

Moira Shire Council

**Community Safety and
Environment Local Law
2013**

Local Law No. 1 of 2013

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MOIRA SHIRE COUNCIL

LOCAL LAW NO. 1 of 2013

Community Safety and Environment

PART I – INTRODUCTION

1.1 Objectives

This Local Law No. 1 of the Moira Shire Council is for the purpose of:

- (a) providing for the peace, order and good government of the municipal district of the Moira Shire Council;
- (b) providing for those matters which require a Local Law and any other Act;
- (c) providing for the administration of Council powers and functions, and for the issue of permits and infringement notices;
- (d) prohibiting, regulating and controlling activities, physical works including construction, events, practices or behavior in the municipal district so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a person, nor detrimental effect to the environment or property;
- (e) regulating and controlling the consumption of liquor and possession of liquor other than in a sealed container;
- (f) protecting Council assets, however acquired;
- (g) regulating the droving, grazing and movement of livestock throughout the municipal district, minimising the damage to road surfaces, formations, drainage, native vegetation and surrounding areas arising from livestock and to alert other road users to the presence of livestock on roads in the interests of road safety; and
- (h) enhancing public safety and community amenity;

1.2 Power to make this Local Law

This Local Law is made pursuant to Section 111 of the Act and Section 42 of the Domestic Animals Act 1994.

1.3 Period of Operation

This Local Law shall come into operation on 1 December 2013, and shall cease to operate on 30 November 2023.

1.4 Extent of Application

This Local Law shall apply to and have operation throughout the whole of the municipal district of the Moira Shire Council, and to the extent that this Local Law is expressed to prohibit or regulate any act, matter or thing, the operation of

this Local Law shall be restricted to the prohibition or regulation of such act, matter or thing within the municipal district of the Moira Shire Council;

1.5 Consistency

The provisions of this Local Law shall not derogate from or otherwise prejudice or limit the operation of any other local laws of Council and shall be read in addition to the provisions of such other local laws as may be necessary;

1.6 Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

- “Act”** means the Local Government Act 1989 unless the context in which it is used indicates otherwise;
- “applicant”** means the person who applies for a permit under this Local Law;
- “appointed agent”** in respect of any land, means the person authorised in writing by an owner or occupier of that land to make an application, appeal, referral or representation on behalf of the owner or occupier;
- “asset protection permit”** means a written permit issued by Council or an authorised officer for the protection of Council Assets;
- “authorised officer”** means an authorised officer appointed under Section 224 of the Act;
- “barbeque”** means a structure device or contraption (not enclosed in a building) which is used or intended, adopted or designed to be used for the cooking of food;
- “builder”** means a person or company to whom a building permit has been issued under the Building Act 1993 or, in the absence of any building permit having been issued for the relevant work, means the person or company in charge of or directing any/or carrying out any building work on any land;
- “builder’s refuse”** includes any solid or liquid, domestic or commercial waste, debris or other waste and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work;
- “building”** has the same meaning as in the Building Act 1993;
- “building site”** means land on which building works are being (or have been) undertaken;

“building work”	has the same meaning as the Building Act 1993;
“bulk refuse container”	means a lidded refuse container having a greater capacity than one cubic metre used for the containment of waste materials of any kind;
“camp”	means to live or sleep in a caravan, tent or other temporary structure (including a prefabricated holiday unit) as defined in the Residential Tenancies Act 1997 and the <i>Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2010</i> , or a vehicle;
“camping area”	means land which is provided as a camping area by Council or a public statutory body, or registered with Council as prescribed accommodation as defined by regulation 13 of the Public Health and Wellbeing Regulations 2009 or registered as a caravan park with Council under the Residential Tenancies (<i>Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2010</i> ;
“caravan”	includes any caravan whether or not any of the wheels or axles thereof have been removed or the body of the vehicle or structure is resting directly on the ground or other supports and includes any structures annexed thereto;
“carriageway”	means a portion of road improved, designed or ordinarily used for vehicular traffic and includes any shoulders and areas both at the sides or centre of the carriageway used for standing or parking of vehicles, and if a road has two or more portions divided by a reservation, means each portion including any centre median strip;
“cat”	means a cat over three months of
“chief executive officer”	means the Chief Executive Officer of Council;
“commercial area”	means all land zoned Commercial or Industrial under a Planning Scheme in force in the municipal district;
“council”	means the Moira Shire Council;
“council assets”	includes any building, structure, fixture, road, road infrastructure, channel, drain, vehicle crossing or infrastructure or other physical asset owned, leased, managed or controlled by Council and includes any assets listed in clause 3.6;
“council land”	means any land either owned or occupied by, vested in or under the control, care or management of Council including roads, streets, parks, gardens, reserves, lakes, watercourses, reservations and the like;
“daylight hours”	means the hours between sunrise and sunset;

“discharge”	in relation to water includes the release, pumping, siphoning or diversion of any water;
“dog”	means a dog over three months of age;
“domestic animal”	means a cat or a dog as defined in this Local Law;
“domestic waste”	means any waste material generated in any dwelling or in land on which a dwelling is located, whether within or outside the municipal district of Council;
“drover”	means the person responsible for the droving of livestock and includes the owner of those livestock or an employee or contractor of that person engaged for the purpose of supervising the droving of those livestock or taking them from or to a market;
“droving of livestock”	means an individual driving of livestock from location to another for the purpose of changing their grazing area or moving livestock from their grazing areas to a location for the purpose of sale or from a sale location to a grazing area but does not include movement of livestock. It includes mere driving of livestock in or through the municipal district for the purpose of or including supplementing their feeding or taking them from or to a market:
“dwelling”	means a house, flat, apartment, or any portion thereof, and includes a tent, caravan, sleepout, bungalow, movable dwelling or other place of abode whether temporary or permanent;
“effective control”	means control by a person or persons alone or using dogs, devices, fences or other equipment so as to ensure livestock are not trespassing or endangering persons or objects;
“goods”	means any item whatsoever that is offered for sale and includes a motor vehicle, motor cycle, caravan, trailer, boat or similar item
“grazing”	means livestock being in an area for the purpose of feeding off roadside vegetation;
“grazing of livestock”	means causing livestock to enter and remain on a road or roads for the purpose of grazing rather than for the purpose of droving or movement of livestock. It relates to grazing a particular or designated area and not to indiscriminate droving for the purpose of or including supplementary feeding;
“irrigation water”	means any water to be used, or which has been used, by the owner or occupier of any land for the purpose of irrigating such land and whether or not it has been mixed with other water;

“land”	has the same meaning as in section 38 of the Interpretation of Legislation Act 1984;
“liquor”	has the same meaning as in section 3 of the Liquor Control Reform Act 1998;
“livestock”	has the same meaning as in Section 3 of the <i>Impounding of Livestock Act 1994</i> ;
“mobile waste bin”	means a mobile waste bin supplied to any property by, or on behalf of, Council for the purpose of disposing of waste material nominated by Council;
“movement of livestock”	means individual or regular movement of livestock as part of normal farm management operations, but not for purposes of grazing, from one property to another property within the municipal district, or from or to a property in an adjacent municipal district, at the rate of not less than 1 kilometre per hour in the direction of movement between the two properties, and the movement is completed on the day of commencement;
“municipal district”	means the municipal district of Council;
“notice”	means a notice issued by an authorised officer;
“notice to comply”	means a notice in writing issued by an authorised officer directing compliance with any provision of this Local Law;
“offensive”	has the same meaning as in Section 58 (4) of the <i>Public Health and Wellbeing Act 2008</i> ;
“order” or “direction”	means an order or direction issued by an authorised officer;
“owner”	in respect to ownership of a cat or a dog, includes the parent or guardian of a minor, or when used in respect of a vehicle, has the same meaning as in Section 3 of the Road Safety Act 1986 as amended from time to time, or when used in respect of buildings means the owner of land on which the building is situated;
“penalty unit”	means a penalty unit as defined by Section 110 (2) of the Sentencing Act 1991 or any Act amending same;
“permit”	means a written permit issued by Council or an authorised officer under this Local Law;
“permit holder”	is the person to whom a permit has been issued under this Local Law;
“person”	when referring to animals, birds or poultry, means the owner, occupier, agent, or the person in charge of any property or premises or in charge of such animals, birds or poultry;

“person undertaking building works”	means the person on the building site who is undertaking the building work, including trades people and owner builders;
“portable toilet”	includes a portable water closet or portable bio toilet;
“poultry”	means any fowl, turkey, goose, duck, or similar feathered bird, but does not include a pigeon;
“poultry house”	means a structure used or intended to be used for the purpose of confining, protecting or sheltering any poultry;
“property”	means a piece of land that is owned by a person (including an owners corporation) including all improvements thereon;
“public highway”	has its common law meaning and the meaning ascribed to it in Section 3 (1) of the Act;
“public place”	has the same meaning as in Section 3 of the <i>Summary Offences Act 1966</i> ;
“recreation vehicle”	means a “recreation vehicle” as defined in Section 86 of the Transport (Compliance and Miscellaneous) Act 1983 but does not include motorised vehicles while they are being used for farming purposes in a rural area;
“refuse container”	means a lidded container for the temporary containment of refuse or waste and includes a bulk refuse container;
“residential area”	means all land zoned as a Residential Zone under a Planning Scheme in force in the municipal district;
“road”	has the meaning ascribed to it in Section 3 of the Act and includes a public highway;
“road infrastructure”	has the meaning as in Section 3 of the Road Management Act 2004;
“Roads Corporation”	means the Roads Corporation established under the Transport Integration Act 2010;
“rural area”	means all land zoned as a Farming Zone under a Planning Scheme in force in the municipal district;
“schedule”	means a schedule to this Local Law;
“sealed container”	means a container sealed at the point of manufacture;
“security bond”	means a bond, guarantee or payment made or given to Council for the purpose of indemnifying Council against the cost of any repair or replacement of any Council assets damaged or destroyed;

“shopping trolley”	means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods;
“sign”	means any sign, signal, light, marking or other device placed or erected by the authority of Council for the purpose of regulating, prohibiting, warning or guiding persons whether with or without vehicles;
“song bird”	includes any canary, budgerigar, finch or similar sized bird including a parrot or cockatoo, but not poultry;
“stormwater”	means rainwater which is discharged from land, roads or buildings to a drain;
“stormwater system”	means a system which provides for the convenience of stormwater runoff including kerbs and channels, open channels, underground pipe systems and natural waterways;
“structure”	when used in the context of housing animals, birds, or poultry shall apply to structures of such size that a building permit is required or of such nature that in the opinion of an authorised officer a nuisance may be caused to residents of adjacent property;
“temporary vehicle crossing”	means a constructed form of wooden panels or other Council approved structure over a bed of sand that extends from the boundary of land over any Council asset, such as a road, a footpath, nature strip, kerb and channel;
“trade waste”	has the same meaning as in section 3 of the Water Act 1989;
“vacant private land”	means privately owned land on which no dwelling is erected;
“vehicle”	has the same meaning as in Section 3 of the Road Safety Act 1986;
“vehicle crossing”	means a Council approved properly constructed surface for vehicular access to land or a building site;
“velocipede”	means a bicycle, tricycle, skateboard, roller skates, roller blades or other device of similar description. The term does not include a wheelchair when such is being used by a person in bona fide need;
“waste”	has the same meaning as in Section 4 of the Environment Protection Act 1970 and includes waste material referred to as refuse;
“water”	means water from any source, whether or not it contains impurities, and includes irrigation water and recycled water; and

“windblown waste” means any waste capable of being blown away by wind;

- 1.7** In exercising its powers and functions under this Local Law, Council may have regard to any guidelines, policies, codes or standards it, or other agencies or organisations have adopted for the purpose of the Local Law.
- 1.8** Wherever in this local law any reference is made to legislation or subordinate legislation, it includes any subsequent equivalent consolidation, re-enactment or substitute legislation or sub-ordinate legislation.

