any other relevant matter.

44

45

46

#### Clause 47

1. **liquor** has the same meaning as in section 3 of the *Liquor Control Reform Act 1998*
2. that Act will be amended from time to time
3. at the first date of this Guideline the definition is—

*liquor* means a beverage, or other prescribed substance, intended for human consumption with an alcoholic content greater than 0.5% by volume at a temperature of 20° Celsius;

4. Council's standard restrictions on liquor in unsealed containers are prescribed and published on Council's Internet site.
5. Any police officer may enforce clause 47.
6. Council has a representative on the Horsham Policy and Community Consultative Committee.
7. Council may prescribe additional restrictions from time to time if required to manage risks associated with public drinking. For example, on New Years Eve and New Years Day. The prescription is by Council resolution or by a delegate of Council.
8. Council may grant a permit subject to a condition that the permit holder obtain the relevant approval from the Victorian Commission for Gambling and Liquor Regulation.
9. Council considerations, include without limitation—
  - The impact of the sale or consumption of liquor on the amenity of the surrounding area
  - The impact of the likely number of patrons and hours of operation on the surrounding area
  - The presence of appropriate risk management strategies and actions
  - The views of Victoria Police and other relevant stakeholders and agencies

#### Clause 48

1. Section 34(1) of the *Road Management Act 2004* says Council as a road authority is to manage the use of roads having regard to the principle that the primary purpose of a road is to be used by members of the public and that other uses are to be managed in a manner which minimises any adverse effect on the safe and efficient operation of the road and on the environment.
2. Safe pedestrian access is the primary purpose of all footpaths.
3. Section 23 of the *Disability Discrimination Act 1992* (Cth) means roads and road related area including footpaths are to be managed by Council—
  - to allow a person access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use; and
  - in relation to the provision of means of access to such premises.

4. Other activities such as trading, advertising and street events are secondary.
5. Council Footpath Trading Guidelines are published on the HRCC Internet site.
6. Some activities on roads are regulated by Part 3 of the *Road Safety (Traffic Management) Regulations 2019*.

48. d.

The Mobile Food and Beverage Trading Vehicle Policy approved at Council Meeting 22 November 2021 is a relevant policy.

48. i.

Council considerations, include without limitation—

1. whether the road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and street party patrons and equipment for the duration of the street party;
2. whether all owners or occupiers of all properties with any immediate vehicular access via the section of road to be closed have been advised by letter and given seven (7) days to comment or object or other arrangements to Council's satisfaction have been put in place to alert relevant owners and occupiers of properties;
3. whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the road at locations and times specified by Council; and
4. whether the footpath on at least one side of the road can be kept clear of obstructions.

48. l.

1. Public agencies can approve filming on public land as a permit, licence, approval, location agreement, or as some other form of written permission.
2. A wide range of filming may require a permit, including student, commercial, community and not-for-profit productions, as well as still photography.
3. A film permit ensures public space is used safely and in accordance with all applicable legislation, local laws and regulations. At the same time, it ensures any disruption is minimal, public land and facilities are managed effectively and that anyone who may potentially be impacted is notified.
4. The *Filming Approval Act 2014* sets in place specific standards for public agencies processing and approving permits for commercial filming.
5. Filmmaker responsibilities are in Film Victoria's Victorian Screen Industry code of Conduct at—  
<https://www.film.vic.gov.au/choose-victoria/resources>
6. Council requires a permit for filming on road, road related area and Council land, other than filming for the purposes of private use.

Clause 49

1. Clause 49 is about section 146 of the *Dangerous Goods (Explosives) Interim Regulations 2021*.
2. Section 146 is about giving notice to Council and also allows Council to consider what other permits a pyrotechnician may require.
3. Council may need evidence of other matters—
  - Current WorkSafe Victoria pyrotechnician licence
  - That written notice in the approved form has been given to and assessed by WorkSafe Victoria and the fire authority for s146 of the Regulations

- That the pyrotechnician can ensure compliance with Part 9 – Fireworks – Possession and Use of the Regulations
  - Appropriate notice to the community
4. Council may take into account the Victorian (2018) Guidelines for Planning Safe Public Events  
<https://www.police.vic.gov.au/sites/default/files/2019-05/Guidelines-for-Public-Events2018.pdf>

#### Clause 50

Council considerations for appropriate management of constructions activities—

- Damage to Council assets
- Inappropriate storage of building materials on roads, footpaths and nature strips
- Waste material and litter not stored or removed in a responsible manner
- Wind blown litter, wrappings, containers, plastics, styrene, etc.
- Silt, mud and litter fouling local storm water systems
- Traffic and pedestrian hazards as a result of waste, mud, materials and equipment being left on the roads
- Unauthorised access to and interference with infrastructure assets
- Safety and amenity of the community

#### Clause 51

There are other laws that regulate—

- the taking of waters from the Wimmera River part of which is a waterway managed by Council
- plumbing and drainage.

The words “unless approved or authorised” used in clause 51 give primacy to those other laws.

#### Clause 52

1. Stormwater is water that runs off surfaces into drains. It’s not the same as rainwater, which falls on roofs and is cleaner.
2. As stormwater drains, it carries pollutants with it like litter, sediment and oil. These are a major cause of pollution in our rivers, creeks, lakes and bays.
3. Most of the time it’s everyday activities that cause urban stormwater pollution, not major spills or industrial accidents. It’s important to prevent waste from our homes or businesses polluting stormwater drains.
4. Pollution of our waterways can be a result of many things, such as:
  - industrial runoff from workshops
  - people washing their vehicles in the street
  - general litter – like plastic bags, bottles and cigarette butts.
5. The stormwater system takes rainwater from our streets and gutters into the closest waterway.
6. Unlike sewage, stormwater enters our waterways untreated. At the end of the pipe system there are options for treating stormwater. For example, with pollutant traps that remove large, non-biodegradable pollutants. But in most cases, it flows from our streets and gutters into our creeks, rivers and the ocean.

