

Local Law No 2 - 2011

Streets & Roads



The resolution for making this Local Laws was passed
at a meeting of the Wellington Shire Council held on
Tuesday 19 July 2011.



WELLINGTON
SHIRE COUNCIL
The Heart of Gippsland

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WELLINGTON SHIRE COUNCIL**STREETS AND ROADS****LOCAL LAW NO. 2 – 2011****PART 1 – PRELIMINARY****1.1 Title**

This Local Law is the Wellington Shire Council Streets and Roads Local Law No. 2-2011 and is referred to as this Local Law.

1.2 Objectives of this Local Law

The objectives of this Local Law are to:

- a) Provide for those matters that require a local law under the *Local Government Act 1989* and any other Act;
- b) Prohibit, regulate and control activities, events, practices and behaviour in places so that no nuisance is caused and there is no detriment to the amenity of the neighbourhood, to a person or to a person's real or personal property;
- c) Regulate and control activities on Roads in a fair, equitable and safe manner, which does not compromise the primary need for the passage of people and goods;
- d) Maintain safe and unobstructed passage for pedestrians in line with the *Disability Discrimination Act 1992*;
- e) Provide for the administration and exercise of Council powers and functions;
- f) Provide for the peace, order and good government of the Municipal District of the Wellington Shire; and
- g) Repeal any redundant local laws.

1.3 The Power to make this Local Law

This Local Law is made under the provisions of Section 111(1) of the *Local Government Act 1989* and Section 87(4) of the *Road Safety Act 1986*. This Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

1.4 Operational date of this Local Law

This Local Law comes into operation on the day following publication in the Victorian Government Gazette at which time Streets and Roads Local Law No 2 – 2005 adopted by Council on 21 December 2004 will be revoked and cease to operate.

1.5 Date this Local Law ceases operation

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

1.6 Scope of this Local Law

This Local Law applies to the whole of the Municipal District, except where it is apparent from its wording that a clause or schedule applies to a specific area or areas. Its provisions apply to

the extent that they are not inconsistent with any Act, Regulation or Planning Scheme applicable to the Council or to its Municipal District.

1.7 How to read this Local Law

1) Division of Parts

This Local Law is divided into Parts. Each Part is divided into separate clauses. Some of the clauses may be divided into sub-clauses which may, in turn, be divided into paragraphs.

Standards and Schedules form a part of this Local Law.

References to a particular provision of this Local Law or one of its Standards or Schedules may appear abbreviated, for example:

- S1 means Standard 1 of this Local Law
- 7.3 means clause 7.3 of this Local Law
- SCH1 means Schedule 1 of this Local Law

2) Standards and Local Law Provisions and their relationships

Parts 1 to 7 of this Local Law set out the legal obligations, enforcement and penalties.

Part 8 of this Local Law sets out:

- The criteria to which persons exercising discretions under this Local Law must have regard; and
- Standards which are applicable to Parts 1 – 7.

3) Guidelines

The Council may adopt, modify, or revoke from time to time Guidelines for the purposes of this Local Law.

1.8 Definitions

Expressions used in this Local Law have the same meaning as in the *Local Government Act 1989* as defined in section 3 of that Act including Chief Executive Officer, Municipal District and senior officer except where otherwise defined.

- 1) In this Local Law, and any other incorporated documents, unless the context otherwise requires:

Act:	Means the <i>Local Government Act 1989</i>
Alfresco Dining:	Means an outdoor or open-air area which may be partially enclosed or covered, in which tables, chairs and other structures are provided for the purpose of the consumption of food and beverages.
Advertising Sign:	Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of an adjacent property where goods or services may be obtained.
Authorised Officer:	Means an authorised officer appointed under Section 224 of the <i>Act</i> and includes any member of the Victoria Police Force so appointed under the <i>Act</i> .
Built-up Area:	Means an area consisting of Roads along which there is urban development or street lighting is provided

Bulk Rubbish Container:	Means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance. It does not include containers used in connection with the Council's regular domestic rubbish collections.
Busker:	Means any person undertaking or proposing to undertake busking.
Busking:	Means entertainment that includes playing a musical instrument, singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, pavement drawing of any form, recitation and other appropriate theatrical and visual forms.
Collector Road:	Means a road which provides a principal route of access into a local traffic area or, in an area where the spacing of arterial roads is too great to cater for all major traffic movements, a road which performs a significant traffic carrying function.
Council:	Means the Wellington Shire Council.
Furniture:	Means chairs, tables, waiter' stations, planter boxes, umbrellas, screens, barriers, awnings and any other structure set up in the Alfresco Dining area.
Footpath:	Means any path that is provided for the use by pedestrians only or that is regularly used by pedestrians and not vehicles, or that is a segregated pathway or a shared pathway. It includes a footway.
Guidelines:	Means any guidelines adopted by resolution of the Council or the Council Delegate for such purpose from time to time for the purposes of this Local Law.
Heavy Vehicle:	Means a vehicle with a Gross Vehicle Mass of 5 tonnes or more.
Livestock:	Means any animal kept for the purposes of primary production, including cattle, sheep, pigs, poultry, ratites, buffalo, camels, alpacas, goats and deer; or horses, including where used for recreation; any animals prescribed as livestock;
Local Street:	Means a street, which provides for local traffic access and circulation. It includes an access place and access street.
Long Vehicle:	Means a vehicle that, together with any load or protection is 7.5 metres long, or longer.
Meal:	Means a serving of food removed from pre-packaging and prepared and presented for consumption from a plate, bowl or similar dish.
Municipal District	Means the municipal district of the Wellington Shire Council.
Pathway:	Means a footpath, bicycle path or other area constructed or developed for use by members of the public.
Penalty Unit:	Has the same meaning as given in the <i>Sentencing Act 1991</i> .
Permit:	Means a permit issued by the Council under this Local Law.
Portable Advertising Sign:	Means a free standing sign on public display used for advertising and includes signs which are known as "sandwich boards" and does not include any small free standing sign which is temporarily erected by a real estate agent for the primary purpose of directing the

	public to the pending sale or auction of a particular property.
Principal Road:	Means a road which is designated as any type of arterial road, or which carries 5,000 or more vehicles per day over most of its length.
Procession:	Means an organized group of people proceeding along a Road or gathering for a ceremony or function and includes fun runs and bicycle events.
Utility Provider:	A body responsible for developing, maintaining, providing or regulating a service to the public including water, sewerage, electricity, gas, transportation, infrastructure or telecommunications.
Reservation:	Means anything constructed or located on a Road which divides the Road longitudinally, and includes a nature strip but excludes a line or series of lines marked on a carriageway.
Road:	Has the same meaning as the <i>Local Government Act 1989</i> and <i>Road Management Act 2004</i> and includes: <ul style="list-style-type: none"> (a) a street; or (b) a footpath; or (c) nature strip; or (d) a public road under the Road Management Act 2004; or (e) a right of way; or (f) a bicycle path; or (g) a carriageway; or (h) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958; or (i) any culvert or curbing.
Roadside Trading:	Means selling or offering for sale or hire goods or services from a temporary location, or from place to place or from a vehicle including where goods offered for sale or hire are carried by the person.
Service Authority:	Means any company or public body responsible for the installation of telecommunications, gas, electricity, water, sewerage or drainage facilities in or on a Road.
Shopping Trolley:	Means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.
Street Festival:	Means an organized recreational, cultural, commercial or social gathering of people which is held on a Road.
Street Party:	Means an organized social gathering of people from one or several adjacent Roads that is held on a Road.
Toy Vehicle:	Means a vehicle other than a bicycle, designed to be propelled by human power or a small motor. It includes a child's tricycle, scooter, skateboard, roller skates, roller blades and similar toys or devices.
Traffic:	Means the movement of people by foot or in or on vehicles, along, across or within a Road.
Vehicle:	Has the same meaning within section 15 of the <i>Road Safety Road Rules 2009</i> .
Vehicle Crossing:	A point of vehicular access to land from a Road.