PART 2 – PROTECTION OF AMENITY OF MUNICIPAL DISTRICT

2.1 Dangerous land

No person who owns or occupies property shall allow or permit such property to be kept in a manner that is, in the opinion of an authorised officer, dangerous or likely to cause danger to life or property, including property that is:

- (a) a haven for vermin, insects or excessive vegetation; or
- (b) used for the storage of any goods and/or substances which are dangerous or are likely to cause danger to life or property.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.2 Unsightly land

No person who owns or occupies property shall allow or permit such property to be kept in a manner which, in the opinion of an authorised officer, is unsightly or detrimental to the general amenity of the neighbourhood, including property, which:

- (a) harbours unconstrained rubbish; or
- (b) contains disused excavation or waste material; or
- (c) contains long or excessive vegetation including weeds, grass, undergrowth or any other vegetation.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.3 Storage of machinery or second-hand goods

- (a) No person may without a permit use property in a residential area for the storage of old or second-hand motor vehicles or machinery or old or second-hand materials or for the dismantling or breaking up of motor vehicles or machinery.
- (b) No person may without a permit use property in a residential area for the repair, servicing, panel beating or spray painting of any vehicle other than a vehicle which is registered at that address.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.4 Disused compartments

No person shall place or leave or allow to remain on any property a disused refrigerator, ice-chest, ice-box, trunk, chest, or any other similar article without first:

- (a) removing every door and lid; or
- (b) rendering every door and lid incapable of being fastened.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.5 Fires in open air

- (a) No person may, without a permit, on property in a residential area, or a commercial area, light or allow to be lit or to remain alight any fire, save and except:
 - (i) a fire in a barbeque while being used for the purpose of cooking food;
 - (ii) a fire in a chimney, potbelly stove, or small open fires in a suitable container for heating, cooking, cultural or social purposes, which in the opinion of an authorised officer, is not offensive;
 - (iii) a fire generated by a tool of trade while being used for the purpose for which it was designed;
 - (iv) a fire contained within a properly constructed fireplace within a dwelling for the purpose of heating;
 - (v) a fire lit by a member of the Country Fire Authority in the course of his or her duty or a member of the public who holds a permit under the provisions of the Country Fire Authority Act 1958.
- (b) It is an offence for a person to light and maintain any campfire or barbeque using solid fuel on any land within the municipal district owned or managed by Council or in any public place, unless:
 - (i) the fire is contained in an approved fireplace or trench of at least 30 centimetres deep;
 - (ii) the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of all potentially flammable material;
 - (iii) the fire does not occupy an area exceeding 1 square metre; and
 - (iv) the dimensions of any solid fuel used are the minimum necessary for the purpose.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

Note: In addition to any requirement in this Local Law, a person must comply with any restriction, order or direction imposed by the Country Fire Authority.

2.6 Burning of offensive materials

No person may burn or cause to burn any offensive materials including any substance which contains:

- (a) any manufactured chemical;
- (b) any rubber or plastic;
- (c) any petroleum or oil (except in an internal combustion engine in a vehicle);
- (d) any paint or receptacle which contains or contained paint;
- (e) food waste;

unless in accordance with a licence issued by the Environment Protection Authority or a permit issued by Council.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.7 Dust

No person shall create an amount of dust, which in the opinion of an authorised officer, is unreasonable in the circumstances.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.8 Vegetation

- (a) No person shall allow vegetation growing on his or her property to encroach upon any road at a height of less than 3.5 metres.
- (b) No person who owns or occupies property abutting any road shall allow vegetation to grow in such a manner that it constitutes a danger to road users by preventing a clear view of other road users or signs or signals installed to control, direct, guide, regulate or warn road users.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.9 Pest control

An authorised officer may by notice direct an owner or occupier of any property to take such action as is required to eradicate or remove any vermin or pests or insects from such property if in the opinion of the authorised officer such vermin, pests or insects are a nuisance, a danger or detrimental to the amenity of the neighbourhood.

2.10 Bees/wasps/fruit flies

- (a) A person must not, without a permit, keep or allow to be kept any bees on land in a residential area, a commercial area or on Council land.
- (b) To assist in the prevention of fruit fly infestation, each owner and occupier of land in a residential area:
 - (i) prevent fruit that is a host species for fruit flies, from remaining on the ground of the land;
 - (ii) when disposing of such fruit, seal the fruit in a plastic bag and place it in a rubbish bin; and
 - (iii) prune and maintain any fruit trees on the land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.11 Noise

- (a) No person shall, upon any road or Council land, without a permit:
 - (i) sound or play any musical or noise instrument; or
 - (ii) sound, play, control, operate or use any loudspeaker, amplifier, microphone, or any other like device unless the sound emitted from that device is otherwise inaudible to other people; or
 - (iii) allow any loud music or loud noise to be emitted from any music device, including any warning device, in or outside a moving or stationary motor vehicle in that person's possession and/or control, including any motor vehicle parked without a driver or registered operator present.
- (b) No person shall cause or allow any noise to emanate from any property owned or occupied by them which in the opinion of an authorised officer would interfere with the reasonable comfort of any person.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.12 Velocipede

- (a) No person shall use or ride any velocipede on any pathway or Council land which has been resolved by Council and designated by Council signage to be a pathway or land on which such activity is prohibited.
- (b) An authorised officer may impound any velocipede if any person using a velocipede contrary to clause 2.12 (a) fails to cease the practice when directed to do so.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.13 Behaviour

- (a) A person must not, whether by language, action, or otherwise, behave in a public place in such a manner as to:
 - (i) interfere with another person's reasonable use and enjoyment of that public place; or
 - (ii) endanger, or be likely to endanger, health, life or property;
- (b) Any such behaviour may include:
 - (i) fighting
 - (ii) vomiting
 - (iii) urinating
 - (iv) defecating
 - (v) spitting
 - (vi) inappropriate language clearly directed towards any Police or Council employee
 - (vii) or otherwise behaving in an offensive manner.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.14 Recreation vehicles

- (a) A person must not, except with a permit, use a motor powered or motor assisted recreation vehicle including a recreational motor cycle on any Council land other than a road unless such land has been designated by Council for such use.
- (b) No person may without a permit use a recreation vehicle on any private land within a residential area, or commercial area.
- (c) A person must not use any motor powered or motor assisted recreation vehicle on any land owned or managed by Council or on any public land within the municipal district.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.15 Horses on public places

A person must not without a permit ride or lead a horse or cause or authorise another person to ride or lead a horse on any land set aside by Council for the purpose of recreation, whether active or passive, or in any pleasure ground, place of public resort, or playground being Council land unless such place has been signposted by Council as being available for horses or horse riding.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

2.16 Camping

- (a) A person must not, except with a permit, camp on any Council land, on any public land, or on any privately owned vacant land within the municipal district unless within a designated camping area.
- (b) In determining whether to grant a permit under clause 2.16(a) Council or an authorised officer must take into account the following:
 - (i) the location of the land;
 - (ii) the zoning of the land;
 - (iii) the suitability of the land for camping;
 - (iv) the number of tents or other structures to be located on the land
 - (v) the length of time the tents and other structures will be erected on the land;
 - (vi) the availability of sanitary facilities on the land;
 - (vii) the ability of the land to accept waste discharge, disposal and/or sullage;
 - (viii) the likely damage to be caused;
 - (ix) the existence of Insurance and Indemnity; and
 - (x) any other matter relevant to the circumstances associated with the application.
- (c) A person who camps or who occupies a campsite on Council owned or managed land or in a public place must at all times maintain the campsite in a clean and tidy condition.
- (d) A person is exempt from the requirement of a permit under clause 2.16(a) above if, in relation to privately owned land camping is in connection with the seasonal employment of that person on a property on which an agricultural business is being conducted and provided the person has the permission of the owner to camp on that land;

2.17 Dilapidated premises

- (a) An Owner or Occupier of land on which there is a building must not allow the building to become dilapidated.
- (b) Without limiting clause 2.17 (a), a building is dilapidated if its condition does not conform to the requirements of the Building Act 1993 and Regulations made under that Act.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 3 – COUNCIL LAND

3.1 Bulk refuse containers/clothing bins

- (a) A person must not, except with a permit, place a bulk refuse container or clothing bin on any council land.
- (b) In deciding whether to issue a permit, Council or an authorised officer must take into consideration:
 - (i) whether the placement will obstruct the passage of vehicles and pedestrians, obscure the view of motorists or road users or present a physical hazard to any person or thing;
 - (ii) whether the placement will contravene any traffic control signs;
 - (iii) whether the assets of any public utility will be affected;
 - (iv) the protection of any council assets;
 - (v) whether persons who may be liable for injury caused by the placing of the container or bin are insured against the risk of injury;
 - (vi) whether the applicant has provided written indemnification to Council against liability arising from activities authorised by the permit; and
 - (vii) any other matter relevant to the circumstances of the application.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 Penalty units

3.2 Load limits on roads

- (a) A person must not, except with a permit, drive a vehicle on a road when the vehicle is over the prescribed weight determined by Council in accordance with the provisions of the Act and indicated on a sign pertaining to that road.
- (b) In deciding whether to issue a permit, Council or an authorised officer must take into consideration:
 - (i) the amount of the damage likely to be caused to the road by the vehicle for which the permit is required;
 - (ii) the type and weight of the vehicle;
 - (iii) the goods to be transported and the weight of those goods;
 - (iv) alternative roads that are available;
 - (v) the necessity to impose speed limits; and
 - (vi) any other matter relevant to the circumstances of the application.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

3.3 Council land – works and/or usage

- (a) A person must not, except with a permit:
- (i) erect or construct any building, undertake any building work, or deposit any waste or obstacle on or in any council land;
 - (ii) exclusively occupy or fence off any council land;
 - (iii) plant vegetation (except for lawn on a naturestrip) in any council land;
 - (iv) remove anything from council land;
 - (v) allow mud, clay, debris or material to be deposited on any part of a road or in on any council land;
 - (vi) damage or interfere with anything in, on or under a public place;
 - (vii) remove forest produce or firewood from council land or a road;
 - (viii) Act contrary to any provision or condition of use prescribed on a sign erected by Council.
- (b) Clause 3.3(a) does not apply to the placement of receptacles for household waste or recyclable materials provided they are removed before 12 noon the day following collection, or receptacles for other waste for which arrangements have been made with Council for collection.
- (c) In deciding whether to issue a permit, Council or an authorised officer must take into consideration the same factors listed in clause 3.1(b)(i) to (vii).
- (d) A person must not in a public place:
- (i) interfere with another person's reasonable use and enjoyment of that public place;
 - (ii) endanger or behave in a way likely to endanger health, life or property; or
 - (iii) enter onto any area, road or track upon which entry is prohibited.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

