BULOKE SHIRE COUNCIL

SALEYARDS PRECINCT LOCAL LAW NO. 14 OF 2013

PART 1 – PRELIMINARY

1. Title

This is the Saleyards Precinct Local Law No. 14 of 2013.

2. Objectives

The objectives of this Local Law are to provide for the peace order and good government of the Buloke Shire by:

- (1) providing for the management and administration of the Council's Saleyards Precinct;
- (2) protecting Council's assets and facilities;
- (3) applying processes and requirements to the Saleyards Precinct to:
 - promote safety and safe work practices;
 - operate the Saleyards Precinct in a manner that achieves the requirements of the Livestock Management Act 2010 and any applicable standards and codes;
 - ensure that appropriate standards of animal welfare are applied and that any livestock brought to the Saleyards Precinct are treated humanely; and
 - maintain accreditation as a Saleyards under the National Saleyards Quality Assurance program.
- (4) generally providing for the administration of the Council's powers and functions.

3. Authorising Provision

This Local Law is made under Section 111(1) of the Local Government Act 1989.

4. Commencement, revocation and area of operation

This Local Law:

- (a) revokes the Saleyards Precinct Local Law No. 8 2007;
- (b) commences on 15 August 2013;
- (c) unless it is revoked sooner, this Local Law ceases to operate on 14 August 2023; and
- (d) operates at the Saleyards Precinct, Camp Street, Wycheproof.

5. Definitions

In this Local Law the following words have the meaning given to them unless stated otherwise:

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"alcohol"	means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.	
"Authorised Officer"	means a person appointed by the Council under section 224 of the Local Government Act 1989.	
"Council"	means the Buloke Shire Council.	
"drug"	means a substance that is declared as a drug for the purposes of the Road Safety Act 1984 under section 3(3) or any other substance (other than alcohol) which, when consumed or used by a person, deprives that person (temporarily or permanently) of any of his or her normal mental or physical faculties.	
"Livestock"	means an animal kept for the purpose of primary production including cattle, sheep and pigs but does not include a dog.	
"Municipal District"	means the municipal district of the Council.	
"Motor vehicle"	has the same meaning as section 3 of the Road Safety Act 1986.	
"penalty units"	has the same meaning as section 110 of the Sentencing Act 1991.	
"person in charge"	 means in relation to an animal: the owner of the animal; a person who has physical custody or control of the animal, including an employee of that person; the owner or occupier of a place or vehicle where the animal is at any relevant time. 	
"Saleyards Manager"	means the person appointed by the Council with responsibility for the day to management and operation of the Saleyards Precinct.	
"Saleyards Precinct"	means the area of land used for selling livestock and includes the yards, ramps, amenities, truck wash, kiosk, truck parking area and surrounding land delineated on the map in Schedule 3 of this Local Law.	
"special sale"	means a sale of livestock other than on a designated regular sale day.	
"the Act"	means the Local Government Act 1989.	
"the User"	means the person who has entered into a User Agreement with the Council to use the Saleyard Precinct.	
"working dog"	means a dog used to assist with the movement of stock to a particular point or location.	

PART 2 - THE SALEYARDS PRECINCT

6. Using the Saleyards Precinct

A person must not use the Saleyards Precinct unless that person has entered into a User Agreement with the Council before the use of the Saleyards Precinct.

Penalty: 5 Penalty Units

7. User Agreements

- (1) Even though a User Agreement is in place between the Council and the User, the User must notify the Saleyard Manager of their intended use of the Saleyard Precinct:
 - (a) in the case of an annual User, not less than 14 days before each intended use; or
 - (b) in the case of a casual User, not less than 7 days before the intended use.
- (2) The Saleyards Manager may exempt a person from the notification period prescribed in subclause (1) if he or she considers that the circumstances justify the exemption and that the Saleyards Precinct is in a safe condition and is available for use.

8. Compliance with Requirements

(1) Any person at the Saleyards Precinct must comply with any conditions, policies or guidelines applied by the Council to the use of the Saleyards Precinct, including any occupational health and safety programs or requirements to maintain accreditation of the saleyards under any quality assurance program for the saleyards.

