

NILLUMBIK SHIRE COUNCIL

FIREWORKS LOCAL LAW 2019

PART 1 – PRELIMINARY

1. Local Law

This Local Law is the Fireworks Local Law 2019 and is made under Part 5 of the *Local Government Act 1989*.

2. Objectives

The objectives of this Local Law are to:

- (a) manage and regulate the discharge of fireworks on private land in the municipal district to reduce amenity and environmental impacts of fireworks;
- (b) address activities with the potential to be a nuisance and impact on the health and wellbeing of residents in a bushfire prone rural environment; and
- (c) apply standards that address safety matters directed at reducing risk to the community.

3. Commencement

This Local Law comes into operation on *(insert date)*

4. Date this Local Law ceases operation

Unless this Local Law is revoked sooner, its operation will cease on *(insert date)*

5. Application of this Local Law

This Local Law applies to land outside of the urban growth boundary within the Nillumbik Shire.

6. Definitions

In this Local Law:

“**authorised officer**” – means a person appointed by the Council under section 224 of the *Local Government Act 1989*.

“**Council**” – means the Nillumbik Shire Council.

“**CFA**” – means the Country Fire Authority.

“**declared fire danger period**”- means the declaration made under section 4 of the *Country Fire Authority Act 1958*.

“**public notice**” means a notice published in a newspaper generally circulating in the municipal district of the Council chosen for the purpose and a notice on the Council’s website.

“urban growth boundary” – means the boundary defined in the Nillumbik Planning Scheme identifying the scope of urban growth within the municipality and identified on the plan in Schedule 1.

PART 2 – CONTROLS APPLYING TO FIREWORKS

7. Permit requirements

- (1) A person must not without a permit discharge any fireworks on or from private property outside the urban growth boundary.
- (2) An application for a permit must be submitted to Council not less than 60 days before the proposed discharge of fireworks.

8. Information required on an application for permit

A person applying for a permit must provide the following information with the application:

- (a) a site plan of the land, showing all existing buildings, all vegetation, the firing points for the types of fireworks to be discharged, the distances of firing points from adjoining land, access roads and where the audience will be located;
- (b) a risk management plan that assesses the risk associated with discharging fireworks from the intended location, including:
 - an assessment of the risk of fire on the intended location and adjoining land and how those risks will be managed;
 - the risk of harm to people, domestic animals, livestock and wildlife from the noise caused by the fireworks to be used and how those risks will be managed; and
 - an emergency evacuation plan that will apply if there needs to be emergency evacuation from the land;
- (c) any initiative to be applied by the applicant to reduce harm to domestic animals, livestock and wildlife on land within 1.5km of the land where fireworks will be discharged or fireworks displayed;
- (d) evidence that the fire protection measures and separation distances prescribed by the *Dangerous Goods (Explosives) Regulations 2011* are complied with;
- (e) a copy of the licence issued by Worksafe Victoria for the person to conduct fireworks displays;
- (f) a copy of the notice provided to Worksafe and the Country Fire Authority advising of the intention to discharge fireworks on the land;
- (g) whether any temporary advertising signs will be placed on Council land or roads and that they comply with Council's Amenity Local Law and *Signage Policy*;

- (h) a certificate of currency in the name of the occupier that shows adequate public liability insurance is in place for the event; and
- (i) any other information required by an Authorised Officer to make a proper assessment of the application.

9. Notification requirements

- (1) Upon receiving an application Council will, on behalf of the applicant:
 - (a) notify by registered mail all occupiers of land within 1.5km of the land where it is intended to discharge the fireworks;
 - (b) notify by registered mail any other person Council considers could be directly affected by the proposed discharge of fireworks; and
 - (c) give public notice advising of the application that includes details about the location and the time and duration of the discharge of fireworks.
- (2) In addition to any fees or charges to be paid under clause 14, the applicant will pay to the Council the costs of notifications required under this provision.

10. Criteria for assessing applications

In determining whether to grant a permit, an Authorised Officer must consider whether:

- (a) the information submitted with the application under clause 8 is satisfactory;
- (b) the identified risks have been adequately assessed and responded to;
- (c) adequate measures have been taken to manage the risk to livestock on adjoining or nearby properties;
- (d) any other permits or consents from Council are required;
- (e) any additional requirements of the CFA that have been made;
- (f) any comments that have been made in response to the notifications given under clause 9; and
- (g) any other matters relevant to the circumstances of the application.