3.4 Access from public place

- (a) A person must not, except with a permit, drive a vehicle in a public place other than on that part of a road or vehicle crossing or temporary vehicle crossing formed or constructed for motor vehicles. Without limiting the former, where land adjoins or is adjacent or nearby to a public place, a person must not, except with a permit, use the public place for vehicular access to that land other than by use of the carriageway of a road formed or constructed for motor vehicles

- (b) Clause 3.4(a) does not apply to essential services vehicles and vehicles owned or operated on behalf of Council or other public body, for the purpose of undertaking authorised work.
- (c) In deciding whether to issue a permit, Council or an authorised officer must take into consideration:
 - (i) public safety factors;
 - (ii) whether alternative vehicle access is available;
 - (iii) the duration required for the vehicle access;
 - (iv) the protection of council assets;
 - (v) whether the assets of any public utilities are likely to be affected;
 - (vi) whether persons who may be liable for injury caused by the vehicle access are insured against that risk of injury;
 - (vii) whether the applicant has provided written indemnification to Council against liability arising from the access authorised by any permit;
 - (viii) the protection of vegetation and the environment, and
 - (ix) any other matter relevant to the circumstances of the application.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

3.5 Storage of private property on roads

- (a) A person must not, except with a permit, store or abandon any goods, chattels, plant, equipment, wood or vehicles on any part of a road or council land.
- (b) Where any goods or chattels, including any plant, equipment, wood or vehicle are placed on any part of a road or Council land without a permit, or in contravention of any permit condition, such goods or chattels may be removed and impounded by Council and the cost of removal, storage or disposal shall be paid to Council by any owner of any such item.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

3.6 Damage to Council property

A person must not deface, damage, remove or interfere with any Council assets on any Council land, including, but not limited to;

- (a) trees, shrubs or other vegetation;
- (b) waste and recycling receptacles;
- (c) signs and their supporting structures;
- (d) drains and culverts;
- (e) road infrastructure;

- (f) parking meters or similar devices;
- (g) fences and gates;
- (h) buildings;
- (i) monuments;
- (j) garden beds;
- (k) water or power supply systems;
- (l) security devices;
- (m) footpaths, kerbing and channels;
- (n) water features ;
- (o) public art or art works on public display; and
- (p) Council property not belonging to any defined class.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 4 – ROADS AND FOOTPATHS

4.1 Servicing of vehicles on roads

- (a) No person may on any road or Council land repair or dismantle any vehicle except to enable the immediate removal or mobilisation of a vehicle which has broken down.
- (b) No person shall cleanse or wash down any motor or motor vehicle on any road or council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.2 Trading of goods or services

- (a) No person shall without a permit:
 - (i) erect or place on any road or Council land a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services; or
 - (ii) sell or offer to sell goods or services on any road or Council land.
- (b) An itinerant trader must obtain a permit under this Local Law and in compliance with Council's footpath trading guidelines.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.3 Movable Signs – tables/chairs – goods for display and other structures

- (a) No person shall without a permit place or cause to be placed on a road or Council land any structure, sign, table, chair or goods for display.
- (b) If a structure, sign, table, chair or goods for display are placed on a road or Council land contrary to clause 4.3 (a), or in contravention of any permit conditions, an authorised officer may remove and impound such item or items if a warning has previously been given to a person who apparently owns or who has placed that item for display on the road or Council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.4 Street appeals

No person may without a permit solicit or collect on a road or Council land, or from house to house, any gifts of money, materials or subscriptions for any purpose.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.5 Distribution of handbills

No person may without a permit give out or distribute to by-standers or passers by on any road or Council land, any handbills, placards, notices, advertisements, books, papers or pamphlets.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.6 Processions, demonstrations & use of public address systems

- (a) A procession of persons or vehicles, a demonstration or use of a public address system must not take place on any road without a permit.
- (b) A permit for a procession or parade (including a demonstration involving a procession or parade) will provide for the specific route to be taken.
- (c) The applicant for the permit must provide all particulars of the permit to the local emergency services.
- (d) A procession of persons or vehicles coordinated for the purposes of a funeral is exempt from the requirement for a permit.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.7 Shopping trolleys

- (a) No person shall leave a shopping trolley on any road or Council land in any place other than an area designated for that purpose.
- (b) Any shopping trolley left on any road or Council land in any place other than in an area designated for that purpose may be removed by an authorised officer and impounded.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

4.8 Discharge of water prohibited

No person shall, without a permit or contrary to the conditions of the permit, cause or allow:

- (a) the direct or indirect flow of any irrigation water onto a road or Council land;
- (b) the discharge of water onto a road or Council land, with the exception of stormwater which drains to a legal discharge point provided by Council;
- (c) the discharge of water on to any land, including any land owned or occupied by that person, which enables such water to discharge onto a road or Council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 5 – BUILDING SITES

5.1 Stormwater protection

Where any building work is being carried out on any land, the owner, builder or appointed agent must ensure that the building site is developed and managed to prevent stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants to the satisfaction of Council or an authorised officer. This includes, without limiting the above, the adoption of measures to:

- (a) prevent any mud, dirt, sand, soil or stones being washed into the stormwater system; and
- (b) prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the stormwater system.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

5.2 Building work

- (a) The owner, builder, appointed agent, person undertaking building work or the operator of any vehicle associated with the building work must not allow mud, clay, debris or material to be deposited on any part of a road or in any public place.
- (b) The owner, builder, appointed agent or person undertaking building work, regardless of whether a building permit has been issued, must notify Council in writing at least 7 days before the commencement of the building work, including the delivery of any equipment or materials, of the proposed building work and of any prior damage to adjacent Council assets.
- (c) Any person undertaking building work must not damage Council assets or other infrastructure. Any person in breach of this requirement may be given a notice to comply by Council or an authorised officer, which may require the repair or reinstatement of any such assets.
- (d) The owner, builder, appointed agent or person undertaking building work must ensure that no entry to the building site takes place other than across a temporary vehicle crossing unless there is no constructed kerb and channel at any such entry point.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

5.3 Sanitary Facilities

- (a) The owner, builder, appointed agent or person undertaking building work must not undertake building work on a building site unless the building site is provided with a sewered toilet or a portable toilet, to the satisfaction of an authorised officer.
- (b) The owner, builder, appointed agent or person undertaking building work must remove any portable toilet on the building site on the completion of the building work.
- (c) The owner, builder, appointed agent or person undertaking building work must maintain and regularly clean any portable toilet on the building site to the satisfaction of an authorised officer.
- (d) The owner, builder, appointed agent or person undertaking building work must not discharge any sewage, effluent or other waste onto the building site and must dispose of all such waste at a site fully accredited and approved for such waste.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

5.4 Containment of waste

- (a) Where any building work is being carried out on any land the owner, builder, appointed agent or person undertaking building work must:
 - (i) only undertake building work if a refuse container is provided for the purpose of disposal of builder's refuse, and, provided the refuse container contains all builder's refuse on the building site to the satisfaction of Council, its size, design and construction will be at the discretion of the owner, builder, appointed agent or person undertaking the building work;
 - (ii) place the refuse container on the building site and keep it in place (except for such periods as are necessary to empty the refuse container) for the duration of the building work;
 - (iii) not place a bulk refuse container on any road, Council land or public place without a permit issued in accordance with clauses 3.1 or 3.3;
 - (iv) ensure that all builder's refuse which requires containment is placed in a refuse container;
 - (v) ensure that builder's refuse is not deposited in or on any land other than in accordance with this clause;

- (vi) ensure that builder's waste is not deposited in or over any part of the stormwater system;
 - (vii) manage the placement and operation of the refuse container to the satisfaction of an authorised officer;
 - (viii) ensure that all windblown waste is placed in a refuse container; and
 - (ix) provide for the separation of waste as may be required from time to time by Council or the Environment Protection Authority for the purposes of recycling.
- (b) The requirement to provide a refuse container referred to in clause 5.4(a) may be waived at Council's or an authorized officer's discretion.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

5.5 Disposal of waste

- (a) Where any building work is being carried out on any land the owner, builder, appointed agent or person undertaking building work must:
- (i) empty the refuse container referred to in clause 5.4(a) whenever full, dispose of the contents at an approved disposal site and, if necessary, provide a replacement refuse container as part of the emptying process; and
 - (ii) remove and lawfully dispose of all builder's refuse within 7 days of completion of the building work or issue of an occupancy permit, whichever occurs last.
- (b) The driver of any vehicle involved in placing or removing a refuse container referred to in clause 5.4(a) must access the building site by way of a temporary vehicle crossing, or where otherwise permitted by an authorised officer in accordance with that permission, or as otherwise provided in clause 5.2(d).

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

5.6 Asset protection permits

- (a) The owner, builder or appointed agent must obtain an Asset Protection Permit prior to carrying out any building work, or allowing any building work to be carried out, on any land.
- (b) An Asset Protection Permit will allow a person to enter land from a road other than by a permanently constructed vehicle crossing if Council assets in the reasonable opinion of Council or an authorised officer are likely to be damaged.
- (c) The Asset Protection Permit may be subject to such conditions as determined by Council or an authorised officer and may include conditions relating to the following:
 - (i) asset and environment protection works to be done;
 - (ii) payment of a security bond;
 - (iii) erection of temporary fencing;
 - (iv) repair, replacement or reinstatement of any or all Council assets damage;
 - (v) installation of any temporary vehicle crossing before the commencement of any building works or delivery of any materials to the land;
 - (vi) excavation, demolition, construction, replacement and reinstatement standards to be met;
 - (vii) the fixing of timeframes for the commencement and completion of any excavation, demolition, construction, replacement and reinstatement works; and
 - (viii) the carrying out of any works to minimise public risk.

Penalty

First offence – 10 Penalty units

Second or subsequent offence – 20 penalty units

5.7 Security bond

- (a) The amount of any security bond required under clause 5.6(c)(ii) must be proportionate to the likely costs of repairing any potential damage to any Council asset arising from the building works.
- (b) Where Council so determines, it may accept an alternative form of security to a security bond.
- (c) Upon completion of the building works, the amount of the security bond may be returned in full or in part:

- (i) may be retained by Council in full or in part to offset the costs of repairing any damage or replacing any Council asset damaged, destroyed or removed; or
- (ii) may be refunded to the person who lodged it, upon Council's or an authorized officer's satisfaction that no damage has been caused, or that any damage caused has been repaired by, or on behalf of that person to Council's or an authorized officer's satisfaction.

5.8 Inspections

- (a) An authorised officer may enter into or upon any building site at any reasonable time for the purpose of undertaking an inspection of the building site including any portable toilet, plant or any other things placed on the land.
- (b) If an authorised officer identifies any damage that appears to result from non-compliance with this Local Law, the authorised officer may direct the owner, builder, appointed agent or person undertaking building works to reinstate the damage within a specified time and to a specified standard. The authorised officer will provide the owner, builder, appointed agent or person undertaking building works with a notice to comply, either at the time of the inspection or within a reasonable timeframe.