PART 2 - ADMINISTRATION OF THIS LOCAL LAW

2.1 Exercise of Discretions

- 1) In exercising any discretion contained in this Local Law the Council must have regard to:
 - a) the objectives of this Local Law;
 - b) the standards contained in this Local Law; and
 - c) any Guidelines prepared by the Council from time to time.
- 2) The Council may from time to time prepare Guidelines for use by the Council, Council officers and other persons for the purposes of this Local Law.
 - a) Guidelines prepared by the Council must not be inconsistent with the objectives of this Local Law or with the standards contained in this Local Law.
 - b) In preparing Guidelines the Council must have regard to the objectives of this Local Law and the standards contained in this Local Law.
 - c) The guidelines may be amended by the Council from time to time in accordance with Section 112(2) of the Act.

2.2 Register of Determinations

- 1) Any determination made or Guidelines prepared by the Council for the purposes of this Local Law must be maintained by the Council in a register kept for that purpose.
- 2) The register kept for the purposes of this clause must be made available for inspection at the office of the Council during normal office hours.

2.3 Notice to Comply

Council or an Authorised Officer may by serving a Notice to Comply direct any owner, occupier or other relevant person to remedy any situation which constitutes a breach of this Local Law.

2.4 Time to Comply

A Notice to Comply must state the time and date by which the situation must be remedied.

2.5 Reasonable Time to Comply

The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account if applicable:-

- 1) the amount of work involved;
- 2) the degree of difficulty;
- 3) the availability of necessary materials or other necessary items;
- 4) climatic conditions;
- 5) the degree of risk or potential risk; or
- 6) any other relevant matter.

2.6 Failure to Adhere to a Notice to Comply

Any person who fails to remedy a situation in accordance with a Notice to Comply served under this Local Law is guilty of an offence and liable to the amount of the penalty specified by this Local Law.

2.7 Power of Authorised Officers to Act in Urgent Circumstances

If an Authorised Officer is of the opinion that:

- 1) a person has breached any provision of this Local Law in respect of which a Notice to Comply may be issued and:
 - any person; or
 - any animal; or
 - any property; or
 - the environment of the Municipal District is in danger of substantial detriment due to the breach; and
- 2) that danger may be exacerbated by the length of time it may take to serve and ensure compliance with a Notice to Comply, an Authorised Officer may take such action as he or she considers necessary to abate or minimise the danger without serving a Notice to Comply provided a subsequent notice in writing is given, if practicable;
- 3) the subsequent notice must include:
 - the reasons for taking the action; and
 - the action taken to the person in breach of the provision of this Local Law in respect of which the action was taken.

2.8 Power of Authorised Officers to Impound

- 1) An Authorised Officer may seize and impound any thing which has been or is being used or possessed, or which has been left, in contravention of this Local Law.
- 2) Where a thing has been impounded under this Local Law, Council or an Authorised Officer must, if it is practicable to do so, serve a written notice of the impounding personally or by mail on the owner of the impounded item or object.
- 3) An impounded thing must be returned to:
 - a) its owner; or
 - b) a person acting on behalf of its owner who provides evidence to the satisfaction of an Authorised Officer of his or her authority from the owner: –
 - upon
 - i. evidence to the satisfaction of the Authorised Officer being provided of the owner's right to the thing; and
 - ii. payment of any fee determined by Council or an Authorised Officer from time to time. Council may refuse to release the impounded thing or object until the appropriate fee or charge for its release has been paid to Council.
- 4) Clauses 2 and 3 does not apply to the impounding of alcohol under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the person from whom it was impounded or the owner.
- 5) If an impounded thing has not been surrendered to its owner or a person acting on the owner's behalf within 28 days of the notice of impounding being served or, if no notice of impounding has been served on the basis that it is impracticable, of the act of impounding, Council may, at its discretion,
 - i. sell;
 - ii. dispose;
 - iii. give away; or
 - iv. destroy,

the impounded thing.

- 6) Any proceeds from the disposal of impounded items under this Part must be paid to the owner except for the reasonable costs incurred by the Council in the administration of this Part.
- 7) In the event that the owner cannot be identified or located within one year any proceeds from the disposal of impounded items under this part must be paid into the Council's General Account.

2.9 Review Rights

- 1) If any person is aggrieved by the level of fairness of any action taken by Council or an Authorised Officer under this Local Law, he or she may request Council's Chief Executive Officer to review the fairness or reasonableness of the action taken.
- 2) Where Council's Chief Executive Officer reviews the fairness or reasonableness of any action taken by Council or an Authorised Officer, the result of that review must be communicated to the person who made the request in accordance with clause 2.9 (1).

2.10 Name and Addresses

A person is guilty of an offence if:

- a) an Authorised Officer finds the person is committing or has committed an offence under this Local Law; and
- b) the person fails to give his or her correct name and correct address to the Authorised Officer upon request.

2.11 Enforcement

- a) Where any provision in this Local Law requires that something must not be done under any circumstances, any person who does that act is guilty of an offence.
- b) Where any provision in this Local Law requires that something must not be done between specified hours of the day or night during specified months of the year, on days meeting a recognized category* or in or at specified locations or specified parts of those locations, any person who does that act between the hours, during the months, on the days, in or at the location or a specified part is guilty of an offence.

*E.g. extreme fire danger days.

- c) Where any provision in this Local Law requires that a person must have a permit for any particular activity, that person is guilty of an offence if that person engages in that activity without a current Permit issued by the Council (unless the Council in its discretion has waived the requirement for a Permit).
- d) Where any Permit issued under this Local Law contains conditions, any person who contravenes or fails to comply with a condition of the Permit is guilty of an offence.
- e) Where any provision in this Local Law requires that something must be done, any person who fails to do that act is guilty of an offence.

2.12 Penalties

Except where otherwise indicated the penalty for breach of any provision of this Local Law is 20 Penalty Units.

Schedule 7 of this Local Law sets out penalties for infringement notices which may be issued in respect of offences against this Local Law where the Council or its Authorised Officers determine to issue an infringement notice.

2.13 Infringements

- 1) An Authorised Officer may serve an infringement notice under this Local Law on any person whom the officer believes has committed an offence referred to in this Local Law in accordance with section 12 of the *Infringements Act 2006*.
- 2) The infringement notice must be in the form required in section 13 of the *Infringements Act 2006*.
- 3) If the infringement notice is not withdrawn and the person pays to the Council the amount required by the infringement notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no further action will be taken against that person for the alleged offence.
- 4) Any person issued with an infringement notice may apply for internal review to the Chief Executive Officer, officer in charge of Local Laws administration or any other person authorised by the Council to receive such representations in accordance with section 22 of the *Infringements Act 2006*.
- 5) An application or internal review received by the Council in accordance with sub-clause (4) within 28 days of the issue of the infringement notice must be considered in accordance with section 24 of the *Infringements Act 2006*.
- 6) The Council or the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises may make a decision on the application for internal review in accordance with section 25 of the *Infringements Act 2006*.
- 7) Subject to sub-clause (12) the decision of the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises on any representations received will be final.
- 8) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made on the infringement notice.
- 9) If the penalty referred to in an infringement notice has been paid within the required period of its issue and no application for internal review has been received by the Council or its officers, no decision may be made to withdraw the infringement notice and prosecute the offence after the expiry of 28 days from the issue of the infringement notice.
- 10) A withdrawal of an infringement notice must be served in accordance with section 234 of the Act.
- 11) 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 the Council or the Authorised Officer may permit, the Council or the Authorised Officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of infringement notices.