Penalty: 5 Penalty Units

- (2) The Council must ensure that up to date copies of any additional conditions, policies or guidelines applied by the Council to the Saleyards Precinct including any occupational health and safety programs or requirements associated with the quality assurance program referred to in subclause (1) are available for inspection at the Saleyards Precinct.
- (3) A person under 16 years of age must not be in the Saleyards Precinct unless they are under adult supervision at all times and even if they are under adult supervision, must not operate any equipment including ramps or any vehicle in the Saleyards Precinct.

Penalty: 5 Penalty Units

9. Sale days

- (1) The Saleyards Manager may from time to time determine:
 - (a) regular sale days for the Saleyards Precinct; and
 - (b) the days and the hours that a Saleyards Precinct is open for receipt and delivery of livestock.

- (2) A person wanting to hold a special sale must enter into a User Agreement with the Council not less than 14 days before the proposed sale.
- (3) The Council may prescribe conditions applying to the sale of livestock at the Saleyards Precinct.

10. Delivery and Receipt of Livestock

- (1) Subject to the direction of the Saleyard Manager or an Authorised Officer, a person in charge of livestock that are being delivered for sale at the Saleyards Precinct must:
 - (a) immediately unload the livestock at the ramps provided;
 - (b) remove the motor vehicle from the unloading area as soon as unloading is complete;
 - (c) immediately pen livestock that are not being transported by motor vehicle.

Penalty: 4 Penalty Units

- (2) The User of the Saleyards Precinct is primarily responsible for the receipt, handling and delivery of livestock prior to a proposed sale.
- (3) A person must not pen livestock within the Saleyards Precinct more than 24 hours before their proposed sale unless the consent of the Saleyards Manager is obtained and the consent is noted on the User Agreement.

Penalty: 4 Penalty Units

11. Identification of Livestock for Sale

- (1) A User must submit to the Saleyards Manager livestock identification information, and specifically the National Vendor Declaration (NVD), prior to the commencement of the sale.
- (2) A User must keep an accurate record of all livestock entering and leaving the Saleyards Precinct and must ensure that any legislative requirements or Code or applicable to the identification of the type of livestock being sold is complied with.
- (3) The records required to be kept must contain the number, description and origin of the livestock, the vendor's name and property identification code (PIC), the National Vendor Declaration (NVD), the name of the purchaser and PIC and any other information prescribed in the User Agreement.

Penalty: 4 Penalty Units

(4) A User must provide the records associated with livestock leaving the Saleyards Precinct within 2 business days of the sale and must make the complete record available to the Saleyards Manager or an Authorised Officer when requested to do so.

Penalty: 4 Penalty Units

12. Care and Welfare of Livestock

- (1) The requirements of the Code of Accepted Practice for the Welfare of Animals at Saleyards – Victoria (AG0027)¹ or any Code or Standard applied under the Livestock Management Act 2010 must be observed by any person delivering, handling or removing livestock from the Saleyards Precinct.
- (2) A person in charge of livestock left in pens at the Saleyards Precinct overnight must ensure that accessible water supply and appropriate levels of feed are available unless they have made an alternative arrangement with the Saleyards Manager or an Authorised Officer.
- (3) The Saleyards Manager or Authorised Officer may provide feed and water to penned livestock and the Council may recover the costs together with labour and other overhead costs incurred from the owner of the livestock.
- (4) A person must not unload or pen any livestock not connected with a sale at the Saleyards Precinct unless he or she is permitted to do so by the Saleyards Manager or an Authorised Officer who may allow that to occur in certain circumstances, including in an emergency.

Penalty: 4 Penalty Units

13. Health of Livestock

- (1) A person in charge of livestock must ensure that the livestock that they offer for sale at the Saleyards Precinct is free of disease, fit for sale and fit for their intended journey.
- (2) A person in charge of livestock:
 - (a) must not offer for sale any livestock that in the opinion of the Saleyards Manager or an Authorised Officer is diseased, emaciated or injured; and
 - (b) must notify the Saleyards Manager or an Authorised Officer if there is dead livestock.