PART 6 – KEEPING OF ANIMALS, BIRDS, POULTRY

6.1 Animals, birds (including pigeons), and poultry

- (a) No person may without a permit keep any livestock, birds (including pigeons), or poultry other than a domestic animal, fowl hen or song bird on any property in a residential area.
- (b) No person shall allow to remain on any property any noisy animal, bird (including pigeons), or poultry which in the opinion of an authorised officer cause a nuisance to any person residing in the neighbourhood
- (c) For the purpose of this Part, noises emanating from such animals, birds (including pigeons), or poultry shall not be deemed to cause a nuisance to any person unless objections in writing have been lodged with Council from more than one resident of immediate neighbouring properties
- (d) Pigeons shall not be kept on any property unless in a pigeon loft constructed to Council's requirements.
- (e) Except on land in a rural area, an owner or occupier of land shall not keep:
 - (i) a rooster
 - (ii) a goose or gander
 - (iii) a turkey or
 - (iv) a peacock or peahen

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.2 Dogs

- (a) No person may without a permit keep more than two dogs on any property in a residential area or commercial area, or on any property in a rural area which comprises less than eight hectares.
- (b) No dog shall be housed or confined in an enclosure or tethered at a lesser distance than 5 metres from any dwelling on an adjoining property, and such enclosure shall comprise an area of not less than ten square metres in respect of each dog being confined.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.3 Cats

- (a) No person may without a permit keep more than two cats on any property in a residential area or commercial area, or on any property in rural area with comprises less than eight hectares.
- (b) No person shall keep or allow to be kept a cat which in the opinion of an authorised officer causes a nuisance or damage to any person, property or the environment.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.4 Poultry

- (a) No person shall keep on any property in a residential area or commercial area a number of fowl hens greater than ten mature birds.
- (b) Poultry shall not be kept on any property other than in a poultry house which is:
 - (i) at least 20m from the property frontage;
 - (ii) at least 3m from any other street or road;
 - (iii) at least 12m from any dwelling whether on the same or adjoining property, and an enclosed run attached to a poultry house must also comply with this requirement.
- (c) A poultry house shall consist of a minimum floor area of five square metres to house ten fowls.
- (d) An owner or occupier of land on which a poultry house is located must ensure that it has:
 - (i) a location on ground which is well drained; and
 - (ii) weatherproof walls of approved materials, provided that wire netting may be used in a portion of one wall; and
 - (iii) a weatherproof roof of approved materials; and
 - (v) a wall height of not more than 2.1 metres.
- (e) The provisions of this Part referring to poultry shall not apply to any commercial poultry farm.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.5 Vermin control

- (a) The owner or occupier of any property shall keep the area of land within two metres of a poultry house, pigeon loft, bird cage or enclosure free from all dry grass, weeds, waste and other materials capable of harbouring vermin.
- (b) No person shall keep on any property where poultry or birds are kept, any food for their consumption unless such food is kept in vermin-proof receptacles or buildings.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.6 Cleanliness

- (a) The owner or occupier of any property shall cause every poultry house, pigeon loft, bird cage or enclosure, to be thoroughly cleansed as often as may be necessary and shall keep the same in a clean and sanitary condition at all times.
- (b) Droppings and waste from any animal, bird or poultry shall be removed from the property from time to time or as frequently as may be directed by an authorised officer so as not to cause a nuisance or offensive conditions.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.7 Horses

- (a) No person may without a permit keep any horse on any property in a residential area or commercial area.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (b) A permit to keep a horse on any property in a residential area or commercial area shall not be granted unless the property concerned:
 - (i) is of an area of not less than 500 square metres; and
 - (ii) has an adequate water supply; and
 - (iii) is securely fenced on all sides.
- (c) A permit for the keeping of a horse on any property in a residential area or commercial area will be assessed on the following basis:
 - (i) the zoning of the land;
 - (ii) the proximity of adjoining properties;
 - (iii) the amenity of the area;
 - (v) the likely effects on adjoining owners;

- (vi) the adequacy of shedding and fencing; and
 - (vii) any other matters relevant to the circumstances associated with the application.
- (d) Prior to the assessment of an application for a permit under this clause, the applicant must advise all adjoining owners of the application in writing and of the fact that they may make written comments on the application to Council within 14 days of the advice of the application, and provide evidence to Council of such notification.
- (e) In assessing an application for a permit as required by clause 6.7(a), Council must take into consideration the views expressed in writing by adjoining landowners.

6.8 Control of disease

The owner or occupier of any property on which there is kept any animal, bird, or poultry which develops any contagious or infectious disease which is or is likely to be injurious to any human being or other animal, shall cause such animal, bird, or poultry as the case may be, to receive appropriate treatment from a qualified Veterinarian or be destroyed and properly disposed of to the satisfaction of an authorised officer.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

6.9 Animal excrement

- (a) No person in charge of an animal shall allow any part of the animal's excrement to remain on a road or Council land.
- (b) A person in charge of a domestic animal must carry a suitable receptacle for the removal of that animal's excrement from a road or Council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 7 – WASTE

7.1 Public litter bin

No person shall place any domestic waste, builder's refuse, trade or commercial waste in any public litter bin located on a road or Council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

7.2 Security of mobile waste bins

An occupier of a property must ensure that any mobile waste bin put out on a road in order for its contents to be collected by, or on behalf of, Council is returned to that property as soon as reasonably practical after the contents of the mobile waste bin have been collected and, in any event, no later than 12 noon on the following day on which the contents of the mobile waste bin have been collected.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

7.3 Use of mobile waste bins

- (a) Except for the purpose of placing a mobile waste bin on a road for its contents to be collected by, or on behalf of, Council, a person shall not remove a mobile waste bin from the property to which it has been allocated by, or on behalf of, Council, except in accordance with an order or direction from an authorised officer of Council.
- (b) No person shall use a mobile waste bin for any purpose other than the storage and disposal of waste material in accordance with the directions given by Council from time to time.
- (c) Any person who is in possession of a mobile waste bin, which is not at the property to which it has been allocated by Council, must notify Council in writing of the location of the mobile waste bin and make it available for retrieval by Council in accordance with any directions of Council.
- (d) In accordance with section 224(7) of the Act an authorised officer may enter any land or building in the municipal district of Council at any reasonable time to retrieve any mobile waste bin which is present, or being used, on the land or in the building in breach of clause 7.3(a), 7.3(b) or 7.3(c).

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 8 – LIVESTOCK

8.1 Disposal of livestock

- (a) No person shall dispose of dead livestock or part thereof in a manner that, in the opinion of an authorised officer, is likely to cause a nuisance, or detriment to the environment or to the health of any person.
- (b) No person shall allow any dead livestock or part thereof to remain on any road or Council land.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.2 Provision of effective fencing

- (a) The owner and/or occupier of land used for the grazing of livestock must take all reasonable care to ensure that fencing is adequate for the purpose of preventing livestock from straying onto any road.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.3 Livestock at large

- (a) The occupier of land used for the grazing of livestock must take all reasonable care to ensure that livestock are securely confined within a fenced area at all times.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.4 Droving of livestock

No person shall drive livestock on any road without a livestock droving permit having first been granted by Council.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.5 Droving permit applications

An application for a livestock droving permit:

- (a) must be made in the appropriate form; and
- (b) must be accompanied by a certificate from a registered veterinarian regarding the health and fitness of livestock to be driven.

8.6 Droving permit conditions

An authorised officer shall apply appropriate conditions on a permit taking into consideration the same requirements referred to in clause 8.8 of this Local Law.

8.7 Grazing of livestock

No person shall graze livestock on any road without first obtaining a grazing permit from Council.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.8 Movement of livestock

A person who is in charge of movement of livestock on any road does not require a permit under this Local Law but must comply with the following requirements:

- (a) all livestock shall reach their destination by the most direct route consistent with the requirements of this Local Law and any direction of an authorised officer;
- (b) livestock are only to be on the road for the time it reasonably takes to move them to their destination;
- (c) as far as possible, the livestock are moved during daylight hours;
- (d) comply with any directions from an authorised officer with regard to:
 - (i) the route to be followed; and
 - (ii) the protection from damage likely to be caused by livestock to the road, vegetation, protected flora and fauna habitat any construction on the road, road infrastructure or private property.
- (e) the livestock are supervised and under effective control by a person who is competent in the management of livestock;
- (f) any livestock excretion deposits on the road are removed if required by an authorised officer for prevention of danger to other road users; and
- (g) comply with all the requirements of the guidelines prepared by the Roads Corporation and referred to in the *Road Safety (Road Rules) 2009*

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.9 Non application of clause

- (a) The provisions of clauses 8.1 to 8.8 do not apply to livestock being transported by vehicle or other means in circumstances where there is no contact between the livestock and the road.
- (b) The provisions of clauses 8.1 to 8.8 do not apply to a horse being ridden or led by some attachment in accordance with this local law.

8.10 Livestock movement between parts of one farm

- (a) The owner or occupier of any farm property where there are more than twenty movements of livestock in a calendar year either between two contiguous parts of one farm or between parts of one farm separated only by parts of the same farm must ensure the livestock are moved through the farm and not along any road.
- (b) Where a farm property abuts both sides of a dividing road, the owner or occupier of the farm property must ensure the livestock are moved directly across the dividing road and not along any road wherever, in the opinion of an authorised officer, it is practical to do so.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.11 Prohibited roads

- (a) Council may, by resolution, specify roads or parts of roads which shall not be utilised for the droving, movement or grazing of livestock and such roads or parts of road shall be known as prohibited roads. Roads that will be considered as prohibited roads are roads that have been designated as High Conservation Value roads in Council's Roadside Management Plan.
- (b) No person shall drive, move or graze livestock on a prohibited road without first obtaining a permit from Council, which may be refused in Council's or an authorized officer's absolute discretion.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.12 Responsibility of owners or occupiers of farm properties

The owner or occupier of any farm property, to or from which livestock are being driven, moved or grazed, shall be responsible to ensure:

- (a) adequate surface treatment measures in accordance with Council's requirements are applied between the road and each property access point; and
- (b) a vehicular crossing constructed in accordance with Council's requirements is provided and maintained at points where livestock either enter or exit the farm property to a road.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.13 Right of way

- (a) Travelling livestock (being livestock being driven in accordance with a valid livestock droving permit) have right of way over other stock on the road.

- (b) If a person responsible for livestock on a road is notified of the approach of travelling livestock, the person must remove the livestock for which he or she is responsible to an adjoining location or keep them separate from the travelling livestock by means suitable for the purpose.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.14 Warning signs

- (a) A person involved in droving, movement or grazing of livestock must ensure that adequate warning of the presence of livestock on the road is given to other road users or potential road users.
- (b) Apart from any other warnings considered appropriate by the person engaged in such activities under sub-clause 8.14(a), such person must display signs conforming to guidelines prepared by the Roads Corporation and referred to in the Road Safety Road Rules 2009.
- (c) A person involved in droving, movement or grazing of livestock must ensure that any signs referred to in sub-clause 8.14(b) are removed from the road at the time of completing such droving, moving or grazing of livestock.
- (d) In addition to complying with any permit or other conditions relating to warning signs to other road users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of livestock must have regard to:
 - (i) any Australian Standards for such purposes;
 - (ii) any other signage necessary for road safety having regard to topography, conditions, livestock type and numbers; and
 - (iii) any other requirements of the Roads Corporation.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

8.15 Condition of livestock

- (a) When doubt arises as to the health or fitness of livestock to be or being driven, moved or grazed, or there develops a potential risk from such livestock to the health or fitness of other livestock in the municipal district, an authorised officer may require that a registered veterinarian examine the livestock to be or being driven, moved or grazed. The veterinarian shall be appointed by Council or the authorized officer at the cost of the owner, drover or person in charge of the livestock.
- (b) In the event that the registered veterinarian confirms that the livestock are unhealthy or unfit to be driven, moved or grazed the authorised officer may refuse to allow such droving, movement or grazing to commence or continue.