- 12) Any person served with an infringement notice under this Local Law is entitled to disregard the notice and defend the prosecution in Court.

2.14 Council to Carry Out Work at Cost

- 1) Where Council requires a person to carry out work under this Local Law and that person fails to carry out that work:
 - a) the Council may cause any other person to carry out the work; or
 - b) the Council may carry out the work.
- 2) If a person carries out the work on behalf of the Council, that person may recover the cost of carrying out such work from the person who failed to do it.
- 3) If the Council carries out the work the Council may recover the cost of carrying out the work from the person who failed to do it.

PART 3 - PERMITS

3.1 Application for a Permit

- 1) The form of an application for a Permit under this Local Law will be in the form of Schedule 3 except where this Local Law specifies otherwise, and be accompanied by the appropriate fee.
- 2) The Council may require a person making an application for a Permit to give public notice which will entitle any person to make a submission and be heard in accordance with Section 223 of the Act.

3.2 Considering Applications

In considering an application for a Permit, Council or an Authorised Officer may consider any:

- a) relevant standard, policy or guideline adopted by Council relating to the subject matter of the application for the Permit. Policy or Guidelines may be updated from time to time;
- b) submission that may be received in respect of the application;
- c) impacts, if any, on other persons or places within the municipality;
- d) comments that may be made in respect of the application by any public body, community organisation or other person; and
- e) other relevant matter.

3.3 Indemnity

Council may request that an Indemnity Form indemnifying Council from any loss or damages may be completed. If an applicant is a company, the Indemnity must be guaranteed by an individual who is a director of that company.

3.4 Insurance

Council may request that prior to a Permit being granted the applicant must provide a copy of a public liability insurance policy with a cover of no less than \$10 million per claim. The policy must be maintained for the duration of the Permit. Council must be named as an "interested

party" and the policy is required to contain a "cross liability" clause between Council and the applicant.

3.5 Privacy Agreement

Personal information that is requested on an application form is collected for the purpose of processing an application for a Permit.

The personal information will be used solely by Council for that primary purpose or directly related purposes. The Council may disclose some of this information to relevant organisations or people (including property owners) if the nature of the activity for which the Permit has been applied requires consent by parties other than Council or has the potential to affect neighbourhood amenity.

If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details.

The applicant understands that the personal information provided is for the purpose of applying for a Permit and that they may apply to Council for access to or amendment of the information.

3.6 Permit may be Conditional

A Permit under this Local Law may be issued subject to the Council determining the conditions on which it is prepared to issue the Permit including conditions relating to:

- a) the payment of a fee or charge;
- b) a standard to be applied;
- c) a time limit to be applied which may specify the times, duration, commencement or completion date;
- d) that the Permit is subject to the happening of an event;
- e) the rectification, remedying or restoration of a situation or circumstance;
- f) where the applicant is not the owner of the subject property, the consent of the owner;
- g) the granting of some other permit which may be required by the Council whether under this Local Law or otherwise; or
- h) any other condition as is required to give effect to the objectives of this Local Law.

3.7 Additional Information

The Council or an Authorised Officer may require an applicant to provide additional information before determining an application for a Permit. If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details. The Council may require additional information for the purpose of administering and enforcing provisions of this Local Law.

3.8 Duration of Permits

Except where expressly stated in this Local Law or in the Permit, the Permit will operate from the date it is issued and will expire one year after the date of issue.

3.9 Utility Provider

- 1) A Utility Provider or a person employed by or acting on behalf of a Utility Provider is not required to obtain a Permit under this Local Law in respect of work which is for the ordinary purposes or course of business of the Utility Provider.
- 2) A person who would, but for clause 3.9(1), be required to obtain a Permit in respect of any activity must notify the Council in writing of the activity prior to its commencement.

3.10 Cancellation of Permits

- 1) A permit may be cancelled or modified by the Council at any time, if a hazard or a danger to the public exists; or if any of the conditions under which the permit was issued have not been complied with providing:
 - a) a Notice to Comply has been served upon the permit holder;
 - b) there has been a failure to comply with the Notice to Comply;
- 2) Where the permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified by the permit holder of the Notice to Comply without delay.

3.11 Correction of Permits

- 1) Council or an Authorised Officer may correct a Permit issued if the Permit contains:
 - a) a clerical mistake or an error arising from any accident, slip or omission; or
 - b) an evident and material miscalculation of figures or any evident and material mistake in the description of any person, item or object or property referred to in the Permit.
- 2) Council or the Authorised Officer must note the correction in the register of permits.

3.12 Exemptions from Permits

An Authorised Officer may, with the written authority of the Chief Executive Officer, grant an exemption from any requirement to obtain a Permit.

The exemption may be granted subject to conditions.

A person must comply with the conditions of an exemption.

An exemption may be withdrawn or corrected as if it were a Permit.

Where compliance with any condition of a Permit or an exemption or other condition arising under this Local Law is impracticable in a particular circumstance, the Council may exempt a person from compliance with that condition or vary the condition in a way which is capable of compliance.

3.13 Application Offence

A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a Permit or exemption is guilty of an offence.

PART 4 - FEES, CHARGES AND COST

4.1 Setting Fees and Charges

The Council may from time to time by resolution determine the fees and charges to apply under this Local Law which may include an administrative or processing fee or charge, and the Council must give public notice of its resolution to set or alter the fees and charges.

4.2 Differential or Structured Fees and Charges

In determining any fees and charges the Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.

4.3 Waiver or Alteration to Fees and Charges

The Council may waive, reduce or alter any fee or charge with or without conditions

PART 5 - THE MANAGEMENT OF ROADS FOR TRAFFIC

DIVISION 1 – OBSTRUCTION OF THE FREE PASSAGE OF PEOPLE AND GOODS

5.1 Trees and Plants not to interfere or obstruct

- 1) An owner or occupier of land must not allow any tree or part of a tree or any plant or other vegetation to grow on that land, so that it interferes or obstructs with the passage of traffic by:
 - a) overhanging onto or over any pavement abutting that land at a height of less than three (3) metres from the level of the adjacent Footpath or nature strip;
 - b) overhanging onto or over any Road abutting that land at a height of less than five (5) metres from the level of the adjacent Footpath or nature strip;
 - c) obstructing or impairing the vision of the driver of a Vehicle travelling along a Road adjacent to or near the land or approaching the intersection adjacent to or near the land; or
 - d) otherwise impacting on the safe and convenient use of any pavement or Road adjacent to or near the land;
- 2) An owner or occupier of land must not allow any tree or part of a tree or any plant or other vegetation to grow on that land so that it causes damage to or interference with any:
 - a) fixture or other structure in a Road, or on Council Land;
 - b) drains vested in or under the control of Council; or
 - c) obscures a Traffic control item, street sign or street

5.2 Placing of signs and posts not to interfere or obstruct

A person must not place a sign, post or other similar object in such a way that it causes an interference or obstruction of a type referred to in Clause 5.1.

5.3 Discharge of irrigation water to Roads.

- 1) An owner or occupier of land, his agent, servants or contractors must not allow the discharge of irrigation water onto the Road formation section of any Road.
- 2) A person guilty of a continuing offence under this clause will be liable to a penalty of not more than 2 Penalty Units for each day on which an offence is continued.
- 3) The owner or occupier of land will be responsible for damage caused to Roads by the discharge of irrigation water.

DIVISION 2 - PROPERTY NUMBERS

5.4 Property numbers to be displayed

For each property that has been allotted a property number the owner or occupier must mark the property with the number allotted when directed to do so by the Council. These must be of sufficient size, in such a position, made of such material and kept in such state of repair to be clearly read from the Road under all normal lighting conditions.

