



Colac Otway
SHIRE

COUNCIL MEETING

MINUTES

Wednesday 23 August 2023

at 4:00 PM

COPACC

95 - 97 Gellibrand Street, Colac

Next Council Meeting: 27 September 2023



COLAC OTWAY SHIRE COUNCIL MEETING

Wednesday 23 August 2023

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COLAC OTWAY SHIRE COUNCIL MEETING

MINUTES of the *COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL* held at COPACC on
Wednesday 23 August 2023 at 4:00 PM.

MINUTES

1 DECLARATION OF OPENING OF MEETING

OPENING PRAYER

*Almighty God, we seek your
blessing and guidance in our
deliberations on behalf of the
people of the Colac Otway Shire.
Enable this Council's decisions to be
those that contribute to the true
welfare and betterment of our community.*

AMEN

2 PRESENT

Cr Chris Potter (Mayor)
Cr Max Arnott
Cr Graham Costin
Cr Tosh-Jake Finnigan
Cr Kate Hanson
Cr Stephen Hart
Cr Margaret White

Anne Howard, Chief Executive Officer
Andrew Tenni, General Manager Corporate Services
Heath Chasemore, General Manager Infrastructure and Operations
Ian Seuren, General Manager Community and Economy
Marlo Emmitt, Manager Governance
Lyndal McLean, Coordinator Council Business

3 APOLOGIES

Nil

4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past, present and emerging and welcomes any descendants here today.

RECORDING AND PUBLICATION OF MEETINGS

Please note: All Council meetings are live streamed and recorded when the meeting is held either at COPACC or online. This includes the public participation sections of the meetings. When meetings are held in other locations, Council will endeavour to make an audio recording of the meeting for community access. Matters identified as confidential items in the Agenda will not be live streamed or recorded regardless of venue or mode.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

As soon as practicable following each open Council meeting, the live stream recording will be accessible on Council's website. Audio recordings are also taken to facilitate the preparation of the minutes of open Council meetings and to ensure their accuracy. Recordings will be retained by Council for a period of four years.

This meeting was livestreamed to the public via Council's YouTube channel (search Colac Otway Shire Council at www.youtube.com).

Statement from the Mayor

Councillors can I just start by acknowledging the passing of a former Otway Shire Councillor Roy Bentley and thank him for his service to the community and also for his service to the community as a policeman for over 40 years. Councillors, can I also just acknowledge David McKenzie from the Colac Herald. He's present with us and David finishes up at the Colac Herald I think, David Friday week, but this is your last Council meeting.

5 QUESTION TIME

A maximum of 30 minutes is allowed for question time. To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. Question time is not a forum for public debate or statements.

QUESTIONS RECEIVED IN WRITING PRIOR TO THE MEETING

James Judd

1. With the new requirements introduced by the Victorian State Government, does the Colac Otway Shire Council consider the requirement that all buildings not completed by 31 December 2023, must only have electrical appliances and no gas is used.

Will this put on hold any chance of the Colac 2050 Growth Plan being introduced prior to a very major upgrade to the electricity supply grid in this entire Shire since no major upgrade has yet been proposed also this Shire has very many power outages at times for long periods of time? Plus the cost of electricity and all services provided by distributors are increasing fast and the state has given notice that off-peak power rates will cease entirely on 31 December 2023. With some of the urgent upgrade works needed to service areas in very sensitive environmental areas and subject to major fire risks plus many other Council overlay conditions.

Response from General Manager Community and Economy

The Victorian Government has recently announced that from 1 January 2024, planning permits for new homes and residential subdivisions will only connect to all electric networks. It appears that this restriction is limited to buildings requiring planning approvals, not building approvals, and therefore there will be many existing vacant lots that can still have homes constructed with connection for gas appliances.

It is not expected that this decision will have any noticeable impact on the timing of new housing being established in the Shire.

2. **When will the Colac Otway Shire Council have a very serious look into if we should continue to remain a member of the G21 group of Councils, due to the very big increase in membership fees that will be required in under one year of remaining Council once the largest contributor to finance and population withdrawals mid-2024? Based on populations remaining this will increase the allocation to the budget by this Shire by many tens of thousands of dollars per year minimum just to have make up the shortfall in the annual budget of G21.**

Also will any affordable Library services be provided to this Shire from July 2024, as a very large part of the Library network finance will cease to be receivable, as well if the titles held by the Geelong Library Network are reduced in proportion to the reduction in the G21 Council area population. Total titles remaining will be far below the total when this Shire was in the Corangamite Regional Library Corporation, also we paid less in fees to be part of Corangamite Regional Library Corporation than the Geelong Library Network when it was admitted that titles divided by total population was slightly superior if we had remained in the Corangamite Regional Library Corporation area.

Response from General Manager Community and Economy

Council has not yet considered its participation with the G21 Geelong Region Alliance, nor has it been asked to make any greater financial contribution to make up for Geelong Council's decision. The G21 is overseen by a Board of Directors, and the Board is still considering what options it can propose that will deliver regional benefits at a reasonable cost to its members.

All member Councils, including the City of Greater Geelong, have retained their funding to the Geelong Regional Library Corporation.

3. **Will any areas being proposed to be opened up to introduce the Colac 2050 Growth Plan, now have to be reviewed to make certain enough reliable electric power will be provided to sites so they will be able to meet the requirements now introduced by the Victorian State Government. That only electric power is to be used for all constructions from January 2024 or will all proposals now have to be put on hold until at least a major improvement to electricity distribution is delivered plus nothing has yet been proposed will ever be done and it will take years for planning and construction to upgrade the distribution system so a service can be delivered.**

Response from General Manager Community and Economy

Other levels of government are responsible for oversight and planning of the supply and distribution of electricity.

Council is able to continue to progress work to open new growth areas such as Colac 2050 and we don't anticipate any impact to the timing of planned rezonings or housing development.

4. The push to establish a solar panel electricity supply complex in conjunction with the G21 Group of Councils at the old tip site in Colac. Is this proposal still being considered or has it been scrapped. We must wonder if this could now be possible since the G21 Group of Councils is to be minus by far the largest contributor finance, population and by far the largest user of energy sources within a few months.

Response from General Manager Community and Economy

This matter was explored by Council a number of years ago, prior to deciding to sell its Bruce Street property for housing development. The matter is not related to the G21 Geelong Region Alliance.

5. Without any reallocation of funds from other areas will the Colac Otway Shire Council give any definite undertaking that Library services will still exist in the Shire from July 2024 as by that date the largest financial contributor and very major population municipality in the G21 group of Councils will have withdrawn all its support from the G21 group of Councils.

Do not forget that this Council has gone back on a firm undertaking given prior to the closure of the Library Annexe in Colac. That a permanent Library return shute would be at the Rae Street offices as this was closed on 31-12-2022. Do not forget a sizable portion of the Shire's population are not able to drive motorised vehicles and never will.

You must remember a small percentage can be a sizable number in this shire's population as 1 one percent 100 in every 10,000 people. Since this Shire is pushing to develop residential areas a long way from any public transport services with no undertaking any will actually be provided also all people are required to help finance Council so no superior class should exist in this municipality.

Response from General Manager Community and Economy

As explained earlier, Council and library partners remain committed to the library service and we are pleased to confirm it will continue from 1 July next year, and for many years beyond.

Jane Gross

1. Will the Council undertake another community engagement process regarding the sale of 69 McLachlan Street for the following reasons?
 - (i) approximately 2 years ago when the Council undertook the community engagement process for this property, the community, in the main, didn't object to the sale, because both in the media and in the resolution, the sale was linked to a purchase by Homes Victoria to provide affordable housing on the site, and that a large proportion of the revenue raised from the sale was promised for the provision of Childcare for Apollo Bay, meeting 2 longstanding urgent local needs;

(ii) the very recent multibillion dollar State and Federal government funding commitment for housing provides new opportunities to explore;

and

(iii) the unresolved status of the expansion of the Early Years Hub and the lack of Council commitment for future delivery of Childcare in Apollo Bay changes the current criteria for decision making.

2. Will the Council heed the Mayor's response to the Customer Satisfaction Survey, namely that:

"the survey highlighted the need to better communicate Council decisions, and the process and discussion involved, to help provide confidence that decisions are made in the best interests of the community, and to connect more broadly with local communities through consultation and engagement. We will always explore new ways to improve the understanding of Council's decision-making and how we can get community input on the things that matter to the people of Colac Otway Shire."

and pause to allow for further consideration of possibilities for 69 McLachlan Street before making any final decision?

Response from General Manager Corporate Services

Council resolved to give formal notice of its intention to sell 69 McLachlan Street, Apollo Bay at its meeting on 27 October 2021 and at the same time acknowledged that it had also submitted an expression of interest to offer the property to Homes Victoria.

The Public Notice made no indication with respect to what the property might be used for in the event that it was sold. Community submissions were received and considered by Council and it has considered the matter at two Council meetings since then, as outlined in the report. On both occasions Council affirmed its intention to sell the property.

Officers are seeking further direction from Council at tonight's meeting and our recommendation is based on Council's current position. It is up to Councillors to determine what should happen next, and we can't answer your questions about what the decision may be.

Graham Hill

I have 2 questions pertaining to the sale of 69 McLachlan Street, Apollo Bay:

1. If the Council sells this land as currently proposed, does it have any other readily available property in Apollo Bay (or along the immediate coast – Skenes Creek / Marengo) that it may use to apply for a future State or Federal housing grant?
2. The proposed sale of this property looks to be contrary to Council's Acquisition and Disposal of Land Policy, as there is a strategic need for land for (affordable social) housing and health care; and there is a demand for community use. Will Council reconsider whether the sale of this valuable community asset should proceed at this time, without further review and additional community consultation?

Response from General Manager Corporate Services

Council does not own any vacant and appropriately zoned land for the development of affordable housing in Apollo Bay, Skenes Creek or Marengo.

Council has allocated \$120,000 in its 2023-24 budget to investigate the feasibility of developing key worker housing at its Nelson Street Apollo Bay site.

When Council determined to sell the property at previous meetings of Council in 2022, it considered the strategic need for this land as per its policy, and determined that it was surplus to its needs.

QUESTIONS RECEIVED VERBALLY AT THE MEETING

Alan Billing

1. **At the Council meeting that the Local Laws Draft was released for public comment Councillors Hanson, White, Arnott and Hart all encouraged the community to participate in the process. I believe around 36 people provided submissions excluding the petitioners. My question is how many changes were made to the draft based on community input?**

Response from General Manager Infrastructure and Operations

We have made a number of changes to the Draft Local Law. I couldn't tell you the exact figures of those submissions that were finally incorporated, but there are a number of changes based on the feedback from the community.

Thank you. Perhaps a subsequent question. Did the community ever get a chance to see the full submission?

Response from Chief Executive Officer

I am happy to take that one. Through the Mayor, thanks Mr Billing. The full submissions have been provided to all Councillors and a summary of the submissions have been provided with the public agenda and that is the standard and appropriate practice given the nature of privacy considerations etc. that come through the submission process.

So it's really not possible to judge unless you see the full submission to make comparisons against the full submission as to the modifications that may have happened?

Response from Chief Executive Officer

Not on a submission by submission basis in detail, no. But the Submissions Committee agenda does outline the key themes and even recognises that at times there are submissions both for or against, or in support, or not in support of certain changes. So it's more from taking it at that level that you could see the changes.

2. **Thank you for that. The other question is what is Council's budget and timeline to complete the upgrade to the toilets, change rooms and showers to meet the community's expectation of safety and comfort when using these facilities and is this necessary upgrade a high priority for the Council?**

Response from Chief Executive Officer

Mr Billing I'm not sure if you're talking about a particular toilet or across the entire municipality?

All toilets controlled by Council.

Response from Chief Executive Officer

So no, there isn't a time frame on that. We're working through those as they become able to be funded and the next major toilet amenity project will be the Memorial Square project and we're very much looking forward to bringing hopefully some tenders for Council to consider shortly and get that one up.

So the sporting grounds where there's shared facilities, Bluewater the basketball courts, all of these facilities that resulting from Council's decision today will put people under anxiety as to their safety. What is Council going to do about it?

Response from Chief Executive Officer

I can't pre-empt a decision of Council tonight. I know that everyone's interested in that but the same response applies. You know Council wants to make sure that its facilities are fit for purpose, where people feel safe, where people can do what they need to do to engage in community life and with that feeling of safety and we need to work through that progressively as funding becomes available and fortunately there are some great funding programs from other levels of government that help us partner to get that work done, but we just have to keep chipping away.

Tony Webber, Otway Forum

1. **My question on the former kindergarten in Apollo Bay. Things have changed I believe since the last decision was made to sell this facility. Apollo Bay to my understanding only has two houses for social use. That site has a potential to have four units on it which could be for workers or for people who haven't got a large income. So I'd ask the Council considering that both State and Federal Governments have allocated a lot of money to resolve a housing crisis, which we are now in, that Council consider not selling this property.**

Response from the Mayor

So that's your question Mr Webber? Well it is a comment, but I will allow it. We understand what you are saying and that matter is going to be discussed by Councillors, so I'm not sure how it can be answered at the moment.

Thank you and we're getting a little bit less room down here for the gallery maybe if we get a large gallery here one day I don't know where we're going to sit. So maybe that needs a consideration thank you.

Jason Schram

1. My question relates to item 9.2 on the Agenda the lease of the Holiday Park Expression of Interest. I'm just wondering what appears to be the big secret in who Council wants to award it to? Why the terms of the lease aren't made available in the Agenda and why Council aren't going to sign off on the terms of the lease and giving that power to a staff member? If you compare it to the Forrest Caravan Park, it explains the Expression of Interest process - a preferred supplier, it names them. It goes into the details about why their preferred supplier, and their experience goes in, it's a 21-year lease and year by year by year for 21 years. It explains how much the rent for want of a better word will be on that lease and the community get to see and ask questions. Compared to tonight that we don't know we're not allowed to know, who it is we're not allowed to know, the terms the CEO can go away and negotiate, terms that don't come back before Council. I'm just wondering what the big secret in the changing process on leasing a Council facility is?

Response from Chief Executive Officer

Thanks Mr Schram. Through the Mayor and welcome back. The substantive terms of the Lease have actually already been endorsed by Council. They came to the July 2022 meeting and because we've actually gone through this process twice it probably feels a little while ago, but the process in July 2022 had Council endorse the substantive terms of the lease, the approach to the EOI process including the assessment criteria etc. and so we've just actually gone back to market with the same approach as what Council had previously already adopted. The only difference is Council in February made a commitment to put some capital contribution to it so the special conditions then may still need to be refined, which can only be done when Council decides if there is a preferred lessee, might be some things specific to the nature of that corporate entity or something like that, rather than the material changes when a lease is finally resolved if one is established. Then the details that you're talking about will be on the public register and that will all be available then.

The reason why we didn't put the submitter in this time is because we recognise that we are not yet really clear on what Council may decide in relation to this and so there are other parties that may be impacted if we actually started to put business names in the agenda, but they will all be revealed depending on what Council's decision is.

Do you think the answer is, a little bit that you haven't really answered in that Councillors decide on the monetary value and they're giving away that power tonight if they endorse the recommendation from officers, that they give that to you to negotiate. You execute the lease but the public don't get to see the year by year fee, they don't get to ask Councillors questions if they need to about are we getting fair value. We don't get to see any of that and we don't get to see your preferred person for some reason and I've never seen a lease like it. You might be leasing it to me and somebody comes to you and says oh look Mr Schram has had three caravan parks in Melbourne and he was, you know dealing out the back of them, they all ran into disrepair, they had rats everywhere and that might not be attended, to get to see. But we don't have that opportunity because you get to sign off on it behind closed doors with all those little things in it and it doesn't come back before Council to go on the public agenda. That's why the difference.

Response from Chief Executive Officer

I would just reflect Mr Schram that the detailed submissions are provided to Councillors. They have visibility for all of the matters that you've raised and so perhaps if the issue is how can you have confidence that the Councillors are well informed and that they're making an informed decision. Well that's for Councillors. I guess to be able to speak to that level of comfort.

Where was the open and transparency? I just don't get why every lease that this Council's done for the last ten years has stated a monetary whether you're.....

Response from the Mayor

Mr Schram I did give Mr Billing a couple of extra questions I'll allow the same to you but can you ask a question please?

Well I have asked it, I haven't got the answer.

Response from the Mayor

You got an answer, have you got a question?

So I didn't get an answer okay.

2. I've got second question. It relates to item 9.4 - Purchase of the High School site. It seems that the land you want to look at purchasing on the Special School site, but it appears that Council or staff or someone's already made a decision that they're gifting the back part which was for public open space, which will then go through a community consultation period to see what that might be used for. It appears that Council already decided that part of that land is going to be used for a road reserve. The back part of the land I'm talking about. Is that the case and is it the case that Council appears to have gifted that land to developers and now looking to acquire more land just to join that road up that will be paid for by the developer?

Response from General Manager Community and Economy

Through the Mayor. Typically roads that straddle different property or different lots would be shared between those owners, which is what the proposal is for this. But also you may have seen the Colac West development plan which has been to Council numerous times which clearly indicates a north-south collector road from the highway through to the lake, which would straddle a number of properties but also run through other land through to the lake. So I guess in terms of the open space, yes we haven't done a master planning process but there would be a need for access and road frontage to that open space.

Hasn't quite answered my question man with all respect.

Response from Chief Executive Officer

There is a plan in the Agenda and I think that it does help to answer the question Mr Schram. The Department of Education has a piece of land, there is a strip next to this Special School, the Lake Colac School that's being constructed that is surplus to the education needs that will be incorporated into the road. It is just being asked if Council consider facilitating getting that road from Department of Education.

I understand that, okay.

Response from Chief Executive Officer

So we're not gifting anything in that space.

No, I'm talking about the back bit that Council had acquired and would be rezoned public open space and for a nominal figure, the back whatever is. It appears that Council's already made a decision to use some of that as a road reserve when that wasn't the intent of Council's purchase of the land and is that the case that the back section is going to be and the construction or that bit of land if it is to be a road would seemingly be gifted to the future developers?

Response from General Manager Community and Economy

Mr Schram through you Mayor. Sorry I thought that's what I answered. So with Greenfield Public open space adjacent to Greenfield residential land we would need to provide road access to that open space so that's the intention. Good planning indicates that you should have road access to more than one part of your open space, so the intention is to have road access north-south and also east-west.

So you are giving up some public open space?

Response from the Mayor

This not a forum for debate.

That was a question, well.

Response from the Mayor

You had your questions. Any other questions from anybody else? Thanks everyone

6 PETITIONS / JOINT LETTERS

A petition with 295 signatories was received on 10 August 2023, in response to the exhibition of the proposed Local Law No.1 General Local Law.

The purpose of the petition was to request that Council reinstate clause 11.10 of the current Local Law, in the proposed Local Law. A copy of the petition (along with other submissions) was provided to all Councillors prior to the Submissions Committee meeting held on 16 August 2023.

The same petition was then resubmitted to Council on 16 August 2023, following the Submissions Committee meeting. The petition, along with all other written and verbal submissions, will inform the final decision by Council.

7 DECLARATIONS OF INTEREST

Nil

8 CONFIRMATION OF MINUTES

- Council meeting held on Wednesday 26 July 2023.

RESOLUTION

MOVED Cr Stephen Hart, SECONDED Cr Max Arnott

That Council confirm the minutes of the Council meeting held on Wednesday 26 July 2023.