PART 9 – CONSUMPTION AND POSSESSION OF LIQUOR

9.1 Liquor in specified areas

A person must not, without first obtaining a permit, nor otherwise than in accordance with the conditions of such a permit,

- (i) on a road;
- (ii) in or at a public place;
- (iii) on private land, unless at the invitation of the owner or occupier of that land; or
- (iv) in or on a vehicle at any of these locations,

consume any liquor or have in his or her possession or control any liquor other than liquor in a sealed container in the following areas:

- (a) in or on any Council land which is located or contained within the area shown on Schedule 1,3,5 and 7
or
- (b) in any other place specified by the Council for the purposes of this clause and designated by signs

Penalty:

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

9.2 Places and times when alcoholic beverages may be consumed subject to restrictions

- (a) A person must not, between the hours of 10pm on any day and 8am the next day consume an alcoholic beverage, or have possession or control of, any alcoholic beverage other than in a sealed container:
 - (i) in or on any Council land which is located or contained within the area shown on Schedule 2,4,6 and 8
or
 - (ii) in any other place specified by the Council for the purposes of this clause and designated by signs

Penalty:

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

9.3 Power of Council to extend area

- (a) The Council, or the Chief Executive Officer, may for such period or periods as the Council, or Chief Executive Officer, deems appropriate proclaim any area in the municipality as being an area to which clause 9.1 of this Local Law applies.

- (b) Proclamations under clause 9.3(a) must be advertised in a newspaper generally circulating in the area prior to the commencement of the relevant period.

9.4 Permit

In considering whether to grant an application for a permit under clause 9.1 of this Local Law, Council must have regard to:

- (a) the location at which it is proposed to consume or possess liquor or have liquor under the applicant's control;
- (b) the time at which it is proposed to consume or possess liquor or have liquor under the applicant's control;
- (c) the purpose for which it is proposed to consumer or possess liquor or have liquor under the applicant's control;
- (d) whether, if the application is granted, the applicant will or is likely to engage in behavior which constitutes or may constitute a nuisance;
- (e) whether the grant of the application will be detrimental to health or safety;
- (f) whether the grant of the application will affect the enjoyment of a public or other place; and
- (g) any policy or guidelines adopted by Council from time to time.

9.5 Power to direct

- (a) If an Authorised Officer reasonably suspects that a person is in contravention of or has contravened this Local Law, he or she may direct the person to dispose of the contents of any unsealed container.
- (b) A person to whom a direction is given under clause 9.5(a) must comply with that direction.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

PART 10 - GENERAL

10.1 Evidentiary Provisions

In any proceedings for an offence against this Local Law, if Council, an informant or a person authorised by Council to institute proceedings avers:

- (a) that the:
 - (i) road on; or
 - (ii) public place in or at; or
 - (iii) stationary vehicle in or on; or
 - (v) vacant private land onwhich the offence occurred was located within the municipal district; or
- (b) that the offence occurred:
 - (i) on a road; or
 - (ii) in or at a public place; or
 - (iii) in or on a stationary vehicle; or
 - (iv) on vacant private land; or
- (c) that the offence occurred in or on a stationary vehicle:
 - (i) on a road; or
 - (ii) in or at a public place; or
- (d) that a beverage was liquor when the offence occurred; or
- (e) that the accused consumed liquor; or
- (f) that the accused had liquor in his or her possession; or
- (g) that the accused had liquor in his or her control; or
- (h) that the liquor was otherwise than in a sealed container; or
- (i) that an Authorised Officer reasonably suspected that the accused:
 - (i) was in contravention of this Local Law; or
 - (ii) had contravened this Local Law; or
- (j) that the Authorised Officer directed the accused to dispose of the contents of an unsealed container; or
- (k) that the accused:
 - (i) failed to comply; or
 - (ii) refused or neglected to complywith the direction of the Authorised Officer -

The averment is evidence:

- (A) that the:
 - (i) road on; or
 - (ii) public place in or at; or
 - (iii) stationary vehicle in or on; or

- (iv) vacant private land on -
which the offence committed was located within the municipal district; or
- (B) that the offence occurred:
 - (i) on a road; or
 - (ii) in or at a public place; or
 - (iii) in or on a stationary vehicle; or
 - (iv) on vacant private land; or
- (C) that the offence occurred in or on a stationary vehicle:
 - (i) on a road; or
 - (ii) in or at a public place; or
- (D) that a beverage was liquor when the offence occurred; or
- (E) that the accused consumed liquor; or
- (F) that the accused had liquor in his or her possession; or
- (G) that the accused had liquor in his or her control; or
- (H) that the liquor was otherwise than in a sealed container; or
- (I) that an Authorised Officer reasonably suspected that the accused:
 - (i) was in contravention of this Local Law; or
 - (ii) had contravened this Local Law;
- (J) that the Authorised Officer directed the accused to dispose of the contents of an unsealed container;
- (K) that the accused:
 - (i) failed to comply; or
 - (ii) refused to comply
with a direction of the Authorised Officer -

as the case requires.

10.2 Permits

- (a) A person requiring a permit to do anything under this Local Law must make written application to Council and enclose the relevant fee.
- (b) Any fee which is payable for a permit is to be determined by resolution of Council.
- (c) Council or an authorized officer on its behalf may exempt any person or any particular activity from the need for a permit.
- (d) Council or an officer authorised on its behalf may require the applicant to provide more information before it deals with an application.
- (e) In considering an application for a permit, Council or an officer authorised on its behalf, may require the applicant to give public notice of such application and may take into consideration any response to that notice, any policy or guidelines, any objections or submissions, any comments from other authorities, government departments or

community organisations, and any other matter that is considered relevant.

- (f) Council or an officer authorised on its behalf shall consider any such application and may grant a permit subject to such conditions as Council or such officer may in any particular case determine, in line with standard conditions applicable from time to time and any other conditions relevant to the particular application, or may refuse to grant a permit.
- (g) The refusal by an officer to grant a permit is of no effect until the refusal has been ratified by Council unless Council has delegated to the officer the authority to refuse permit applications which do not meet specified criteria.
- (h) No person shall obtain or attempt to obtain a permit by willfully making or causing to be made any false representation or declaration whether orally or in writing.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (i) Any permit issued under this Local Law shall be at the pleasure of Council and may be amended, suspended or revoked at any time if Council or an authorised officer considers that there has been:
 - (i) a material misstatement or concealment of facts in relation to the application for a permit;
 - (ii) any material mistake in relation to the issue of the permit;
 - (iii) any material change of circumstances which has occurred since the issue of the permit;
 - (iv) a failure to comply with the conditions under which the permit was issued; or
 - (v) a failure to comply with a notice to comply within the time specified in the notice to comply.
- (j) Council or an authorised officer must notify the holder of a permit of Council's or the authorised officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
- (k) Unless it is sooner revoked or renewed, a permit will continue in force for the period specified in the permit, or if no period is specified, for a period of 12 months from the date of its issue or renewal.
- (l) A permit holder must not assign, transfer or encumber his or her permit.
- (m) Council may correct any permit issued under this Local Law if the permit contains a clerical error, an error arising from an accidental slip or omission, or an evident and material miscalculation of figures or a material mistake in the description of a person, thing or property referred to in the permit.

10.3 Powers of Authorised Officers

An authorised officer, on becoming aware of a situation or activity which breaches this Local Law or may be reasonably suspected to breach this Local Law may, at his or her discretion:

- (a) give a verbal direction or written notice to comply to do such things as are necessary to remedy that situation and/or cease the activity; and/or
- (b) issue an infringement notice; or
- (c) commence a prosecution.

10.4 Directive powers

A person who is given a direction by an authorised officer to remedy a situation or cease an activity which is contrary to this Local Law must comply with that direction forthwith.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

10.5 Compliance with notices

- (a) A person who is served with a notice to comply pursuant to clause 10.3(a) must comply with that notice.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (b) If a person on whom a notice is served under any clause in this Local Law fails to comply with the conditions of that notice, then in addition to enforcing the prescribed penalty, Council may arrange to carry out such works as are necessary to ensure compliance with such notice, and all costs incurred shall be at the expense of the person on whom the notice was served.

10.6 Power to act in urgent circumstances

- (a) The Council may, where a person has failed to comply with any requirement of this Local Law or any permit or notice issued in accordance with the Local Law, take any action considered necessary to prevent any danger to the public or environment, or any nuisance arising, provided that:
 - (i) Council considers that the circumstances are sufficiently urgent and the time necessary, or that the potential difficulty in serving a notice to comply may place a person, animal, land or the environment at risk or in danger of detrimental effect;
 - (ii) the Chief Executive Officer of Council or his/her delegate, not being the authorised officer administering clause 10.6, approves of the proposed action; and

- (iii) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the person to whom a notice has been issued.
- (b) Action taken by Council under this clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.
- (c) Council or the person authorised shall issue a notice of urgent works to the person responsible where possible prior to the remedial works being undertaken or as soon as possible thereafter.
- (d) Any costs incurred by Council in undertaking any urgent actions will be borne by the person to whom the notice has been issued.

10.7 Delegations

Council may delegate to an authorised officer the power to sign, issue, revoke or cancel any notice, order, or permit on behalf of Council and do any act, matter or thing in relation to this Local Law.

10.8 General impoundment conditions

- (a) An authorised officer may seize and impound any goods, chattels, animals, birds, items or things that contravene this Local Law, are in contravention of any condition placed on any permit issued under this Local Law or are considered, in the opinion of an authorised officer, to pose a risk to public safety, the environment or to Council assets.
- (b) If an authorised officer has impounded an animal or other thing in accordance with this Local Law, Council may refuse to release it until the appropriate fee or charge for its release has been paid to Council.
- (c) Any release fee is to be determined by resolution of Council.
- (d) The costs and expense of the seizure and impoundment of any item or thing shall be paid by the owner or person acting on behalf of the owner to Council and until so paid shall constitute a debt owing by such owner to Council and is recoverable summarily as a debt before the Magistrates' Court or in any Court of competent jurisdiction.
- (e) As soon as possible after impoundment, the authorised officer will, if practicable, notify the owner or person responsible for the animal or other thing which has been impounded advising the fees and charges payable and time by which the animal or other thing must be retrieved, and the animal or other thing impounded will be released when the fees and charges are paid.
- (f) If after 28 days from the date of impoundment, an impounded animal or other thing has not been retrieved, an authorised officer may take action to dispose of such impounded animal or other thing either by sale (public auction, public tender or private treaty), by disposal at a municipal land fill or transfer station or given away as the Chief Executive Officer thinks fit.

- (g) When the identity or whereabouts of the owner or person responsible for the impounded animal or other thing is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and once satisfied that all reasonable efforts have been made and the identity or whereabouts is still unknown, may proceed to dispose of the animal or other thing.
- (h) Any proceeds from the disposal of impounded animals or items under this Part will be paid to the owner except for the reasonable costs incurred by Council in the administration of this Local Law.
- (i) In the event that the owner cannot be identified or located within one (1) year of impounding any animal or other thing, any proceeds as described in clause 10.8(g) will be paid into the municipal fund.
- (j) A person must not, except with the authority of an authorised officer or pursuant to an order of a Court, remove, alter or interfere in any way with an animal or other thing, seized or detained by an authorised officer in the exercise of his powers, functions or duties under this Local Law.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (k) Council nor any authorised officer nor any officer, servant, agent or contractor of Council shall be liable to any person for any damage howsoever done or caused to, or for any loss sustained in respect of any property seized and detained, sold, disposed of or destroyed pursuant to the provisions of this Local Law.
- (l) Notwithstanding anything herein contained, full responsibility for any damages caused as a result of any impoundment under this Local Law is to be borne by the owner or person responsible at the time of the impounding or seizure of any item or other thing.