11. Conditions on a permit

- (1) The permit may contain conditions such as:
 - (a) compliance with any requirements or conditions applied by the CFA;
 - (b) prescribing the times during which the discharge of fireworks can occur;
 - (c) prohibiting the discharge of fireworks from occurring if unpredictable weather conditions, such as winds in excess of 10 knots occur; and
 - (d) compliance with any other permits or consents that may be required for community events in the Nillumbik Shire.

12. Prohibition on Council issuing permits

Council must not grant a permit under clause 7:

- (a) during the declared fire danger period; or

- (b) after 1 November or the declared fire danger period, whichever is earlier, and before 30 March or the end of the declared fire danger period, whichever is the later.

PART 3 – ADMINISTRATION

13. Permits

- (1) An application for a permit must be in a form approved by the Council and accompanied by the fee prescribed by Council.
- (2) The Council may require an applicant to supply additional information or to give public notice of the application.
- (3) A permit may be issued subject to conditions.
- (4) A person must comply with the conditions of a permit issued to them.

14. Fees and Charges

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

15. Direction of an Authorised Officer

An authorised officer may give any reasonable direction, including a verbal direction, to a person in respect of any matter under this Local Law and a person must comply with that direction.

16. Notice to Comply

- (1) An authorised officer may serve a Notice to Comply directing any owner or occupier of land or any other person on whom an obligation is imposed by this Local Law to remedy anything which constitutes a breach of this Local Law.
- (2) A person to whom a Notice to Comply is issued must comply with that notice.
- (3) A Notice to Comply must state the date and time by which the breach must be remedied.
- (4) The date and time stated in the Notice to Comply to remedy the breach must be reasonable in the circumstances having regard to:
 - (a) the amount of work involved;
 - (b) the degree of difficulty;
 - (c) the availability of necessary materials or other items;
 - (d) climatic conditions;;
 - (e) the degree of risk or potential risk which a continued breach of this Local Law poses to persons or animals, including any wildlife; and

- (f) any other relevant matter.

17. Power of an authorised officer to impound

A authorised officer may act to remedy any circumstance which threatens a person's life, health or property, or which threatens an animal without serving a Notice to Comply provided that:

- (a) the circumstance arises out of a person's failure to comply with this Local Law;
- (b) the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- (c) the person to whom the Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstances and the action taken to remedy it.

18. Impounding

- (1) An authorised officer may:
 - (a) impound any item that encroaches or obstructs the free use of a public place or any item that contravenes or is being used in contravention of this Local Law.
 - (b) release the item to the owner on payment of a fee determined by the Council which is not to exceed an amount that reasonably represents the cost to the Council of impounding, keeping and releasing the item; and
 - (c) sell, destroy, dispose of or give away the impounded item if the owner of the item has not paid the fee within 14 days of the service of the notice under subclause (2) or after taking the steps required under subclause (3).
- (2) If an authorised officer impounds an item under subclause (1), he or she must serve a notice in a form approved by the Council, on the owner as soon as possible after the item is impounded.
- (3) If the identity or whereabouts of the owner of the item impounded under subclause (1) is unknown, the authorised officer must take reasonable steps to ascertain the owner's identity and/or whereabouts prior to exercising his or her powers under subclause (1).
- (4) The Council is entitled to retain out of the proceeds of sale of any impounded item its reasonable costs incurred in impounding, keeping or selling them.

19. Delegation

The powers of the Council under this Local Law to:

- (a) impound an item under clause 18;
- (b) issue, refuse or revoke a permit;
- (c) issue, sign, revoke, exempt, require or cancel any notice, order or agreement; and
- (d) enforce any matter –

are delegated to the Chief Executive Officer of the Council and to all authorised officers who are also members of Council staff.

PART 4 – ENFORCEMENT

20. Offences

A person is guilty of an offence against this Local Law if the person:

- (a) does something which a provision of this Local Law prohibits to be done;
- (b) fails to do something which a provision of this Local Law requires to be done;
- (c) engages in activity without a current permit where this Local Law requires a person to obtain a permit before engaging in that activity;
- (d) breaches or fails to comply with a direction of an authorised officer under this Local Law;
- (e) fails to comply with a condition of a permit issued under this Local Law; or
- (f) fails to remedy a thing in accordance with a Notice to Comply by the date and time stated in the Notice to Comply.

21. Infringement Notices

- (1) Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, the authorised officer may issue an infringement notice to the person in a form approved by the Council, as an alternative to a prosecution for the offence.
- (2) A person to whom an infringement notice has been issued must pay to the Council the amount specified in the notice within 28 days.
- (3) A person served with an infringement notice is entitled to disregard the notice and defend the prosecution in Court.
- (4) An infringement notice may be waived by an authorised officer following representations from any person served with an infringement notice or made on behalf of that person.