DIVISION 3 - VEHICLE CROSSINGS

5.5 Permit is required for a Vehicle Crossing

A person must obtain a Permit from the Council to construct, install, remove or alter a Vehicle Crossing, whether temporarily or permanently. The Permit will be in the form of a Consent of Road Works permit.

5.6 Vehicle crossing required

- 1) For the purposes of this clause a Vehicle Crossing is properly constructed if:
 - a) it was constructed by or in accordance with the terms of a written approval by the Council; or
 - b) the Council has approved in writing the proposed method of construction of the particular Vehicle Crossing.
- 2) The owner of land must ensure that each Vehicle Crossing is properly constructed in accordance with this clause.

5.7 Redundant Vehicle Crossings must be removed

- 1) Where works on a property involve the relocation or closure of a point of vehicular access, any redundant part of a Vehicle Crossing must be removed and the kerb, drain, Footpaths, nature strip or other part of the Road reinstated to the satisfaction of the Council.
- 2) The Council may require the owner or occupier of a property to remove any part of or all of a Vehicle Crossing for which there is no effective point of vehicle access and to reinstate the Road.

PART 6 - CONTROL OF VEHICLES AND HORSES ON ROADS

DIVISION 1 - PROHIBITION OF VEHICLES LIKELY TO DAMAGE THE ROAD

6.1 Restriction of Use

If in the opinion of the Council a Road or part of a Road is likely to be damaged by a particular class of Vehicle, the Council may after giving notice of its intention in accordance with clause 6.2, and having any submissions made in accordance with clause

6.3, prohibit such Vehicles from using that Road or part of the Road for as long as it considers is necessary to prevent the damage.

6.2 Notice of Intention

- 1) Subject to paragraph (3) of this clause, before prohibiting any class of Vehicle, the Council must at least 30 days prior to such prohibition give public notice of its intention to do so and place a notice of its intention on or adjacent to the Road to be affected.
- 2) The notice must include:
 - a) a description of the part of the Road affected;
 - b) the period of time over which the restriction applies;
 - c) the classes of vehicle which are prohibited;
 - d) the method of applying for a Permit.
- 3) If in the opinion of the Council there exists an immediate risk or danger to people or property, the Council is not required to give 30 days' notice under paragraph (1) of this clause.

6.3 Submissions

A person has a right to make a submission under Section 223 of the Act on a notice of intention made under this Division.

6.4 Signposting of restriction

- 1) The Council must erect a sign at each point where Vehicles can travel along a Road and enter the Road or part of the Road in which the restriction applies.
- 2) The signs must be clearly visible to approaching Traffic, be of adequate size and design to be read in the circumstances and include:
 - a) a description of the class of Vehicles prohibited or the limit of Vehicle size permitted;
 - b) a brief description of the Road, part of the Road or length of Road involved;
 - c) the period of time over which the restrictions apply; and
 - d) the words "ENQUIRIES/PERMITS (Wellington Shire Council)".

6.5 A Permit is required to use a road contrary to the sign permitted

A person must not without a permit use a road contrary to any sign erected on it in accordance with clause 6.4.

DIVISION 2 - SHOPPING TROLLEYS

6.6 Use of Shopping Trolleys

- 1) A person must not be in possession or control of a Shopping Trolley outside of a 200 meter radius from the retailer which provides the trolley.
- 2) A person must not leave a Shopping Trolley on any Road, bicycle path or vacant land except in an area designated for the purpose, or cause or authorise another person to do so.

6.7 Impounding of abandoned Shopping Trolleys

Any Shopping Trolley abandoned on a Road, bicycle path or vacant land, may be removed by an Authorised Officer and impounded.

DIVISION 3 - CONTROL OF TOY VEHICLES

6.8 Use of toy vehicles

- 1) The Council may designate areas from time to time, by resolution or through an appointed delegate, in which Toy Vehicles must not be used.
- 2) The initial areas so designated by Council, which may be modified from time to time, are set out in Schedule 6.
- 3) If the Council designates areas in which Toy Vehicles must not be used, it must erect signs in or on the areas designated by it indicating that Toy Vehicles must not be used.
- 4) A person must not use a Toy Vehicle in an area designated by the Council.
- 5) Where the Council fails to erect and maintain signs as required under sub-clause (2) no person may be prosecuted for an offence under this Division.

6.9 Conduct when using Toy Vehicles

Any person who uses a Toy Vehicle or causes or authorises another person to use a Toy Vehicle on a Road must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the Road, whether in or on another Vehicle or not.

DIVISION 4 - STATIONARY HEAVY OR LONG VEHICLES

6.10 Permit is required to park a Heavy or Long Vehicle on private property in Residential Zones

A person must not without a Permit allow a Heavy Vehicle or Long Vehicle to be parked, kept, stored or repaired on any property which is zoned as a Residential Zone under any planning schemes currently in force within the Wellington Shire.

DIVISION 5 - HORSES ON RESERVATIONS

6.11 Riding horses on reservations is prohibited

Except where written permission has been obtained from the Council, a person must not ride or lead a horse or cause or authorise another person to ride or lead a horse upon a reservation on a Road in a Built-up Area.

6.12 Written Permission

The Council may give written permission subject to any conditions considered by Council to be appropriate for a horse to be ridden or led upon a reservation where it is reasonably necessary for this to take place and there is no reasonable and safe alternative.

PART 7 - SECONDARY ACTIVITIES ON ROADS

DIVISION 1 - PORTABLE ADVERTISING SIGNS PLACED ON ROADS

7.1 Permit required for displaying Portable Advertising

- 1) A person must not place Portable Advertising Signs on a Road without a Permit.

7.2 Location of portable advertising signs

A Portable Advertising Sign that may be placed on a Road subject to a Permit must:

- a) be located on an existing Footpath outside the premises to which the sign relates;
or
- b) where no Footpath exists be located as near as possible to such premises.

7.3 Real Estate Signage

- 1) All Real Estate signs offering a property for sale must be placed on or within the property boundaries of the property being offered for sale, unless a Permit has been issued by Council.
- 2) For seven (7) days prior to a public auction of a property, additional signage of up to 0.3 square metres in area is permitted on council property and in a position not affecting vehicular or pedestrian Traffic. This additional signage not on the property for sale is to have clear directional intention with only one sign permitted at the nearest collector Road intersection.
- 3) The seven (7) day time restriction in clause (2) will not apply within rural zones of the municipality as defined in the Planning Scheme.
- 4) All Real Estate signs must be covered by extended public liability insurance of at least \$10 million and the policy must show the inclusion of a clause to the effect that Wellington Shire Council is indemnified against all claims, losses or demands made on Wellington Shire Council directly or indirectly resulting from any occurrence in connection with a sign placed on public land.
- 5) Real Estate signage must not be erected in the following positions:
 - a) nature strips;
 - b) trees;
 - c) plantations;
 - d) traffic islands;
 - e) central median islands; or
 - f) roundabouts.

7.4 Permit required to use vehicle to advertise

- 1) A person must not without a Permit leave or cause or authorise another person to leave any Vehicle displaying advertising material on it, attached to it or adjacent to it on a Road for the purpose of displaying the advertising material to encourage or solicit, business or sale of goods to or in respect of the premises or location to which the material relates.
- 2) In determining whether a Vehicle displaying advertising material has been left for the purposes of sub-clause (1), the Council must have regard to any standards or Guidelines in Part 8 of this Local Law.

DIVISION 2 - ROADSIDE TRADING OR TRADING TO A PERSON ON A ROAD

7.5 Permit required for Roadside Trading

- 1) A person must not without a Permit erect or place on any Road a Vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or hiring or offering for sale or hire any goods or services.
- 2) A Permit granted under this clause is valid for one week only.
- 3) All proposed trading sites must be identified in the application for the Permit.
- 4) The requirement to obtain a Permit for Roadside Trading does not apply to:
 - a) newspapers or magazines being home delivered;
 - b) goods purchased at another location being home delivered; or
 - c) goods which have been requested to be home delivered by the occupier of the house.