Penalty: 4 Penalty Units

- (3) The Saleyards Manager or an Authorised Officer may direct the person in charge of the livestock to remove any dead livestock or any livestock that is diseased, emaciated or injured to an isolation pen or from the Saleyards Precinct.
- (4) If:
 - (a) a direction under subclause (3) is not complied with; or
 - (b) the Saleyards Manager or an Authorised Officer cannot identify or locate a person to whom a direction under subclause (3) can be practically given –

the Saleyards Manager or the Authorised Officer may arrange for the livestock to be removed from the Saleyards Precinct.

(5) The Saleyards Manager or an Authorised Officer may isolate any diseased, emaciated or injured livestock in pens within the Saleyards Precinct and may arrange for any veterinary care for such livestock.

¹ Published by the Department of Primary Industry Victoria

(6) The Council may recover the costs associated with removal under subclause (4) or veterinary care under subclause (5) from the owner of the livestock.

14. Moving Livestock

A person must not move livestock within or from the Saleyards Precinct without the permission of:

- (a) the person in charge of the livestock; or
- (b) the Saleyards Manager or an Authorised Officer.

Penalty: 4 Penalty Units

15. Stray livestock

- (1) The Saleyards Manager or an Authorised Officer may designate an area within the Saleyards Precinct for keeping stray or unclaimed livestock.
- (2) If stray or unclaimed livestock remain at the Saleyards Precinct in a designated area for longer than 24 hours the Saleyards Manager or an Authorised Officer may impound them and the livestock will be dealt with in accordance with the requirements of the **Impounding of Livestock Act 1994.**

PART 3 - GENERAL PROVISIONS APPLICABLE TO THE SALEYARDS PRECINCT

16. Health and Safety - Using Saleyards Precinct Equipment

(1) In addition to complying with any lawful directions of the Saleyards Manager or an Authorised Officer a User or a person who is delivering livestock to the Saleyards Precinct must comply with any requirements of this Local Law or the Council's Saleyard Precinct Occupational Health and Safety and Risk Management Manual concerning the operation and safe handling and use of equipment at the Saleyards Precinct.

Penalty: 10 Penalty Units

- (2) A User or any other person in charge of livestock in the Saleyards Precinct must immediately advise the Saleyards Manager or an Authorised Officer of:
 - (a) any injury, hazard or near miss that has occurred during the period of use; or
 - (b) any damage or any defect in any equipment that has occurred or is observed by the User during the period of use that needs to be made safe.

Penalty: 10 Penalty Units

17. Behaviour in the Saleyards Precinct

A person in the Saleyards Precinct must not:

- (a) behave in a way that, in the reasonable opinion of the Saleyards Manager or an Authorised Officer is dangerous or creates a risk to the safety of other users of the Saleyards Precinct;
- (b) behave in a manner that in the reasonable opinion of an Authorised Officer disturbs or obstructs any person in the lawful use of the Saleyards Precinct;
- (c) consume any alcohol or drugs;
- (d) refuse or neglect to carry out a reasonable direction given by the User;
- (e) allow livestock to escape from a penned area within the Saleyards Precinct;
- (f) damage, destroy, write or otherwise interfere with the facilities within the Saleyards Precinct or remove or affix anything to any building, improvement or structure of any kind within the Saleyards Precinct; or
- (g) sell anything within the Saleyards Precinct other than livestock sold in accordance with this Local Law.

Penalty: 4 Penalty Units

18. Obstruction

A person must not obstruct the Saleyards Manager or an Authorised Officer in the performance of his or her powers, duties or functions under this Local Law.

Penalty: 4 Penalty Units

19. Dogs

- (1) A person must ensure that any working dog in the Saleyard Precinct under his or her control is muzzled and supervised at all times and is secured when it is not working.
- (2) A person must ensure that any dog under his or her control is not:
 - (a) allowed to be at large within the Saleyards Precinct; or
 - (b) enter into any building within the Saleyards Precinct.
- (3) A person must not have more than 2 working dogs within the Saleyards Precinct unless it is an additional dog in training.