10.9 Other offences

- (a) A person must not refuse or neglect to furnish information to an authorised officer when required under this Local Law to do so.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (b) A person must not make an oral or written statement to an authorised officer discharging a function or duty under this Local Law knowing it to be false or misleading.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (c) A person must not assault, obstruct, or attempt to obstruct, threaten, abuse, insult, intimidate, or attempt to intimidate any authorised officer in the exercise of his powers, functions or duties under this Local Law.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

- (d) A person must not fail to state his full name and address of his usual place of residence or state a false name or address to an authorised officer when required under this Local Law to do so.

Penalty

First offence – 10 penalty units

Second or subsequent offence – 20 penalty units

10.10 Infringement notices

- (a) To avoid prosecution where an authorised officer has issued an infringement notice for breach of this Local law, the penalty indicated should be paid within twenty-eight (28) days from the date of issue of the infringement notice.
- (b) Council or an officer authorised on its behalf may at any time withdraw an infringement notice either as a result of consideration of any internal review or with a view to prosecuting for an offence.
- (c) In the event of the failure of a person served with an infringement notice to pay the amount specified within 28 days of the issue of the notice, or such further time as Council or an officer authorised on its behalf may permit, Council or the officer authorised on its behalf may pursue the matter and empower any person so authorised to prosecute for an offence.
- (d) In addition to any penalties imposed by an infringement notice, the person committing an offence under this Local Law must pay to Council any expenses incurred by Council in rectifying the consequence of the offence.
- (e) The fixed penalty in respect of an infringement notice is 2 penalty units unless otherwise prescribed in Schedule 9.

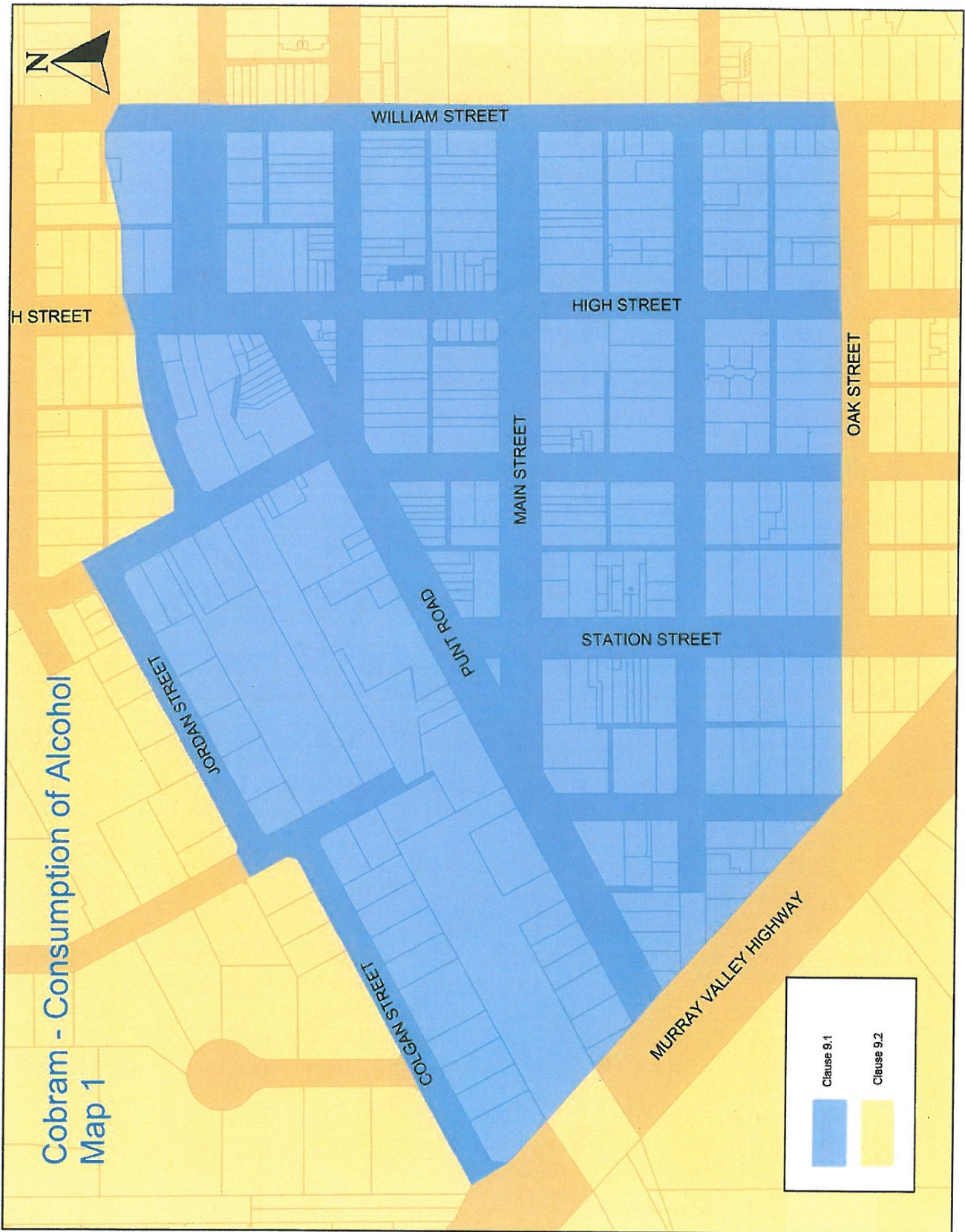
10.11 How is payment to be made?

Any person issued with an Infringement Notice may pay the penalty indicated at Council offices or by mail to the Moira Shire Council, PO Box 578, Cobram 3644 or other method prescribed in the notice.

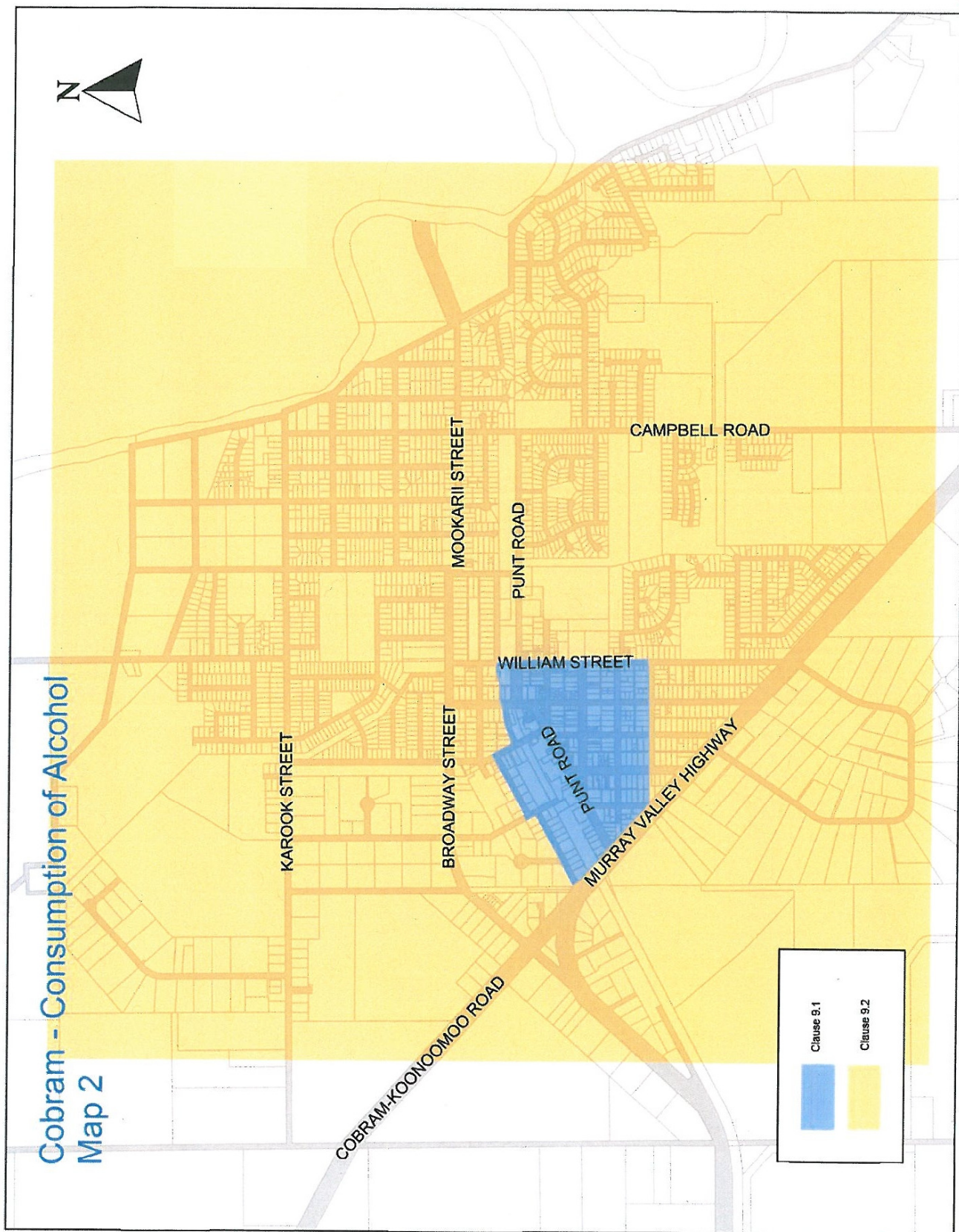
10.12 Do you have to accept the notice?

Any person issued with an infringement notice is entitled to disregard the Notice and defend the prosecution in the Magistrates' Court or in any Court of competent jurisdiction.