7.6 Permit required for trading to a person on a Road

- 1) Unless otherwise authorised by legislation and subject to clause 7.5, no person without a Permit may sell or offer for sale any goods or services from a property or a public place adjacent to a Road to any person who is on that Road or public place.
- 2) This clause does not apply to any activities conducted from permanent premises such as a shop or office or other such business premises in compliance with the relevant planning scheme.

7.7 Regulation of trading sites

If the Council has entered into an agreement (by way of lease, licence or otherwise) in relation to trading from a particular site, no person other than the person with whom the Council has the agreement may trade from that site whether or not that person has a Permit.

DIVISION 3 - DISPLAY OF GOODS FOR SALE

7.8 Permit required to locate goods for sale

A person must not place or display any goods for sale or cause or permit another person under his or her control to do so on any Footpath or other part of a Road without a Permit.

DIVISION 4 - ALFRESCO DINING ON ROADS

7.9 Permit required to establish an Alfresco Dining area

A person must not without a Permit establish an Alfresco Dining area on any Footpath or other part of a Road.

7.10 Endorsement to a permit required to allow consumption of alcohol in an Alfresco Dining area

A person must not allow the consumption of alcohol within an Alfresco Dining area on any Footpath or other part of a Road without an endorsement to an Alfresco Dining permit

being made by Council to allow the consumption of alcohol within the Alfresco Dining area.

DIVISION 5 - BULK RUBBISH CONTAINERS ON ROADS

7.11 Permit required to place a Bulk Rubbish Container

A person must not without a Permit place or cause or permit another person to place a Bulk Rubbish Container on a Road.

7.12 Duration

Placement of a Bulk Rubbish Container on a Road is limited to a duration of no longer than 6 continuous weeks unless otherwise agreed by Council.

DIVISION 6 - OCCUPATION OF THE ROAD FOR WORKS

7.13 Permit required for the occupation of the Road for works

No person will on a Road under the control of the Council -

- a) occupy or fence off part of a Road;
- b) use a mobile crane or travel tower for any building work;
- c) make a hole or excavation; or
- d) reinstate a hole or excavation-

without first obtaining a Permit.

7.14 Reinstatement of works

- 1) The reinstatement of any part of the Road damaged or affected by works of a type listed in clause 7.13 must be carried out in accordance with any conditions contained in the Permit.
- 2) The fees to be applied in respect of reinstatement works will be those determined by the Council from time to time.

7.15 Works of service authorities

The provisions of this Division do not apply to the works of any Service Authority.

DIVISION 7 - REPAIR AND DEPOSITED SUBSTANCES

7.16 Repair of Vehicles is prohibited

- 1) A person must not:
 - a) dismantle, paint or carry out maintenance on a Vehicle except for the purpose of removing it;
 - b) repair a Vehicle on a Road; or
 - c) permit or authorise another person to do so.
- 2) This clause does not apply to:
 - a) the provision of emergency roadside assistance;
 - b) changing or repairing a tyre or tyres;
 - c) refilling engine oil or coolant; and
 - d) changing or recharging the vehicle's battery.

7.17 Substance from Vehicles, animals and livestock

A person must not permit unreasonable amounts of grease, oil, mud, clay or other substance to fall or run off a Vehicle or livestock onto a Road into any drain on or under the Road or permit or authorise another person to do so.

7.18 Removal of Substances

A person in charge of a Vehicle or livestock from which unreasonable amounts of any substance has fallen or run off onto a Road must take all reasonable steps to promptly remove the substance, make good any damage and remove any consequent hazard. Where any damage or hazard remains, he or she must promptly notify the Council or member of the police force of the damage or hazard.

DIVISION 8 - STREET PARTIES, STREET FESTIVALS, PROCESSIONS OR EVENTS

7.19 Permit required for Street Parties, Street Festivals, Processions or Events

- 1) A person must not without a Permit hold a Street Party, Street Festival, Procession or event on a Road.
- 2) Applications must be made not less than thirty(30) days before the Street Party, Street Festival, Procession or event is to take place.
- 3) Subject to this Local Law:
 - a) a Street Party may be held on a local street; or
 - b) on a Collector Road-

but must not be held on an arterial Road.

- 4) Subject to this Local Law:

a Street Festival, Procession or event may be held on any type of Road-

but must not be held on a Primary Arterial Road unless the written consent of both the Chief Commissioner of Police and the Chief Executive of VicRoads has been obtained.

DIVISION 9 - COLLECTIONS ON ROADS

7.20 Permit required for collections on Roads

A person must not without a Permit solicit or collect any waste materials, gifts of money or subscriptions from any Footpath or from house to house adjacent to any Road or cause or authorise another person to do so.

7.21 Permit required busking activities

- 1) Subject to clause (2), a person must not without a Permit perform any Busking activities within the Municipal District.
- 2) The requirement to obtain a Permit for Busking does not apply subject to all of the following conditions being met:
 - a) Busker has obtained written consent from the proprietors of the business outside which Busking is intended;

- b) Busker does not perform in any one location for more than two (2) consecutive days; and
- c) Busker adheres to the conditions as per the standards set out in the Local Law for Busking and any Guidelines developed from time to time.

PART 8 – STANDARDS

S1 VEHICLES TO USE A ROAD CONTRARY TO THE SIGN ERECTED

In determining whether to grant a Permit to use a Road contrary to any sign erected on it, the Council must take into account:

- 1) the amount of the damage likely to be caused to the Road by the Vehicle requiring the Permit;
- 2) the type of vehicle;
- 3) the goods to be transported and the weight of those goods;
- 4) alternative Roads which are available;
- 5) the necessity to impose speed limits; and
- 6) any other matter relevant to the circumstances of the application.

S2 HEAVY VEHICLES OR LONG VEHICLES TO BE PARKED, KEPT OR STORED ON RESIDENTIAL LAND

- 1) In determining whether to grant a Permit to allow Heavy Vehicles or Long Vehicles to be parked, kept or stored on residential land, the Council must take into account:
 - a) the likely impact on the residential amenity of the neighbourhood as a result of:
 - the intrusion of Heavy Vehicle Traffic;
 - excessive noise from Heavy Vehicles;
 - pedestrian and motorist safety;
 - the likely damage to be caused to Council assets and street trees;
 - fumes or related smells resulting from the parking of Heavy Vehicles.
 - b) the Traffic function, Traffic volume and width of other Roads in the vicinity;
 - c) whether the unobstructed sight distance when exiting forward from the property is capable of being a minimum of 80 metres;
 - d) whether the manoeuvring requirements of the Vehicle and the roadway width will enable the Vehicle to be turned within a maximum crossing width of 4 metres;
 - e) any load limit restriction in force on the relevant Road;
 - f) whether the property is of sufficient size and layout to enable the Vehicle to be properly garaged; and
 - g) any other matter relevant to circumstances of the application.
- 2) Unless otherwise stated the following conditions apply to all Permits granted:
 - a) It must be garaged in a locked garage.

- b) It must not be driven in reverse from the property onto the Road.
- c) It must not be carrying a load when brought onto the property.
- d) It must not be started, driven or have its engine running on the property before 7 a.m. or after 7 p.m. on any day.
- e) It must not be repaired, washed or maintained on the property or on any adjacent Road.
- f) It must not be parked on any adjacent Road (or any other Road) for more than one hour. If parked during the hours of darkness, its parking lights must be illuminated.
- g) Nuisance to neighbours from noise or smell must be avoided.
- h) The property must be kept in a clean and tidy condition. There are to be no oil drums, large Vehicle parts or other large associated articles on the property. Small parts or small associated articles are not to be within view from any Road at any time.
- i) The requirements of the Wellington Planning Scheme or any Planning Permit for the site must be complied with.