7. In distinguishing between regular rainwater and groundwater being discharged into Council drains, water that enters as a result of rain for a period of 24 hours after rainfall is considered stormwater.
8. Due to salinity of groundwater, applications to discharge groundwater into any drain vested in Council will not be approved.

See—

<https://www.epa.vic.gov.au/for-community/environmental-information/water/stormwater>

<https://www.yourhome.gov.au/water/stormwater>

Clause 53

53. c.

### ACCEPTABLE STANDARDS FOR LOCAL LAW PURPOSES



### UNACCEPTABLE STANDARDS FOR LOCAL LAW PURPOSES



Clause 54

1. ***in the open air*** has the same meaning as in section 34A of the *Country Fire Authority Act 1958*
2. that Act will be amended from time to time
3. at the first date of this Guideline the definition is—

#### **34A Meaning of *in the open air***

- (1) For the purposes of this Division, a fire is in the open air if it is in any place other than within a permanent structure.
- (2) In this section ***permanent structure***—
  - (a) means a structure of a permanent kind consisting of a roof and fully enclosed on all sides;
  - (b) includes a caravan; and

(c) does not include a tent.

55

#### Clause 56

1.

#### Clause 57

57. c.

Council considerations, include without limitation—

1. The permit must be time limited and will be for the number of days or to the date entered on the permit up to a maximum of one year;
2. The application or permit should inform the applicant of the safety requirements for the shipping container: that it is the permit holder's responsibility to ensure the container does not represent an unacceptable risk to the health and safety of the public;
3. Security may be required to rectify damage to Council property caused by the placement or removal of the freight container;
4. Any freight container is to be located so as to be unobtrusive or otherwise screened and not detract from the visual amenity of the area.

58

#### Clauses 59 and 60

1. At the first date of this guideline Council has the powers over roads in Schedule 10 of the *Local Government Act 1989*.
2. Schedule 10 includes items 5(1)(c) and (d) which says Council may—

(c) approve, assign and change the number of a road and any premises next to a road; and

(d) require people to number their premises and to renew those numbers.

#### Clause 61

61. e.

1. Horsham Aerodrome is an aerodrome regulated by the Civil Aviation Safety Authority. See the CASA Internet site—

<https://www.casa.gov.au/operations-safety-and-travel/aerodromes>

2. Council as aerodrome manager is obliged to update the aerodrome manual in the near future to comply with the requirements of the regulatory body, the Civil Aviation Safety Authority. The manual is required to include airside access and aviation safety matters.
3. Unless and until the updated aerodrome manual provides authorisation for clause 61.e. a request for additional crew airside (for example for gliders and sailplanes required to be present for ground handling, supporting passengers, launching, timekeeping, observation and aircraft recovery from the runway) can be dealt with under proposed clause 61 e.

#### Clause 62

Division 2 of the *Domestic Animals Act 1994* says an authorised officer (for that Act) may take any reasonable action that is necessary to find out whether the provisions of any local law made under the Act are being complied with.

Clause 62 is a local law made under the *Domestic Animals Act 1994*.

63

#### Clause 64

1. At the first date of this guideline, Division 2 – Rules for people in charge of animals in Part 18 Miscellaneous road rules of the *Road Safety Road Rules 2017* includes rules for leading and riding.
2. The Rules will be amended from time to time.

#### Clause 65

1. At the first date of this guideline, the Agriculture Victoria Internet site provided information about bee keeping—

<https://agriculture.vic.gov.au/livestock-and-animals/honey-bees>

#### Clause 66

##### 66.a.i.

1. Since August 2019, Horse husbandry, including Horse stables and Horse riding school are under the Horsham Planning Scheme.
2. In the Residential Zones—
  - A permit is required for Horse husbandry under –
    - the Low Density Residential Zone
    - the Mixed Use Zone
    - the Township Zone
  - Horse husbandry is prohibited under the General Residential Zone.
3. In the Rural Zones—
  - A permit is required for Horse husbandry under the Rural Living Zone
  - A permit is not required for Horse husbandry under the Farming Zone.
4. A permit is required for Horse husbandry in the Industrial Zones.
5. Horse husbandry is prohibited under the Commercial Zones.
6. In the Special Use Zone—
  - Schedule 1 – Horsham Golf Course a permit is not required for Horse husbandry
  - Schedule 2 – Horsham Airport a permit is required for Horse husbandry
  - Schedule 3 – Dooen Freight Hub Horse husbandry is prohibited
  - Schedule 4 – Horsham Showgrounds—
    - Horse stables does not require a permit
    - A permit is required for Horse husbandry
  - Schedule 5 – Wimmera Events Centre a permit is required for Horse husbandry
  - Schedule 6 – Earth and Energy Resources Industry

- a permit is required for Horse husbandry (excluding Horse stables)
  - Horse stables are prohibited
  - Schedule 7 – there is no Schedule 7
  - Schedule 8 – Horsham artist in residence Horse Husbandry is prohibited
  - Schedule 9 – Wimmera Intermodal Freight Terminal Precinct - A permit is required for Horse husbandry
7. A permit is required for Horse husbandry in the Urban Floodway Zone.

*66. a.ii.*

1. For compliance planning the Australian National Planning Association (2017) Pigeon Keeping and Pigeon Racing Code of Practice says—

During the months of June to August pigeons may should be released from race/training points as follows:

- under clear sky conditions – release a minimum of 15 minutes after gazetted sunrise for the area
- under overcast sky conditions – release a minimum of 30 minutes after gazetted sunrise for the area.