CARRIED 7 : 0

Item: 9.1

Proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023 for Adoption

OFFICER	Rhassel Mhasho
GENERAL MANAGER	Heath Chasemore
DIVISION	Infrastructure and Operations
ATTACHMENTS	<ol style="list-style-type: none">1. Final Local Law No. 1 - General Local Law 2023 (with) s 74 Certificate [9.1.1 - 67 pages]2. Proposed General Local Law No. 1 - Procedure Guidelines 2023 [9.1.2 - 50 pages]3. Gender Impact Assessment - Local Law - Final [9.1.3 - 6 pages]4. Amendments to the Proposed Local Law - as at 18 August 2023 [9.1.4 - 24 pages]

The Chief Executive Officer tabled three attachments at the meeting (Attachment 5, Attachment 6 and Attachment 7). These documents are attached to the minutes.

Cr Kate Hanson left the meeting at 4.50pm.

Cr Kate Hanson returned to the meeting 4.52pm.

RECOMMENDATION

That Council:

1. *Notes that public submissions have been received and heard in response to the exhibition of the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*
2. *Expresses its appreciation to community members and organisations that informed the review of the current Local Laws and made submissions to the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*

3. *Notes that amendments have been made to the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023 to ensure compliance with Section 72 of the Local Government Act 2020 and that these amendments will not affect the rights or responsibilities of any person compared to the proposed Local Law exhibited.*
4. *Notes that in accordance with section 74(3) of the Local Government Act 2020, legal certification of the Colac Otway Shire - Local Law No.1 – General Local Law 2023 has been provided (Attachment 1).*
5. *Pursuant to Section 71 of the Local Government Act 2020, formally adopts ('makes') the Colac Otway Shire - Local Law No.1 – General Local Law 2023 as at Attachment 1, incorporating the Colac Otway Shire - Local Law No.1 – General Local Law 2023 Procedure Guidelines (Attachment 2) and in doing so revokes the following Local Laws:*
 - a. *Local Law No 1 – Consumption of Alcohol in a Public Place*
 - b. *Local Law No 2 – General Local Law*
 - c. *Local Law No 3 – Livestock*
6. *Pursuant to Section 74(4) and 74(5) of the Local Government Act 2020, publishes a notice in the Government Gazette and on the Council website stating the title, objective and effect of Colac Otway Shire - Local Law No.1 – General Local Law 2023, and makes a copy of the Local Law available for inspection at Council offices and on the Council website.*
7. *Affirms that the date of commencement for Colac Otway Shire - Local Law No.1 – General Local Law 2023 and revocation of the three above-mentioned Local Laws will be the date the notice is published in the Victorian Government Gazette.*
8. *Authorises the Chief Executive Officer to initiate the process of making an Order under Section 25 of the Domestic Animal Management Act to Control cat within the Shire after further community consultation.*

The officer recommendation was revised as detailed below.

REVISED OFFICER RECOMMENDATION

That Council:

PART 1

1. *Authorises the Chief Executive Officer to initiate the process of making a Cat Confinement Order in accordance with Section 25 of the Domestic Animal Act 1994, after a consultation period of two weeks to allow the community to make submissions on the proposed Order.*

PART 2

2. *Notes that public submissions have been received and heard in response to the exhibition of the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*
3. *Expresses its appreciation to community members and organisations that informed the review of the current Local Laws and made submissions to the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*
4. *Notes that updated documents are tabled at this meeting for Council's consideration, as follows:*
 - a. *Colac Otway Shire - Local Law No.1 – General Local Law 2023, (option 1) referred to as Attachment 5.*
 - b. *Colac Otway Shire - Local Law No.1 – General Local Law 2023 Procedure Guidelines, referred to as Attachment 6.*
 - c. *Colac Otway Shire - Local Law No.1 – General Local Law 2023, (option 2) referred to as Attachment 7.*
5. *Notes that Colac Otway Shire - Local Law No.1 – General Local Law 2023 presented as Attachment 5 contains amendments to the exhibited documents, and that the amendments:*
 - a. *Have been made to ensure compliance with Section 72 of the Local Government Act 2020; and*
 - b. *Do not affect the rights or responsibilities of any person compared to the exhibited documents.*
6. *Notes that in accordance with section 74(3) of the Local Government Act 2020, legal certification of the Colac Otway Shire - Local Law No.1 – General Local Law 2023 has been provided for Attachment 5.*
7. *Pursuant to Section 71 of the Local Government Act 2020, formally adopts ('makes') the Colac Otway Shire - Local Law No.1 – General Local Law 2023 as at Attachment 5, incorporating the Colac Otway Shire - Local Law No.1 – General Local Law 2023 Procedure Guidelines (Attachment 6) and in doing so revokes the following Local Laws:*
 - a. *Local Law No 1 – Consumption of Alcohol in a Public Place*
 - b. *Local Law No 2 – General Local Law*
 - c. *Local Law No 3 – Livestock*
8. *Approves the application of the common seal to the Colac Otway Shire - Local Law No.1 – General Local Law 2023 (Attachment 5) in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.*
9. *Pursuant to Section 74(4) and 74(5) of the Local Government Act 2020, publishes a notice in the Government Gazette and on the Council website stating the title, objective and effect of Colac*

Otway Shire - Local Law No.1 – General Local Law 2023, and makes a copy of the Local Law available for inspection at Council offices and on the Council website.

- 10. Affirms that the date of commencement for Colac Otway Shire - Local Law No.1 – General Local Law 2023 and revocation of the three above-mentioned Local Laws will be the date the notice is published in the Victorian Government Gazette.*

MOTION – PART 1

MOVED Cr Stephen Hart, SECONDED Cr Max Arnott

That Council authorises the Chief Executive Officer to initiate the process of making a Cat Confinement Order in accordance with Section 25 of the Domestic Animal Act 1994, after a consultation period of two weeks to allow the community to make submissions on the proposed Order.

AMENDMENT

MOVED Cr Graham Costin

To delete the words, “after a consultation period of two weeks to allow the community to make submissions on the proposed Order”.

LAPSED for want of a seconder

The Motion (as outlined above) was put to the vote.

RESOLUTION – PART 1

That Council authorises the Chief Executive Officer to initiate the process of making a Cat Confinement Order in accordance with Section 25 of the Domestic Animal Act 1994, after a consultation period of two weeks to allow the community to make submissions on the proposed Order.

CARRIED 7 : 0

RESOLUTION – PART 2

MOVED Cr Stephen Hart, SECONDED Cr Margaret White

- 1. Notes that public submissions have been received and heard in response to the exhibition of the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*

2. *Expresses its appreciation to community members and organisations that informed the review of the current Local Laws and made submissions to the proposed Colac Otway Shire - Local Law No.1 – General Local Law 2023.*
3. *Notes that updated documents are tabled at this meeting for Council's consideration, as follows:*
 - a. *Colac Otway Shire - Local Law No.1 – General Local Law 2023, (option 1) referred to as Attachment 5*
 - b. *Colac Otway Shire - Local Law No.1 – General Local Law 2023 Procedure Guidelines, referred to as Attachment 6*
 - c. *Colac Otway Shire - Local Law No.1 – General Local Law 2023, (option 2) referred to as Attachment 7*
4. *Notes that Colac Otway Shire - Local Law No.1 – General Local Law 2023 presented as Attachment 5 contains amendments to the exhibited documents, and that the amendments:*
 - a. *Have been made to ensure compliance with Section 72 of the Local Government Act 2020; and*
 - b. *Do not affect the rights or responsibilities of any person compared to the exhibited documents.*
5. *Notes that in accordance with section 74(3) of the Local Government Act 2020, legal certification of the Colac Otway Shire - Local Law No.1 – General Local Law 2023 has been provided for Attachment 5.*
6. *Pursuant to Section 71 of the Local Government Act 2020, formally adopts ('makes') the Colac Otway Shire - Local Law No.1 – General Local Law 2023 as at Attachment 5, incorporating the Colac Otway Shire - Local Law No.1 – General Local Law 2023 Procedure Guidelines (Attachment 6) and in doing so revokes the following Local Laws:*
 - a. *Local Law No 1 – Consumption of Alcohol in a Public Place*
 - b. *Local Law No 2 – General Local Law*
 - c. *Local Law No 3 – Livestock*
7. *Approves the application of the common seal to the Colac Otway Shire - Local Law No.1 – General Local Law 2023 (Attachment 5) in accordance with Colac Otway Shire Council's Governance Local Law No 4 – 2020.*
8. *Pursuant to Section 74(4) and 74(5) of the Local Government Act 2020, publishes a notice in the Government Gazette and on the Council website stating the title, objective and effect of Colac Otway Shire - Local Law No.1 – General Local Law 2023, and makes a copy of the Local Law available for inspection at Council offices and on the Council website.*

9. *Affirms that the date of commencement for Colac Otway Shire - Local Law No.1 – General Local Law 2023 and revocation of the three above-mentioned Local Laws will be the date the notice is published in the Victorian Government Gazette.*

CARRIED 4 : 3

DIVISION

For the motion: Cr Stephen Hart, Cr Margaret White, Cr Max Arnott, Cr Graham Costin

Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Chris Potter

Item: 9.2

Lake Colac Holiday Park EOI Submissions

OFFICER	James Myatt
GENERAL MANAGER	Ian Seuren
DIVISION	Community and Economy
ATTACHMENTS	1. EOI - Lease - Lake Colac Caravan Park - Expressions of Interest - Final Document [9.2.1 - 22 pages]

RECOMMENDATION

That Council:

- 1. Notes the Expression of Interest process inviting submissions for the lease of the property located at 51 Fyans Street Colac, known as the Lake Colac Holiday Park.*
- 2. Notes the submissions received in response to the Expression of Interest invitation:*
 - a. are provided for Councillors' information as confidential attachments to this agenda; and*
 - b. have been assessed against the criteria included in the 'Invitation for Expression of Interest' document adopted by Council at its meeting on 27 July 2022.*
- 3. Determines that Submitter 1 is the preferred lessee for the Lake Colac Holiday Park as per the recommendation of the panel's Evaluation Report (confidential attachment)*
- 4. Authorises the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park, which may include additional incentive-based opportunities that provide a benefit to both parties, but should not deviate from the underlying key lease terms included in the EOI documentation.*
- 5. Authorises the Chief Executive Officer to execute the lease of the property located at 51 Fyans Street Colac, known as the Lake Colac Holiday Park on behalf of Council.*
- 6. Releases the name of the successful lessee and publish key terms on Council's lease register promptly following execution of the lease.*

MOTION

MOVED Cr Graham Costin, SECONDED Cr Stephen Hart

That Council defers consideration of this item to the 27 September 2023 Council meeting, in order to have further discussions at a Councillor Briefing session on the operating options for the Lake Colac Holiday Park, including the option of self-managing the park.

Cr Tosh-Jake Finnigan foreshadowed he would move an alternative motion in the event that the motion currently before Council was lost.

LOST 1 : 6

For the motion: Cr Graham Costin

Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Max Arnott, Cr Stephen Hart, Cr Margaret White, Cr Chris Potter

MOTION

MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Stephen Hart

That Council:

- 1. Notes the Expression of Interest process inviting submissions for the lease of the property located at 51 Fyans Street Colac, known as the Lake Colac Holiday Park.*
- 2. Notes the submissions received in response to the Expression of Interest invitation:
 - a. are provided for Councillors' information as confidential attachments to this agenda; and*
 - b. have been assessed against the criteria included in the 'Invitation for Expression of Interest' document adopted by Council at its meeting on 27 July 2022.**
- 3. Determines that Submitter 1 is the preferred lessee for the Lake Colac Holiday Park as per the recommendation of the panel's Evaluation Report (confidential attachment)*
- 4. Provides in principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park, which may include additional incentive-based opportunities that provide a benefit to both parties, but should not deviate from the underlying key lease terms included in the EOI documentation.*
- 5. Includes a special condition in the final draft lease developed through point 4 that ensures the lessee can only charge a rental amount for permanent residents of \$200 per week, or less, until at least 1 September 2025 and to not increase this rental amount by more than CPI per annum after that date.*
- 6. Receives the final draft lease for approval at a future Council meeting.*

AMENDMENT

MOVED Cr Graham Costin

To change point 6 to read as follows "Receives the draft lease for approval at a future Council meeting and following if the lease is adopted release the same lease information as was disclosed for the Forrest Caravan Park."

LAPSED for want of a seconder.

AMENDMENT

MOVED Cr Graham Costin

To change point 6 to read:

"Provides in principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park that excludes worker accommodation, which may include additional incentive-based opportunities that provide a benefit to both parties, but should not deviate from the underlying key lease terms included in the EOI documentation."

LAPSED for want of a seconder.

The Motion (as outlined above) was put to the vote and is detailed below.

RESOLUTION

That Council:

- 1. Notes the Expression of Interest process inviting submissions for the lease of the property located at 51 Fyans Street Colac, known as the Lake Colac Holiday Park.*
- 2. Notes the submissions received in response to the Expression of Interest invitation:
 - a. are provided for Councillors' information as confidential attachments to this agenda; and*
 - b. have been assessed against the criteria included in the 'Invitation for Expression of Interest' document adopted by Council at its meeting on 27 July 2022.**
- 3. Determines that Submitter 1 is the preferred lessee for the Lake Colac Holiday Park as per the recommendation of the panel's Evaluation Report (confidential attachment)*
- 4. Provides in principle support for the Chief Executive Officer to finalise special conditions specific to the lease for the Lake Colac Holiday Park, which may include additional incentive-based opportunities that provide a benefit to both parties, but should not deviate from the underlying key lease terms included in the EOI documentation.*

5. *Includes a special condition in the final draft lease developed through point 4 that ensures the lessee can only charge a rental amount for permanent residents of \$200 per week, or less, until at least 1 September 2025 and to not increase this rental amount by more than CPI per annum after that date.*
6. *Receives the final draft lease for approval at a future Council meeting.*

CARRIED 7 : 0

The meeting adjourned for a short break at 6.14pm.

The meeting resumed at 6.29pm.

Item: 9.3

Sale of 69 McLachlan Street Apollo Bay

OFFICER	Mark McLennan
GENERAL MANAGER	Andrew Tenni
DIVISION	Corporate Services
ATTACHMENTS	Nil

RECOMMENDATION

That Council:

- 1. Notes that it gave notice of its intention to sell in accordance with section 114 of the Local Government Act 2020.*
- 2. Notes that it resolved to sell the property known as 69 McLachlan Street, Apollo Bay at its:*
 - a. 23 February 2022; and*
 - b. 20 April 2022 meetings.*
- 3. Notes that Council has paid invoices totalling \$348k to contribute to the construction and fit out of the Apollo Bay Early Years Hub to recognise the incorporation of Maternal and Child Health into the facility consistent with Council's resolution of August 2016.*
- 4. Notes that Council resolved to reserve the remaining net sale proceeds for part funding of the childcare component of the Apollo Bay Early Years Hub.*
- 5. Notes that the status of the potential expansion of the Apollo Bay Early Years Hub referred to in point 4 above, is at concept stage and is not yet an endorsed project, and Council has not determined any role it may have in future service delivery of childcare in Apollo Bay, or anywhere else in the municipality.*
- 6. Authorises the Chief Executive Officer to arrange the sale of 69 McLachlan Street, Apollo Bay by public auction through a registered agent.*
- 7. Sets the reserve price for auction as the amount stated in the most recent Valuation provided as a confidential attachment.*

8. *Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a contract of sale.*
9. *Resolves to release the sale amount following the execution of a contract of sale.*

MOTION

MOVED Cr Kate Hanson, SECONDED Cr Tosh-Jake Finnigan

That Council:

1. *Notes that it gave notice of its intention to sell in accordance with section 114 of the Local Government Act 2020.*
2. *Notes that it resolved to sell the property known as 69 McLachlan Street, Apollo Bay at its:*
 - a. *23 February 2022; and*
 - b. *20 April 2022 meetings.*
3. *Notes that Council has paid invoices totalling \$348k to contribute to the construction and fit out of the Apollo Bay Early Years Hub to recognise the incorporation of Maternal and Child Health into the facility consistent with Council's resolution of August 2016.*
4. *Notes that Council resolved to reserve the remaining net sale proceeds for part funding of the childcare component of the Apollo Bay Early Years Hub.*
5. *Notes that the status of the potential expansion of the Apollo Bay Early Years Hub referred to in point 4 above, is at concept stage and is not yet an endorsed project, and Council has not determined any role it may have in future service delivery of childcare in Apollo Bay, or anywhere else in the municipality.*
6. *Authorises the Chief Executive Officer to arrange the sale of 69 McLachlan Street, Apollo Bay by public auction through a registered agent.*
7. *Sets the reserve price for auction as the amount stated in the most recent Valuation provided as a confidential attachment.*
8. *Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a contract of sale.*
9. *Resolves to release the sale amount following the execution of a contract of sale.*
10. *Will continue to advocate for childcare services in Apollo Bay.*

PROCEDURAL MOTION

MOVED Cr Graham Costin

That the debate on Item 9.3 Sale of 69 McLachlan St, Apollo Bay be deferred until the 27 September 2023 Council meeting to allow discussion at a Councillor Briefing before the debate at the Council meeting.

LOST 2 : 5

DIVISION

For the motion: Cr Graham Costin, Cr Stephen Hart

Against the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Max Arnott, Cr Margaret White, Cr Chris Potter

The meeting adjourned for a break at 7.18pm.

The meeting resumed at 7.50pm.

AMENDMENT

MOVED Cr Graham Costin

To delete point 5 and 10 and replace with point 5 that reads:

- a. "reaffirms the resolution made by Council on 16 December 2020 to:
Provide in-principle support of the childcare component of the Apollo Bay Early Years Hub, and investigates funding sources to deliver the Childcare component with an aim to have it in place by 2023 and engage with the community regarding the provision of childcare at the Early Years Hub, including potential future management models.*
- b. Acknowledges the urgency, but this may not be achieved by 2023."*

LAPSED for want of a seconder

AMENDMENT

MOVED Cr Graham Costin

To replace point 7 with a point that reads "Sets the reserve price for auction at a future Council meeting."

LAPSED for want of a seconder.

PROCEDURAL MOTION

MOVED Cr Max Arnott

That this matter be adjourned until further notice.

LOST 3 : 4

DIVISION

For the motion: Cr Max Arnott, Cr Stephen Hart, Cr Graham Costin

Against the motion: Cr Chris Potter, Cr Tosh-Jake Finnigan, Cr Kate Hanson, Cr Margaret White

The Motion (as outlined above) was put to the vote and the Resolution is detailed below.

