

**GENERAL (AMENDMENT)**

**LOCAL LAW NO. 14**

**TABLE OF CONTENTS**

[PART A - PRELIMINARY PROVISIONS 1](#_Toc523477306)

[1. Title 1](#_Toc523477307)

[2. Objectives of Local Law 1](#_Toc523477308)

[3. What authorises this Local Law? 1](#_Toc523477309)

[4. When does this Local Law commence? 1](#_Toc523477310)

[5. Sunset Provision 1](#_Toc523477311)

[6. To what part of the Municipal District does this Local Law apply? 1](#_Toc523477312)

[7. Definitions 1](#_Toc523477313)

[PART B – AMENDMENTS TO PRINCIPAL LOCAL LAW 2](#_Toc523477314)

[8. Amendments to Principal Local Law 2](#_Toc523477315)

**MAROONDAH CITY COUNCIL**

**GENERAL (AMENDMENT) LOCAL LAW NO. 14**

PART A - PRELIMINARY PROVISIONS

# Title

This Local Law is called the "General (Amendment) Local Law 14".

# Objectives of Local Law

The objectives of this Local Law are to:

### manage public places to enhance their enjoyment by the general public;

### prohibit smoking of tobacco products in certain public places; and

### provide for the peace, order and good government of the Municipal District.

# What authoriSes this Local Law?

This Local Law is made under section 111 of the *Local Government Act 1989*.

# When does this Local Law commence?

This Local Law commences on the 1 January 2019.

# Sunset Provision

This Local Law ceases to operate when Local Law No. 11, General Local Law, ceases to operate.

# To what part of the Municipal District does this Local Law apply?

This Local Law applies throughout the whole of the Municipal District.

# Definitions

The words identified throughout this Local Law are intended to have the following meaning:

"*Principal Local Law*" means Local Law No. 11, General Local Law.

“*Municipal District*” means the municipal district of Maroondah City Council.

PART B – AMENDMENTS TO PRINCIPAL LOCAL LAW

# Amendments to Principal Local Law

In clause 6.1 of the *Principal Local Law*:

### immediately before the definition of ‘*Act’*, insert:

“‘*Acceptable No Smoking Sign’* has the same meaning as “acceptable no smoking sign” in the *Tobacco Act 1987;*”.

### delete the definition of ‘*Prescribed’* and substitute:

“‘*Prescribe’* and ‘*Prescribed’* means determine or determined by *Council* and then specified in a notice published in a newspaper generally circulating within the *Municipal District* and in a map set out on *Council’s* website;’”.

### immediately after the definition of ‘*Site Identification*’ but before the definition of “*Stormwater System*”, insert:

“‘*Smoke’* means to:

(a) smoke, hold or otherwise have control over an ignited *tobacco product*; or

(b) light a *Tobacco Product;*

*‘Smoke Free Area’* means an area:

(a) identified in Part A of Schedule 2 to this Local Law; or

(b) *Prescribed* to be a *Smoke Free Area* in accordance with clause 39A.4;”.

### immediately after the definition of ‘*Stormwater System*’ but before the definition of “*Trade Waste*”, insert:

“‘*Tobacco Product’* has the same meaning as “tobacco product” in the *Tobacco Act 1987;*”.

Immediately after clause 39 of the *Principal Local Law*, insert:

“**39A SMOKE FREE AREAS**

39A.1 A personmust not *Smoke* a *Tobacco Product* in a *Smoke Free Area*.

**PENALTY: MAXIMUM TWO (2) PENALTY UNITS**

39A.2 Where an *Authorised Officer* believes on reasonable grounds that a personis contravening or has contravened clause 39A.1 the *Authorised Officer* may direct the personto extinguish and then dispose of the *Tobacco Product*.

39A.3 A person to whom a direction is given under clause 39A.2 must comply with that direction.

**PENALTY: MAXIMUM TWO (2) PENALTY UNITS**

39A.4 In addition to the *Smoke Free Areas* identified in Part A of Schedule 2 to this Local Law, *Council* may *Prescribe* any other area within the *Municipal District* to be a *Smoke Free Area*.

39A.5 *Council* must follow the guidelines incorporated in Part B of Schedule 2 to this Local Law when deciding whether to *Prescribe* an area as a *Smoke Free Area* under clause 39A.4.

39A.6 *Council* or an *Authorised Officer* may erect, or cause to be erected, an *Acceptable No Smoking Sign* in a *Smoke Free Area*.

In the table in Schedule 1 to the Principal Local Law, immediately after the penalty fixed for “Wasp nests and bees” but before the penalty fixed for “Limits on number of animals kept”, insert:

|  |  |  |
| --- | --- | --- |
| 39A.1 *Smoking* in a *Smoke Free Area* | Two (2) Penalty Units  | - |
| 39A.3 Not complying with direction | Two (2) Penalty Units  | - |

Immediately after Schedule 1 to the Principal Local Law, insert:

“**SCHEDULE 2**

**SMOKE FREE AREAS**

**PART A – SMOKE FREE AREAS**

The following areas are *Smoke Free Areas* for the purposes of clause 39A.1 of this Local Law:

1. Ringwood Town Square – being the area more particularly described as such in the appended map.
2. Croydon Town Square – being the area more particularly described as such in the appended map.

**SCHEDULE 2 A.1 – Ringwood Town Square**

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**SCHEDULE 2 A.2 – Croydon Town Square**

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**SCHEDULE 2 (CONT)**

**PART B – GUIDELINES FOR PRESCRIBING SMOKE FREE AREAS**

When determining whether to *Prescribe* a *Smoke Free Area* for the purposes of clause 39A.4 of this Local Law, *Council* must have regard to the following factors:

1. the size of the proposed *Smoke Free Area*;
2. the opinions of any person who is the *Owner* or *Occupier* of any part of the proposed *Smoke Free Area*;
3. the proximity of the proposed *Smoke Free Area* to a *Public Place,* part or all of which is not in a *Smoke Free Area*;
4. the extent and outcome of any public consultation on the proposed *Smoke Free Area*;
5. any benefits to the community which would be achieved by *Council Prescribing* the proposed *Smoke Free Area;* and
6. any detriment to the community which would be caused by *Council Prescribing* the proposed *Smoke Free Area*.”