During the months of September and October pigeons should be released from race/training points as follows:

- under clear sky conditions – release at the discretion of the person responsible for the birds
- under overcast sky conditions – release a minimum of 30 minutes after gazetted sunrise for the area.

<http://www.anrpb.org/wp-content/uploads/2019/02/Code-of-practice-for-Pigeon-Racing-in-Australia-2017-.pdf>

*66.b. c. and d.*

Council considerations, include without limitation—

1. Other uses to which the land can be put (for example under the Zones in the Horsham Planning Scheme);
2. Proximity of adjoining properties;
3. Type, number and age of additional animals to be kept;
4. Likely effect on adjoining properties;
5. Whether written consent has been provided by the owner of the land / real estate agent; and
6. Whether noise control measures have been put in place to minimise the chances of noise nuisance, annoyance or complaints.

*66.e.*

1. For consistency with the Horsham Planning Scheme, proposed Community Local Law 2021 now refers to domestic animals.
2. 'Domestic animal' is not defined for the Horsham Planning Scheme.



3. The Victorian courts have previously said—
  - Cats and dogs are common pets. It is just that pigs and tortoises and carpet snakes are less common as pets, though they may or may not be pets.
  - Most farm animals may be kept as ‘domestic pets’...it is not uncommon for lambs, kids, and other offspring of farm animals to be so kept.
  - Dogs, cats, rabbits, monkeys, guinea pigs, rats, mice, turtles, fish, caged birds or other creatures kept as pets can be ancillary to residential use.
  - The notion of ‘domestic pets’ requires the keeping of the animals to be undertaken in conjunction with residence on land. It contemplates that the keeping of the animals is an adjunct to or incident of domestic life.
4. The change to the Horsham Planning Scheme for the land use term ‘Domestic animal husbandry’ does not change the requirement that to be the keeping of domestic pets / animals, the keeping is an adjunct to or incident of domestic life.

66.f.

1. **domestic fowl** has the same meaning as in section 5 of the *Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2016*
2. those Regulations are expected to be replaced with the making of a new Act, see—  
<https://engage.vic.gov.au/new-animal-welfare-act-victoria>
3. at the first date of this Guideline the definition is—

*domestic fowl* means a member of the species  
*Gallus ~~gallus~~ domesticus*;

Clauses 67, 68, 69, 70, 71

1. An application for a permit should include the following—
  - Provision of public liability insurance
  - Provision of a plan showing number and type of livestock, route and duration of permit
  - Compliance with—
    - *Livestock Management Act 2010*
    - *Livestock Disease Control Act 1994*
    - *Prevention of Cruelty to Animals Act 1986* and
    - any other relevant legislation
  - Evidence of consultation with VicRoads if travelling on any Declared Roads
  - Compliance with any VicRoads requirements or restrictions
  - Notification of landowners along proposed route

Clause 72

1. At the first date of this guideline, the Justice and Community Safety Internet site provided information about responsibilities for fencing—  
<https://www.justice.vic.gov.au/fencing-law-in-victoria>



## Schedule 1 - Prescriptions

### Initial prescriptions

1. Council prescribed various things for the Community Local Law 2021 at Council Meeting on 22 November 2021—
  - a. the prescribed documents are—
    - i. for clause 12 - the online forms, in addition to which pdf copies must be published on HRCC Internet site
    - ii. for clause 12 – the paper forms currently in use, particularly the pre-printed application and terms and conditions at the Customer Service Counter, pdf to be published on HRCC Internet site
    - iii. For clauses 47 and 61—
      - Appendices 9.8B and 9.8C to Council Report 9.8 for Council Meeting on 22 November 2021, pdf copies to be published on HRCC Internet site
  - b. the prescribed decisions are—
    - i. for clause 47—
      - May Park being Lot 1 on Title Plan 022163K
      - the **road** and **road related area** adjacent May Park
      - the area hatchured in **Appendix “9.8B”**: City Central Activity District which is also described in the Horsham Regional City Framework Plan for the Horsham Planning Scheme
    - ii. for clause 49—
      - fourteen (14 days)
    - iii. for clause 61—
      - the area hatchured in **Appendix “9.8C”**: Aerodrome Movement Area;
2. The HRCC Internet site includes a list of prescriptions for the local law—
  - a. Some prescriptions are documents
  - b. Some prescriptions are decisions.

### Possible prescriptions

3. What may change—
  - a. If—
    - i. A prescription needs to be amended (for example, change to application forms / change to times, dates or places for the prohibition on liquor in unsealed containers); or
    - ii. A prescription by decision or document is proposed for any of the other clauses in the Table,

section 76 of the *Local Government Act 2020* is used.

- b. A prescription is by resolution of Council, for example the resolution of 22 November 2021.
  - c. Council may delegate (See sections 11 and 47 of the *Local Government Act 2020*) the power to prescribe. If Council has delegated the power, the delegate can prescribe.
4. Section 76 of the *Local Government Act 2020* says prescriptions are applied, adopted or incorporated matter. This means there are publication and availability requirements for prescriptions.
  5. At the first date of this Guideline s76 of the *Local Government Act 2020* says—

#### **76 Incorporation by reference**

- (2) If a local law has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, prescribed or published from time to time and that document, code, standard, rule, specification or method is at any time amended, until the Council causes notice to be published of that amendment, the document, code, standard, rule, specification or method is to be taken to have not been so amended.
- (3) A notice under subsection (2) must be published—
  - (a) on the Council's Internet site; and
  - (b) in any other manner prescribed by the regulations for the purposes of this section.
- (4) The Council must ensure that a copy of any document, code, standard, rule, specification or method which contains any matter incorporated in a local law is available for inspection—
  - (a) at the Council's office; and
  - (b) on the Council's Internet site.