RESOLUTION

That Council:

- 1. Notes that it gave notice of its intention to sell in accordance with section 114 of the Local Government Act 2020.*
- 2. Notes that it resolved to sell the property known as 69 McLachlan Street, Apollo Bay at its:
 - a. 23 February 2022; and*
 - b. 20 April 2022 meetings.**
- 3. Notes that Council has paid invoices totalling \$348k to contribute to the construction and fit out of the Apollo Bay Early Years Hub to recognise the incorporation of Maternal and Child Health into the facility consistent with Council's resolution of August 2016.*
- 4. Notes that Council resolved to reserve the remaining net sale proceeds for part funding of the childcare component of the Apollo Bay Early Years Hub.*
- 5. Notes that the status of the potential expansion of the Apollo Bay Early Years Hub referred to in point 4 above, is at concept stage and is not yet an endorsed project, and Council has not determined any role it may have in future service delivery of childcare in Apollo Bay, or anywhere else in the municipality.*
- 6. Authorises the Chief Executive Officer to arrange the sale of 69 McLachlan Street, Apollo Bay by public auction through a registered agent.*
- 7. Sets the reserve price for auction as the amount stated in the most recent Valuation provided as a confidential attachment.*

8. *Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a contract of sale.*
9. *Resolves to release the sale amount following the execution of a contract of sale.*
10. *Will continue to advocate for childcare services in Apollo Bay.*

CARRIED 5 : 2

DIVISION

For the motion: Cr Kate Hanson, Cr Tosh-Jake Finnigan, Cr Max Arnott, Cr Margaret White, Cr Chris Potter

Against the motion: Cr Graham Costin, Cr Stephen Hart

Item: 9.4

Purchase of part of former Colac High School site for road reserve

OFFICER	Simon Clarke
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none">1. Cross Section - North South Collector Road [9.4.1 - 1 page]2. Proposed section of land to be purchased for road [9.4.2 - 1 page]

RESOLUTION

MOVED Cr Kate Hanson, SECONDED Cr Max Arnott

That Council:

- 1. Endorses the process for purchasing land required for a road reserve at the western edge of the former Colac High School site from the Department of Education, on the basis that costs of the land purchase will be recouped from the adjoining landowner.*
- 2. Notes that a further report and resolution of Council is required for a decision regarding land purchase once the steps in the process have been undertaken and a valuation for the land has been obtained.*

CARRIED 7 : 0

Item: 9.5

Report of Informal Meetings of Councillors

OFFICER	Lyndal McLean
CHIEF EXECUTIVE OFFICER	Anne Howard
DIVISION	Executive
ATTACHMENTS	<ol style="list-style-type: none"> 1. Informal Meeting of Councillors - Councillor Briefing - 19 July 2023 [9.5.1 - 2 pages] 2. Informal Meeting of Council - Council Meeting Preparation 26 July 2023 [9.5.2 - 2 pages] 3. Informal Meeting of Councillors - Councillor Briefing - 2 August 2023 [9.5.3 - 2 pages] 4. Informal Meeting of Councillors - Councillor Briefing - 9 August 2023 [9.5.4 - 2 pages] 5. Informal Meeting of Councillors - Planning Committee Meeting Preparation - 9 August 2023 [9.5.5 - 2 pages]

REPORTING

The Informal Meetings of Councillors are reported herewith:

- | | |
|--|----------------------|
| 1. Councillor Briefing | 19 July 2023 |
| 2. Council Meeting Preparation | 26 July 2023 |
| 3. Councillor Briefing | 2 August 2023 |
| 4. Councillor Briefing | 9 August 2023 |
| 5. Planning Committee Meeting preparation | 9 August 2023 |

The Colac Otway Shire Governance Rules does not require a Council decision.

Item: 10.1

Report from Delegate - Municipal Associations of Victoria (MAV) State Council meeting held on Friday 19 May 2023

COUNCILLOR	Cr Stephen Hart
ATTACHMENTS	<ol style="list-style-type: none">1. 2023 05 19 Colac Otway member motion 26 - Attachment for MAV Delegate report - August 2023 Council M [10.1.1 - 2 pages]2. State Council Resolutions - May 2023 [10.1.2 - 29 pages]3. MAV Strategic Directions - May 2023 [10.1.3 - 11 pages]

The purpose of this item is to report to Council on the Municipal Association of Victoria's (MAV) State Council meeting, held on Friday 19 May 2023 and did not require a Council meeting.

Item: 10.2

Notice of Motion - 69 McLachlan Street, Apollo Bay

COUNCILLOR Cr Graham Costin

ATTACHMENTS Nil

Cr Graham Costin withdrew his notice of motion at the meeting.

Item: 10.3

Notice of Motion - GORCAPA and Apollo Bay Harbour

COUNCILLOR Cr Tosh-Jake Finnigan

ATTACHMENTS Nil

RESOLUTION

MOVED Cr Tosh-Jake Finnigan, SECONDED Cr Kate Hanson

That Council:

- 1. Expresses its concern with the progress of implementation by the Great Ocean Road Coast and Parks Authority (GORCAPA) of the City Deals project relating to the Apollo Bay Harbour Redevelopment.*
- 2. Advises GORCAPA and the relevant Victorian Government Minister/s that the Apollo Bay Harbour Redevelopment should be delivered as per the Development Plan adopted in December 2020.*
- 3. Writes to the Chair of GORCAPA and the relevant Victorian Government Minister/s to convey points 1 and 2 above.*

CARRIED 7 : 0

The meeting was declared closed at 8.18pm

CONFIRMED AND SIGNED at the meeting held on 27 September 2023.

A handwritten signature in black ink, consisting of several loops and a final flourish, positioned above a dotted line.

.....MAYOR

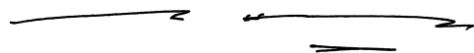
CERTIFICATE UNDER SECTION 74 OF THE LOCAL GOVERNMENT ACT 2020

I, **Mark Richard Hayes**, being a person who is:

- (a) an Australian lawyer who has been admitted to the legal profession for at least 5 years; and
- (b) not a Councillor of Colac Otway Shire Council

certify that, in my opinion, the draft Local Law attached to this Certificate and marked "MRH1" for identification is consistent with the local law requirements set out in section 72 of the *Local Government Act 2020*.

Dated: 21 August 2023



.....
Mark Richard Hayes
Maddocks

MRH1



LOCAL LAW No. 1

GENERAL LOCAL LAW 2023

LOCAL LAW ADOPTED BY COUNCIL: XX August 2023
OPERATION DATE: XX August 2023

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Schedule 159

COLAC OTWAY SHIRE
LOCAL LAW 1
GENERAL LOCAL LAW 2023
PART 1 – PRELIMINARY

1.1 Title

- (a) This Local Law (Local Law No. 1 – General Local Law 2023) will be known as the "General Local Law 2023" and is referred to subsequently as the "Local Law".

1.2 Purpose

- (a) The purpose of this Local Law is to:
- (1) provide for the peace, order and good government of the *municipal district*;
 - (2) promote a physical and social environment free from hazards to health and assets, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community;
 - (3) provide for the management of domestic and farm *animals* in a manner that promotes welfare and reduces nuisance, harm or environmental damage to residents and property;
 - (4) provide for the appropriate management of *Council Buildings* and *reserves*; and
 - (5) prevent and suppress nuisances which may adversely affect the enjoyment of life within the *municipal district* or the health, safety and welfare of *persons* and *animals* within the *municipal district*, by:
 - (i) regulating and controlling activities which may be dangerous, unsafe or cause detrimental impact on quality of life or the environment within the municipal district; and
 - (ii) providing standards and conditions for specified activities in order to reduce risk and increase safety.

1.3 The power to make this Local Law

- (a) This Local Law is made under section 71 (1) of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

1.4 Commencement

- (a) This Local Law commences on the day following the gazettal of the Local Law in the *Victoria Government Gazette*.

1.5 Area of Operation

- (a) This Local Law operates throughout the whole of the *Municipal District*, including public lands to the high water mark of inland lakes and foreshore *reserves*.
- (b) This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

1.6 Previous Local Laws

- (a) On commencement of this Local Law, the following Local Laws are revoked:
 - (1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013);
 - (2) Local Law No. 2 – General Local Law (September 2013); and
 - (3) Local Law No. 3 – Livestock (August 2013).
- (b) Any notice or consent given, or any business matter or thing commenced, made or done under the revoked Local Laws is not affected.

1.7 Local Law Cease to Operate

- (a) This Local Law ceases to operate on 23 August 2033, unless it is revoked sooner.

1.8 Incorporated documents, codes and policies

- (a) The following documents are incorporated into this Local Law in accordance with section 76 of the *Act*:
 - (1) Colac Otway Shire – Local Law No. 1 – General Local Law 2023 – Procedure Guidelines.
 - (2) AS4687-2007.
 - (3) Apiary Code of Practice.

1.9 Charter of Human Rights and Responsibilities

- (a) This Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

1.10 Definitions

- (a) Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

“Act” means the *Local Government Act 2020*.

“aircraft” means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface.

“alcohol” means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.

“allotment” means any land in separate ownership or occupation.

“animal” includes any mammal but excludes a human.

“applicant” means an applicant for a *permit* under this Local Law.

“appointed agent” means the *person* authorised in writing by an *owner* of land to make an application, appeal, referral or representation on the *owner’s* behalf.

“Asset Protection Permit” means a *permit* issued by *Council* under clause 5.9.

“Authorised Officer” means a *person* appointed by *Council* under section 224 of the *Local Government Act 1989* and includes all sworn members of the Victorian Police Force and Protective Services Officers so appointed.

“bird” means small birds suitable for domestic aviaries.

“builder” means:

- a builder under the *Building Act 1993*; and
- a builder under the *Domestic Building Contracts Act 1995*; and
- an *owner* of a *building site*.

“builder’s refuse” includes any solid or liquid domestic or *commercial waste*, debris or rubbish, and includes glass, metal, plastic, paper, fabric, wood, food, food wrappers and containers, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with *building work*.

“building site” means any land on which *building work* is being undertaken.

“building work” has the same meaning as:

- in the *Building Act 1993*; and
- domestic building work in the *Domestic Building Contracts Act 1995*

and includes building work that does not require a building permit.

“bulk rubbish container” means a bin, skip or other container used for the deposit of waste which is incapable of being lifted without mechanical assistance but excludes a bin used in connection with *Council’s* waste collection service.

“camping” means using a tent, *caravan*, articulated *recreational vehicle*, self-propelled self contained motor home, *vehicle* or any temporary form of accommodation (including sleeping bags or swags) for overnight sleeping.

“caravan” includes a mobile home and moveable *dwelling*.

“carriageway” means the portion of the *road* generally available for traffic by *motor vehicles*, whether sealed, formed or unconstructed.

“cattle” means any bull, cow, ox, steer, heifer, calf or buffalo.

“charity bin” means any bin placed by or on behalf of any charitable or non-profit organization and dedicated to the collection of used clothing or small household items.

“Chief Executive Officer” means the Chief Executive Officer of *Council*.

“commercial waste” means refuse, rubbish, slops or other waste matter arising from or generated by any commercial trade or industry.

“construction period” means the period during which *building work* is being carried on.

“contaminated material” means any material *prescribed* by *Council* as being incapable of deposit in a *Council*-approved mobile bin or other *Council*-provided bin or any class of such mobile or other bins.

“Council” means Colac Otway Shire Council.

“Council Building” means any building which is owned, occupied or under the management or control of *Council*, and includes any recreation centre which is owned, occupied or under the management or control of *Council*.

“Council controlled standpipe” means a water outlet owned and maintained by *Council* within the *municipal district* which is located in a *public place* and to which the public has access to water.

“Council infrastructure assets” include any *road*, drain, drainage infrastructure, kerb and channel, *nature strip*, street tree, street sign or any other property vested in or under the control of *Council*, which is:

- adjacent to a *building site*; or
- likely to be affected by *building work*.

“Council land” means any land vested in or under the control of *Council*, including a *reserve*, watercourse, jetty, reservation and the like but excludes a *road*, except that part of the *road* which is the *nature strip* and footpath.

“Designated Township Area” means the settlement areas of Alvie, Apollo Bay, Barwon Downs, Beeac, Beech Forest, Birregurra, Carlisle River, Colac, Coragulac, Cororooke, Cressy, Elliminyt, Forrest, Gellibrand, Kennett River, Lavers Hill, Marengo, Pirron Yallock, Separation Creek, Skenes Creek, Warrion, Wye River within the boundaries defined in the Colac Otway Shire Rural Living Strategy.

“droving of livestock” means the *movement of livestock* within or through the *municipal district* including supplementing feeding.

“dwelling” means a building or portion of a building which is used, or intended, adapted or designed for residential purposes.

“effective control” means control by a *person* or *persons* alone or using dogs, devices, fences or other equipment so as to ensure that *livestock* are not trespassing or endangering *persons* or objects.

“event” means a planned gathering of people for a specific purpose on *Council land*, where the number of people is greater than that normally found in that area or location at any one time. This activity may affect the location surrounding the area prior to, during or after the activity, and includes but is not limited to:

- sporting activities (but does not include a regular, locally focussed and organised sporting competition permitted by a user agreement);
- one off or annual events, such as fundraisers, religious meetings, weddings, functions, filming or broadcast activities, live performances and concerts, promotional activities or the like;
- markets;
- shows and exhibitions; and
- festivals.

“exemption” means an exemption issued by or under the authority of *Council* under this Local Law.

“Fire Danger Period” means the period declared by the Country Fire Authority to be a fire danger period under section 4 of the *Country Fire Authority Act 1958*.

“fire hazard” means anything that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of fire.

“frontage” means a boundary between an *allotment* and an adjoining *road*, and if an *allotment* adjoins more than one (1) *road* means the boundary between the *allotment* and the *road* to which the largest building on the *allotment* fronts.

“fully commingled recyclables” means, for the purpose of *Council's* waste collection service:

- glass bottles and jars;
- aluminium cans, food trays and foil;
- steel cans;
- steel aerosol cans;
- liquid paperboard containers;
- HDPE, PET and PVC bottles and containers;

- newspapers;
- magazines;
- leaflets and 'junk mail';
- stationary;
- envelopes;
- telephones books;
- cardboard (flattened);
- miscellaneous paper, including paper form a home office; and
- any other material that *Council prescribes* to be *fully commingled recyclables*.

“graffiti” means any writing, drawing or like marking which has not been authorised by the *owner* or *occupier* of the land or *Council*.

“Guidelines” means the Department of Transport and Planning Strategic Plan Guidelines for the Selection of Stock Crossing Sites and the Placement of Signs when Stock are on Roads.

“household waste” means, for the purpose of *Council's* waste collection service, all waste generated from residential and similar activities but excludes the following waste:

- *fully commingled recyclables*;
- organic waste;
- material *prescribed* by *Council* to be prohibited; and
- any other material that *Council prescribes* not to be household waste.

“incinerator” means any structure, device or item of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and is not:

- enclosed in any building;
- a barbeque; or
- licensed under the provisions of the *Environment Protection Act 2017*.

“Internal Infringement Review Panel” means *Council's* Internal Infringement Review Panel.

“livestock” means an *animal* (including a *bird*) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat.

“local water authority” means Barwon Region Water Authority or its successor in law.

“motor vehicle” has the meaning ascribed to it by the *Road Safety Act 1986*.

“movement of livestock” means individual or regular movement of *livestock*:

- as part of normal farm management operations of one farming enterprise but not for the purposes of grazing;
- from one property within the *municipal district* to another property within the *municipal district* or from or to one property in the *municipal district* to or from a property within an adjacent *municipal district*;
- at the rate of not less than one kilometre per hour in the direction of movement between the two properties;
- where the properties concerned are occupied by the one farming enterprise; and
- the movement is completed on the day of commencement.

“municipal district” means the municipal district of *Council*.

“nature strip” means that part of any *road* which adjoins the land and which is designed or intended for pedestrian traffic or use and includes a lawn or garden and a crossing.

“Non-Rural Area” means any area within Colac, Elliminyt, Apollo Bay or any other *Designated Township Area prescribed by Council*.

“Notice to Comply” means a notice served under clause 14.2 of this Local Law.

“occupier” includes any *person* who is residing or using a property as its *owner* or tenant with or without consent of the titled *owner* of the land.

“organic waste” means, for the purpose of *Council’s* waste collection service, food organics as *prescribed by Council* and garden waste material, including:

- prunings, small branches (not greater than 100mm in diameter or 300mm in length), twigs and including cut up palm fronds;
- leaves, small plants and grass clippings; and
- weeds and flowers (free of soil).

“offence” means an act or default contrary to this Local Law.

“owner” means the owner of land or premises.

“Penalty” means the maximum fine that may be imposed by a court of appropriate jurisdiction.

“Penalty Unit” has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*.

“permit” means a permit in writing issued by or under the authority of *Council* under this Local Law.

“permit holder” is the *person* to whom a *permit* has been issued under this Local Law.

“person” has the same meaning as in section 38 of the *Interpretation of Legislation Act 1984*.

“person in charge” includes, in Part 5 a *builder*, site supervisor or foreman or other person who provides general directions on a *building site* or subdivision site.

“poultry” includes hens, roosters, ducks, geese, peacocks, turkeys, bantam, squab, guineafowls and other edible *birds* over the age of 12 weeks.

“prescribe” means determine and give notice:

- by public notice, published in a newspaper generally circulating in the *municipal district*; and
- on *Council’s* website.

“private land” means any land which is not *Council land* nor land occupied or under the control or management of a public body.

“procession” includes a fun run and bicycle *event*.

“public place” has the meaning ascribed to it by the *Summary Offences Act 1966*.

“recreational vehicle” means any mini-bike, trail-bike, motor bike, motor scooter, go-kart, monkey bike or other *vehicle* propelled by a motor which is ordinarily used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a *person* of limited mobility, and a motorised bicycle with a maximum capacity of 22 watt aggregate power.

“recyclables” means any substances or articles which *Council prescribes* to be recyclables for the purposes of this Local Law.

“refuse facility” means a receptacle capable of retaining all *builders’ refuse* within a *building site* and preventing removal of the *builder’s refuse* by unauthorised *persons* or by wind or rain.

“reptile” includes lizards, snakes and turtles.

“reserve” means any land which is owned, occupied or managed or controlled by *Council* and dedicated or used for outdoor cultural, environmental, sporting or recreational purposes.

“road” has the meaning ascribed to it by the *Local Government Act 1989*, and means:

- a street;
- a right of way;
- any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- a public road under the *Road Management Act 2004*;
- a public highway;
- a bridge or ford;
- a footpath, bicycle path or *nature strip*; and
- any culvert or kerbing or other land or *works* forming part of the road.

“Rural Zone” means a zone designated by *Council* as a Rural Zone under the Colac Planning Scheme.

“Schedule” means a schedule to this Local Law.

“sealed container” means a container sealed at the point of manufacture.

“security bond” means a sum of money, or another means of security acceptable to *Council*, the amount of which has been determined by *Council*, after taking account of:

- the nature of the *building work*;
- likely costs that would be incurred for repairs to *Council infrastructure assets*, if damage does occur to them, during or as a result of the *building work*;
- requirements which are commonly applied in comparable situations; and
- any relevant Commonwealth or State government legislation or policy directives.

“sell” includes:

- sell by means of any machine or mechanical device;
- barter or exchange;
- agree to sell;
- offer or expose for sale;
- keep or have in possession for sale; and
- directing, causing or attempting any such acts or things.

“single farming enterprise” means a business of farming *livestock* run by one or more *persons* as a single business.

“stormwater system” means a drainage system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.

“temporary structure” means a structure that is easily transportable, is able to be removed from site within 24 hours and does not have permanent footings.

“Total Fire Ban Day” means a day declared either totally or partially to be a fire ban day by the Country Fire Authority under the *Country Fire Authority Act 1958*.

“toy vehicle” means:

- a child's pedal car, scooter or tricycle or similar toy but only when it is being used by a child who is under the age of 12 years; and
- a wheeled device built to transport a *person*, propelled by human power or gravity and ordinarily used for recreation or play, including rollerblades, roller-skates, a skateboard or any similar wheeled device but excluding a golf buggy, pram, stroller, bicycle or wheelchair.

“trade waste” means any waste, refuse, slops or other matter arising from or generated by any trade or industrial undertaking.

“trade waste hopper” means a purpose-built receptacle for the deposit of *trade waste* that is ordinarily emptied by mechanical means.

“unsightly and/or dangerous” means:

- dangerous or likely to cause danger to life or property because of the materials or substances that are kept;
- unsightly or detrimental to the general amenity of the neighbourhood because of rubbish, waste or other material giving the appearance that the land is neglected and out of character with other land in the vicinity;
- having dismantled *vehicles* or *vehicle* parts visible from an adjoining roadway or properties; or
- having any other matter which is offensive or unsightly.

“vacant private land” means land on which no *dwelling* is erected.

“vehicle” includes any conveyance propelled or drawn by human, *animal*, mechanical, electrical or other power.