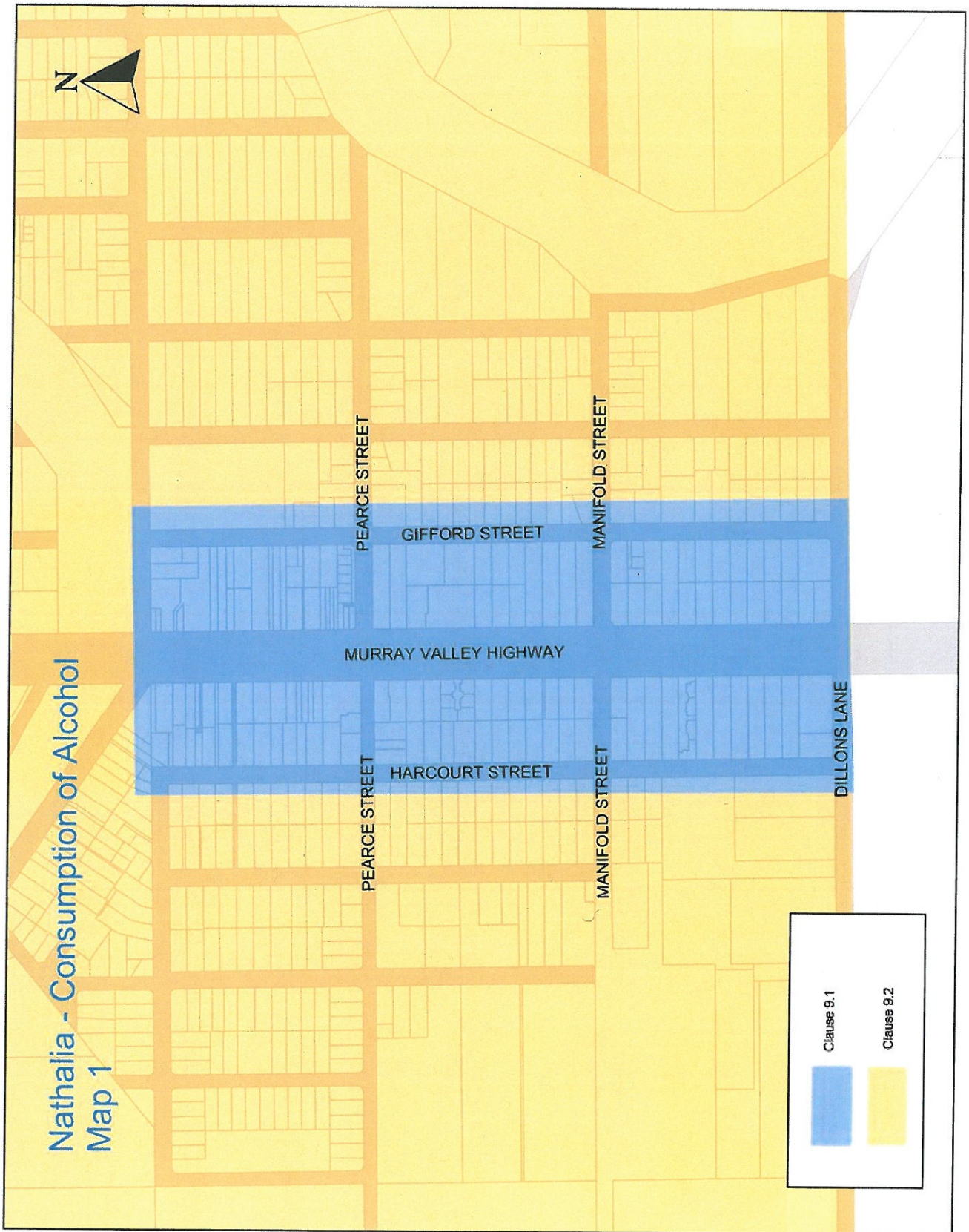
Schedule 1



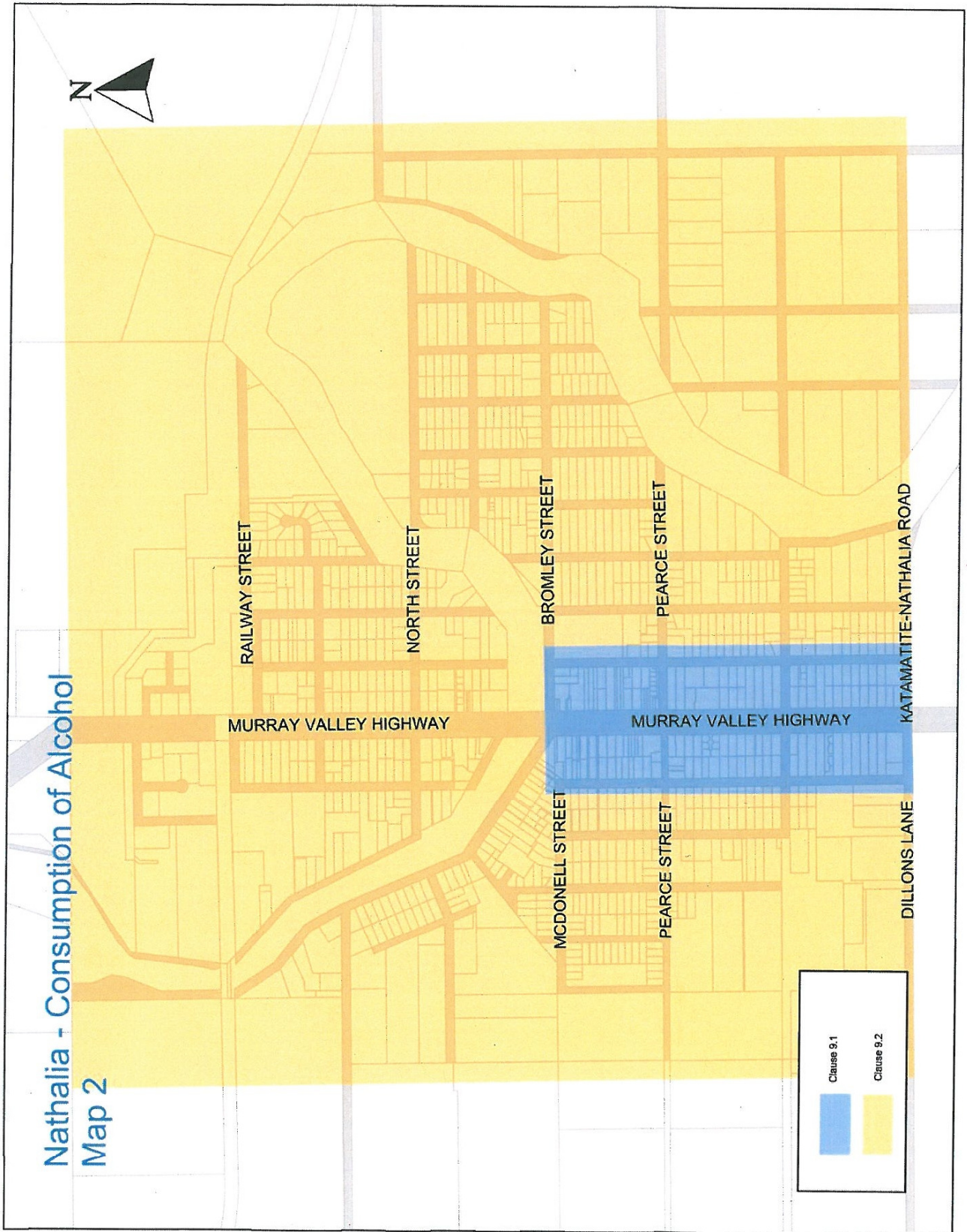
Schedule 2



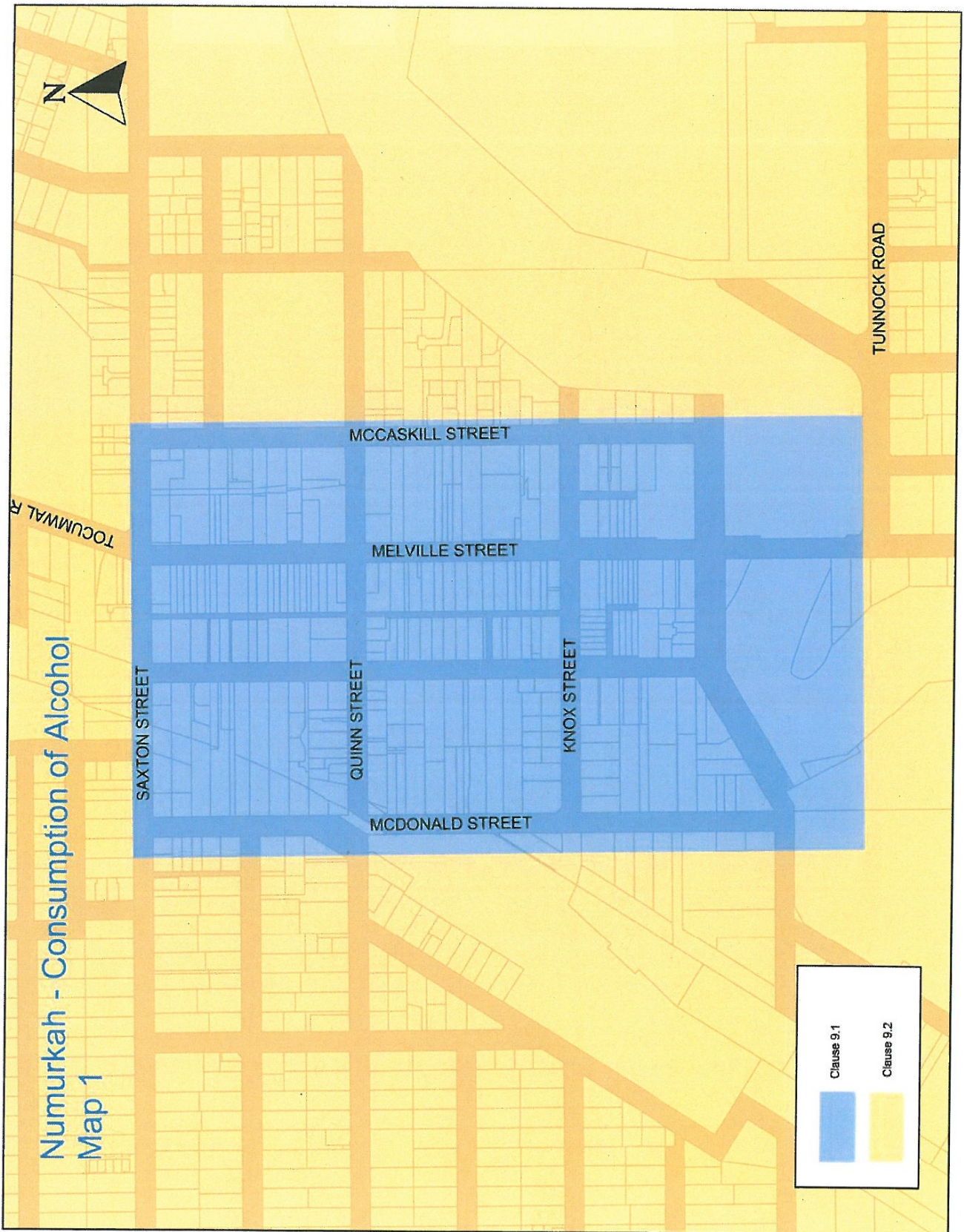
Schedule 3



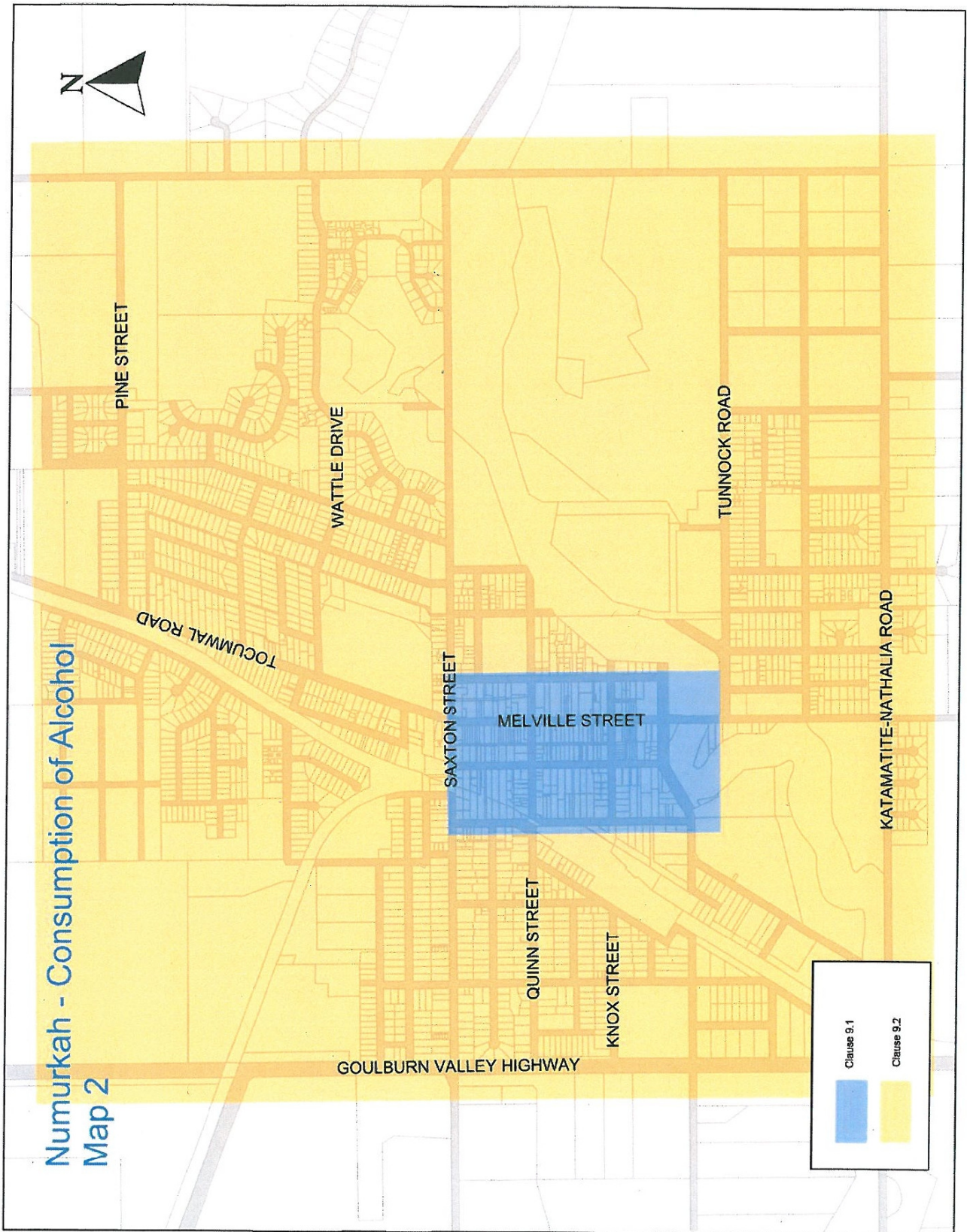
Schedule 4



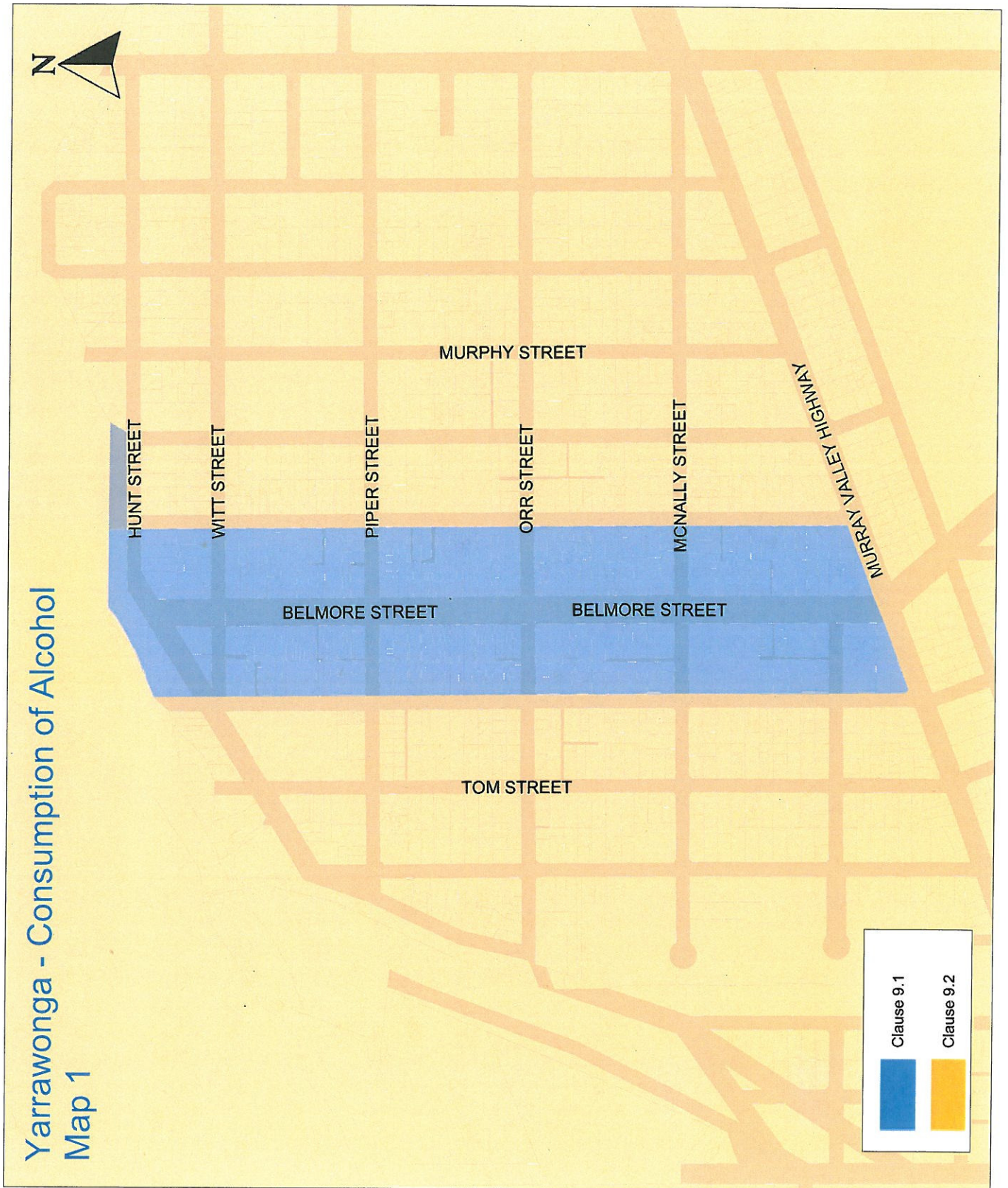
Schedule 5



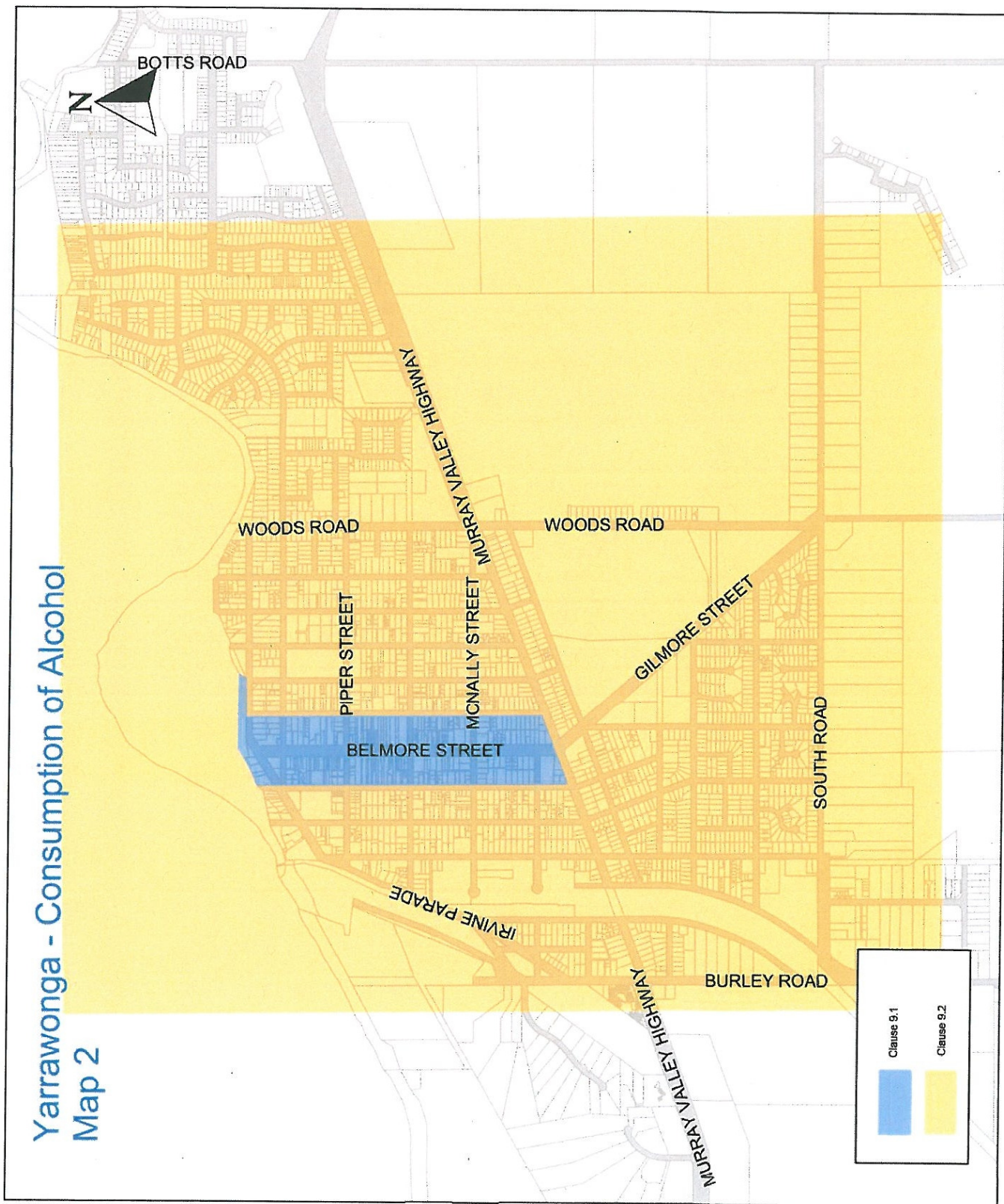
Schedule 6



Schedule 7



Schedule 8



MOIRA SHIRE COUNCIL

SCHEDULE 9

PENALTIES FIXED FOR INFRINGEMENTS

Clause No.	Offence	Penalty \$

This document is issued by the Moira Shire Council.

The **COMMON SEAL** of the)
MOIRA SHIRE COUNCIL)
was affixed hereto by authority)
of the Council on the day)
of 2013 in the presence of:)

Chief Executive Officer

Notices of the proposal to make and of the making of this local law were included in the Victoria Government Gazette dated 26 September 2013 and 28 November 2013 respectively.

Public Notice of the proposal to make and confirmation of the making of this Local Law were inserted in the Cobram Courier, Numurkah Leader and Yarrawonga Chronicle newspapers on 25 September 2013 and 27 November 2013 respectively.

A copy of this Local Law was forwarded to the Minister for Local Government on 2 December 2013.

.....
Chief Executive Officer

Certification of Local Law No. 1 of 2013

This is to certify that this is a true copy of the Moira Shire Council and that we have informed ourselves of the legislative requirements necessary to giving validity to such Local Law and as to our observance and belief that such requirements have been fulfilled. And we further certify that such Local Law came into force on 1 December 2013.

Signed thisDay of 2013

Mayor

Chief Executive Officer.....