*Table of possible prescriptions*

Clause	Prescribe
6	Council may <b>prescribe</b> any person or class of person as exempt from the requirement to— <ol style="list-style-type: none"> <li>a. obtain a permit,</li> <li>b. pay a fee or charge or lodge security,</li> </ol> and such exemption may be conditional, amended, cancelled or corrected as for a permit.
8	The Solid Waste Code as <b>prescribed</b> from time to time.
9	<b>security</b> means a sum of money, or other means of security <b>prescribed</b> by Council, the value of which has been determined by Council, after taking account of— <ol style="list-style-type: none"> <li>a. the nature of proposed works or activities (matter) that may damage or adversely impact a road, road related area, waterway managed by Council or Council land;</li> </ol>

Clause	Prescribe
	b. the likely cost to remedy any damage or adverse impacts; any Council policy that applies to the matter;
12	An application for a permit must be— a. accompanied by the relevant fee; and b. in the <b>prescribed</b> form. <sup>1</sup>
40	A person must not— a. use a wheeled recreational device in an area <b>prescribed</b> as an area in which a wheeled recreational device cannot be used; b. ride a bicycle on a footpath <b>prescribed</b> by Council to be a footpath on which a bicycle cannot be ridden; or c. ride a bicycle on a footpath at a time <b>prescribed</b> as a time on which a bicycle cannot be ridden.
41	Except in an area <b>prescribed</b> as an area for the purpose a person must not on road, road related area or Council land cause, allow or suffer— a. a recreational vehicle to be used; b. camping, where camp has the same meaning as in the <i>Road Management (General) Regulations 2016</i> ; or c. the operation of a model aeroplane.
43	Without a permit a person must not cause or permit a <b>prescribed</b> vehicle or machine or class of vehicle or machine to be used on a road.
45	On a road related area that is a carpark or any Council land a person must not— a. act contrary to <b>prescribed</b> conditions of entry; ... e. remain at that carpark or on Council land after being directed to leave by an authorised officer or other <b>prescribed</b> person.
47	Council may <b>prescribe</b> — a. times of the day; b. days or dates; c. a part of the municipal district <sup>2</sup> ; and/or d. a case or class of case, when a person must not have liquor in an open container on a road, road related area or Council land affected by such prescription, unless otherwise permitted under an Act. ...
48	Without an approval or other authority under an Act or permit a person must not on a road, road related area or Council land— a. place or affix any advertising, banner, billposting, real estate sign, mobile billboard or <b>prescribed</b> sign; ... m. undertake any other activity <b>prescribed</b> for the purposes of this clause.

<sup>1</sup> For clause 12 the application forms were prescribed at the Council Meeting on 22 November 2021

<sup>2</sup> For clause 47 2 parts of the municipal district were prescribed at Council Meeting on 22 November 2021

Clause	Prescribe
49	Without a permit obtained the <b>prescribed</b> number of days <sup>3</sup> before the event relating to the discharge or display of the fireworks, Chinese firecrackers or theatrical fireworks, a person must not on a road, road related area, waterway managed by Council or Council land located in the urban area discharge or display fireworks, Chinese firecrackers or theatrical fireworks.
53	In this clause local nuisance is— a. any adverse effect on amenity that— i. is caused by— A. light, noise, vibration, odour, smoke, fumes, aerosols or particles including, without limitation, dust, fly-ash or cinders (the agent); or B. any other agent or class of agent <b>prescribed</b> by Council;
54	Unless approved under an Act or otherwise <b>prescribed</b> by Council a person must not light a fire in the open air in either of— a. the urban area; or b. on Council land wherever located
61	A person must not enter or remain on the <b>prescribed</b> aerodrome movement area <sup>4</sup> within the Horsham Aerodrome other than—
64	A person must not ride or lead a horse— a. in the urban area on any footpath or nature strip; or b. on Council land except in an area <b>prescribed</b> for that purpose.

#### Prescription under the Domestic Animals Act 1994

These prescriptions are not made under the local law.

Clause	Resolution
	<i>Domestic Animals Act 1994</i> s26(2)(b) A Council may <b>by resolution</b> <sup>5</sup> make an order which may impose conditions as the means of restraint of dogs (or cats)
62	The owner of an animal which is present on a road, road related area or Council land must— a. ... c. if the animal is a dog, ensure the dog is secured by a chain, cord or leash except in an area <b>prescribed</b> by Council as an off leash area where the person must keep the dog under effective control.

<sup>3</sup> For clause 49 fourteen (14) days was prescribed at Council Meeting on 22 November 2021

<sup>4</sup> For clause 61, the aerodrome movement area was prescribed at Council Meeting on 22 November 2021

<sup>5</sup> Where an Act requires a Council resolution, that decision or power cannot be delegated. A Council Report to a Council Meeting is required.

## Schedule 2 – Delegations

This is a list of decisions that Council can make for Community Local Law 2021—

- by resolution; and / or
- delegate to the CEO for section 11 *Local Government Act 2020*

so that subject to any conditions or limitations specified by Council, the CEO can delegate the decision to a member of staff (s47 LGA 2020).

Where the word is **prescribe**—

- in addition to the **delegation of the power to prescribe** being included in the Delegations register (s47 LGA 2020)
- the **prescription** must be published on the HRCC Internet site and in any other manner for a regulation for s76 of the LGA 2020.