Penalty: 4 Penalty Units

20. Motor Vehicles

- (1) Motor vehicles must only be washed in an area that is the designated truck wash bay.
- (2) A person must not leave a motor vehicle within the Saleyards Precinct in a position that:
 - (a) obstructs entrances, exits or ramps; or
 - (b) interferes in any way with the proper movement of vehicular, pedestrian or animal traffic.

21. Unsafe Areas

- (1) The Saleyards Manager or an Authorised Officer may designate any area or structure within the Saleyards Precinct as off limits by tagging it or lockout because:
 - (a) it has become unsafe; or
 - (b) it is an area or structure that is limited to specific persons.
- (2) A person must not use an area or structure within the Saleyards Precinct contrary to any designation made by the Saleyards Manager or an Authorised Officer in accordance with subclause (1).

Penalty: 10 Penalty Units

22. Entry to the Saleyards Precinct

A person must not enter the Saleyards Precinct when it is not being used in accordance with the provisions of this Local Law unless:

- (a) the person is lawfully carrying out duties in conjunction with the operation or maintenance of the Saleyards Precinct; or
- (b) the person has the permission of the Saleyards Manager or an Authorised Officer.

Penalty: 4 Penalty Units

PART 4 - ADMINISTRATION AND ENFORCEMENT

DIVISION 1 – USER AGREEMENTS, FEES AND DELEGATIONS

23. User Agreements

- (1) A person who wishes to use the Saleyards Precinct may make an application to the Council to enter into a User Agreement.
- (2) The Council may require an applicant to provide additional information before it agrees to enter into a User Agreement with the applicant.
- (3) The Council may determine not to enter into a User Agreement with the applicant but must provide an opportunity for the applicant or the User make a submission about the proposed determination.
- (4) The Chief Executive Officer may hear any submission made under subclause (3).

24. Period of User Agreements

- (1) Where an applicant proposes to conduct a number of sales during the year, the User Agreement will be in operation for one year.
- (2) Where an application is for casual use of the Saleyard Precinct a User Agreement will be in operation until the expiry date in the User Agreement.

25. Conditions may be applied

- (1) The User Agreement may be subject to terms and conditions which the Council considers to be appropriate in the circumstances including:
 - (a) the payment of a fee or charge;
 - (b) the payment of a security deposit, bond or guarantee to the Council to secure the proper performance of conditions on a permit or to rectify any damage caused to Council assets as a result of the use or activity allowed by the use of the Saleyards Precinct;
 - (c) that the User have appropriate insurance and must provide a written indemnification of the Council against liability arising from the activity or use;
 - (d) that the User keep accurate records of livestock transactions and that they be provided to the Council within the times specified in this Local Law and the User Agreement;
 - (e) that the User rectify, remedy or restore a situation or circumstance; and
 - (f) any other terms and conditions considered necessary in the circumstances.
- (2) The Council may, during the term of the User Agreement alter the terms and conditions if it considers it appropriate to do so, but must provide the User with an opportunity to make comment on the proposed alteration.

26. Cancellation of the User Agreement

- (1) The Council may cancel the User Agreement if it considers that:
 - (a) there has been a serious or ongoing breach of the terms and conditions;
 - (b) the User has not complied with a request by the Council within seven days to remedy or rectify a defect or default;
 - (c) there was a significant error or misrepresentation by the User prior to entering into the User Agreement; or
 - (d) in the circumstances, the permit should be cancelled.
- (2) Before it cancels the User Agreement, the Council must provide to the User with an opportunity to make a submission on the proposed cancellation.

27. Fees

- (1) The Council may determine fees for the use of the Saleyards Precinct, including any fees to be paid by a person under clause 12(4) and the Saleyards Manager may direct a person who has defaulted in the payment of any fees not to take part in a sale in the Saleyards Precinct.
- (2) The Council may determine that interest be paid on late fees in accordance with section 227A of the Act.
- (3) The Council may waive, reduce or alter a fee with or without conditions.

28. Registers

- (1) The Council must maintain a register of User Agreements, including details of the User and the term of the Agreement.
- (2) The Council must ensure that any alterations or changes to a User Agreement or any consent given under clause 10(3) is recorded in the Register.