“vehicle crossing” means the constructed surface between the *road* pavement and the property boundary for *vehicle* access to the property, including any footpath section, crossing culverts, kerb and channel or layback.

“weeds” means a plant described as a locally emergent pest plant as *prescribed* by *Council*.

“works” includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

1.11 Notes in this Local Law

- (a) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART 2 – USE OF COUNCIL LAND AND BUILDINGS

Introduction

This Part contains provisions that define what is and what is not allowed on *Council land*. Generally, the provisions apply to what are known as *Council Buildings*. Specific provisions then extend to *reserves*.

2.1 What Council may do

(a) *Council* may:

- (1) establish conditions of entry to a *Council Building*;
- (2) set and collect fees or charges for admission to or the hire or use of a *Council Building* or part of it;
- (3) set and collect fees or charges for the hire or use of any *Council* property in connection with a *Council Building*; and
- (4) authorise a *person* to do any one or more of the things described in sub-clauses (1) - (3) (inclusive).

2.2 What a person cannot do

(a) A *person* must not, without the consent of *Council* or an *Authorised Officer*:

- (1) act contrary to any conditions of entry applicable to a *Council Building*;
- (2) enter a *Council Building* without paying any admission fee or charge applicable to that *Council Building* or the hire or use of the *Council Building*;
or
- (3) hire or use any *Council* property in connection with a *Council Building* without first paying any fee or charge which is applicable.

2.3 Behaviour and Activities in *Council Buildings*

(a) A *person* must not:

- (1) commit any nuisance in a *Council Building*;
- (2) interfere with another *person's* use and enjoyment of a *Council Building*;
- (3) act in a manner which endangers any other *person* in a *Council Building*;
- (4) use indecent, insulting, offensive or abusive language in a *Council Building*;
- (5) behave in an indecent, offensive, insulting or riotous manner in a *Council Building*;
- (6) destroy, damage, interfere with or deface a *Council Building*;
- (7) destroy, damage, interfere with or deface anything located at, on or in a *Council Building*;

- (8) act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a *Council Building*;
- (9) deposit any litter in a *Council Building*, except in a receptacle provided for that purpose;
- (10) without the consent of *Council* or an *Authorised Officer*, sell any goods or services in a *Council Building*;
- (11) without the consent of *Council* or an *Authorised Officer*, erect, affix, place or leave any advertisement in a *Council Building*;
- (12) without the consent of *Council* or an *Authorised Officer*, erect, operate or cause to be erected or operated any amusement in a *Council Building*;
- (13) obstruct, hinder or interfere with any member of staff of *Council* in the performance of their duties in a *Council Building*;
- (14) act contrary to any lawful direction of an *Authorised Officer* or member of *Council* staff given in a *Council Building*, including, without limitation, a direction to leave the *Council Building*, whether or not a fee for admission to the *Council Building* has been paid;
- (15) use or interfere with any lifesaving or emergency device located in a *Council Building*, unless:
 - (i) using the device in an emergency; or
 - (ii) participating in an instruction approved by *Council* or an *Authorised Officer*;
- (16) organise any function or event in a *Council Building* without the consent of *Council* or an *Authorised Officer*;
- (17) bring any *animal* into, or allow any *animal* under their control to remain in, a *Council Building* without the consent of *Council* or an *Authorised Officer*, except for a guide dog being used by a visually impaired *person*, a hearing dog being used by a hearing impaired *person* or a dog being used to assist a *person* with limited mobility or health issues;
- (18) bring any *vehicle* or *toy vehicle* into a *Council Building* without the consent of *Council* or an *Authorised Officer*, except for:
 - (i) a pram or pusher being used by a child; or
 - (ii) a wheelchair or motor scooter being used by a physically disabled *person*; or
- (19) bring into a *Council Building* any substance, liquid or powder which may:
 - (i) be dangerous or injurious to health;
 - (ii) have the potential to foul, pollute or soil any part of the *Council Building*;
or

- (iii) cause discomfort to any *person*.

Penalty: A Maximum of 20 Penalty Units

2.4 Access to Council Buildings

- (a) *Council* or an *Authorised Officer* may:
- (1) determine the hours when any *Council Building* will be open to the public;
 - (2) restrict access to a *Council Building* or part of a *Council Building*;
 - (3) close any *Council Building* or part of a *Council Building* to the public; and
 - (4) charge fees for admission to a *Council Building* or part of a *Council Building*.
- (b) *Council* may:
- (1) authorise any *person* to occupy a *Council Building* or restrict access to a *Municipal Building*; or
 - (2) authorise any *person* to charge and collect fees for admission to or the use of a *Council Building* or part of a *Council Building*;
- (c) *Council*, an *Authorised Officer* or any *person* authorised by *Council* may from time to time establish:
- (1) conditions applying to and fees or charges for admission to or the hire or use of a *Council Building* or part of a *Council Building*; and
 - (2) conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Council Building*.
- (d) In exercising the powers conferred by sub-clause 2.4(a), *Council*, an *Authorised Officer* or any *person* authorised by *Council* may determine conditions applying to and fees and charges for admission to or the use of a *Council Building*:
- (1) on multiple occasions;
 - (2) over a period of time; or
 - (3) on any other basis that they consider appropriate.
- (e) A *person* must not, without the consent of *Council* or an *Authorised Officer*:
- (1) enter a *Council Building* other than through an entrance provided for that purpose;
 - (2) enter or remain in a *Municipal Building* during hours when the *Municipal Building* is not open to the public;
 - (3) enter or remain in a *Council Building* without having paid any fee or charge imposed by *Council*, an *Authorised Officer* or any *person* authorised by *Council* for admission to the *Council Building*;

- (4) remain in a *Council Building* after being directed to leave by an *Authorised Officer*; or
- (5) enter a *Council Building* after having been directed to leave that *Council Building* by an *Authorised Officer*, until they are granted written permission to re-enter by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 20 Penalty Units

2.5 Activities Prohibited in a Reserve

- (a) In a *reserve*, a *person* must not:
 - (1) enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering, unless that *person* is a player, official or competitor in or at a sporting match or gathering;
 - (2) act in any manner so as to endanger any other *person*, cause any damage to any property or the environment or interfere with the quiet enjoyment of the *reserve* by any *person*;
 - (3) use any children's playground equipment other than for the purpose for which it is provided;
 - (4) fish in or swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain contrary to any sign erected in the *reserve*;
 - (5) throw, place or allow to be thrown or placed any liquid, rubbish, dirt or other object, or substance into any wetland, lake, pond or fountain;
 - (6) play, engage in or practise any game or sport, whether or not in accordance with a *permit* issued under this Local Law, in a manner that is:
 - (i) dangerous to any other *person* in the *reserve*; or
 - (ii) likely to interfere with the reasonable use or enjoyment of the *reserve* by any other *person*;
 - (7) play or practise golf in a *reserve* to the danger or detriment of any *person*, *animal* or property;
 - (8) ride any horse other than in an area and at a time *prescribed* by *Council*; or
 - (9) drive, ride in or on or otherwise use any *motor vehicle* other than in an area *prescribed* by *Council*.
 - (10) enter a *reserve*, or part of a *reserve*, contrary to signage prohibiting access to the *reserve* or part of the *reserve*.

Penalty: A Maximum of 20 Penalty Units

2.6 Activities which may be permitted/allowed in a Reserve

- (a) In a *reserve*, a *person* must not, without a *permit* or the consent of an *Authorised Officer*:
- (1) fly or allow or be flown any *aircraft* (including any powered modelled aeroplane, drone but excluding a kite);
 - (2) drive or ride a *vehicle* or *animal* in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *reserve* by another *person*;
 - (3) light a fire or allow any fire to remain alight except in:
 - (i) a barbecue provided by *Council*;
 - (ii) a portable liquid petroleum gas barbecue; or
 - (iii) a charcoal fuelled barbecue;
 - (4) organise any competitive sport, game, *event* or activity other than a sport, game, *event* or activity played for family or social purposes;
 - (5) camp or pitch, erect or occupy any camp, tent, *caravan* or *temporary structure*;
 - (6) place or erect any fence, gate or any other object that impedes the public access and use of any *Council land*;
 - (7) conduct or celebrate a wedding;
 - (8) organise or hold any rally, *procession*, demonstration or any other public gathering;
 - (9) make a collection of money;
 - (10) destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
 - (11) use an amplifier;
 - (12) walk on any plot, bed, border or any other area set aside for vegetation;
 - (13) operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);
 - (14) construct or install a film set, or record for television or other media purposes any *event* or activity, if the construction, installation or recording (as the case may be) is for fee or reward or commercial purposes (but excluding wedding and general photography or recording and any media photography or recording for news production purposes);
 - (15) conduct any commercial activity; or

(16) drive any *livestock*.

Penalty: A Maximum of 20 Penalty Units

Note: *Sub-clauses 2.6(a)(2), (3), (5), (6), (10) and (12) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

PART 3 – Consumption and Possession of *Alcohol*

Introduction

This Part deals with the consumption of *alcohol* and possession of *alcohol* other than in a *sealed container* in *public places*.

3.1 Consumption and Possession of *Alcohol*

- (a) *A person* must not, without a *permit*:
- (1) consume any *alcohol*; or
 - (2) have in their possession or control any *alcohol* other than *alcohol* in a *sealed container*
- in a *prescribed place*, in or at a *public place*, on a *road* or in or on a *vehicle* which is in or at a *prescribed place*.
- (b) Sub-clauses (a)(1) and (2) do not apply in places which are:
- (1) licensed premises within the meaning of *Liquor Control Reform Act 1998*;
 - (2) areas in which the consumption of *alcohol* is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1998* or this Local Law;
 - (3) areas in which *Council* has issued a *permit* for the consumption of *alcohol*; or
 - (4) areas specified in a notice signed by *Council's Chief Executive Officer* as being areas in which *alcohol* may be possessed and consumed if the possession or consumption occurs during a period specified in the notice.
- (c) Any notice referred to in sub-clause (b)(4) must be published on *Council's* website.
- (d) If an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened sub-clause (a), the *Authorised Officer* may direct the *person* to seal any container or dispose of the contents of any *unsealed container*.
- (e) A *person* to who fails to comply with a direction of an *Authorised Officer* under sub-clause (d) is guilty of an *offence*.
- (f) *Council* may *prescribe* any place for the purpose of sub-clause (a) including:
- (1) a prescription that applies on any day or between dates;
 - (2) a prescription that applies at any time or between times; or
 - (3) in any other way.

Note *This clause enables Council to issue a Local Law permit to licensed premises to extend their licensed use from adjoining premises onto footpaths and is authorised under the Colac Planning Scheme.*

PART 4 – PROTECTION OF COUNCIL LAND AND ASSETS

Introduction

This Part is designed to protect *Council land* and assets. Specifically, it regulates drains, *vehicle crossings*, standpipes, watercourses and *recreational vehicles*.

4.1 Protection of drains.

- (a) A *person* must not, without a *permit*, enter, destroy, damage or tap into any drain or culvert vested in *Council* or divert the contents of any such drain or culvert.

Penalty: A Maximum of 20 Penalty Units

- (b) A *person* must not deposit, or allow to be deposited, into any drain vested in *Council* any waste material other than stormwater.

Penalty: A Maximum of 20 Penalty Units

4.2 Legal Point of Discharge

- (a) An *owner* of land must ensure that any stormwater from that land is discharged to the legal point of discharge nominated by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 20 Penalty Units

4.3 Interference with Watercourse

- (a) A *person* must not, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of *Council*.
- (b) A *person* must not, without a *permit*, divert the contents of any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of *Council*.

Penalty: A Maximum of 20 Penalty Units

4.4 Taking water from *Council Controlled Standpipes*

- (a) A *person* must not, without a *permit*, take water from a *Council controlled standpipe*, other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a *Total Fire Ban Day*.

Penalty: A Maximum of 20 Penalty Units

4.5 Constructing *Vehicle Crossings*

- (a) A *person* must not, without a *permit*, construct, remove or relocate any temporary or permanent *vehicle crossing(s)*.
- (b) Each *owner* and *occupier* of land must not, without a *permit*:
- (1) construct or allow to be constructed; or

- (2) use or allow to be used

a second or subsequent *vehicle crossing* to service the land.

Penalty: A Maximum of 20 Penalty Units

4.6 Maintaining *Vehicle Crossings*

- (a) Each *owner* and *occupier* of land must maintain and keep in good condition any *vehicle crossing(s)* which services that land.

Penalty: A Maximum of 20 Penalty Units

4.7 Directing *Vehicle Crossing Works*

- (a) *Council* or an *Authorised Officer* may direct the *owner* or *occupier* of land to:
 - (1) construct a temporary or permanent *vehicle crossing*;
 - (2) repair or reconstruct a *vehicle crossing*; or
 - (3) remove a *vehicle crossing*, and reinstate any kerb, channel, footpath or other area, to the satisfaction of the *Authorised Officer* or the *owner* or *occupier* of any adjacent land at their cost.
- (b) The *owner* or *occupier* of land to whom a direction has been given under this clause must first apply to *Council* for a *permit* to do the thing which is directed.

Penalty: A Maximum of 20 Penalty Units

4.8 Damaging *Council Land or Roads*

- (a) A *person* must not, without a *permit*:
 - (1) erect or construct, or allow to be erected or constructed, any thing on *Council land* or a *road* that is inconsistent with an adopted *Council* policy or adopted precinct specific plan published on *Council's* website, or where mechanical plant is used for excavation;
 - (2) occupy or fence off any *Council land*;
 - (3) construct an opening or gate in a fence on the boundary of *Council land* which is more than one (1) metre wide, excluding driveways from access *roads*;
 - (4) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, (other than recognised *weeds*) any *Council land* or any *road* or thing on *Council land* or any *road*;
 - (5) place, or allow to be placed, any thing on *Council land* or any *road* so as to endanger any other *person* or any property;
 - (6) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a *road* and thereby become a hazard;

- (7) remove, or allow to be removed, any thing from *Council land* or any *road* which is affixed or attached to the *Council land* or *road* (as the case may be);
- (8) light a fire, or allow a fire to be lit, on any *Council land* or any *road*, except in a properly constructed barbecue; or
- (9) launch into any wetland, lake, pond or other watercourse on *Council land* any watercraft excluding canoes, kayaks and surf paddles, other than from a launching facility designated for such purpose.

Penalty: A Maximum of 20 Penalty Units

Note: *Sub-clauses 4.8(a)(1), (2), (3), (4), (7) and (8) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

4.9 Nature Strips

- (a) An *owner* or *occupier* of land that is not in a *Rural Zone* must ensure that the *nature strip* directly outside that land:
 - (1) is maintained in a neat and tidy condition; and
 - (2) does not contain grass, stubble, scrub or undergrowth exceeding 30 centimetres in height.
- (b) Subject to sub-clause (a) an *owner* or *occupier* of land must not, without a *permit*, alter, or allow to be altered or remain altered, any *nature strip*.

4.10 Recreational Vehicles on Council Reserves

- (a) A *person* must not:
 - (1) drive, ride on or otherwise use; or
 - (2) allow a *person* under their care or control to drive, ride on or otherwise use a *recreational vehicle* on any *reserve* unless that *reserve* has been *prescribed* for that purpose or otherwise authorised by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 5 – BUILDING SITES

Introduction

This Part contains provisions that control construction movements and construction waste on *building site(s)*. It also handles issues around *building sites* such as mud and debris on *roads*, stormwater runoff, and the preservation of some *Council* assets.

5.1 **Building Work or Works**

- (a) During *building work* the *person in charge* of that *building work* must ensure that it is carried out so:
- (1) as not to emit excessive dust into the air and onto land proximate to the land on which the *building work* is carried out; and
 - (2) that it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the *building work* is carried out.

Penalty: A Maximum of 20 Penalty Units

5.2 **Fencing of Building Sites**

- (a) Prior to the commencement of any *building work* on land that is in a residential zone, commercial zone or industrial zone, and less than 1,500m² in size, the *person in charge* of the *building work* must ensure that a site fence is erected on each individual site that:
- (1) complies with AS4687-2007;
 - (2) is not less than 1,500mm in height and not greater than 2,000mm in height;
 - (3) will prevent windblown *trade waste* and litter from being transported from the site; and
 - (4) will not have more than one access opening to the site which is;
 - (i) not greater than 2,800mm in width;
 - (ii) fitted with gates that are the same height as the associated fence that will prevent windblown refuse and litter being transported from the site;
 - (iii) located to correspond with the location of the temporary *vehicle crossing* for the *building site*; and
 - (iv) kept closed at all times when *works* are not in progress.
- (b) If the *person in charge* of the *building work* has multiple and adjoining sites where *building work* is being undertaken simultaneously, the site fence may enclose all of those sites, and one access opening is allowed per *allotment*.

- (c) No part of the site fence, including support feet, must be allowed by the *person in charge* of the *building work* to protrude into or onto any land other than the *building site* on which the *building work* is occurring.
- (d) The *person in charge* of the *building work* must ensure that the site fence is maintained in accordance with AS4697-2007 and remains erected until the completion of the *building work*.

Penalty: A Maximum of 20 Penalty Units

5.3 Stormwater Protection at *Building Sites*

- (a) Where any *building work* is being carried out on any land, the *person in charge* of the *building work* must ensure that the *building site* is developed and managed to minimise the risk of stormwater pollution through the contamination of run-off by chemicals, sediments, *animal* waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:
 - (1) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater system*; and
 - (2) prevent building clean-up, wash-down or other wastes being discharged off-site or allowed to enter the *stormwater system*.

Penalty: A Maximum of 20 Penalty Units

5.4 Controlling *Trade Waste* and Building materials at *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must:
 - (1) provide a *refuse facility* for depositing *trade waste* and litter, which must:
 - (i) be maintained in working order by having a functioning lid that effectively contains all the *trade waste* and litter; and
 - (ii) be not less than 1.5 cubic metres in volume;
 - (2) ensure *trade waste* and litter is efficiently and effectively deposited into the *refuse facility*;
 - (3) keep the *refuse facility* in place until the *building work* is complete, except when it is necessary to remove the *refuse facility* for the purpose of emptying it;
 - (4) ensure all aspects of the *refuse facility* are within the *building site*;
 - (5) ensure all building materials are contained within the *building site*;
 - (6) ensure that all lightweight materials on the *building site* are secured at all times so that any materials cannot become airborne; and

- (7) ensure the *refuse facility* is removed from the *building site* within seven (7) days of completion of the *building work* or issue of an occupancy *permit* or certificate of final inspection, whichever occurs last.

Penalty: A Maximum of 20 Penalty Units

5.5 Controlling Mud, Dirt and Debris from *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must ensure unsecured mud, dirt and debris is not carried from a *building site* by any *vehicle* or persons.

Penalty: A Maximum of 20 Penalty Units

5.6 Managing a Building or Subdivision Site

- (a) Prior to the commencement of any *building work* the *person in charge* of the *building work* must provide *Council* with their contact details.
- (b) If, prior to the completion of the *building work*, there is a change of *person in charge*, the new *person in charge* must, within (7) days of that change, notify *Council* of their contact details.
- (c) Prior to the commencement of any subdivision work the *person in charge* of the *building work* must erect a sign at each access gate to the subdivision which:
- (1) is at least 800mm in height and 1,200mm in width;
 - (2) is securely placed in such a location that makes it clearly visible and legible from the *road*;
 - (3) contains the name, postal address and a business contact telephone number of the person in charge of the subdivision work, which can be reached between 9am and 5pm on working days; and
 - (4) is displayed until completion of the subdivision work.