*Table of possible delegations to the CEO*

Possible delegations to the CEO	
All the powers, discretions, authorities and considerations of Council under the Community Local Law 2021 including the powers, discretions, authorities and considerations to—	
Clause	Delegation
10	consider and approve or refuse an application for a permit and impose conditions on any permit
11	require an applicant to supply additional information, to give public notice or to provide land owner consent
17 and 18	correct, suspend, cancel or amend a permit
23	decide to sell , destroy, dispose of or give away an impounded item
24. b.	reduce, waive or refund, in whole or in part a fee, charge or security with or without conditions
25	decide an application for return of security
	Delegation of the power to prescribe—
6	any person or class of person as exempt from the requirement to obtain a permit, pay a fee or charge or lodge security
9 – <b>security</b>	the means and determine the value of security
12. b.	application forms
40. a.	areas in which wheeled recreational devices must not be used

Possible delegations to the CEO	
40. b.	a footpath to be a footpath where bicycles cannot be ridden
40. c.	a time that a bicycle cannot be ridden on a footpath
41. a.	an area for use of a recreational vehicle
41. b.	an area for camping
41. c.	an area for the operation of a model aeroplane
43	the case or class of vehicle or machine that must not be used on a road
45. a.	conditions of entry
45. e.	a person to give a direction to leave a carpark or Council land
47	<ul style="list-style-type: none"> <li>a. times of the day;</li> <li>b. days or dates;</li> <li>c. a part of the municipal district; and / or</li> <li>d. a case or class of case</li> </ul> <p>when a person must not have liquor in an open container on a road, road related area, or Council land</p>
48. a.	a sign
48. m.	activities requiring a permit on a road, road related area or Council land
49	the number of days required by Council to receive and decide a firework permit
53. a. i. B.	an agent or class of agent
54	exceptions to the local law requirements for fire in the open air in the urban area or in a Council fireplace
56	the Solid Waste Code
61	the aerodrome movement area
64. b.	Council land for riding / leading a horse
or to do any act, matter or thing necessary or incidental to the exercise of any function or power by Council under this local law.	

## Schedule 3 – Where the local law requires a permit

Table from Part 3 Specific provisions

Clause	Provision
36	<p>Without an approval or authority under an Act or permit a person must not cause, allow or suffer in respect of road, road related area, or Council land (in this clause called the land)—</p> <ol style="list-style-type: none"> <li>any change to the land;</li> <li>removal of anything from the land;</li> <li>erection of scaffolding, hoarding or overhead protective awnings and other structures or affixing of advertising or erection of signs or other things (including pipes, wires, cables, pavers, fixture, fitting and other objects) in, on, across, under or over the land;</li> <li>any change, interference with or removal of a structure or ornament (including pipes, wires, cables, pavers, fixture, fitting and other objects) associated with the land;</li> <li>planting of a tree or other vegetation on the land, interference with vegetation on the land or removal of vegetation from the land;</li> <li>occupation of the land including without limitation by fencing, use of a mobile crane, travel tower, concrete line pump, scissor lift, or the swinging or hoisting of things across any part of the land by means of a lift hoist or tackle; or</li> <li>the deposit or leaving of materials, supplies, waste and things on the land including without limitation skip bins, machinery plant or equipment and tools, paving, gravel, aggregate or other surface treatments.</li> </ol> <p><b>Example</b></p> <p>Alter a drain, break down any bollard fence gate or other physical barrier to entry to the land, remove interfere with or deface any sign, affix to a building objects intruding into the airspace over the land, tree lopping or cutting taking or collecting of wood, make a hole or excavation; remove sand gravel or other materials, fill a hole or excavation; deposit rubble rocks gravel soil mulch pallets of turf.</p>
37	Without a permit a person must not collect wood from a road, road related area or Council land.
38	<p>A person must not—</p> <ol style="list-style-type: none"> <li>...; or</li> <li>without a permit construct, install, remove or alter a vehicle crossover, including any temporary crossover.</li> </ol>
43	Without a permit a person must not cause or permit a prescribed vehicle or machine or class of vehicle or machine to be used on a road.
48	<p>Without an approval or other authority under an Act or permit a person must not on a road, road related area or Council land—</p> <ol style="list-style-type: none"> <li>place or affix any advertising, banner, billposting, real estate sign, mobile billboard or prescribed sign;</li> <li>distribute any unsolicited document to persons;</li> </ol>

Clause	Provision
	<ul style="list-style-type: none"> <li>c. display any goods or samples;</li> <li>d. erect or place a vehicle, caravan, trailer, table, chairs, stall, barrow, booth, tent, kiosk or barrow for the purpose of selling or hiring any goods or services;</li> <li>e. place any outdoor eating furniture or associated facilities for food and drink premises;</li> <li>f. sell or offer for sale or hire any goods or services carried about or placed on the person or any other moveable thing;</li> <li>g. sell or offer for sale any raffle ticket or ask for or receive or do anything to indicate a desire for a donation of money or any other thing;</li> <li>h. busk;</li> <li>i. conduct or hold a concert, festival, show, public gathering, rally, street party, circus, carnival, performance or other similar activity;</li> <li>j. cause any public exhibitions, displays or events (including without limitation weddings);</li> <li>k. provide organised athletics, sport, health or fitness services;</li> <li>l. record images by film, video, digital or other technology to broadcast publish or publicly exhibit for commercial purpose; or</li> <li>m. undertake any other activity prescribed for the purposes of this clause.</li> </ul> <p>In this clause—</p> <p>a <b>mobile billboard</b> is an advertising sign that is not an integral part of the construction of the motor vehicle or is that type of sign on a trailer pulled by a motor vehicle; and</p> <p><b>street party</b> means an organised social gathering of people from one or several adjacent roads that is held on a road or road related area.</p>
49	Without a permit obtained the prescribed number of days <sup>6</sup> before the event relating to the discharge or display of the fireworks, Chinese firecrackers or theatrical fireworks, a person must not on a road, road related area, waterway managed by Council or Council land located in the urban area discharge or display fireworks, Chinese firecrackers or theatrical fireworks.
50	<p>Unless otherwise approved or authorised under an Act prior to the commencement of construction work or construction activity the—</p> <ul style="list-style-type: none"> <li>a. owner or occupier causing the carrying out of construction work or construction activity on land;</li> <li>b. person undertaking construction work or construction activity on land; or</li> <li>c. appointed agent</li> </ul> <p>must ensure a permit is obtained from Council and payment or provision of security is made for use and access over (including by the travel of any boom or similar) and occupation of road, road related area or Council land.</p>
51	<p>Unless approved or authorised under an Act, a person must not, without a permit—</p> <ul style="list-style-type: none"> <li>a. excavate, destroy, damage, obstruct, alter, remove or in any way interfere with; or</li> <li>b. obstruct, divert, tap, add to, take, use or in any way interfere with the passage of drainage water or water through</li> </ul>