29. Offences

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.

Penalty: 4 Penalty Units

DIVISION 2 – ENFORCEMENT

30. Compliance with directions

Any person at the Saleyards Precinct must comply with any lawful direction of the Saleyards Manager or an Authorised Officer, including any direction that may defer or interrupt a sale because of an emergency such as a National Livestock Standstill, an emergency such as that in the Municipal Emergency Management Plan which requires the availability of the Saleyards Precinct or for health and safety reasons.

Penalty: 4 Penalty Units

31. Warning to offenders

- (1) Where there is a breach of this Local Law an Authorised Officer may request the person breaching the Local Law to stop or remedy the breach.
- (2) If there is a breach of this Local Law after an Authorised Officer has requested a person to remedy or stop the breach, the Authorised Officer may issue an official warning which must comply with the requirements of the **Infringements Act 2006**.

32. Power of Authorised Officers to act in urgent circumstances

- (1) In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised Officer may take action to remove, remedy or rectify if:
 - (a) the Authorised Officer considers the circumstances or situation to be sufficiently urgent and that a person, animal, property or thing may be at risk or in danger; and
 - (b) wherever practicable, a senior officer is given prior notice of the proposed action.
- (2) In deciding whether circumstances are urgent, an Authorised Officer must take into consideration, to the extent relevant:
 - (a) whether it is practicable to contact:-
 - (i) the person by whose default, permission or tolerance the situation has arisen; or
 - (ii) the owner or the occupier of the premises or property affected; and
 - (b) whether there is an urgent risk or threat to public health, public safety, the environment or animal welfare.
- (3) The action taken by an Authorised Officer under subclause (1) must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- (4) An Authorised Officer who takes action under subclause (1) must ensure that, as soon as practicable:
 - (a) details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken; and
 - (b) a report of the action taken is submitted to the Chief Executive Officer.

33. Power of Authorised Officers to impound

- (1) Where any items, goods and equipment are used in contravention of this Local Law an Authorised Officer may remove and impound them.
- (2) Where any items, goods and equipment are impounded under this provision, an Authorised Officer must as soon as possible and where practicable, serve a Notice of Impounding in the form of Schedule 1 on the owner or the person responsible for the item setting out the fees and charges payable and the time by which the item must be retrieved.

- (3) Where the identity or whereabouts of the owner or the person responsible for the impounded item is unknown the Authorised Officer must take reasonable steps to establish the identify or whereabouts of the person and may to dispose of the impounded item in the following way:
 - (a) where the item is declared by a senior officer or another officer authorised for the purpose to have no saleable value, it may be disposed of in the most economical way determined by that officer;
 - (b) where the item is declared by a person in paragraph (a) to have some saleable value the item may be disposed of by tender, public auction or private sale but may be given away or disposed of if the sale is unsuccessful.
- (4) Any proceeds from the disposal of an impounded item will be paid to the owner or the person who in the opinion of the Council appears to be authorised to receive the money, except for the reasonable costs incurred to the Council in the administration of this Local Law.
- (4) If the person described in subclause (4) cannot be identified or located within 1 year of serving the Notice of Impounding, any proceeds of sale cease to be payable to that person and may be retained for municipal purposes.
- (6) If an Authorised Officer has impounded anything in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.

34. Infringement Notices and Penalty Amounts

- (1) As an alternative to prosecution an Authorised Officer may issue an infringement notice to any person whom the Authorised Officer reasonably considers has committed an offence against this Local Law.
- (2) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.
- (3) The penalty fixed in respect of an infringement for which an infringement notice is issued is the amount set out in Schedule 2.
- (4) A person issued with an infringement notice may pay the penalty amount to the Buloke Shire Council at the address indicated in the notice.
- (5) To avoid prosecution and subject to the **Infringements Act 2006**, the penalty indicated in the infringement notice must be paid within 28 days after the day on which the infringement notice is issued.

35. Waiver and withdrawal

- (1) Within 28 days of receiving an infringement notice a person may make a written request to the Chief Executive Officer that the infringement notice be withdrawn.
- (2) The Chief Executive Officer may consider the written request and may make a decision or a recommendation to the Council that the infringement notice be withdrawn.