5.7 Inspection of *Building Sites*

- (a) An *Authorised Officer* may inspect a *building site* or subdivision site at any reasonable time.
- (b) If, as a result of an inspection of a *building site* or subdivision site, an *Authorised Officer* identifies any failure to comply with this Local Law, the *Authorised Officer* may verbally direct the *person in charge* to remedy the failure to comply within a specified time, and must provide the *person in charge* with written confirmation of the verbal direction and details of the failure to comply, either at the time of the inspection or within a reasonable timeframe.
- (c) A *person in charge* to whom a direction is given under sub-clause (b) must comply with that direction.

5.8 Controlling Asset Protection during *Building Works* or Work

(a) The:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*;
- (4) driver of any *vehicle* involved in placing or removing a *refuse facility* on land;
or
- (5) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must, in respect of the *building work* or *works*, ensure that:

- (i) entry takes place only across a temporary *vehicle* crossing unless otherwise allowed by *Council* and in accordance with that permission; and
- (ii) no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

Penalty: A Maximum of 20 Penalty Units

5.9 Asset Protection and *Building Work*

(a) Regardless of whether a building *permit* or planning permit has been issued, the:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*; or
- (4) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must, at least seven (7) days before commencing any *works* on the land:

- (i) obtain an *Asset Protection Permit*;
- (ii) advise *Council* in writing of any damage that exists to any *Council infrastructure assets*; and
- (iii) pay, or lodge, a *security bond* to, or with, *Council*.

Penalty: A Maximum of 20 Penalty Units

5.10 Controlling *Building Sites*

(a) *Council* or an *Authorised Officer* may inspect a *building site* at any reasonable time.

- (b) If *Council* or an *Authorised Officer* identifies any damage which appears to result from non-compliance with this Local Law, an *Authorised Officer*:
- (1) may direct the responsible party to reinstate the damage within a specified time; and
 - (2) must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
- (c) A *person* to whom a direction is given under sub-clause (b)(1) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

- (d) Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out the *building work* on the land or *appointed agent* must:
- (1) provide a *refuse facility* for the purpose of disposal of *builder's refuse* to the satisfaction of *Council* or an *Authorised Officer*;
 - (2) place the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;
 - (3) not place the *refuse facility* on any *Council land* or *road* without a *permit*; and
 - (4) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: A Maximum of 20 Penalty Units

PART 6 – CAMPING

Introduction

In this Part, the provisions regulate the *camping* on privately owned land, vacant land and *camping* on *Council land* or in *public places*.

6.1 **Camping General**

(a) Prior to the commencement of any *camping*, a *person* must obtain a *permit* to camp from *Council*, if required to do so by this Local Law, unless the land is a:

- (1) registered *caravan* park or *camping* ground; or
- (2) *camping* area approved by *Council*.

Penalty: A Maximum of 20 Penalty Units

(b) An *owner* or occupier of land who allows *camping* on that land must ensure that the *camping* is not a nuisance and does not unreasonably interfere with the enjoyment to any *person* of land proximate to the land on which the *camping* is carried out.

Penalty: A Maximum of 20 Penalty Units

6.2 **Camping on Council Land or in a Public Place**

(a) A *person* must not camp on *Council land*, a *public place* or *road reserve* unless a *camping permit* has been issued by *Council* and is in force under this Local Law.

(b) Clause (a) does not apply to:

- (1) land where *camping* is authorised under the *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*; or
- (2) *camping* for less than twenty four (24) hours in an area where *Council* has determined that overnight *camping* is permitted.

Penalty: A Maximum of 20 Penalty Units

6.3 **Camping on Privately Owned Land where a Dwelling is Erected**

(a) A *person* must not camp on *private land*, unless a *permit* has been issued by *Council* and is in force under this Local Law.

(b) Sub-clause (a) does not apply if the *owner* of the land has authorised the *camping*, and the *camping* is:

- (1) for not more than a total of six (6) months in any calendar year; or
- (2) not occurring within a distance of one (1) metre from the side or rear boundaries of the land; and
- (3) not occurring within 30 metres of a waterway.

Penalty: A Maximum of 20 Penalty Units

6.4 Camping on Vacant Private Land

- (a) The *owner* or *occupier* of *vacant private land* must not, without a *permit*, occupy or allow any other *person* to occupy a *caravan*, tent, tiny house/movable *dwelling* or motor home on that land unless the following conditions are met:
- (1) the occupation does not exceed four (4) consecutive weeks;
 - (2) the occupation is not more than a total of three (3) months in any calendar year;
 - (3) no rent, licence fee or charge is paid by any *person* in respect of the occupation;
 - (4) the *caravan*, tent, tiny house/movable *dwelling* or motor home is not located within:
 - (i) one (1) metre of any boundary of the land; or
 - (ii) 30 metres of a waterway.
 - (5) the *caravan*, tent, tiny house/movable *dwelling* or motorhome is vacated on a day of Total Fire Ban; and
 - (6) the *vacant private land* has adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.

Penalty: A Maximum of 20 Penalty Units

6.5 Exemption

- (a) *Council* or an *Authorised Officer* may from time to time exempt any:

- (1) *person*;
- (2) class of *person*;

from the requirement to obtain a *permit* under sub-clauses 6.2 - 6.4 (inclusive) and from the application of sub-clauses 6.1, 6.2, 6.3 and 6.4.

PART 7 – MUNICIPAL AMENITY

Introduction

This Part is concerned with the visual amenity of the *municipal district*. Its provisions control a number of activities which, if left uncontrolled, have the potential to detract from the natural environment.

7.1 Dangerous Land or Detriment to General Amenity

- (a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not allow that land to be kept in an *unsightly and/or dangerous* condition.

Penalty: A Maximum of 20 Penalty Units

7.2 Prohibition on Graffiti

- (a) Unless permitted under a Planning Scheme applicable to the land, each *owner* or *occupier* of land must not allow any *graffiti* to remain on any building, wall, fence or other structure erected on their land.

Penalty: A Maximum of 20 Penalty Units

7.3 Obstruction on Land - Vegetation and other Objects

- (a) A tree or plant, fencing or a sign or other similar object must not be planted or located on a *person's* property so that it obstructs or interferes with pedestrian or vehicular traffic because it:
- (1) overhangs a property boundary onto a footpath or other part of the *road* used by pedestrians limiting safe access or likely to cause injury or damage;
 - (2) extends over any part of the road or on the boundary of a *road* so that it:
 - (i) obstructs the view between drivers of *vehicles* at an intersection;
 - (ii) obstructs the view between drivers of *vehicles* and pedestrians;
 - (iii) obscures a traffic control item from the driver of an approaching *vehicle(s)* or pedestrian(s); or
 - (iv) obscures street lighting; or
 - (3) constitutes a danger to *vehicles* or pedestrians or compromises the safe and convenient use of the *road*.

Penalty: A Maximum of 20 Penalty Units

7.4 Overhanging Vegetation

- (a) Notwithstanding sub-clause 7.3, an *owner* or *occupier* of any land must not allow a tree, shrub, hedge, or other vegetation on that land to overhang a *road* at a height of less than 2.4 metres from the surface of the *road*.

Penalty: A Maximum of 20 Penalty Units

7.5 Vegetation on Road and Council Owned/Managed Land

- (a) *A person:*
- (1) must not, without a *permit*, plant or allow to be planted any seedling or vegetation on a *road* other than:
 - (i) plants that are consistent with an adopted *Council* policy that is published on *Council's* website;
 - (ii) plantings specified in an adopted precinct specific plan published on *Council's* website; and
 - (iii) grass; or
 - (2) must not, without a *permit*, use mechanical plant or equipment for excavation when planting or removing plants on a *road* or *Council land*; and
 - (3) who is the *owner* or *occupier* of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds prescribed* by *Council* are contained to their land and not encroaching on *Council land*.

Penalty: A Maximum of 20 Penalty Units

7.6 Numbering of Allotments

- (a) *Council* or an *Authorised Officer* may from time to time allot a number to an *allotment* and may from time to time allot a different number to an *allotment* or otherwise change the numbering.
- (b) The *owner* or *occupier* of an *allotment* to which a number has been allotted by *Council* or an *Authorised Officer* must mark the *allotment* with the number in:
- (1) a sufficient size; and
 - (2) such a position, clear of vegetation, and other obstructions
- so as to be clearly visible and legible from the *road* on which the *allotment* has its *frontage*.

Penalty: A Maximum of 20 Penalty Units

- (c) The *owner* or *occupier* of an *allotment* must ensure that all numbers marking the *allotment* are:
- (1) made of durable materials;
 - (2) kept in a good state of repair; and
 - (3) renewed as often as may be necessary.

Penalty: A Maximum of 20 Penalty Units

7.7 Recreational Vehicles on Private Land

(a) A person:

- (1) must not, drive, ride on or otherwise use any *recreational vehicle* on *private land* in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any *person* of land proximate to the land on which the *recreational vehicle* is being used; and
- (2) who is the *occupier* of any *private land* must not allow a *person* to drive, ride on or otherwise use any *recreational vehicle* on that land in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any *person* of land proximate to the land on which the *recreational vehicle* is being used.

Penalty: A Maximum of 20 Penalty Units

7.8 Shopping Trolleys

(a) The owner of any shopping trolley that is made available to members of the public must ensure that the shopping trolley legibly identifies the owner's business name and trading address.

Penalty: A Maximum of 20 Penalty Units

(b) A person must not leave a shopping trolley on:

- (1) a road;
- (2) *Council land* except in an area designated by *Council* for the leaving of shopping trolleys; or
- (3) any vacant land.

Penalty: A Maximum of 20 Penalty Units

PART 8 – FIRE HAZARDS

Introduction

The purpose of this Part is to set out the requirements to manage, control and regulate activities and uses of land that may be dangerous, cause nuisance or damage to others and/or the environment, and could affect the health and safety or amenity of others.

8.1 *Fire Hazards*

- (a) An *owner* or *occupier* of land must not allow the land to contain any thing which constitutes or is likely to constitute a *fire hazard*, and ensure that:
- (1) all necessary steps are taken to;
 - (i) prevent fire on; and
 - (ii) minimise the possibility of spread of fire from that land ; and
 - (2) the land is kept free of material or substances likely to assist the spread of fire.

Note: For the purpose of this clause “material or substances” includes undergrowth, scrub, bracken ferns, weeds, stubble and grass.

Penalty: A Maximum of 10 Penalty Units

8.2 *Open Air Fires and Incinerators*

- (a) A *person* must not, without a *permit*, light a fire in the open air or in an *incinerator* on any land in an area *designated* by *Council* (or if no area has been *designated* by *Council* then in a *Designated Township Area*) on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.
- (b) The open air fire and the matter being burnt must occupy no more than 1 cubic metre of land and space, and must be dried vegetation only.
- (c) A *person* must not light a fire during a *Fire Danger Period*.
- (d) A *person* must not, without a *permit*, light a fire in the open air on any *Council land* or in any *public place*.
- (e) The requirement to obtain a *permit* does not apply to:
- (1) a *person* lighting a barbeque or similar appliance for cooking food; or
 - (2) a constructed fireplace, recreational fire pit or brazier; or
 - (3) a fire that is authorised or directed to be lit under any other legislation.

- (f) A *person* must not light a fire in the open air or an *incinerator* to burn any material or substance that could cause a nuisance to any other *person* or could harm or damage a *person's* health.

Penalty: A Maximum of 20 Penalty Units

8.3 Fire Danger Days

- (a) Nothing in sub-clause 8.2 authorises a *person* to light a fire, or allow a fire to be lit or remain alight:
- (1) during a *Fire Danger Period*; or
 - (2) on a day where the air quality category is poor, very poor or extremely poor as declared by the Environment Protection Authority.

Penalty: A Maximum of 20 Penalty Units

8.4 Nuisances

- (a) A *person* must not burn or cause or allow to be burned any substance, either in the open air or within a structure, if the burning of the substance is likely to:
- (1) cause a nuisance;
 - (2) be dangerous to the health of any *person*; or
 - (3) be offensive to any *person*.

Penalty: A Maximum of 20 Penalty Units

- (b) A *person* must not burn, or cause, or allow to be burned any:
- (1) rubber or plastic substance;
 - (2) waste petroleum oil or material containing waste petroleum oil;
 - (3) paint or receptacle which contains or has contained paint;
 - (4) manufactured chemical or chemically treated material;
 - (5) pressured container;
 - (6) textile fabric;
 - (7) food waste; or
 - (8) batteries.

Penalty: A Maximum of 20 Penalty Units

8.5 Extinguishing Fires

- (a) A *person* who has lit or allowed a fire to be lit or remain alight, or who has burned or caused or allowed to be burned any substance, contrary to sub-clause 8.1 or

8.2 must extinguish the fire or burning substance immediately on being directed to do so by:

- (1) an *Authorised Officer*;
- (2) a member of the Victoria Police;
- (3) an officer of the Country Fire Authority; or
- (4) an officer in charge of a Country Fire Authority Brigade.

Penalty: A Maximum of 20 Penalty Units

(b) Any *person* described in sub-clause 8.5(a)(1), (2), (3) or (4) may enter or remain on any land and extinguish any fire or burning substance if:

- (1) the *person* to whom a direction has been given under sub-clause (a) fails immediately to extinguish the fire or burning substance; or
- (2) a fire or an *incinerator* is apparently unattended.

Penalty: A Maximum of 20 Penalty Units

8.6 Permissible Burning

(a) Notwithstanding anything else contained in this Local Law:

- (1) an *Authorised Officer*;
- (2) an officer of the Country Fire Authority; or
- (3) an officer in charge of a Country Fire Authority Brigade:

may authorise the burning of a *fire hazard* on any land if it is impracticable or dangerous to remove, slash or cut the *fire hazard*.

Penalty: A Maximum of 20 Penalty Units

8.7 Discharging Into Air

(a) An *owner* or *occupier* of land must not cause or allow any chimney, flue or other discharge outlet on that land to discharge any:

- (1) dust;
- (2) grit;
- (3) ashes; or
- (4) odours

to such an extent that the discharged material is dangerous to health or a nuisance to any other *person*.

Penalty: A Maximum of 20 Penalty Units

PART 9 – ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

Introduction

In this Part, the emphasis is on things which interfere with the use and enjoyment of *roads* and *Council land*.

9.1 Spoil on Roads

(a) A *person* must not:

- (1) drive; or
- (2) allow or cause to be driven

a *vehicle* on a *road* if the *vehicle* is being or has been used directly or indirectly in:

- (3) the filling or excavation of any land; or
- (4) *building work*

unless the exterior of the *vehicle* is free from soil, earth and clay.

Penalty: A Maximum of 20 Penalty Units

9.2 Repair of Vehicles

(a) A *person* must not dismantle, paint, carryout maintenance or repair a vehicle on *Council land* or *road* except for an emergency or where it is necessary to enable the *vehicle* to be removed.

Penalty: A Maximum of 20 Penalty Units

9.3 Sale of Vehicles

(a) A *person* must not, without a *permit*, park or cause a *vehicle* to be parked or left standing on any *road* or other *public place* for the purpose of exposing or displaying that *vehicle* for sale.

(b) A *person* must not, without a *permit*, park any *vehicle* which has advertising painted or stuck directly onto it, or in any way attached to the body of the *vehicle*, with the intention of advertising by directing a *person* to a business, on *Council land* or a *road*, or in a *public place*.

Penalty: A Maximum of 20 Penalty Units

9.4 Abandoned Vehicles

(a) A *person* must not leave standing on any *road* or *Council land* a *motor vehicle*:

- (1) which is unregistered; or
- (2) which has been left standing for at least seven (7) consecutive days and gives the appearance of having been abandoned.

Penalty: A Maximum of 20 Penalty Units

9.5 Storage of Caravans and Trailers in Public Places

- (a) A *person* must not allow any *caravan* or trailer that is currently registered or having a permit from Department of Transport and Planning, or any other relevant authorities, to be left standing continuously in a *public place* or places for a period in excess of fourteen (14) consecutive days.
- (b) The *caravan* or trailer may not be removed to another *public place* to immediately commence a further fourteen (14) day period.

Penalty: A Maximum of 20 Penalty Units

9.6 Public Events

- (a) A *person* must not, without a *permit*, hold an *event* in public spaces or on *roads* owned or managed by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 10 – SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS

Introduction

This Part is concerned with commercial activities on *Council land* and *roads*. It establishes a *permit* system to regulate these commercial activities.

10.1 Commercial Activities on *Council Land*

- (a) A *person* must not, without a *permit*, conduct commercial activities on a footpath, *road reserve*, *Council land* or *public place* where that *person* proposes to use a footpath, *road reserve*, *Council land* or *public place* for:
- (1) outdoor eating;
 - (2) displaying goods or services for sale;
 - (3) placing signs and/or advertising goods and services for sale; or
 - (4) placement of signage on a *vehicle*.
- (b) A *person* must not, without a *permit*:
- (1) erect a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or
 - (2) trade from *Council land* or a *road* where trading is to be done from a *vehicle*, stall or any other *temporary structure* and irrespective of whether trading is on a permanent or casual basis.

Penalty: A Maximum of 20 Penalty Units

10.2 Collections, Subscriptions and Raffles

- (a) A *person* must not, without a *permit*, or permission from an *Authorised Officer*, solicit to collect:
- (1) on a *road*;
 - (2) on *Council land*; or
 - (3) from any *dwelling*,
- any gifts, donations, or subscriptions for any purpose or cause nor authorise another *person* to do so.

Penalty: A Maximum of 20 Penalty Units

- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

10.3 Unsolicited Material

- (a) A *person* must not, without a *permit* or approval from an *Authorised Officer*, distribute any handbills, placecards, notices, advertisements, books, pamphlets, goods, gifts or samples to any *person* on any *road* or *Council land*.
- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

Penalty: A Maximum of 20 Penalty Units

10.4 Busking

- (a) A *person* must not, without a *permit*, busk on any:
 - (1) *road*; or
 - (2) *Council land*; or
 - (3) a *public place*

with the object, or apparent object, of collecting money.

Penalty: A Maximum of 20 Penalty Units

10.5 Spruiking

- (a) A *person* must not, without a *permit*, spruik on any:
 - (1) *road*; or
 - (2) *Council land*,

with the object, or apparent object, of attracting custom.

Penalty: A Maximum of 20 Penalty Units

10.6 Pavement Art

- (a) A *person* must not, without a *permit*, paint or draw on any *Council land*, including a *road* or any property belonging to *Council*, for the purpose of public entertainment, performance or the collection of money.

Penalty: A Maximum of 20 Penalty Units

PART 11 – ANIMALS AND LIVESTOCK

Introduction

In this Part, the provisions regulate the *movement of livestock* and keeping of *animals, birds, reptiles* and bees.

11.1 Application of this Part

(a) This Part does not apply to any land on which:

- (1) a pet shop is located;
- (2) an *animal* hospital or veterinary practice is located; or
- (3) there exists another like facility, the operation of which is subject to the provisions of a code of practice,

if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

11.2 Keeping of *Animals, Birds, Reptiles* and Bees Generally

(a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not keep or allow to be kept on that land, and any other *person* must not keep or allow to be kept on the land, any *animal, bird, reptile* or bee in such a manner as to:

- (1) be offensive;
- (2) be dangerous;
- (3) be injurious to health; or
- (4) cause a nuisance.

