

CITY OF BALLARAT
Community Local Law 2017

Part 1 – Preliminary, Objectives and Definitions

Included in this Local Law, where appropriate, are examples and Discretion Guidelines to which the Council and its staff must have regard to in exercising discretions under this Local Law.

Reference is also made throughout this Local Law to the other Acts, Regulations, Rules and documents, as amended from time to time, but these documents are not incorporated by reference into this Local Law.

If a provision of any document incorporated by reference, or referred to, in this Local Law is inconsistent with any provision in this Local Law (excluding State and Commonwealth Legislation and the Regulations made under that Legislation and any relevant Planning Scheme), the provision in this Local Law prevails.

9. DEFINITIONS

In this Local Law, unless the context or subject matter indicates otherwise, definitions are as in the *Local Government Act 1989* indicated by the words '*as in the Act*'. Other words and phrases have the respective meanings assigned:

WORDS AND PHRASES	MEANING OR EXTENDED MEANING
Act	Means the <i>Local Government Act 1989</i> .
Abandoned Vehicle	Means a Vehicle left on Council Land or a Road where the registered owner cannot be contacted by an Authorised Officer or Delegated Officer and which, in the opinion of that Officer, has been abandoned.
Advertising Sign	Means any board, notice, structure, banner, flag or other similar device, including signs on a Vehicle, with or without words, symbols or recognisable graphics, used for the purpose of soliciting sales or promoting a brand or person or notifying people of an adjacent property, organisation, business, or event or directing people to a place, whether real, internet-based or electronic, where goods and/or services may be obtained.
Aerodrome Manager	Means the person appointed by the CEO to manage Ballarat Aerodrome.
Aerodrome Movement Area	Means that part of the Ballarat Aerodrome defined in Schedule 2.
Alcohol	Has the same meaning as 'Liquor'.
Alcohol Free Area	Means an area of, or in, any Municipal Place, which has been declared by the Council as an "alcohol free" area and has appropriate signage erected.
Allotment	Means any land in separate ownership or occupation.
Animal	Excludes a Person but includes, although is not limited to, any of the species or groups listed in the first column of the <i>Table of Animal Numbers and Types</i> in Clause 22 (Keeping Animals), and includes Livestock, reptiles, birds and insects and any other living animal tame or wild kept by a person, however excludes for the purposes of this Local Law Honey Bees.
Appeals Officer	Means an officer of the Council appointed to the role of Appeals Officer or internal ombudsman appointed by the Chief Executive Officer.

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Applicant	Means a Person who applies for a Permit under this Local Law.
Appropriate Fee	Means the fee determined by the Council in accordance with Clause 91 of this Local Law.

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Asset Protection Permit	Means a Permit referred to in Clauses 46 to 48 of this Local Law.
Assistance Animal	Means a dog or any other animal, accredited by an animal training organisation prescribed in the regulations, to assist a person with a disability to alleviate the effects of the disability and meets the standards of hygiene and behaviour that are appropriate in a public place.
Authorised Officer	Means an Authorised Officer appointed under section 224 of the Act.
Barbeque	Means a device used for the cooking of food outdoors, whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them, and includes a device for spit roasting when used outdoors.
Building Site	Means the entire area of any Building Work secured with permanent or temporary fence, but also includes sites of excavation, landscaping and concreting.
Building Work	Means works for or in connection with the construction, alteration, renovation, demolition or removal of a building in respect of which a building permit is required under the <i>Building Act</i> 1993.
Built Up Area	Means an area in which either or both of the following are present for a distance of at least 500 metres or, if the length of Road is shorter than 500 metres, for the whole of the Road: (a) buildings, not over 100 metres apart, on land next to the Road; or (b) street lights not over 100 metres apart. (As in the <i>Road Safety Road Rules</i> 2009).
Bulk Waste Container	Means a skip, bin, container, mobile storage unit, charity collection bin or other structure designed or used for holding a substantial quantity of rubbish or storage and which is unlikely to be lifted without mechanical assistance but excludes a container used in connection with the Council's kerbside Waste, Recyclables and Green Waste collection services.
Busk, Busking	Means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
Campervan	Means any Campervan, mobile home or similar vehicle, which includes sleeping and/or living facilities, whether manufactured to luxury standard or privately converted from a standard vehicle and includes a caravan, camper trailer and other similar living/sleeping trailer facility.