S3 PORTABLE ADVERTISING SIGNS ON ROADS

- 1) In determining whether to grant a Permit to allow a Portable Advertising Sign to be placed on a Road, the Council must take into account:
 - a) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - b) the Guidelines; and
 - c) any other matter relevant to the circumstances of the application.
- 2) A Permit will not be issued where it is likely to introduce a hazard to Road users or pedestrians due to:
 - a) boards or signs which obstruct a driver's line of sight at a corner or bend or between Roads at a junction or at any point of vehicular egress from the property;
 - b) boards or signs which obstruct or detract or tend to interfere with a Road users view of a traffic sign or signal;
 - c) boards or signs which have insufficient clearance from Vehicles on the carriageway or parking areas or from the points of access to premises for pedestrians;
 - d) boards or signs that interfere with free and easy pedestrian movement on Footpaths or cause difficulty in opening Vehicle doors; or
 - e) any other reason that is judged to be a threat to public safety.
- 3) Signs will not be permitted on the Road pavement or any reservations located on the Road pavement.

- 4) A Permit to allow a Portable Advertising Sign to be placed on a Road is subject to the conditions contained in the Guidelines.

S4 USE OF VEHICLE TO ADVERTISE

- 1) In determining whether to grant a Permit to allow advertising on Vehicles on the Road, the Council must take into account:
 - a) the duration and location of the relevant Vehicle or Vehicles;
 - b) the nature of the advertising material;
 - c) the regularity of such placement;
 - d) whether any Vehicle is so parked as to obstruct the view of other road users;
 - e) whether the location of the Vehicle creates a nuisance to other road users or occupiers of adjacent premises;
 - f) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - g) any Council Guidelines; and
 - h) any other matter relevant to the circumstances of the application.
- 2) In determining whether a Vehicle displaying advertising material has been left for purposes of Clause 7.4 the Council will have regard to:
 - a) the duration and location of the relevant Vehicle or Vehicles;
 - a) the nature of the advertising material;
 - b) the regularity of such placement;
 - c) whether any Vehicle is regularly moved throughout the day;
 - d) whether any Vehicle is merely parked in such locations as an aid to its use in driving to and from the business location;
 - e) whether any Vehicle is left separated from its motive power for periods in excess of 30 minutes;
 - f) whether any Vehicle is so parked as to obstruct the view of other road users;
 - g) whether the location of the Vehicle creates a nuisance to other road users or occupiers of adjacent premises; and
 - h) any other matter which appears relevant to determining the purpose for which any such Vehicle is left.

S5 ROADSIDE TRADING OR TRADING TO A PERSON ON A ROAD

- 1) In determining whether to grant a Permit to allow Roadside Trading or to a person on a Road, the Council must take into account:
 - a) whether the safety of road users or the passage of Vehicles will be affected by the placement;

- b) whether a registration and/or permit required by the *Public Health and Wellbeing Act 2008* and/or the *Food Act 1984* or any other legislation has been obtained;
 - c) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;
 - d) whether the activity will be detrimental to the amenity of the area;
 - e) whether appropriate arrangements can be made for -
 - waste water disposal
 - litter and garbage
 - lighting
 - Advertising Signs
 - f) whether the consent of VicRoads has been obtained where the Road is a declared State Highway, Tourist Road or Forest Road;
 - g) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - h) the Guidelines; and
 - i) any other matter relevant to the circumstances of the application.
- 2) A Permit to allow a Roadside Trading is subject to the conditions contained in the Guidelines.

S6 GOODS DISPLAYED FOR SALE ON A ROAD

- 1) In determining whether to grant a Permit to allow goods to be displayed for sale on a Road, the Council must take into account:
 - a) whether the goods will be displayed outside the applicant's premises;
 - b) whether adequate lighting of the display area can be achieved if the normal business hours include hours of darkness;
 - c) whether the goods or the display may be of such material, layout or construction which could be a hazard to pedestrians;
 - d) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - e) the Guidelines; and
 - f) any other matter relevant to the circumstances of the application.
- 2) A Permit to allow goods to be displayed for sale on a Road is subject to the conditions contained in the Guidelines.

S7 ALFRESCO DINING AREAS ON ROADS

- 1) In determining whether to grant a Permit for an Alfresco Dining area on a Road, the Council must take into account:

- a) whether the facility is conducted in conjunction with and as an extension of food premises located immediately abutting the facility, and the applicant is the person conducting such food premises;
 - b) whether the food premises is registered in accordance with the *Food Act 1984*;
 - c) whether a site plan detailing placement of furniture has been provided;
 - d) whether the facility would be located where it would obstruct the visibility at an intersection;
 - e) whether appropriate and safe pedestrian access can be maintained;
 - f) whether the tables, chairs and other equipment to be used will be a hazard;
 - g) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - h) the Guidelines; and
 - i) any other matter relevant to the circumstances of the application.
- 2) The following conditions will be applicable to all Alfresco Dining Permits:
- a) tables and chairs to be removed from the Footpath area by 11.00 p.m. Barricades or screens to be removed unless permission has been granted for such structures to be permanently fixed;
 - b) the holder of the Alfresco Dining Permit must move or remove the Alfresco Dining area when requested to by an Authorised Officer or a member of the police force or an emergency service; and
 - c) Conditions contained in the Guidelines.

S8 CONSUMPTION OF ALCOHOL WITHIN ALFRESCO DINING AREAS ON ROADS

- 1) In determining whether to endorse an Alfresco Dining Permit to allow the consumption of alcohol, the Council must take into account:
 - a) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - b) any Council Guidelines and;
 - c) any other matter relevant to the circumstances of the application
- 2) The following conditions will be applicable to all Permits:
 - a) Permit holders serving alcohol must operate in accordance with the rules and regulations of the *Liquor Control Reform Act 1998*, and are responsible for the conduct of all persons in the approved area.
 - b) applicants must obtain or have obtained permission from the Director of Liquor Licensing to serve alcohol in an Alfresco Dining area.

- c) applicants must obtain a planning permit if necessary before serving alcohol in alfresco dining areas. Site plans submitted with permit applications must show the licensed area proposed to be on public space.
- d) an endorsement will only be granted where the predominant activity is the consumption of a meal and alcohol can only be consumed during the process of partaking in a meal.
- e) Permit holders serving alcohol must, where appropriate, provide Council approved barricades or screens on at least three sides of the seating area, one side of which will be the kerbside.
- f) Permit holders serving alcohol must only permit alcohol to be consumed from a proper drinking glass. No cans or bottles are permitted (except bottles containing wine only and jugs of alcoholic drinks).
- g) Permit holders serving alcohol will be responsible for ensuring patrons consuming alcohol are properly seated on chairs at tables. There will be no standing while drinking in the designated area.
- h) alcohol must cease being consumed no later than one hour after the kitchen has finished serving the regular full menu or by 10pm, whichever is earlier.

S9 BULK RUBBISH CONTAINERS ON A ROAD

- 1) Council may permit the placement of Bulk Rubbish Containers on Roads provided that Council considers it impracticable to place the container within the private property.
- 2) In determining whether to grant a Permit for the placement of a Bulk Rubbish Container on a Road, the Council must take into account:
 - a) whether the placement will obstruct the passage of Vehicles and pedestrians, obscure the view of motorists or present a physical hazard;
 - b) whether the placement will contravene any Traffic control signs;
 - c) whether there is insufficient room for placement within the private property of the owner;
 - d) whether reflectors can be securely attached on the side nearest passing Traffic or placed on a carriageway, so as an approaching motorist can identify the extent and form of the container;
 - e) protection of any Council assets;
 - f) whether an indemnity and evidence of public liability insurance has been provided to the Council; and
 - g) any other matter relevant to the circumstances of the application.