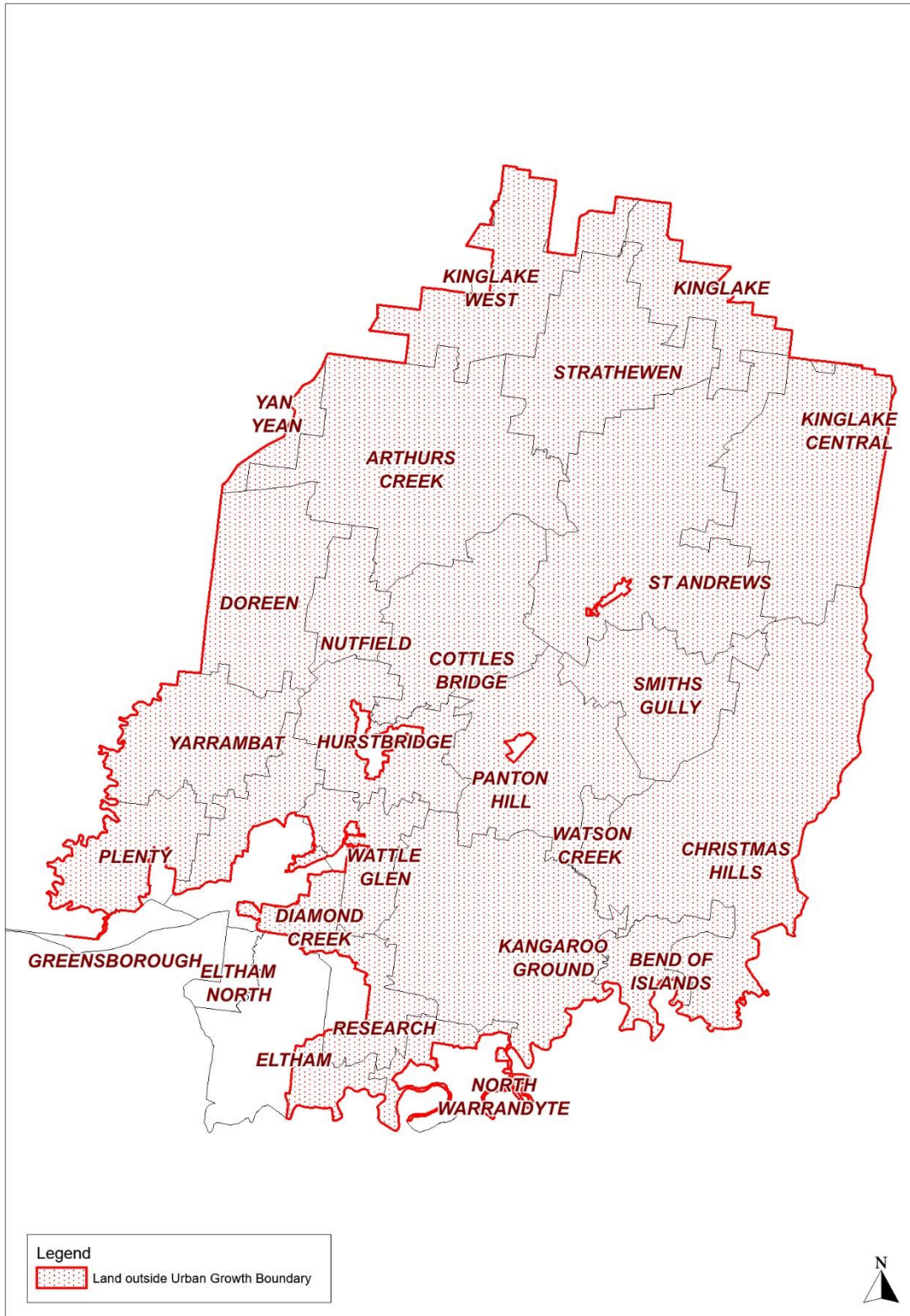
22. Penalties

- (1) The fixed penalty in respect of an infringement notice is set out in Schedule 2.
- (2) A person guilty of an offence is subject to the penalties set out in Schedule 2.

FIREWORKS LOCAL LAW

SCHEDULE 1

Map showing all land (shaded) located outside the urban growth boundary within Nillumbik.



FIREWORKS LOCAL LAW

SCHEDULE 2 – PENALTIES

Clause	Offence	Infringement notice fixed penalty	On conviction first offence
7	Failing to obtain a permit to discharge fireworks from private property outside the urban growth boundary		
13	Failing to comply with conditions of a permit		
15	Failing to comply with a direction of an authorised officer		
16	Failing to comply with a Notice to Comply		

DRAFT