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Camping, (to Camp)	Means the occupation or use of shelter such as a swag, tent, makeshift structure, caravan, Campervan, mobile home or any other Vehicle (including under the Vehicle) for sleeping all or part of a night or as temporary accommodation but excludes brief 'power napping' in a vehicle beside a Road for one hour or less.
Camping Area	Means any land within the Municipal District that has been declared by the Council or other public authority to be a 'Camping Area' for the purposes of this Local Law.
Clause	Means a Clause of this Local Law, and Sub-clause has a corresponding meaning.
Council	Means Ballarat City Council
Council Land	Means any land owned, or vested in, or under the control or management of the Council excluding a Road, but including a Municipal Reserve or other reservation, watercourse, jetty, pontoon or boat ramp, and includes any structures, artworks, public decorations or other public displays erected upon or situated at these places including any waterway.
Delegated Officer	Means a staff member of the Council delegated by the Council to perform a duty or function or to exercise a power conferred by this Local Law, whether by direct delegation from the Council or by delegation from the Chief Executive Officer.

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Domestic Waste Means all waste or rubbish produced or accumulated in or on any land but excludes:	
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| | (a) hot or burning materials; |
| | (b) animal parts; |
| (c) nightsoil, sewerage, and animal excreta unless it is wrapped in a manner which prevents its escape; | |
| | (d) slops or liquid wastes; |
| (e) waste generated from Building Work; (f) ash, unless it is: | |
| | (i) cold; |
| | (ii) dampened; and |
| (iii) wrapped or contained in a manner which prevents its escape; | |
| | (g) Trade Waste; |
| | (h) Recyclables; |
| (i) oil, paints, solvents and similar substances; (j) any broken glass, lancet or other sharp object, unless: | |
| | (i) it is wrapped in impermeable material; or |
| | (ii) contained entirely within an impermeable receptacle from which it cannot escape; |
| | (k) any waste that cannot be contained in a Council provided mobile bin due to its size, shape, nature or volume; |
| | (l) medical or veterinary facility waste; |
| | (m) motor vehicle parts; |
| | (n) Green Waste; |
| | (o) any object which may damage the collection mechanism or a vehicle used for the collection of refuse; and |
| | (p) any other substance declared by Council or an authorised officer not to constitute "domestic waste" for the purposes of this Local Law from time to time, the details of which appear on Council's website. |

Droving of Livestock

Means a single driving of Livestock in or through the Municipal District, or from one location to another for the purpose of changing the grazing area, or for the purposes of sale or relocation after sale, but excludes the Movement of Livestock or the Grazing of Livestock.

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Dry Sheep Equivalent (DSE)

Is a standard unit used to compare the feed requirements of classes of livestock and to assess the carrying capacity of a farm or paddock. The standard DSE is the amount of feed required by a 2 year old 45 kg Merino sheep (whether or nonlactating, non-pregnant ewe) to maintain its weight. Expressed in metabolisable energy or mega- joules/day) one DSE is equivalent to 7.6 MJ/day.

The potential carrying capacity of a paddock or farm is the number of stock expressed as DSE per hectare that can be carried through most years, except for periods of drought.

Carrying capacity (DSE/ha) = a +
b (growing season) + c
(Olsen P)

Where:

a = -8.30 for paddocks less than 20 ha in size or -11.05 for paddocks of more than 20 ha b =
growing season (expressed in months)

c = Olsen P (in mg/kg)

Refer - <http://agriculture.vic.gov.au>

Dwelling

Means a building used as a self-contained residence which normally includes a kitchen sink, food preparation facilities, a bath or shower and a closet pan and wash basin, and includes out-buildings and works normal to a Dwelling.