S10 OCCUPATION OF ROADS FOR WORKS

In determining whether to grant a permit for the occupation of Roads for works, the Council must take into account-

- a) the nature and duration of the works;
- b) the likely hazard that the works may constitute to users of the Road;

- c) the impact of the works on the amenity of the adjoining area;
- d) whether an indemnity and evidence of public liability insurance has been provided to the Council; and
- e) any other matter relevant to the circumstances of the application.

S11 STREET PARTY ON A LOCAL STREET

In determining whether to grant a Permit for a Street Party, the Council must take into account:

- a) whether the Road can be closed to vehicular traffic for the duration of the Street Party;
- b) whether all owners or occupiers of all properties with any vehicular access via the section of Road to be closed have been advised by letter and given 7 days to comment or object;
- c) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the Road at locations and times specified by the Authorised Officer;
- d) whether the Footpath on at least one side of the Road can be kept clear of obstructions; and
- e) any other matter relevant to the circumstances of the application.

S12 STREET PARTY ON A COLLECTOR ROAD, STREET FESTIVAL, PROCESSION OR EVENT

- 1) In determining whether to grant a Permit for a Street Party on a Collector Road, Street Festival, Procession or event the Council must take into account:
 - a) whether all owners or occupiers of properties with any vehicular access via the section of Road to be closed have been advised by letter and given no less than seven (7) days to comment or object; and
 - b) any other matter relevant to the circumstances of the application.
- 2) The following conditions will apply to all Permits issued:
 - a) a suitable traffic management plan completed by a suitably qualified person confirming that the Road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and festival/Procession patrons and equipment is to be provided no less than seven (7) days prior to the commencement of the event.
 - b) evidence that the agreement of Victoria Police and VicRoads has been obtained and their requirements met, including an appropriate Traffic detour signing scheme, is to be provided no less than seven (7) days prior to the commencement of the event.

S13 COLLECTIONS ON ROADS

In determining whether to grant a Permit to allow collections, the Council must take into account:

- a) the times and days it is proposed to collect;
- b) the matter or thing to be collected;
- c) the Roads or areas in which the collections will take place;
- d) the impact on Traffic and safety of pedestrians;
- e) the age and capacity to supervise participants;
- f) whether an indemnity and evidence of public liability insurance has been provided to the Council;
- g) any Council Guidelines; and
- h) any other matter relevant to the circumstances of the application

S14 BUSKING

- 1) In determining whether to grant a Permit to allow Busking, the Council must take into account:
 - a) whether an indemnity and evidence of public liability insurance has been provided to the Council;
 - b) any Council Guidelines; and
 - c) any other matter relevant to the circumstances of the application.
- 2) The following conditions will be applicable to all Busking whether a Permit is required or not.
 - a) Buskers must not cause any annoyance or obstruction to persons or Traffic;
 - b) Buskers must not obstruct doorways or other entrances;
 - c) Buskers must obtain the written consent from the proprietors of the business outside which they intend to busk;
 - d) Buskers must, at all times, leave clear a minimum of 1.5 metres of Footpath for use by pedestrians;
 - e) Should any proprietor or occupier of any premises within hearing distance of the Busker request the Busker to move out of hearing distance, the Busker shall do so on direction from an Authorised Officer;
 - f) Buskers must not perform within 20 metres of any school, kindergarten, child-minding centre or hospital unless by advanced invitation of the facility manager.
 - g) The use of fire, animals, materials, substances or equipment that may pose a threat to public safety is subject to approval.



SCHEDULE 1 – NOTICE TO COMPLY

To*: _____ [*INSERT COMPANY NAME IF APPLICABLE*]

Address: _____

Address to which this Notice to Comply applies
(if different from above): _____

You/the company (delete as applicable) have breached provision(s) ____ of Local Law Streets and Roads No.2-2011, as follows:

To remedy the breach you must carry out the following action or work, within _____ days from the date of this Notice being _____ am/pm on _____ (Date).

The following action or work is required:

If you fail to comply with this Notice you will be guilty of an offence and liable to a penalty of \$ _____ (penalty).

A further penalty of one (1) Penalty Unit for each date during which the contravention continues applies; and upon conviction for a second or subsequent offence, double the penalty stated under the provision of Penalty Units.

If you fail to comply with this Notice to Comply within the specified time the Council or the Authorised Officer may proceed to carry out the action or work. You will be liable for any cost incurred by the Council in carrying out such action or work.

Name of Authorised Officer: _____

Signature of Authorised Officer: _____

Date: _____

You may contact the Authorised Officer on 1300 366 244 during offices hours for further information about this Notice to Comply.

In person: Wellington Shire Council
 70 Foster Street, Sale
 Post: PO Box 506 Sale Vic 3860
 Email: Enquiries@wellington.vic.gov.au
 Website: www.wellington.vic.gov.au



SCHEDULE 2 – NOTICE OF IMPOUNDING

To*: _____ [**INSERT COMPANY NAME IF APPLICABLE*]

Address: _____

The following item(s) has/have been impounded in accordance with Streets and Roads Local Law No. 2 – 2011.

(Describe items impounded)

-
-
-
-

You may arrange to collect the items by contacting the Wellington Shire Council on 1300 366 244 during office hours.

The following fees and charges are payable prior to collecting the items:

_____	_____
_____	_____
_____	_____
_____	_____
TOTAL	\$ =====

If you fail to collect the item(s) and pay the required fees and charges by _____ the Authorised Officer will proceed to dispose of the item(s) in accordance with the law.

Name of Authorised Officer: _____

Signature of Authorised Officer: _____

Date: _____

You may contact the Authorised Officer on 1300 366 244 during offices hours for further information about this Notice of Impounding.

In person: Wellington Shire Council
70 Foster Street, Sale

Post: PO Box 506 Sale Vic 3860

Email: Enquiries@wellington.vic.gov.au

Website: www.wellington.vic.gov.au



SCHEDULE 3 – APPLICATION FOR A PERMIT

Please carefully read both sides of this application before completing it. Please indicate the type of permit you need (see list overleaf).

Name of Applicant*: _____ [*INSERT COMPANY NAME IF APPLICABLE]

Address of Applicant: _____

Address to which this permit applies (if different from above): _____

Telephone No: _____

Email Address: _____

Permit Type Required: _____

I wish to be able to: (Describe activity)

Have you attached a site map if required? (see overleaf)	YES	NO
Have you attached a completed indemnity form and proof of public liability insurance if required? (see overleaf)	YES	NO
Have you advised any of your neighbours before making this application if required? (see overleaf)	YES	NO

Names and addresses of all adjoining neighbours advised (If insufficient space please attach additional pages)

Name	Address
1.	
2.	

I warrant that the above information is true and correct. I agree to abide by all conditions specified in the permit and Local Law and any other relevant Guidelines.

Signature (Applicant): _____

Date: _____

OFFICE USE ONLY Permit Fee: \$ _____ Receipt Number: _____

Please return completed application form with payment. By mail to: PO Box 506, Sale Vic 3850
Cheques made payable to: Wellington Shire Council. In person, during office hours: 70 Foster Street Sale or 156 Grant Street Yarram. For further information contact Wellington Shire Council on: **1300 366 244**

Personal information that is requested on an application form is collected for the purpose of processing an application for a Permit. The personal information will be used solely by Council for that primary purpose or directly related purposes. The Council may disclose some of this information to relevant organisations or people (including property owners) if the nature of the activity for which the Permit has been applied requires consent by parties other than Council or has the potential to affect neighbourhood amenity. If sufficient information is not collected on the application, Council may not be able to effectively process the application and in most cases will refer the application back to the applicant for further details. The applicant understands that the personal information provided is for the purpose of applying for a Permit and that they may apply to Council for access to or amendment of the information.