<sup>6</sup> For clause 49 fourteen (14) days was prescribed at Council Meeting on 22 November 2021



Clause	Provision
	any drain or drainage works vested in Council, waterway managed by Council or any thing in the nature of a ditch, swale, gutter, levee or culvert on a road, road related area or Council land.
57	<p>A person must not—</p> <p>...</p> <p>c. without a permit, in that part of the municipal district that is neither urban land nor farm land, cause, allow or suffer a freight container to be kept, stored, repaired or otherwise used or remain.</p>
61	<p>A person must not enter or remain on the prescribed aerodrome movement area<sup>7</sup> within the Horsham Aerodrome other than—</p> <p>...</p> <p>e. any other person authorised by the aerodrome manager and acting in accordance with that authority.</p>
66	<p>b. Without a permit, in the urban area a person must not cause, allow or suffer to be kept—</p> <p>i. more than 2 dogs;</p> <p>ii. more than 2 cats; or</p> <p>iii. more than 10 domestic fowl.</p> <p>c. Without a permit, in that part of the municipal district that is not urban area and that is not farm land, a person must not cause, allow or suffer to be kept—</p> <p>i. more than 3 dogs; or</p> <p>ii. more than 3 cats.</p> <p>d. Without a permit, on farm land, a person must not cause, allow or suffer to be kept—</p> <p>i. more than 5 dogs; or</p> <p>ii. more than 5 cats.</p>
67	<p>Without a permit a person must not drive livestock from outside the municipal district either—</p> <p>a. through the municipal district to a destination outside the municipal district; or</p> <p>b. into the municipal district to a destination within the municipal district.</p>
68	<p>Without a permit a person may drive livestock if the livestock are driven—</p> <p>a. from within the municipal district to a destination within or out of the municipal district;</p> <p>b. in the way set out in any guideline published by Council and available on Council's website; and</p> <p>c. other than in the urban area.</p>
69	<p>Without a permit an owner or occupier of land in the municipal district or an adjoining municipal district, or a person on their behalf, may drive livestock into the municipal district if the livestock are driven—</p> <p>a. the purpose of milking or shearing;</p>

<sup>7</sup> For clause 61, the aerodrome movement area was prescribed at Council Meeting on 22 November 2021

Clause	Provision
	<ul style="list-style-type: none"> <li>b. in the way set out in any guideline published by Council and available on Council's website; and</li> <li>c. other than in the urban area.</li> </ul>
70	<p>Without a permit a person may move livestock from one property or part of a property to another within the municipal district if—</p> <ul style="list-style-type: none"> <li>a. the trip is started and completed within daylight hours;</li> <li>b. the person driving the livestock is competent in the handling of livestock and takes all reasonable steps to minimise risk to other road users and damage to fences, roads and vegetation;</li> <li>c. the livestock are moved in the way set out in any guideline published by Council and available on Council's website; and</li> <li>d. other than in the urban area.</li> </ul>
71	<p>Without a permit a person must not graze livestock on a road related area or Council land.</p>

## Schedule 4 – Penalty units

### Table for Clause 26.a.

Clause 26. a. contravenes or fails to comply with any provision under this local law - 2 penalty units

The relevant clauses are in the Table – contravenes or fails to comply with provisions

Clause	Contravenes or fails to comply with provisions
35	<p>A person must not cause, allow or suffer vegetation, a gate, fencing, a sign or anything on land to or be likely to—</p> <ol style="list-style-type: none"> <li>obstruct the view between vehicles at an intersection;</li> <li>obstruct the view between vehicles and pedestrians;</li> <li>obscure street lighting;</li> <li>constitute a danger to vehicles or pedestrians; or</li> <li>compromise the safe and convenient use of the road by pedestrians or vehicular traffic.</li> </ol> <p><b>Example</b></p> <p>Vegetation on the nature strip, vegetation beyond the property boundary, roots in stormwater drains, basketball hoops outside of the property boundary, fencing at street corners, things that may cause a pedestrian or driver to veer, hindering the safe and convenient passage of persons using a pram, mobility aid, motorised mobility device, wheel-chair, accumulated dropped berries leaves or other materials on a footpath.</p>
38	<p>A person must not—</p> <ol style="list-style-type: none"> <li>drive a motor vehicle or other machinery over a kerb, nature strip or footpath at a place other than a vehicle crossover; or</li> <li>without a permit construct, install, remove or alter a vehicle crossover, including any temporary crossover.</li> </ol>
39	<p>A person must not on road, road related area or Council land cause, allow or suffer—</p> <ol style="list-style-type: none"> <li>to remain a motor vehicle, caravan (or similar), trailer, boat, damaged or dilapidated motor vehicle— <ol style="list-style-type: none"> <li>for more than seven (7) days; or</li> <li>for the purpose of sale;</li> </ol> </li> <li>any repair, service, dismantling, painting, panel beating, washing, cleaning or other work of similar nature on a motor vehicle, caravan (or similar) or trailer except for running repairs in the case of breakdown.</li> </ol>
40	<p>A person must not—</p> <ol style="list-style-type: none"> <li>use a wheeled recreational device in an area prescribed as an area in which a wheeled recreational device cannot be used;</li> <li>ride a bicycle on a footpath prescribed by Council to be a footpath on which a bicycle cannot be ridden; or</li> <li>ride a bicycle on a footpath at a time prescribed as a time on which a bicycle cannot be ridden.</li> </ol>
41	<p>Except in an area prescribed as an area for the purpose a person must not on road, road related area or Council land cause, allow or suffer—</p> <ol style="list-style-type: none"> <li>a recreational vehicle to be used;</li> </ol>