Event

Means an organised recreational, cultural, commercial or social gathering or people or set of inclusive activities undertaken at predetermined date/s and time/s on a temporary basis. These event activities also tend to require effective management of potential detrimental impacts on the community and includes a procession, festival or street party.

Fence (Fencing)

Means any enclosure by design or intent that is used for the confinement of an Animal, or for security, privacy, amenity or boundary marking, and includes (but is not limited to) a gate, grid or similar structure.

Fire Danger Period

Has the same meaning as in the *Country Fire Authority Act 1958*

Footpath

Means a pathway or other area constructed or developed by a public authority for use by pedestrians.

Graffiti

Means any defacement of property, whether written, drawn, sprayed, scratched or otherwise marked on a wall or other surface, which is not readily removable by wiping with a dry cloth, is detrimental to the visual amenity of the neighbourhood and is not part of any approved artistic exhibition.

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Grazing of Livestock	Means the use of a Road for the purposes of grazing Livestock, which includes supplementary feeding, but excludes the Droving of Livestock or the Movement of Livestock.
Green Waste	Means all types of organic Waste produced or accumulated on any land that the Council designates as acceptable Waste for any Green Waste collection as described by the Council on its website or in any newspaper generally circulating in the Municipal District.
GVM	Means the Gross Vehicle Mass of a Vehicle which means the maximum loaded mass of the Vehicle: (a) as specified by the Vehicle's manufacturer; or (b) as specified by VicRoads if: (i) the manufacturer has not specified a maximum loaded mass; or (ii) the manufacturer cannot be identified; or (iii) the Vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate (<i>as in the Road Safety Act 1986</i>).
Hazardous Material	Means any material designated by the Council as unacceptable for deposit in a Council-provided mobile bin or other Council-provided bin or class of such mobile or other bins and publicised by printed matter or on Council's website.
Heavy Vehicle	Means a motor vehicle or trailer that has a GVM greater than 4.5 tonnes, and includes: (a) any other Vehicle that is physically connected to the heavy vehicle (even if that other Vehicle is not a heavy vehicle); and (b) a bus that is used, or intended to be used to carry passengers for reward or in the course of a business (<i>as in the Road Safety Act 1986</i>).
Honey Bee	<i>Apis Mellifera</i> – European or Western Honey Bee
Incinerator	Means a structure, device or contraption (not enclosed in a building) which is: (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; (b) not licensed or otherwise subject to control under the provisions of any legislation; and (c) not a Barbeque or a manufactured fireplace for the purpose of outdoor heating or cooking.
Infringement Notice	Means an Infringement Notice issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law.

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Licensed Premises	Means premises licensed under the <i>Liquor Control Reform Act 1998</i> to sell or serve alcohol and includes premises which have been granted a BYO permit under the <i>Liquor Control Reform Act 1998</i> .
Liquor	Means a beverage or other prescribed substance intended for human consumption, with an alcoholic content greater than 0.5 per cent by volume at a temperature of 20° Celsius (as in the <i>Liquor Control Reform Act 1998</i>).
Litter Device	Means, in relation to the excrement of an Animal, an apparatus designed for the purpose of removing the excrement of the Animal and includes a paper or plastic bag.
Livestock	Means an Animal of any species used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat (as in the <i>Impounding of Livestock Act 1994</i>).
Local Water Authority	Means Central Highlands Water or its successor.
Long Vehicle	Means a Vehicle that, together with any load or projection, is 7.5 metres long or longer.
Manager	Means a Person appointed by the Council to manage any Municipal Building, Municipal Reserve or other Municipal Place, or any other relevant Authorised Officer or Delegated Officer of the Council.
Motor Bike or other Motorised Recreational Vehicle	Means a motor vehicle, whether registered or unregistered, used for recreational purposes on any land (excluding a Road) and includes, but is not limited to, the following motor vehicles: (a) a motor vehicle with two (2) wheels, with or without a sidecar attached that is supported by a third wheel; (b) a motor vehicle with three (3) wheels that is ridden in the same way as a motor vehicle with two (2) wheels; and (c) any other motorised, recreational vehicle including, but not limited to, mini-bikes, trail bikes, monkey bike, motorised scooters, motorised go-carts and quad bikes, but excludes: (a) a motorised wheelchair, or other aid used by a Person with a disability or limited mobility; (b) a motorised farm vehicle that is being used for farming purposes; and (c) a motorised bicycle with a maximum capacity of 22 watt aggregate power.