(3) 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 other than any costs which the Council has paid as part of the enforcement process.

BULOKE SHIRE COUNCIL SALEYARDS PRECINCT LOCAL LAW

SCHEDULE 1 (Clause 33)

IMPOUNDING NOTICE

То:		
(Name)		
(Address)		
The following item(s) has/have been impounded Council's Community Local Law No.10 .	in accordance with cla	ause 51 of the
Description of items impounded:		
You may collect the items by attending at the M	unicipal Offices at	
(insert address) betw	een the hours of	to
see(cor	ntact officer) and by pa	ying the following:
Details of fees and charges		\$
		 \$
If you fail to collect the item(s) and pay the requ	C C	-
(date), the Authorised Officer will proceed to dis	pose of the item(s) in a	ccordance with
Council's policy.		
Date:	(Nome of A	utherized Officers)
Telephone:	(Name of A	uthorised Officer)
		Signature)

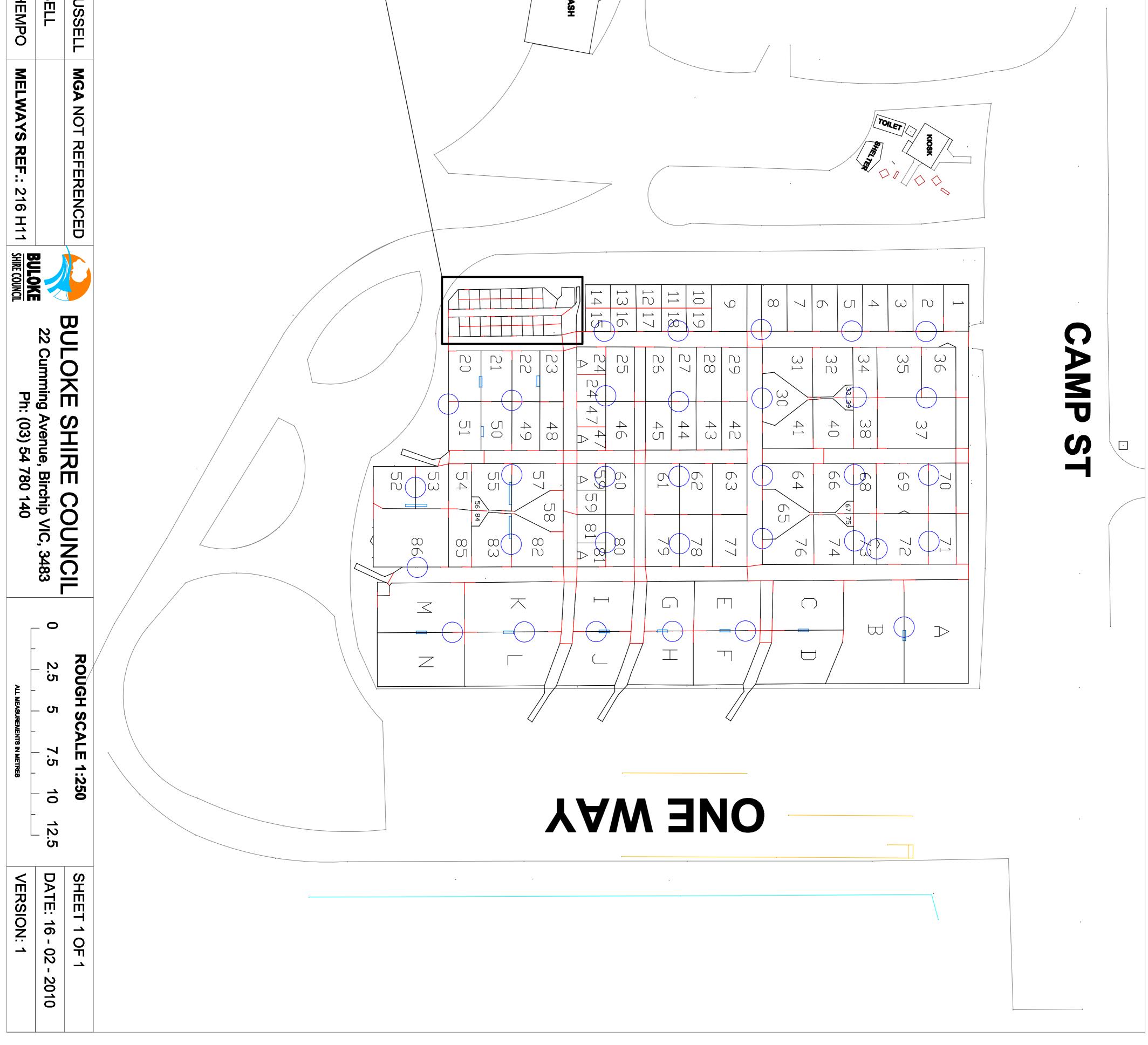
BULOKE SHIRE COUNCIL SALEYARDS PRECINCT LOCAL LAW

SCHEDULE 2 (Clause 34)

PENALTIES FIXED FOR INFRINGEMENT NOTICE PURPOSES

Provision	Offence	Penalty Unit
Clause 6	Using the Saleyards Precinct without a User Agreement	3 penalty units
Clause 8(1)	Failing to comply with requirements applying to the use of the Saleyards Precinct	3 penalty units
Clause 8(3)	Unsupervised child under 16 or unsupervised child under 16 operating equipment	3 penalty units
Clause 10(1)	Delivering livestock contrary to the provision	2 penalty units
Clause 10(3)	Penning livestock contrary to the provision	2 penalty units
Clause 11(1) - (3)	Failing to submit required information prior to sale or to keep records required	2 penalty units
Clause 11(4)	Failing to submit records of livestock leaving the Saleyards Precinct within the required time	2 penalty units
Clause 12	Failing to comply with provisions concerning care and welfare of livestock	2 penalty units
Clause 13(1) - (2)	Failing to comply with requirements concerning health of livestock	2 penalty units