Penalty: A Maximum of 20 Penalty Units

11.3 Number of *Animals*

(a) An *owner* or *occupier* of land must not, without a *permit*, keep or allow to be kept any more in number for each type of *animal* as is set out in the following table:

	<i>Animal</i>	<i>Property Size</i> <i>up to 0.25 (ha)</i>	<i>Property Size</i> <i>0.25 (ha) to 1(ha)</i>	<i>Property Size</i> <i>1 (ha) and above</i>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5
c	<i>Poultry</i>	10	20	No <i>Permit</i> Required

	<i>Animal</i>	<i>Property Size up to 0.25 (ha)</i>	<i>Property Size 0.25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
d	Roosters	<i>Permit Required</i>	<i>Permit Required</i>	No <i>Permit Required</i>
e	Pigeons	10	20	No <i>Permit Required</i>
f	Sheep or Goats	<i>Permit Required</i>	8	No <i>Permit Required</i>
g	<i>Cattle/Horses and other large animals</i>	<i>Permit Required</i>	4	No <i>Permit Required</i>
h	Pigs	<i>Permit Required</i>	<i>Permit Required</i>	No <i>Permit Required</i>
i	<i>Reptiles</i>	Subject to the issuing of a licence by the Department of Energy, Environment and Climate Action (DEECA) or other relevant authority		
j	Bees	Subject to hives being licensed with Agriculture Victoria and complying with the Apiary Code of Practice.		

- (b) For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a *permit* under sub-clause (a), the progeny of any *animal* will, for 12 weeks after the birth, be deemed not to be an *animal*.
- (c) In *relation* to the keeping of *poultry* (including Roosters) and Pigeons a *permit* will not be required by *owners* who are current financial members of a relevant Club or Organisation and abide with the relevant code of practice.

Penalty: A Maximum of 20 Penalty Units

11.4 *Animal Control (Housing of Animals)*

- (a) An *owner* or *occupier* of land must ensure that any *animal* and *birds* on that land are kept in a secure shelter or enclosure or confined to the land unless they are under the *effective control* of a *person*.
- (b) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have *effective control* of that *animal*.

Penalty: A Maximum of 20 Penalty Units

11.5 *Animal Excrement*

- (a) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have in their possession a bag or container which can be used for the collection of that *animal's* excrement, and immediately collect and remove excrement.

Penalty: A Maximum of 20 Penalty Units

11.6 *Feeding of Wild Animals*

- (a) If the feeding of an uncaged *bird* and/or any *animal* by a *person* is causing a nuisance or damage to property or creating a risk to health, an *Authorised Officer* may direct the *person* to cease feeding the *bird* and/or *animal*.

- (b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.7 Shelters for *Animals*

- (a) The *owner* or *occupier* of land must ensure that any structure on that land used for housing any *livestock*, small *bird*, large *bird*, rodent or *reptile* or any other *animal* and the area within three (3) metres of such structure is maintained:
- (1) in a clean, inoffensive and sanitary condition; and
 - (2) so that it does not cause any nuisance.
- (b) The *owner* or *occupier* of land on which there is an *animal* shelter must maintain that *animal* shelter so that:
- (1) manure and other waste do not remain on the land;
 - (2) food is kept in fly and vermin proof container;
 - (3) adequate drainage of the land is provided;
 - (4) grass, *weeds*, refuse, rubbish and other material does not build up within three (3) metres of the *animal* shelter; and
 - (5) the *animal* shelter and the land are kept in a clean and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

11.8 Adequate Fencing for *Livestock*

- (a) An *owner* or *occupier* of land on which *livestock* are kept must ensure that the fencing of any *cattle* grids relating to that land is or are adequate to prevent the escape of that *livestock*.
- (b) Where an *Authorised Officer* gives a *Notice to Comply* to an *owner* or *occupier* of land who appears to be in breach of sub-clause (a), the *Authorised Officer* may direct that *person* to immediately remove the *livestock*, or install, repair, replace or modify the fencing or *cattle* grids, including through the installation or repair of gates.
- (c) A *person* to whom a direction is given under sub-clause (b) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.9 Grazing or *Droving* of *Livestock*

- (a) A *person* must not, without a *permit*, drove or graze *livestock* on a *road* or *Council land*.

11.10 Droving of Livestock within the *Municipal District*

- (a) A *person* must not, without a *permit*, move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property.

Penalty: A Maximum of 20 Penalty Units

11.11 Bees and Wasps

- (a) An *owner* or *occupier* of *private land* on which bees are kept must comply with the Apiary Code of Practice.
- (b) An *owner* or *occupier* of *private land* on which bees are kept must ensure that the bees are not a nuisance.
- (c) An *owner* or *occupier* of land must, upon becoming aware of the existence of a non-native wasp nest or bee nest on the land or at the direction of an *Authorised Officer*, take reasonable steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.

Penalty: A Maximum of 20 Penalty Units

PART 12 – WASTE MANAGEMENT

Introduction

This Part is concerned with the domestic kerbside collection and disposal of waste. Among other things, it regulates the collection and disposal of *household waste*, *organic waste*, *recyclables*, *glass* and hard waste.

12.1 Disposal of *Household Waste*, *Recyclables* and *Organic Waste* and Glass

- (a) To use the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must:
- (1) use only *Council*-supplied mobile bins for *household waste*, commingled recycling and organic bin, glass bin and/or *Council* approved bins for *organic waste*;
 - (2) deposit *household waste* only in the mobile garbage bin (MGB – Red Lidded), *fully commingled recyclables* only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile *organic waste* bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);
 - (3) if directed by *Council* to do so, remove *contaminated material* from mobile bin/s;
 - (4) if directed by *Council* to do so, dispose of all contents of mobile bins containing *contaminated material*;
 - (5) leave the mobile bins out for collection on days designated by *Council* from time to time as collection days, or such other days as may be directed by an *Authorised Officer*;
 - (6) place the mobile bins out for collection no later than the night before the day of collection or such other time as designated by *Council* from time to time;
 - (7) not leave the mobile bins out more than one day before or one day after a designated collection day or day directed by an *Authorised Officer*;
 - (8) place all mobile bins out for collection in a manner specified in any written advice made available to the *occupier* by *Council*.
 - (9) ensure that any mobile bin (including contents) placed for collection does not exceed 80 kg;
 - (10) maintain the mobile bins in a clean and sanitary condition;
 - (11) ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
 - (12) ensure that the lid of the mobile bins is closed other than when material is being deposited in them;
 - (13) not cause damage to mobile bins;

- (14) ensure that the mobile bins are not overfilled thus preventing the lids from being completely closed down;
- (15) not place any material immediately adjacent to the mobile bin for collection; and
- (16) ensure that the mobile bins provided by *Council* are not removed from the premises except for collection of material in accordance with this Local Law.

Penalty: A Maximum of 20 Penalty Units

12.2 Prohibited Waste

- (a) *A person* must not place, or cause or allow to be placed, in any mobile bin provided by *Council* any:
 - (1) *trade waste*;
 - (2) Medical or Infectious Waste;
 - (3) Slops or Liquid Waste;
 - (4) Human or *animal* Waste;
 - (5) night soil or *animal* excrement (except that disposable nappies or *animal* excrement may be placed or caused to be placed in a refuse receptacle if they are wrapped);
 - (6) soil, dirt, dust or other matter from any vacuum cleaner sweepings, shavings, ashes, hair or other similar or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
 - (7) sharps, including hypodermic needles, blades or scalpels;
 - (8) sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
 - (9) ash or ashes (unless such ash or ashes have been effectively dampened so as to be non-combustible);
 - (10) oils, solvents flammable liquids or paint (other than paint residue contained in a closed container);
 - (11) bricks, concrete, masonry, engine blocks or *vehicle* parts (whether or not in pieces); or
 - (12) any other waste *prescribed* by *Council*and must, if directed by *Council* to do so:
 - (i) remove *contaminated material* from mobile bin/s; and
 - (ii) dispose of all contents of mobile bins containing *contaminated material*.

Penalty: A Maximum of 20 Penalty Units

12.3 Placement of Mobile Bins

- (a) To use the recycling and the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must place the mobile bins:
- (1) at the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
 - (2) immediately behind the kerb of the street *frontage* of the premises;
 - (3) on the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
 - (4) at a suitable location within or outside the premises if restrictions on space or access do not allow placement in accordance with sub-clauses (1), (2) and (3), subject to an *Authorised Officer* approving such location;
 - (5) at a suitable location within the premises, where an *Authorised Officer* certifies in writing that special circumstances or hardship exists;
 - (6) with the wheels facing the premises; and
 - (7) at least 50cm away from any:
 - (i) mobile bin;
 - (ii) power pole;
 - (iii) street furniture;
 - (iv) tree; or
 - (v) other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin.

12.4 Hard Waste

- (a) The *occupier* of every premises to which a hard waste collection service is provided may place out for collection accepted hard waste, and must do so in a manner set out in a notice published by *Council* or as specified in any written advice provided to the *occupier* by *Council* or in a newspaper generally circulating in the *municipal district*.
- (b) The *occupier* of every premises to which a hard waste collection service is provided by *Council*:
- (1) may deposit hard waste on the *nature strip* at the front of the premises, for collection on days designated by *Council* from time to time as collection days;
 - (2) must not deposit items or material on the *nature strip* other than hard waste;

- (3) must not leave the hard waste on the *nature strip* for more than six days before a collection day;
- (4) must place the hard waste and arrange it in a manner, as specified in any written advice provided to the *occupier* by *Council*, in front of the premises that allows collection by a collection *vehicle*; and
- (5) must remove items or material so placed, which is not collected within one day after the collection day.

Penalty: A Maximum of 20 Penalty Unit

12.5 Disposal of disused refrigerators and other compartments

- (a) A *person* must not place or leave a disused refrigerator or freezer, trunk, chest or any similar article having a compartment with a capacity of 0.04 cubic metres or more on any rubbish tip, *road*, *Council land*, *public place* or unfenced vacant land without first:
 - (1) removing every door and lid;
 - (2) removing every lock, catch and hinge attached to a door or lid; and
 - (3) otherwise rendering every door and lid incapable of being fastened.
- (b) Nothing in sub-clause (a) is to be taken as allowing domestic *household waste*, *recyclables*, *organic waste* or hard waste to be taken outside premises and deposited on a *road* other than in accordance with this Local Law.

Penalty: A Maximum of 20 Penalty Units

12.6 Restriction on Use of Public Waste and Recycle Bins

- (a) The *owner* or *occupier* of land must not place or deposit any *household waste*, *recyclables*, *organic waste*, glass or other waste material of any kind which has been generated in or from that land in a public waste bin.
- (b) A *person* must not deposit into a public waste bin any uncooked meat, uncooked fish heads or entrails or material *prescribed* by *Council* other than in a public waste bin designated for such waste.
- (c) A *person* may only place *animal* excreta in a public waste bin if it is wrapped in impermeable material.

Penalty: A Maximum of 20 Penalty Units

12.7 Interference with Household, Recyclables, Glass, Organic Waste or Hard Waste

- (a) Except if authorised, a *person* must not remove, add to or interfere with any *household waste*, *recyclables*, glass, *organic waste* or hard waste or mobile bin left out by any other *person* on a *road* or other *Council land* for collection by *Council*.

Penalty: A Maximum of 20 Penalty Units

12.8 Screening of Bins and Hoppers

(a) *Council* may, by notice in writing, direct the *owner* or *occupier* of any land to:

- (1) install;
- (2) repair;
- (3) replace; or
- (4) modify

a fence or other means of screening an approved mobile bin or *trade waste hopper* from public view if the approved mobile bin or *trade waste hopper* is:

- (5) unsightly;
- (6) dangerous; or
- (7) detrimental to the general amenity of the neighbourhood in which it is located.

(b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

12.9 Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres

(a) *Council's* recycling and waste transfer facilities, resource recovery centre will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by *Council* from time to time.

(b) A *person* using *Council's* recycling and waste transfer facility or, resource recovery centre:

- (1) must pay the fees and charges and comply with the terms and conditions determined by the *Council* for use of the landfill, facility or centre for such *persons*, including Waste Disposal tickets and Hard Waste Vouchers;
- (2) must deposit waste in accordance with the directions of the facility attendant or *Authorised Officer* and in accordance with any signs erected at the landfill, facility or centre;
- (3) may only deposit material designated by *Council* from time to *time*; and
- (4) must not deposit any hazardous, dangerous or infectious materials.

Penalty: A Maximum of 20 Penalty Units

- (c) A *person* must not deposit any waste at any transfer facility or resource recovery centre which is not at the time of deposit open to accept such waste or any such category of waste.

Penalty: A Maximum of 20 Penalty Units

12.10 Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres

- (a) A *person* must not, without a *permit* or permission of an *Authorised Officer*, remove material of any kind which has been deposited at any recycling and waste transfer facility, resource recovery centre.

Penalty: A Maximum of 20 Penalty Units

12.11 Storage of Trade Waste

- (a) The *owner* or *occupier* of any land must ensure that any *trade waste hopper* or other *waste bin* kept on the land and used for *trade waste* is:
- (1) constructed of impermeable material;
 - (2) watertight;
 - (3) water, fly and vermin proof;
 - (4) equipped with any removable drainage plug required by an *Authorised Officer* for public health or safety reasons;
 - (5) thoroughly cleaned following each occasion when it is emptied;
 - (6) equipped with a fly and vermin proof lid which is kept closed at all times except when *trade waste* is being deposited in or removed from the *trade waste hopper*;
 - (7) emptied at appropriate times or when an *Authorised Officer* directs for public health or safety reasons; and
 - (8) maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.12 Storage Site for Trade Waste

- (a) If directed by *Council* for public health or safety reasons, the *owner* of any land must ensure that any area where a *trade waste hopper* is or other bins are placed:
- (1) is suitable for such placement or is an area directed or approved by an *Authorised Officer*;
 - (2) has an impermeable surface;
 - (3) is drained to a sewer approved by the *local water authority* for the receipt of any discharge or other outlet approved by *Council*;

- (4) is supplied with water from a tap and hose; and
- (5) is maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.13 Waste Receptacles on Roads and Reserves

- (a) Unless in accordance with this Local Law, a *person* must not, without a *permit*, place or cause to be placed on any *road* or *reserve* any mobile bin, *trade waste hopper*, waste container or waste materials of any nature.

Penalty: A Maximum of 20 Penalty Units

12.14 Obstructions on Roads or Council Land

- (a) A *person* must not, without a *permit*, leave or allow to be left any *bulk rubbish container* on a *road* or *Council land*, or leave or allow to be left on a *road* or *Council land* any *charity bin*.

Penalty: A Maximum of 20 Penalty Units

12.15 Commercial Waste

- (a) A *person* must not place, cause or allow to be placed or deposited any refuse, rubbish or waste from Commercial, Industrial or Trade premises in a bin in a *public place* or a household refuse receptacle or recyclable materials receptacle.

Penalty: A Maximum of 20 Penalty Units

PART 13 – ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered. In particular, the system of applying for, obtaining and retaining *permits* is provided for. It also covers reviewing of decisions, delegations and *exemptions*.

13.1 Application for *Permits*

- (a) An application for a *permit* must be in the form *prescribed* by *Council* and must be accompanied by the appropriate fees *prescribed* by *Council*.
- (b) *Council* may require an *applicant* to:
 - (1) provide additional information; and
 - (2) give notice of the application or invite any *person* to make a submission or do both, before the application is determined.
- (c) A *permit* may include any condition which the *Council* considers to be reasonable and appropriate having regard to the activity to be authorised by the *permit* and the effects or anticipated effects of that activity.
- (d) Unless otherwise stated in the *permit*, a *permit* only authorises the *person* named in the *permit* to carry out the permitted activity and is not transferable.

13.2 Decision on *Permit* Applications

- (a) After considering all relevant information *Council* may decide to:
 - (1) grant a *permit*;
 - (2) grant a *permit* subject to conditions;
 - (3) refuse to grant a *permit*; or
 - (4) exempt a *person* or class of *persons* from the requirement to obtain a *permit*.

13.3 Duration of *Permits*

- (a) A *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.
- (b) If no expiry date is indicated on the *permit*, the *permit* expires twelve (12) months after the date on which it is issued.
- (c) Before the *permit* expires, a *person* may request *Council* to extend the *permit* for a further period of time, not exceeding twelve (12) months.

13.4 Correction of *Permits*

- (a) *Council* or an *Authorised Officer* may correct a *permit* issued if the *permit* contains:

- (1) a clerical mistake or an error arising from any accident, slip or omission; or
 - (2) an evident and material miscalculation of figures or any evident and material mistake in the description of any *person*, thing or property referred to in the *permit*.
- (b) *Council* or the *Authorised Officer* must note the correction in the register of *permits*.

13.5 Amendment, Cancellation and Suspension of *Permits*

- (a) *Council* may cancel, suspend or amend a *permit* at any time if it:
- (1) is required to do so by the *permit holder*; or
 - (2) considers that there has been:
 - (i) a material misstatement or concealment of fact in relation to the application for the *permit*;
 - (ii) any material mistake in relation to the issue of the *permit*;
 - (iii) any material change of circumstances which has occurred since the grant of the *permit*; or
 - (iv) a substantial failure to comply with the *permit* or a *Notice to Comply*.
- (b) *Council* must give written notice to a *permit holder* of any correction, cancellation, suspension or amendment of a *permit*.
- (c) Before it cancels a *permit*, *Council* must provide the *permit holder* an opportunity to make a submission on the proposed cancellation.
- (d) If a *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 of any *Notice to Comply* subsequently issued by *Council* and the reason why it has been served.

13.6 Transfer of a *Permit*

- (a) A *permit* is not transferable by the *permit holder* to any other *person* without the consent of *Council*.

13.7 Fees and Charges

- (a) *Council* may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any *Council* property, undertaking, good, service or other act, matter or thing, in accordance with section 77 of the *Act*.
- (b) *Council* may, from time to time by resolution, determine fees, charges, guarantees or bonds that are applied for the purposes of approvals required under this Local Law.

- (c) In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, including setting no charge.
- (d) *Council* may waive, reduce or alter any specific fee, charge or bond or guarantee with or without conditions.

13.8 Registers

- (a) *Council* must maintain a record of *permits*, including details of corrections and cancellations.
- (b) *Council* must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.
- (c) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours otherwise in accordance with its Public Transparency Policy.

13.9 Delegation

- (a) *Council* may delegate to the *Chief Executive Officer* all powers, functions and duties under this Local Law, and authorise the *Chief Executive Officer* to delegate any powers to *Authorised Officers* and other members of *Council* staff.

13.10 Exemption from the requirement

- (a) *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times. An *exemption* may be granted subject to conditions.
- (b) A *person* must comply with the conditions of an *exemption*.
- (c) An *exemption* may be cancelled as if it were a *permit*.
- (d) Despite any provision in the Local Law requiring a *permit* to undertake any particular activity, no *offence* will arise where *Council* or its delegate has granted an *exemption* from the requirements to hold any such *permit* and the holder of that *exemption* carries out the activity authorised by, and in accordance with any conditions contained in, that *exemption*.
- (e) 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. *Council* may exempt a *person* from compliance with that condition or vary the condition in a way which is capable of compliance.

13.11 Review Rights

- (a) If any *person* is aggrieved by the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer* under this Local Law, including failure to be granted a *permit*, they may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.

- (b) If the *Chief Executive Officer* elects to review 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 sub-clause (a).

PART 14 – ENFORCING THIS LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be enforced, in particular powers to impound, Notices to Comply and Infringement Notices. It also covers reviewing of decisions, delegations and *exemptions*.

14.1 Failure to Comply with this Local Law, *Permit* or *Notice to Comply*

(a) A *person* who:

- (1) contravenes or fails to comply with any provision of this Local Law;
- (2) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law;
- (3) knowingly provides false information in support of an application for a *permit* issued under the Local Law;
- (4) knowingly supplies false or misleading information to an *Authorised Officer*;
- (5) fails to comply with a verbal direction issued, or a *Notice to Comply* served by an *Authorised Officer*;
- (6) fails to comply with a sign displayed by *Council*; or
- (7) makes or attempts to make any agreement with an *Authorised Officer* to compromise their duty

is guilty of an *offence* and is liable to:

- (i) the maximum *Penalty* stated under a provision or, if no *Penalty* is stated, a maximum of two (2) *Penalty Units*;
- (ii) a further *Penalty* of two (2) *Penalty Units* for each day after a finding of guilt or conviction for an *offence* during which the contravention continues; and
- (iii) upon conviction for a second or subsequent *offence*, double the *Penalty* stated under a provision of *Penalty Units*.