Clause	Contravenes or fails to comply with provisions
	<ul style="list-style-type: none"> <li>b. camping, where camp has the same meaning as in the <i>Road Management (General) Regulations 2016</i>; or</li> <li>c. the operation of a model aeroplane.</li> </ul>
42	<p>A person shall not cause or permit a motor vehicle to be on Council land other than—</p> <ul style="list-style-type: none"> <li>a. a road or other especially formed lane for motor vehicles;</li> <li>b. a carpark; or</li> <li>c. an area where provision has been specifically made for the entry or accommodation of motor vehicles.</li> </ul>
44	A person must not cause, allow or suffer a shopping trolley to be left on or in a road, road related area, waterway managed by Council or Council land.
45	<p>On a road related area that is a carpark or any Council land a person must not—</p> <ul style="list-style-type: none"> <li>a. act contrary to prescribed conditions of entry;</li> <li>b. enter other than through the entrance for that purpose or during hours when that carpark or Council land is closed to the public;</li> <li>c. enter and remain without paying any relevant fee, charge including any occupation charge or security;</li> <li>d. hire or use any Council property in connection with that place without paying any relevant fee, charge or security; or</li> <li>e. remain at that carpark or on Council land after being directed to leave by an authorised officer or other prescribed person.</li> </ul>
46	A person must not, while aboard a vessel on any waterway managed by Council, interfere with the reasonable use and enjoyment by another person of the waterway or nearby land.
47	<p>Council may prescribe<sup>8</sup>—</p> <ul style="list-style-type: none"> <li>a. times of the day;</li> <li>b. days or dates;</li> <li>c. a part of the municipal district; and/or</li> <li>d. a case or class of case,</li> </ul> <p>when a person must not have liquor in an open container on a road, road related area or Council land affected by such prescription, unless otherwise permitted under an Act.</p> <p>Example</p> <p>A Council prescription may prevent the consumption of liquor on the footpath. Such a prescription does not apply to that part of the footpath under a liquor licence.</p> <p>An authorised officer who observes a person in possession of liquor in an open container at a time of the day, on a day or dates, in a part of the municipal district or in a case or class case contrary to the prescription may direct the person to dispose of the liquor or seal the container of liquor.</p> <p>In this clause, <b>liquor</b> has the same meaning as in the <i>Liquor Control Reform Act 1998</i>.</p>

<sup>8</sup> For clause 47, parts of the municipal district were prescribed at Council Meeting on 22 November 2021 – see Schedule 1

Clause	Contravenes or fails to comply with provisions
52	A person must not cause, allow or suffer any substance, other than untreated stormwater, to be discharged into the stormwater system of Council.
53	A person must not cause, allow or suffer local nuisance, including from land owned or occupied by the person.
54	<p>Unless approved under an Act or otherwise prescribed by Council a person must not light a fire in the open air in either of—</p> <ol style="list-style-type: none"> <li>the urban area; or</li> <li>on Council land wherever located</li> </ol> <p>unless—</p> <ol style="list-style-type: none"> <li>the fire is for the purpose of meal preparation or personal comfort and accords with the conditions in section 38A(1)(a) of the <i>Country Fire Authority Act 1958</i>; and</li> <li>in the case of Council land the fire is lit in a properly constructed fireplace provided by or on behalf of Council.</li> </ol> <p>In this clause <b>in the open air</b> has the meaning in section 34A of the <i>Country Fire Authority Act 1958</i>.</p>
55	A person must not cause, allow or suffer the construction, erection, installation or use of any incinerator on any land in the urban area.
56	The occupier of every dwelling and other property to which Council provides a municipal waste collection service must comply with the Solid Waste Code.
57	<p>A person must not—</p> <ol style="list-style-type: none"> <li>cause, allow or suffer a freight container to be placed on or to remain on any road, road related area or Council land;</li> <li>on land in the urban area, cause, allow or suffer a freight container to be kept, stored, repaired or otherwise used or remain unless permitted under an Act;</li> </ol>
61	<p>A person must not enter or remain on the prescribed aerodrome movement area<sup>9</sup> within the Horsham Aerodrome other than—</p> <ol style="list-style-type: none"> <li>a pilot or crew member of an aircraft;</li> <li>an employee or agent of Council, the Civil Aviation Safety Authority or an emergency service in performance of their duties;</li> <li>a person who is a passenger either in an aircraft or in the process of entering or leaving an aircraft;</li> <li>a person lawfully involved in the refuelling or servicing of an aircraft;</li> </ol>
62	<p>The owner of an animal which is present on a road, road related area or Council land must—</p> <ol style="list-style-type: none"> <li>carry and produce upon demand by an authorised officer, a bag or other suitable container for the collection and lawful disposal of any faeces that the animal may deposit;</li> <li>remove and hygienically dispose of faeces deposited by the animal; and</li> </ol>