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Movement of Livestock	Means all of: (a) individual or regular movements of Livestock; (b) as part of normal farm management operations of one farming enterprise but not for the purposes of grazing; (c) from one property to another within the Municipal District or from or to one property in the Municipal District to or from another property within an adjacent municipal district; (d) at the rate of not less than one kilometre per hour in the direction of the movement between the two properties; (e) where the properties concerned are occupied by the one farming enterprise; and (f) the movement is completed on the day of commencement.
Municipal Building	Means any building (and its grounds) owned, occupied, controlled or managed by the Council, which has some or all areas available for public or community access but may also have some or all areas designated for employee or staff only access, including a recreation centre.
Municipal Place	Means any place within the Municipal District that is owned or occupied by the Council and/or controlled or managed by the Council, which the public may or may not have access to (whether an admittance fee is required or not) but also includes Council Land, a Municipal Reserve, Municipal Building, recreation centre, Footpath and Road, and any structures, artworks, public decorations or other public displays erected upon or situated at these places including any waterway.
Municipal Reserve	Means any land, water, waterway or water course either owned or vested in, or under the control and management of the Council, and used or set aside as a reserve, whether for outdoor cultural, environmental, recreational or other purposes, including any artworks, public decorations, other public displays and any structures other than a building, erected upon or situated at these places including any waterway, but excludes a Road.
Municipal Stormwater System	Means the drainage system owned, operated or managed by Council which provides for conveyance of stormwater run-off, including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.
Noisy Animal	Means, in relation to the keeping of an Animal capable of causing a disturbance or discomfort to neighbours particularly by noise.
Notice to Comply	Means a Notice to Comply issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law.

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Offensive	Means, in relation to the emission of noise, dust, smoke, ash, odour, waste or other thing, which due to its intensity, duration, frequency, or other factor, results in a level of personal discomfort that a reasonable person would not expect to endure, or results in an unreasonable disruption to normal living activity.
Outdoor Dining and Trading Policy	Means a permit issued under Clause 44.
Outdoor Eating Facility	Means any tables/or chairs that are used for commercial purposes and are located outside on Council controlled land in which food for sale is made available for consumption.
Penalty Unit	Means a Penalty Unit set out in section 110(2) of the <i>Sentencing Act</i> 1991 that is currently fixed at \$100 for each one (1) Penalty Unit and includes any amendments to that amount as determined from time to time.
Permit	Means a Permit issued by the Council under this Local Law.
Permit Holder	Means a Person to whom a Permit has been issued under this Local Law.
Person	Has the meaning ascribed to it in section 3 of the Act, except that it also may include any other legal entity, whether a corporation, incorporated association or otherwise.
Planning Scheme	Means a planning scheme approved under the <i>Planning and Environment Act</i> 1987 that operates within the Municipal District.
Poultry	Means any bird such as a fowl, bantam or duck that is kept for the production of eggs, or meat for human consumption, or exhibition, but excludes a rooster, goose, or turkey.
Procession	Means an organised group of people progressing along a Road or gathering for a ceremony or function and includes a fun run and/or bicycle event.
Pigeon	Means any pigeon kept by its owner for the purpose of breeding, showing or racing.
Recyclables	Means any substances or articles which the Council designates as Recyclables and are described by the Council on its website or in any newspaper generally circulating in the Municipal District.
Refuse Container	Means, in relation to Building Works or a Building Site, a receptacle capable of retaining builder's refuse within a Building Site and preventing removal of the builder's refuse by unauthorised persons or by wind or rain.
Reptile	Includes but is not limited to lizards, snakes and turtles.
Residential Parking Permit	Means a permit issued by Council to allow a vehicle to be parked in accordance with Council's Residential Parking Policy.
Residential Parking Policy	Means Council's Car Parking Action Plan as amended from time to time.