14.2 Notices to comply

- (a) *Council* or an *Authorised Officer* may serve a *Notice to Comply*, directing an *owner occupier* or other *person* in breach of this Local Law to remedy anything which constitutes an *offence* under this Local Law.
- (b) A *Notice to Comply* must state the time and date by which the thing must be remedied.
- (c) The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:

- (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 for risk; and
 - (6) any other relevant factor.
- (d) Any *person* who fails to remedy a thing in accordance with a *Notice to Comply* within the time specified is guilty of an *offence* under this Local Law.

Penalty: Maximum of 10 Penalty Units

Note: Nothing in this Local Law obliges Council or an *Authorised Officer* to serve a *Notice to Comply* or precludes Council or and *Authorised Officer* from both serving a *Notice to Comply* and also serving an *Infringement Notice* or prosecuting for an *offence*.

14.3 Infringement Notice

- (a) As an alternative to prosecution for an *offence*, an *Authorised Officer* may issue an *Infringement Notice* containing the information required by the *Infringements Act 2006*.
- (b) The *infringement Penalty* for an *offence* against this Local Law is the *Infringement Penalty* specified in *Schedule 1*.
- (c) If no *infringement Penalty* is specified in *Schedule 1* the *infringement Penalty* will be *2 Penalty Units*.
- (d) All *Infringement Notices* issued under this Local Law will be dealt with in accordance with the provisions of the *Infringements Act 2006*.

14.4 Power of *Authorised Officer* to Act in Urgent Circumstances

- (a) Where, in the opinion of an *Authorised Officer*, a breach of the Local Law or a *permit* issued under the Local Law arises which may place a *person*, *animal* or property or thing at risk or in danger and there is not time or it is impractical to serve a *Notice to Comply*, then the *Authorised Officer* may take reasonable action to immediately abate or minimise the risk or danger identified.
- (b) As soon as practicable, the *Authorised Officer* must contact the *person* by whose fault, permission or decision the situation has arisen, whether they be the *owner*, *occupier* of the land, *animal*, property or thing involved.

14.5 Impounding or Seizure

- (a) An *Authorised Officer* may seize and impound any item, thing or *animal* which is the subject of a breach of this Local Law.

- (b) Where any item, thing or *animal* is impounded or seized pursuant to this Local Law, notice of the impounding or seizure must be given to the *person* who is known or appears to the *owner* of the impounded or seized item, thing or *animal*.
- (c) Any item, thing or *animal* impounded or seized in accordance with this Local Law may be held until any fee or charge for its release is paid.
- (d) *Council* may include in any fee or charge any cost that *Council* has incurred in impounding, seizing, transporting, holding, storing or disposing of the item, thing or *animal*.
- (e) If the specified time for retrieval of an impounded or seized item, thing or *animal* has expired and it has not been claimed then it may be disposed of or destroyed according to the following principles, if it has:
 - (1) no saleable value, in the most economical and appropriate way as determined by an *Authorised Officer*; or
 - (2) a saleable value, by public auction, tender or private sale as determined by an *Authorised Officer*.
- (f) The monies realised from the sale of any impounded or seized item, thing or *animal* must be disbursed as follows:
 - (1) in payment of any expenses incurred by the *Council*; and
 - (2) the balance to be paid to the *owner* or *person* who, in the opinion of *Council's Chief Executive Officer*, appears to be authorised to receive them money.
- (g) If no *person* can be identified for payment of any money then any excess must be treated in accordance with legislation dealing with unclaimed money or, failing this, paid into the *Council's* revenue.
- (h) Sub-clauses (b), (c), (d) and (i) do 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*.
- (i) If an impounded or seized thing has not been surrendered to its *owner* or a *person* acting on the *owner's* behalf within 14 days of the notice of impounding or seizing being served or, if no notice of impounding or seizing has been served, of the act of impounding, *Council* may, at its discretion:
 - (1) *sell*;
 - (2) *give away*; or
 - (3) *destroy*the impounded or seized thing.

14.6 **Warning to Offenders**

- (a) 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.

14.7 **Reviewing a Notice**

- (a) All requests for Infringement Notice review will be dealt with by way of *Council's Internal Infringement Review Panel*, which may withdraw the Infringement Notice, deal with the Infringement Notice by way of official warning, extend the due date to allow additional time for payment or to proceed with prosecution of the *offence*.
- (b) 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.

14.8 **Requirement to Act Fairly and Reasonably**

- (a) In exercising any power under this Local Law, *Council* and an *Authorised Officer* must act fairly and reasonably and in proportion to the nature and extent of the breach of this Local Law.
- (b) Where *Council* or an *Authorised Officer* may take action forming any particular opinion, or, where *Council* or an *Authorised Officer* is required to form an opinion prior to taking any action under this Local Law, the opinion must be reasonably held having regard to all the circumstances.

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on 23 August 2023.

The COMMON SEAL of the Colac Otway Shire Council was affixed in accordance with its Local Law No 4

.....

Chief Executive Officer

This day of 20.....

Notices of the proposal to make and of the making of this Local Law were included in the Victoria Government Gazette dated the and the respectively.

Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the on and respectively.

Schedule 1

Fixed Infringement *Penalties*:

Clause	Fixed Penalty
2.3(a)(3)	Three (3) Penalty Units
2.3(a)(6)	Three (3) Penalty Units
2.3(a)(7)	Three (3) Penalty Units
2.3(a)(13)	Three (3) Penalty Units
2.3(a)(15)(i)	Three (3) Penalty Units
2.3(a)(15)(ii)	Three (3) Penalty Units
2.3(a)(19)(i)	Three (3) Penalty Units
2.3(a)(19)(ii)	Three (3) Penalty Units
2.3(a)(19)(iii)	Three (3) Penalty Units
2.4(e)(1)	Three (3) Penalty Units
2.4(e)(2)	Three (3) Penalty Units
2.4(e)(3)	Three (3) Penalty Units
2.4(e)(4)	Three (3) Penalty Units
2.4(e)(5)	Three (3) Penalty Units
2.5(a)(1) - (10)	Three (3) Penalty Units
2.6(a)(1) - (16)	Three (3) Penalty Units
7.7(a)(1) - (2)	Three (3) Penalty Units
9.6	Four (4) Penalty Units
11.5(a)	Three (3) Penalty Units



Colac Otway
SHIRE

LOCAL LAW No. 1
GENERAL LOCAL LAW 2023
PROCEDURE GUIDELINES

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PURPOSE

This General Local Law No. 1 Procedure Guidelines 2023 is to be read in conjunction with the Colac Otway Shire General Local Law No. 1. It provides further guidance on clauses requiring a permit, whereas the General Local Law No. 1 provides the general details of each law. This General Local Law No. 1 Procedure Guidelines provides additional information such as:-

- The types of conditions which may be included in a permit
- The matters which may be taken into account by Council when considering an application for a permit.
- Additional requirements which must be complied with in respect to specific Local Laws and
- Additional information which should be included in an application for a permit.

It is important therefore that a person read the provisions of this General Local Law No. 1 Procedure Guidelines 2023 that apply to the clause in the General Local Law No. 1.

Ongoing review

The Local Law review process is extensive. This General Local Law No. 1 Procedure Guidelines supplements the General Local Law No. 1, and provides procedures which can be readily reviewed and updated by resolution of Council, to reflect the changing needs of the community and its expectations as to amenity.

Council intends that these Guidelines be kept under regular review.

PART 2 – Use of Council and Buildings

Activities which may be permitted/allowed in a Reserve

Local Law Clause 2.6

Purpose of the Clause

To permit the use of activities in or on Council reserves with a permit

Applies to:

All persons using/entering Reserve.

What Public Places are affected?

All Council Reserves.

Who requires a permit

All persons who wish to undertake the activities listed in clause 2.6 of the Colac Otway Shire General Local Law No. 1.

Examples include:

- Organising a sport competition
- Hold a festival for the public to attend
- Organise a commercial fitness exercise or personal session
- Using Council reserve for any commercial purpose

Exemptions

An exemption for a permit for permitted activities in a Council reserve would apply to the following:

- Council Staff and contractors
- Council approved Events
- Areas prescribed by Council
- Emergency Services undertaking response or recovery activities
- Community Asset Community members acting in accordance with their delegated authorities. Community Asset Committee members are acting as Council when they approved events and as such any events approved by the committee members are deemed to 'Council approved' for the purposes of Clauses 2.3 and 2.6 of the General Local Law.

Procedure Guidelines

Considerations when issuing a permit

- Proposed location and surrounding area including
 - the day, time and duration of the proposed use
 - the type of activities
- Any other matter or thing relevant to the application
- Any comments received in respect of the application

- The applicant's record
- Insurances

PART 3 – Consumption of Alcohol AND Possession of Alcohol

Local Law Clause 3.1

Purpose of the Clause

To prevent intoxicated people behaving in a in *public place* in a manner that may affect amenity.

Applies to:

All persons and/or organisers of events where the activities will include the consumption of alcohol in a public place.

What public places are affected

Public places used for vehicle and pedestrian traffic including streets, roads, footpaths, nature strips, median strips, roundabouts, bicycle paths, bridges, malls and car parks. Public places provided as parks, gardens, lawns, memorials, playgrounds, playing fields and public open space.

When liquor consumption is prohibited

Consumption of Liquor is prohibited in all public places in Colac Otway Shire unless:

- The area is licensed under the Liquor Control Reform Act 1988; or
- The area has been prescribed by Council as an approved area for liquor consumption and signage is in place specifying the area, days, times and/or other matters relevant; or
- Council has provided a permit specific to the event or activity where the alcohol will be consumed.

Who requires a permit

Any person or organisation seeking an exemption enabling the consumption of liquor in a public place for themselves or others.

Exemptions

This law does not apply to Licensed premises within the meaning of the *Liquor Control Reform Act 1988*.

Applying for a permit

A completed permit application form must be submitted within seven (7) days by which the application can be adequately assessed prior to the period the permit has been applied for.

Criteria for issuing Permits

In considering whether to grant an application for a permit, the factors considered by Council will include but are not limited to:

- The effect on local amenity and public safety
- The nature of the event, the appropriateness of hosting said even in the chosen public place and any impact on public access to and use of the space
- The availability of sanitary facilities and waste disposal
- Protection of Council assets and the environment of the space
- Public liability insurance coverage and support from emergency services providers

- If approval has been obtained from *Victorian Gambling and Casino Control Commission* where applicable
- The applicant's record in conducting similar events or functions as well as any feedback provided by the community in relation to the event and
- That the applicable permit fee has been paid

Authority and Inspection

All events will be subject to regular inspections by Colac Otway Shire Council officers (admission must be granted free of charge for the purpose of the inspection) to ensure compliance with the provision and conditions of the issued permit.

Criteria for prescribing public places

When prescribing where and when a permit will be required to consume liquor, Council will consider the following factors:

- The purpose of the public place
- Whether liquor consumption is consistent with the normal use of the public place
- The health and safety of persons, property and the environment
- Any effect on quiet enjoyment of the public place
- What parts of the public place and what times or periods should be exempted and
- Any submissions or comments received.

PART 4 – Protection of Council land and Assets

Legal Point of Discharge

Local Law Clause 4.2

Purpose of the Clause

To impose a responsibility on occupiers to connect stormwater pipes to a drain owned or managed by Council.

Applies to:

Any owner or occupier of any land

What Public Places are affected?

Any land that connects to a drain owned or managed by Council

Who requires a permit

Any owner or occupier of any land who wishes to connect to a drain owned or managed by Council

Exemptions

Nil

Procedure Guidelines

Any person who wishes to connect to a drain owned or managed by Council – needs to include a site plan showing the location of any proposed new development(s) within the property.

A fee is applicable in relation to the application for the connection of the drain.

Council Controlled Standpipe

Local Law Clause Number: 4.4

Purpose of the clause:

To implement a process of acquiring a permit to take water from a standpipe.

Applies to:

Any persons that require to take water from a Council controlled standpipe

What public places are affected?

All Council Standpipes

Who requires a permit?

Any person taking water from a Council operated standpipe

Exemptions:

On a day of Total Fire Ban to fill a CFA vehicle

Procedure Guidelines for taking water from standpipes.

- Any person taking water from a standpipe must have a permit and must comply with the conditions of that permit.
- A person must only use the water in compliance with any by laws, regulations or other requirements made or published by the local water authority.
- A person must also ensure that details concerning the amount of water taken and the date and time of its taking are immediately recorded on the Standpipe Usage Register maintained by Council.
- Immediately after a person takes water from a Council operated standpipe that person must completely turn the standpipe off at all valves, securely lock the standpipe cage and return the key to the standpipe operator (if applicable).

Current Conditions of Standpipe Permit

In applying for use of the standpipe a person acknowledges the following conditions of use:

1. Water will ONLY be used for the purposes requested and specified in the application for use form; and
2. Water will be used in accordance with any water restrictions that may from time to time be in force and specified by the relevant water authority; and
3. As a user they will ensure where the standpipe is not fitted with any backflow protection device that they shall not allow any contamination or backflow of any water, chemical or other substance in your possession or control; and
4. They shall not at any time allow key(s) to be used by any other person to access the standpipe, unless that person is using it to obtain water on your behalf, for the purposes requested; and
5. In the event of a key being lost or stolen they shall contact Council immediately and indemnify Council in respect of any and all costs associated with the loss of the key; and
6. They will return a key to Council within seven (7) days of use being terminated by either party; and

7. They will report any damage, fault or any issue affecting the use of the standpipe to Council upon detection of such damage, fault or issue irrespective of whether or not they were responsible for such damage, fault or issue; and
8. They acknowledge that access to the standpipe is by licence and that Council reserve the right to close the standpipe, or to terminate the licence at any time for any purpose whatsoever; and
9. They agree to meet the costs of usage that may be set by Council from time to time and to accurately record your water usage for this specific purpose; and
10. Abide by use and conditions requirements that may be set by Council from time to time in addition to those hereon, of which they shall receive due notice.

Constructing Vehicle Crossings

Local Law Clause 4.5

Purpose of the Clause

To regulate vehicle crossing(s) works by requiring of a permit under the *Road Management Act 2004*.

Applies to:

Any person seeking to undertake works to any vehicle crossing(s) within the Municipality

What Public Places are affected?

All owner and occupiers of any land

Who requires a permit

Any person planning to construct a new vehicle crossover, remove or alter an existing vehicle crossing

Exemptions

None

Procedure Guidelines

A person or a contractor planning any works which require the construction, removal or modification of any vehicle crossing, including the creation of a temporary crossing, must obtain a vehicle crossing permit.

- For this clause, a **permit** is evidence of consent under the *Road Management Act 2004*.
- All applications for a permit must be lodged fourteen (14) days before works are planned to commence and a minimum of 24 business hours' notice is required in order to arrange an inspection.
- Public Liability insurance of \$20 million needs to be provided to Council before carrying out the works.
- The impact of traffic will be reviewed before issuing the permit.
- A fee will be charged for the permit and will depend on the location of works which are to be completed (i.e. municipal road, speed limit over 50km/hr or lower than 50km/hr).
- The permit will not be valid until the appropriate fees have been paid and a permit approved issued.

Supporting documentation to be provided with this application

- Public Liability Insurance – Certificate of Currency (\$20 million)
- Work Cover insurance Policy
- Site Plan
- Traffic Management Plan
- Any other permit(s) or documentation that may be relevant for the works

Traffic Management Plan:

In accordance with the *Road Management Act 2004* and *Road Safety Act 1986*, a Traffic Management Plan (TMP) may be required to address any traffic management including:

- vehicles and pedestrians requirements that may be necessary to carry out the works.
- If required to submit a TMP, it must be prepared by a suitably trained and qualified person.
- The plan must include the details of how proposed works will be undertaken.
- Applicant's will be requested to comply with the *Occupational Health and Safety Act 2004*, Australian Standard 1742.3 and all other relevant Acts, Regulations, Australian Standards, and Codes of Practice.
- Safe pedestrian access shall be maintained at all times, including provision of physical barriers to hazards, provision of safe temporary access, signage and lighting in accordance with Australian Standard 1742.3.
- A copy of the Traffic Management Plan is to be submitted to Council within seven (7) working days prior to any works commencing.

Works on Council Land and Roads

Clause Number: 4.8

Purpose of the clause:

To regulate protection of Council assets for any building works on any land by requirement of a permit.

Applies to:

Any person seeking to undertake building works to any land within the Municipality.

What public places are affected?

All Council Land in the Municipality

Our assets include:

- footpaths
- nature strips
- street vegetation and trees
- kerbs and channels
- drains and storm water pits
- roads and right of ways
- street furniture
- signage
- Vehicle crossings (driveways)
- Any other Council or Government department infrastructure

Who requires a permit?

Any person seeking to undertake work that requires a building permit, including demolition must obtain an asset protection permit before works begin.

Exemptions:

Clause does not apply to a person employed or engaged by Council while acting in the course of their duties.

For the purpose of assessing General Local Law Clause 4.8(a)(5) *recognised weeds* are those environmental weeds listed in documents regarding **Significant Weeds** published by Council on its website under 'Weed Management' webpage.

Procedure Guidelines for Works on Council Land and Roads.

- Where a person is required to undertake any works on Council land or a road other than under the Road management Act 2004, that person must:
- Notify Council of any proposed works;
- Hold current public liability insurance, relevant to the works proposed to a minimum level as determined by Council, for the duration of the works;
- Undertake those works safely;

- Provide and maintain pedestrian and traffic control devices during the course of the works;
- Ensure that any pedestrian or traffic control device during the course of the works;
- Ensure that any pedestrian or traffic control device which is being used on or in respect of the land complies with Australian Standard AS 1742.3 published by on behalf of Australian Standards; and
- Carry out all reinstatement works deemed necessary by Council.

Nature Strips

Clause Number: 4.9

Purpose of the clause:

To promote and regulate the orderly carrying out of works and use of nature strips as a shared community asset.

Applies to:

Owner or occupiers of a property not in a Rural Zone

Who requires a permit?

Owner or occupiers who wish to undertake excavation and/or landscape works on nature strips

Exemptions:

None

Applying for a permit

A completed permit application form should be submitted fourteen (14) days prior to the commencement of the intended use

Procedure Guidelines

All applications for approval will be assessed using the assessment criteria in the Council Policy.

Decisions about applications for works or use of the nature strip will be:

- made in a timely and efficient manner; and
- seek to achieve outcomes which are practical, consider safety issues, acceptable and cost effective; and
- have regard to the particular circumstances prevailing at the proposed site of works or use.

As far as practical all decisions on applications to carry out works or to use road reserves will consider and have regard for potential future needs of the road reserve.

NB

Residents will be required by Council to remove any inappropriate or inadequately maintained (unsightly) nature strip landscaping.

It is the responsibility of residents to maintain the nature strip abutting their homes

Recreational Vehicles on Council Reserves

Local Law Clause 4.10

Purpose of the Clause

To protect amenity by regulating the use of recreational and motorised toy vehicles on any land

Applies to:

Landowners and motorised toy vehicle users

What Public Places are affected?