Local Laws no 2, 2011, Streets and Roads Permit Types	Clause	Site plan required	Public liability insurance and indemnity form required	Required to advise adjoining neighbours	Other
Construct a vehicle crossing	5.5	No	No	No	Application in the form of a Consent of Road Works permit
Use a road contrary to the sign erected	6.5	No	No	No	Number of trips Reason Vehicles - Registration no Tare Length Width Height
Park a heavy or long vehicle on private property in residential zone	6.10	Yes	No	Yes	Time of vehicle arriving and leaving Vehicles - Registration no Tare Length Width Height
Display portable advertising	7.1	Yes	Yes	No	
Use a vehicle to advertise	7.4	Yes	No	No	
Roadside trading	7.5	Yes	Yes	No	
Trading to a person from a road	7.6	Yes	Yes	No	
Locate goods for sale	7.8	Yes	Yes	No	
Establish an alfresco dining facility	7.9	Yes	Yes	No	
Endorsement to alfresco dining permit to allow consumption of alcohol	7.10	Yes	Yes	No	Subject to obtaining permission from Liquor Licensing Victoria
Bulk rubbish containers	7.11	Yes	Yes	No	
Occupation of the road for works	7.13	Yes	Yes	No	
Street party, street festival or procession or events	7.19	Yes	Yes	Yes	Description of those being invited and approximate number of attendees.
Collection on roads	7.20	Yes	Yes	No	
Busking	7.21	No	Yes	No	Written consent from the proprietors of the business outside which you intend to busk



SCHEDULE 4 - FORM OF INDEMNITY

This deed is made on the _____ day of _____ 20_____

Between: (the permit holder) _____

And the Wellington Shire Council ('the Council') _____

Whereas:

Under the *Local Government Act 1989* ("the Act") and Local Law No 2 - 2011 Streets and Roads ("the Local Law"), the Council may grant permits for particular uses or activities.

The Council has issued a permit to the Permit holder for the use or activity the subject of the permit on the condition that the Permit holder enters into this deed with the Council.

Operative Provisions

1. The Permit holder indemnifies and releases the Council, its officers, employees and agents ("those indemnified") from and against all actions, claims, demands, losses, costs and expenses for which those indemnified shall or may become liable in respect of and arising from any loss, damage or injury from any cause whatsoever to property or persons caused or contributed to by the exercise of the rights granted to the Permit holder by the permit or any purported right arising as a consequence of the grant of the permit and without limiting the generality of the foregoing including any actions, claims, demands, losses, damages or injury alleged to arise as a consequence of:
 - a) the grant of the permit;
 - b) the permitted conduct activities or actions;
 - c) the placement of any goods or equipment on any Road;
 - d) the service of any food or drink to any patron of the Permit holder's establishment on a Road;
 - e) the failure of the Permit holder to observe or perform any of the conditions subject to which the permit was granted.

EXECUTED as a Deed
SIGNED SEALED AND DELIVERED by

.....
Signature of Applicant

In the presence of:

.....
Signature of Witness

.....
Name and address of Witness



SCHEDULE 5 - PERMIT

Name of Permit Holder:
APPLICABLE]

*[*INSERT COMPANY NAME IF*

Address of Permit Holder:

Address to which this permit applies (if different from above):

Is permitted under Clause: _____ of Local Law No. 2 - 2011, Street and Roads to:

DELETE WHICHEVER IS NOT APPLICABLE

- Construct a Vehicle Crossing;
- Use a Road contrary to the sign erected;
- Park a Heavy Vehicle or Long Vehicle on private property which is zoned as a Residential Zone in the Wellington Planning Scheme
- Display Portable Advertising Sign;
- Use a Vehicle to advertise;
- Conduct Roadside Trading;
- Trade to a person adjacent to a Road;
- Locate goods for sale;
- Establish an Alfresco Dining area;
- Endorsement to Alfresco Dining Permit to allow consumption of alcohol;
- Place a Bulk Rubbish Container;
- Occupy the Road for works;
- Hold a Street Party, Street Festival, Procession or other event;
- Collection on Roads; and
- Busk.

In addition to the relevant Standards and any applicable Guidelines set out in the Local Law No. 2 - 2011, the following conditions apply to the granting of this permit:

-
-
-

Where any permit issued under this Local Law contains conditions, any person who contravenes or fails to comply with a condition of the permit is guilty of an offence.

The permit will come into effect on:

The permit expires on:

Fee \$

Name of Authorised Officer:

Signature of Authorised Officer:

Date:



SCHEDULE 6 – CONTROL OF TOY VEHICLES

Toy vehicles are not permitted to be ridden on or otherwise used in the following areas:-

Raymond Street Sale between Stawell and Foster Streets
Cunninghame Street Sale between Reeve and York Streets
Macarthur Street Sale between Reeve and York Streets
Macalister Street Sale between Reeve and York Streets
York Street Sale between Stawell and Foster Streets
Desailly Street Sale between Stawell and Foster Streets
Pearson Street Sale between Stawell and Foster Streets
Johnson Street Maffra between Foster and McMillan Streets
Commercial Road Yarram between James and Devon Streets
Temple Street, Heyfield between Macfarlane and Harbeck Streets



SCHEDULE 7 - PENALTIES FIXED FOR INFRINGEMENT NOTICES

Clause	Offence	Penalty Units
2.6	Failure to adhere to a Notice to Comply	2
2.10	Name and addresses	2
3.1	Failure to obtain a Permit where required by this Local Law	2
3.6	Failure to comply with the conditions of a Permit	2
3.12	Failure to adhere to conditions of an exemption	2
3.13	Wilfully make a false representaiton or declaration to obtain a Permit	2
5.1	Trees or plants obstructing or obscuring	2
5.2	Signs and posts obstructing or obscuring	2
5.3	Discharge of irrigation water to Roads	2
5.4	Property numbers not displayed	2
5.5	Failure to provide a properly constructed Vehicle Crossing	2
5.7	Failure to reinstate a redundant Vehicle Crossing	2
6.1	Use a Road contrary to any sign erected	2
6.6	Use or leaving a Shopping Trolley	1/4
6.8	Use of Toy Vehicle	1/4
6.9	Conduct using Toy Vehicles	1/4
6.10	Parking Heavy Vehicles or Long Vehicles in a residential zone	2
6.11	Riding horses on a reservation	1/2
7.1	Placing Advertising Signs on Roads	2
7.2	Locating Advertising Sign away from premises	2
7.3	Placement of real estate signage	2
7.4	Using a Vehicle to advertise	2
7.5	Roadside Trading	4
7.6	Trading to a person from a property or public place	4
7.7	Regulation of trading sites	2
7.8	Locate goods for sale	2
7.9	Establish Alfresco Dining area	2
7.10	Consumption of alcohol in an Alfresco Dining area	2
7.11	Bulk Rubbish Containers on a Road	2
7.12	Bulk Rubbish Containers on a Road longer than authorised	2
7.13	Occupation of the Road for works	2
7.16	Repair of Vehicles on Roads	2
7.17	Allowing substances to remain on Roads	2
7.19	Holding a Street Party, Street Festival, Procession or other events	2
7.20	Collecting money materials or subscriptions	2
7.21	Busking	2

A further penalty of one (1) Penalty Unit for each date during which the contravention continues applies; and upon conviction for a second or subsequent offence, double the penalty stated under the provision of Penalty Units.

Where no Penalty Unit is specified, two (2) Penalty Units apply.

Note: Section 110 of the *Sentencing Act 1991* describes the value of a Penalty Unit.