Clause 14(1)	Moving livestock contrary to requirements	2 penalty units
Clause 16(1)	Failing to comply with the Local Law or the Saleyards Precinct OH & S and Risk Management Manual	5 penalty units
Clause 16(2)	Failing to advise of injury, damage or defects	5 penalty units
Clause 17	Failing to comply with requirements concerning behaviour at the Saleyards Precinct	2 penalty units
Clause 18	Obstructing the Saleyards Manager or an Authorised Officer	2 penalty units
Clause 19	Failing to comply with requirements concerning the presence of dogs in the Saleyards Precinct	2 penalty units
Clause 21	Using an unsafe area contrary to provision	5 penalty units
Clause 22	Entering the Saleyards Precinct contrary to the Local Law	2 penalty units
Clause 29	Making a false representation or declaration	2 penalty units
Clause 30	Failing to comply with directions of the Saleyards Manager or an Authorised Officer	2 penalty units

Location: Sale Yards (Cad File: Wycheproof Project Manager: Wa	Z	XORGA
ds camp St, wycheproof vic, 3527 Dof Sale Yards Final Plan Warren Hempo	87 108 107 89 108 107 90 106 105 91 104 105 92 104 102 94 102 101 95 100 101 96 97 98	Image: Constraint of the sector of the se
 SURVEYOR: JAMES RU DRAWN: JAMES RUSSE CHECKED: WARREN HE 		EDGE OF ROAD LINE MARKINGS BOUNDARY FENCE SPRINKLERS GATES YARDS WATER TROUGH BUILDINGS/TRUCK WASH SEATS/TABLES



Resolution for the making of this Local Law was agreed to by the Council on the 14 August 2013.

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THE COMMON SEAL of the BULOKE SHIRE

COUNCIL was hereunto affixed in the presence of:



Councillor

Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the 29 August 2013.

Notice of the proposal to make and confirmation of the making of this Local Law were inserted in the Buloke Times 30th August 2013, Sea Lake Wycheproof Ensign 29 August 2013, North Central News 27 August 2013 on and Council's website respectively.

A copy of this Local Law was sent to the Minister for Local Government on 3 September 2013