<sup>9</sup> For clause 61, the aerodrome movement area was prescribed at Council Meeting on 22 November 2021 – see Schedule 1

Clause	Contravenes or fails to comply with provisions
	<p>c. if the animal is a dog, ensure the dog is secured by a chain, cord or leash except in an area prescribed by Council as an off leash area<sup>10</sup> where the person must keep the dog under effective control.</p> <p>In this clause—</p> <ul style="list-style-type: none"> <li>i. owner includes a person who has the animal in his or her care for the time being; and</li> <li>ii. effective control means the owner exercises effective control of the dog either— <ul style="list-style-type: none"> <li>A. by means of a physical restraint; or</li> <li>B. by command, the dog being in close proximity to the person, and the person being able to see the dog at all times.</li> </ul> </li> </ul>
63	An owner or person who has a dog in his or her care for the time being must ensure the dog is muzzled when in or in close proximity to the municipal livestock exchange.
64	<p>A person must not ride or lead a horse—</p> <ul style="list-style-type: none"> <li>a. in the urban area on any footpath or nature strip; or</li> <li>b. on Council land except in an area prescribed for that purpose.</li> </ul>
65	An owner or occupier of land must not keep or allow to be kept any beehive on that property unless the person or one of them or another person permitted to use the property is a registered beekeeper and keeps the bees and hives in accordance with the Apiary Code of Practice.
66. a.	<p>This clause does not apply where the keeping of a particular type of animal or bird is permitted (rather than ancillary) under the Horsham Planning Scheme or a planning permit applicable to the land.</p> <ul style="list-style-type: none"> <li>a. In the urban area a person must not cause, allow or suffer to be kept— <ul style="list-style-type: none"> <li>i. livestock (other than domestic fowl);</li> <li>ii. free flying pigeons; or</li> <li>iii. any rooster.</li> </ul> </li> </ul>
72	An owner or occupier of land on which livestock or pets are kept must ensure the land has secure fencing so that neither the livestock nor pets can get over, under or through the fence.

Table for Clauses 26. b. to h.

Clause	Provision	Penalty units
b.	causes, allows or suffers an activity without a current permit under this local law;	
	For clause 10, this local law requires a permit under the clauses in Schedule 3 to this Guideline—	
	Clause	
	36	2

<sup>10</sup> *Domestic Animals Act 1994* s26(2)(b) A Council may by resolution make an order which may impose conditions as the means of restraint of dogs (or cats)

Clause	Provision	Penalty units
	37	2
	43	2
	48	5
	49	5
	50	5
	51	2
	57. c.	2
	61. e.	2
	66. b.	2
	66. c.	2
	66. d.	2
	67	2
	68	2
	69	2
	70	2
	71	2
c.	contravenes or fails to comply with any condition contained in a permit or condition of any exemption under this local law;	2
	Exemptions are the exemption of a person or a class of persons under clause 6	
	For clause 10. b., where this local law requires a permit, Council may impose conditions on any approval	
	For clause 10, this local law requires a permit under the clauses in Schedule 3 to this Guideline—	
	36 37 43 48 49 50 51 57. c. 61. e. 66. b. 66. c. 66. d.	

Clause	Provision	Penalty units
	67 68 69 70 71	
d.	contravenes or fails to comply with a notice to comply;  Under clause 29 an authorised officer can issue a person with a notice to comply, in addition to a direction and in addition to an infringement notice	2
e.	fails to comply with a direction of an authorised officer;  Under clause 30 an authorised officer may give a person a spoken or written direction	2
f.	fails to comply with a sign erected by Council;	2
g.	knowingly or recklessly provides incorrect or misleading information (whether oral or written) in an application for a permit or an application for an exemption under this local law;  Exemptions are the exemption of a person or a class of persons under clause 6  For clause 10, this local law requires a permit under the clauses in Schedule 3 to this Guideline— 36 37 43 48 49 50 51 57. c. 61. e. 66. b. 66. c. 66. d. 67 68 69 70 71	2
h.	knowingly or recklessly omits relevant information in an application for a permit or an application for an exemption under this local law,	2



Clause	Provision	Penalty units
	Exemptions are the exemption of a person or a class of persons under clause 6	
	For clause 10, this local law requires a permit under the clauses in Schedule 3 to this Guideline—	
	36	
	37	
	43	
	48	
	49	
	50	
	51	
	57. c.	
	61. e.	
	66. b.	
	66. c.	
	66. d.	
	67	
	68	
	69	
	70	
	71	
64	<p>A person must not ride or lead a horse—</p> <p>a. in the urban area on any footpath or nature strip; or</p> <p>b. on Council land except in an area <b>prescribed</b> for that purpose.</p>	2

## Endnotes

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- <sup>i</sup> Version Number 01 Approval Date 15 June 2015 clause 5.2
- <sup>ii</sup> Version Number 01 Approval Date 24 August 2020 clause 4 particularly 4.6.1 Confidential Information and 4.6.2 Contrary to the Public Interest
- <sup>iii</sup> Version Number 4.00 Approval Date 1 September 2014 definition of Asset Management Plan
- <sup>iv</sup> Version Number 01 Approval Date 16 June 2014 sections 5 and 6
- <sup>v</sup> Policy No: 3 Council Meeting 28 October 1997
- <sup>vi</sup> Policy No: 8 Council Meeting 3 July 2006
- <sup>vii</sup> Version Number 02 Approval Date 30 October 2017