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Road	Has the meaning ascribed to it in section 3 of the Act, as amended from time to time and includes a public highway (<i>as in the Act</i>): (a) a street; and (b) a right of way; and (c) any land reserved or proclaimed as a street or road under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i>; and (ca) a public road under the <i>Road Management Act 2004</i>; and (d) a passage; and (e) a cul de sac; and (f) a by-pass; and (g) a bridge or ford; and (h) a footpath, bicycle path or nature strip; and (i) any culvert or kerbing or other land or works forming part of the road.
RPA	Means a remotely piloted aircraft (including a drone) other than a balloon or a kite.
Schedule	Means a Schedule to this Local Law.
Sell (Selling)	Means to offer, negotiate, accept or undertake an exchange of goods or services for consideration and includes to barter or exchange, to agree to sell, to offer or display for sale, to have or keep goods in possession for the immediate purpose of sale rather than storage, to use any machine or mechanical device for the purpose, and to direct, cause or attempt directly or indirectly any of these things.
Service Authority	Means an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunications or like services under the authority of an Act of Victoria or the Commonwealth and may include an emergency service.
Shipping Container	A reusable transport and temporary transport storage unit, which is used for moving products and raw materials between locations.
Smoke Free Area	Means an area of, or in, any Municipal Place, which has been declared by the Council as a “smoke free” or “nonsmoking” area and has Smoke Free Area signage erected.
Sound System	Means a system for producing or amplifying music and other sound and includes a car stereo or radio system.
Spruik	Means attracting custom by public oral appeals to passersby, with or without sound amplification equipment.
Street Festival	Means an organised recreational, cultural, commercial or social gathering of people that is held in full or in part on a Road.

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Street Party	Means an organised social gathering of people from one or several adjacent Roads that is held in full or in part on a Road.
Trade Waste	Means any Waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.
Traffic	Means the movement of people by foot, or in, or on, a Vehicle along, across or within a Road.
Traffic Control Device	Has the same meaning as in the <i>Road Safety Road Rules</i> 2009: <i>a traffic sign, road marking, traffic signals, or other device, to direct or warn traffic on, entering or leaving a road.</i>
Vehicle	Means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes: - a motor vehicle, truck, trailer, bus or tram; - a bicycle; - an air-cushion vehicle, and - caravan or horse float but excludes a train. However, a reference in this Local Law to a Vehicle: (a) also includes a reference to: (i) an Animal that is being ridden or is drawing a Vehicle; and (ii) a group of vehicles consisting of a motor vehicle connected to one or more vehicles; and (iii) a Motor Bike or other Motorised Recreational Vehicle; but (b) but excludes a reference to: (i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more; (ii) a Wheeled Non-Motorised Recreational Device except a bicycle when ridden on a carriageway; or (iii) a Wheeled Child's Toy.
Vehicle Crossing	Means the constructed surface between the road pavement to the property boundary for vehicle access, including any Footpath section, crossing culverts, kerb and channel or layback.

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Waste	Has the meaning ascribed to it in section 4 of the <i>Environment Protection Act 1970</i>: (a) any matter whether solid, liquid, gaseous or radioactive which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment; (b) any discarded, rejected, unwanted, surplus or abandoned matter; (c) any otherwise discarded, rejected, abandoned, unwanted or surplus matter intended for: (i) recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or (ii) sale; and (d) any matter prescribed under that Act to be waste.
Wheeled Non-Motorised Recreational Device	Means a wheeled device that is built to transport a Person is propelled by human power or gravity and is ordinarily used for recreation or play and: (a) includes in-line wheeled skates, roller-skates, skateboards, any similar wheeled devices and a bicycle when ridden on Council Land, a shared bike path or any part of a Road other than a carriageway; but (b) excludes a golf buggy, pram, stroller, trolley, wheelchair, Wheeled Child's Toy or a bicycle ridden on a carriageway.
Wheeled Child's Toy	Means a child's pedal car, scooter or tricycle or other similar toy but only when it is being used solely by a child who is under 16 years old.