All public and private land

Who requires a permit

The owner of private land or driver of any applicable vehicle

Exemptions

None

Procedure Guidelines

Criteria for issuing permits

When dealing with applications for permits Council will consider the following factors:

1. the amenity of the proposed location and the surrounding area, including
 - the type, size, noise and nature of the vehicles involved and;
 - the days, times and duration of the proposed use.
2. any potential damage may be caused to the land;
 - the nature and intensity of the use and any precautions to be taken to protect the land.
3. any other matter or thing relevant to the application;
 - any comments received in respect of the application; or
 - any further information required from the applicant; or
 - any other matters that may apply to the particular application; or
 - the applicants record in using motorised toy vehicles; and
 - an appropriate permit fee and any refundable deposit required in respect of Council land.

Permit conditions

- (1) Permits for recreational and motorised toy vehicles will be subject to conditions which limits the intended use, including:
 - the times, days and duration of the permit
 - the number of vehicles involved
 - the type of vehicles

- precautions to be taken to protect amenity and Council land
 - permit holders must comply with the requirements of the Colac Otway Shire Planning Scheme in relation to any modification of land for the use of motorised toy vehicles
- (2) any specific insurance requirements.

PART 5 – Building Sites

Controlling Asset Protection During Building Work

Local Law Clause: 5.8

Purpose of the clause:

To ensure an asset protection permit conditions are adhered by.

Applies to:

Any owner of the land on which the building work is to be completed, builder, appointed agent or demolition contractor.

What public places are affected?

All Council Land in the municipality

Who requires a permit?

Owner of the land

Exemptions:

None

Procedure Guidelines for Controlling Asset Protection during building work(s).

Regardless of whether a building permit or planning permit has been issued, the;

- Owner of any land on which building work is being or is to be carried out;
- Builder engaged to carry out building work on land;
- Appointed agent; or
- Demolition contractor engaged to carry out the demolition of a structure on the land, in the case of building work involving demolition;

Must at least seven days before commencing works on the land;

- Obtain an Asset Protection Permit;
- Advise Council in writing of any damage that exists to any Council infrastructure assets, and
- Pay, lodge, a security bond to, or with, Council.

Asset Protection and Building Work

Local Law Clause Number: 5.9

Purpose of the clause:

To ensure an asset protection permit conditions are adhered by.

Applies to:

Any owner of the land on which the building work is to be completed, builder, appointed agent or demolition contractor.

What public places are affected?

All Council Land in the municipality

Who requires a permit?

Owner of the land

Exemptions:

None

Procedure Guidelines for Controlling Asset Protection during building work(s).

- An Asset Protection Permit may contain conditions that:
 - Require payment or lodgement of a security bond; and
 - Require works to be done on or around the site to protect Council infrastructure assets, the health and safety of the public, the environment and the amenity of the area; and
 - Entry to and exit from the site only at designated locations.
- If Council does not receive advice in writing as required under Clause 5.9(a)(4)(ii), it is deemed, for the purposes of clause 5.10, that there was no existing damage to Council infrastructure assets.
- As soon as practicable after receiving notice of the issue of an occupancy permit or Certificate of Final Inspection with respect to any building work, Council must cause an inspection of the Council infrastructure assets to be carried out.
- If, as a result of the Final Inspection, Council considers that the building work has damaged Council infrastructure assets, Council may;
 - Direct the builder and owner to repair the damage at their cost, in accordance with standards specified by the Council and within a period of not more than 28 days; or
 - Repair the damage and recover the cost from the security bond.
- If repair of damaged Council infrastructure assets is required, the builder or owner (as the case may be) must affect the repairs to the standards and within the time specified by Council.
- If the repair work is done, and the cost is greater than the amount of the security bond, then the builder or the owner must pay to Council, the amount of the bond.
- If the repair work is done and the cost is less than the amount of the security bond, Council must refund or release the unused portion of the security bond.

- If as a result of the inspection, Council considers that the building work has not damaged Council infrastructure assets, Council must refund or release the entire security bond.

PART 6 - Camping

Camping on Council Land or in Public Places

Local Law Clause 6.2

Purpose of the Clause

To regulate the camping on Council land and or Public land

Applies to:

Any person who wishes to camp within the Colac Otway Shire municipality

What Public Places are affected?

All Land in the municipality

Who requires a permit

All community groups/individuals who wish to camp on public land

Exemptions

Council or an Authorised Officer may from time to time exempt any person or class of persons from the requirement to obtain a permit under this clause.

Camping for less than twenty four (24) hours in an area where Council has determined that overnight camping is permitted – does not require a permit.

Procedure Guidelines

1. In determining whether to grant a permit to allow camping on Council land or a road in an area which is not a licensed caravan park and has not been declared by the Council to be a 'camping area', the Council or an authorised officer or a delegated officer must, where relevant, have regard to the following guidelines:
 - whether the applicant is an individual person, in which case a permit may not be issued;
 - whether the applicant is a community group such as scouts or pony club and the intention is to camp as part of a group activity, in which case a permit may be issued;
 - whether the applicant is a commercial operator whose activities will offer significant benefit or entertainment to the community such as a circus or festival, in which case a permit may be issued;
 - the location of the proposed camping land and the surrounding assets and amenity;
 - the land-use of, and likely impact on adjoining allotments;
 - any other matter the authorised officer or delegated officer reasonably believes is relevant to the applicable
 - the distance to the nearest dwelling or other commercial or public building;
 - the suitability of the land for camping;
 - the number of tents or other structures to be located on the land;
 - the length of time the tents, campervans or other structures that will be erected or moved onto the land;
 - the availability of sanitary facilities to the land;
 - any likely damage to be caused;

- if the authorised officer or the delegated officer reasonably believes the camping on Council land or a road will create a traffic hazard, obstruction or other risk to the public, the applicant may be required to take out a public liability policy of insurance and prior to the issue of the permit or the placement of the container, the Council must be provided with a Certificate of Currency of the public liability policy of insurance for the application.
- whether the applicant will need to implement a traffic, waste management plan or any other risk management plan that may be deemed necessary by an authorised officer or delegated officer.

General Condition that apply to all applications include:

- payment of fee must be made prior to commencement date of the permit
- campsites are to be maintained in a clean and tidy condition at all times
- all rubbish is to be removed when vacating campsite
- approved toilet and washing facilities are to be provided
- no campfires are permitted at any time
- damage to any Council property (i.e. footpaths, nature strips etc.) is to be reinstated by permit holder at the permit holders expense

Camping on Privately Owned and Vacant Land

Local Law Clause Number: **6.3- 6.4**

Purpose of the clause:

To regulate the camping on private land, where there is a dwelling erected or where the land is vacant.

Applies to:

Any person that wishes to camp within the Colac Otway Shire municipality

What public places are affected?

All Land in the municipality

Who requires a permit?

A person must obtain a permit to camp if required to do so by this Local Law

Exemptions:

Council or an Authorised Officer may from time to time exempt any person or class of persons from the requirement to obtain a permit under this clause.

Procedure Guidelines for Camping.

- A person must obtain a permit to camp where it is a requirement of the General Local Law.
- Camping must not be a nuisance or unreasonably interfere with the enjoyment to any person.

General Condition that apply to all applications include:

- payment of fee must be made prior to commencement date of the permit
- campsites are to be maintained in a clean and tidy condition at all times
- all rubbish is to be removed when vacating campsite
- approved toilet and washing facilities are to be provided

PART 7 – Municipal Amenity

Vegetation on Road & Council Owned/Managed Land

Local Law Clause 7.5

Purpose of the Clause

Provide and give guidance to residents considering alternative landscape treatments to the traditional fully-grassed nature strips.

Applies to:

Owners and Occupiers of Private land

What Public Places are affected?

All roads within the municipality

Who requires a permit

Owners and Occupiers of Private land considering alternative landscape treatments to the traditional fully-grassed nature strips.

Exemptions

Not applicable

Procedure Guidelines

Council Policy to guide residents for the purposes this of Local Law will be developed.

Recreational Vehicles on Private Land

Local Law Clause 7.7

Purpose of the Clause

To protect amenity by regulating the use of recreational vehicles on private land.

Applies to:

Land owners, occupier and motorised vehicle users

What Public Places are affected?

All Private and Public land in the Municipal district

Who requires a permit

The owner of private land or driver of any applicable vehicle

Exemptions

None

Criteria for issuing permits

When dealing with applications for permits Council will consider the following factors:

1. The amenity of the proposed location and the surrounding area, including
 - The type, size, noise and nature of the vehicles involved and
 - The days, times and duration of the proposed use.
2. Any potential damage that may be caused to the land
 - The nature and intensity of the use and any precautions taken to protect the land.
3. Any other matter or thing relevant to the application
 - Any comments received in respect of the application
 - Any further information required from the applicant
 - Any other matters that may apply to the particular application
 - The applicants record in using motorised toy vehicles and
 - An appropriate permit fee any refundable deposit required in respect of Council land.

Permit conditions

- (1) Permits for recreational and motorised vehicles will be subject to conditions which limits the intended use, including:
 - The times, days and duration of the permit
 - The number of vehicles involved
 - The type of vehicles
 - Precautions to be taken to protect amenity and Council land

- Permit holders must comply with the requirements of the Colac Otway Shire Planning Scheme in relation to any modification of land for the use of motorised vehicles; and
- (2) Any specific insurance requirements

PART 8 - Fire Hazards

Open Air Fires and Incinerators

Local Law Clause Number: 8.2

Purpose of the clause:

To outline of the requirements of what constitutes safe practices for burning in the open air and incinerators.

Applies to:

All owners or occupiers of private land that is located within a Designated Area.

Who requires a permit?

Any owner or occupier of private land that is located within a Designated Area.

Exemptions:

A person lighting a barbeque or similar appliance for cooking food.

A constructed fireplace, recreational fire pit or brazier.

A fire that is authorised or directed to be lit under any other legislation.

Fires in the open for Aboriginal and Torres Strait Islander cultural ceremonies.

Procedure Guidelines

Applying for a permit

A completed permit application form should be submitted at least four (4) business days prior to the burn applied for.

Criteria for issuing permits

When dealing with applications for permits Council will consider the following factors:

- The amenity of the proposed location and the surrounding area
- The location, area and nature of the land
- The forecasted weather for the day leading up to, the day of and the day after the burn
- The purpose of the proposed burn
- The effects on the amenity of other land and the health and safety of person and property
- Any further information required from the applicant and any other matters that may apply to the particular application.

Permit Conditions

May include:

- The times and days when burning is allowed
- The name and address of the person to whom permit is issued
- The purpose of the fire

- The material to be burned
- The volume to be burned
- Advance notice to be given to the Fire response agency and/or Emergency Services Telecommunications Authority (ESTA)
- The climatic conditions when burning is not allowed or when a fire must be extinguished
- A fire must not be left unattended
- Minimising annoyance or inconvenience to other residents
- No fire is to be lit on a day of Total Fire Ban
- Other conditions deemed necessary by issuing authority.

Compliance with permit conditions does not relieve the permit holder of potential liabilities under other legislation.

The provisions of the *Country Fire Authority Act 1958* apply.

Section 11 of the *Summary Offences Act 1966* applies to fires in the open air at any time of the year.

PART 9 – Roads and Council land – Obstructions and Behaviour

Public Events

Clause Number: 9.6

Purpose of the clause:

To permit outdoor events and activities within the Colac Otway Shire that are to be conducted on public spaces and/or roadways under the care and control of the Colac Otway Shire Council.

Applies to:

Any person or persons wanting to host an event

Who requires a permit?

A permit is required by all persons organising to undertake an event as per the definition outlined in the Colac Otway Shire General Local Law No. 1 and in accordance with the Colac Otway Shire Events Policy.

Exemptions:

An exemption for a permit would apply to the following:

- Activities permitted under recreation reserve user agreements
- Events delivered by the Colac Otway Shire (including Civic events)
- Events that take place on Council Land or Public Places managed by a Community Asset Committee where a written approval is granted by the committee within its purpose and delegated authorities

Procedure Guidelines

Applying for a Permit

A person must apply for a permit to operate an event by lodging an application with Council in accordance with the Colac Otway Shire Events Policy.

Criteria for Issuing a Permit

All applications for events will be considered in line with the principles and requirements detailed in the Colac Otway Shire Events Policy.

PART 10 - Sale of Goods and services, Street Collections & Distributions

Commercial Activities on Council Land

Clause Number: 10.1

Purpose of the clause:

To establish a permit system to regulate commercial activities on a footpath, road reserve or Council land.

Applies to:

Any person or persons wanting to conduct commercial activities on Council Land.

Who requires a permit?

Person wanting to conduct a commercial activity

Exemptions:

None

Procedure Guidelines

Current Permit Conditions

PERMIT CONDITIONS TO ADVERTISE/DISPLAY/LOCATE ITEMS ON THE FOOTPATH/ROAD RESERVE PERMIT ITEM CONDITIONS –

- Only one A-Frame advertising board to be placed out the front of each premises.
- Permit Items must not obstruct thoroughfare or access and must be positioned in accordance with Figure 1
- The A-Frame advertising sign is to be fabricated from sound material and kept in a good state of repair. A-Frame sign must not exceed 1.2 metres by 0.7 metres.
- Adequate clearance is provided to allow people to alight from vehicles to gain:
 - Access to the footpath.
 - Access to service authority pits.
- Signs and goods may only be displayed during the normal business hours of the permit holder, and only in front of the associated premises or the arcade in which the premises is located. The quantity of permit items that may be displayed must be contained within an area no greater than 75% of the total length of premise frontage.
- Permit items shall have no moving or flashing parts and must be braced to withstand windy conditions.
- Permit items must be constructed of sturdy and durable materials, be maintained in a clean condition and be aesthetic to the overall facility.
- Permitted items shall only be placed in an approved location.
- Permit items shall be of a style and standard approved by Council .

ITEMS PROHIBITED

- The placement of permit items on the following areas is not permitted:
 - • On a road and within 2.0 metres of the property boundary.
 - • Within 0.6 metres of the back of the kerb adjacent to a parking lane.

- ● Over any footpath or road where the resulting vertical clearance is less than 2.2 metres.
- ● On any vehicle parked or left standing on a road.

PERMITS RENEWAL REQUIREMENTS

- Applications for permits will be considered in accordance with Figure 1.
- The permit only allows for up to a specified number of permit items. If the permit holder wishes to increase this number within the conditions limits, an application in writing to Council is necessary. If the application is approved a new permit will be issued.

PUBLIC LIABILITY

- Where Council insurance has not been accepted, a Certificate of Currency must have a cover of at least \$20 million and must note Colac Otway Shire as an interested party.
- A Satisfactory evidence showing public liability insurance cover in the form of a certificate of Currency must be provided.

PERMIT HOLDERS RESPONSIBILITIES

- The permit holder will be responsible for:
 - The conduct of patrons at the tables and chairs.
 - Ensuring that patrons do not re-arrange Permit Items.
- The permit items must only be located during the normal business hours of the permit holder, and in front of the associated premises, unless street furniture is affixed to footpath as per the guidelines of fixed street furniture.
- Maintenance of all required clearances.
- The cleanliness of the occupied area and its immediate surrounds.
- The maintenance of permit items and any other approved items.
- Security for all furniture whilst located on the footpath.

GENERAL COMMENTS

Permit Items include but are not limited to the following items:

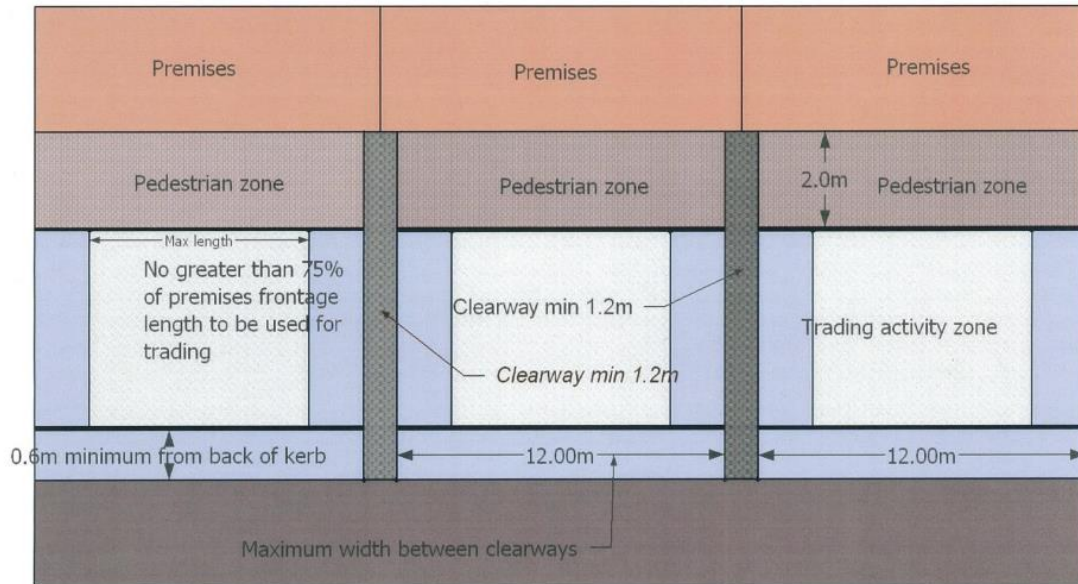
- A-Frames
- Tear Drop Flag(s)
- Tables and Chairs
- Planters Boxes
- Display Racks/Goods
- Screens
- Vehicles/Machinery

Any Consumption/serving of Liquor at the tables on the footpath must be to the approval of Liquor Licensing Victoria. Council will neither condone nor accept any responsibility for breaches of the *Liquor Control Act*.

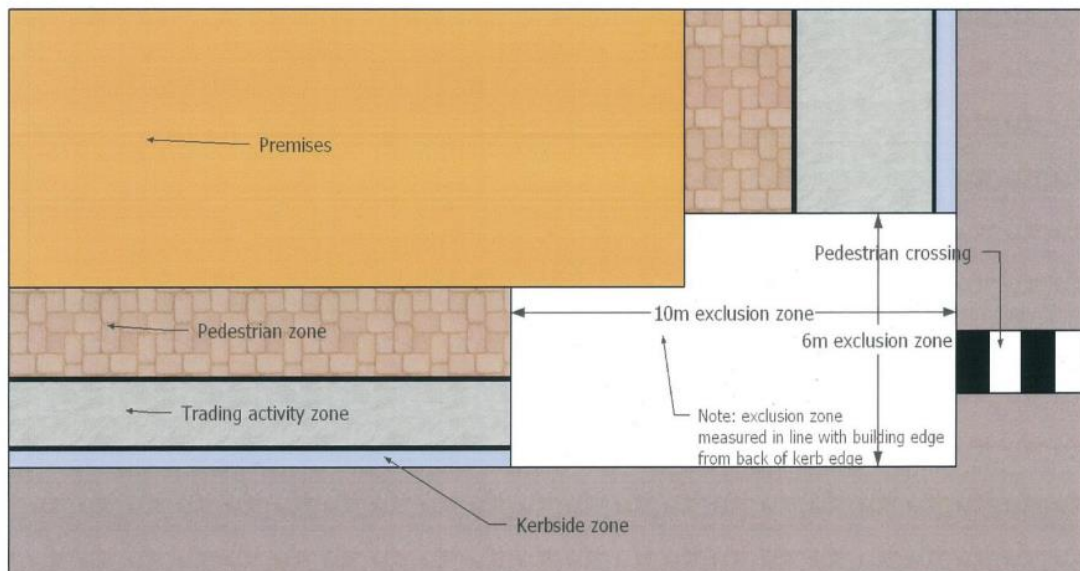
Screens must be positioned strictly in accordance with the approved plan or as directed by the appropriate Council officer at all times.

The location of Permit Items shall not, in the opinion of Council's Authorised Officers, be or create a danger to the public. The removal at the request of the appropriate Council officer or any responsible service authority of any permit items but not limited to screens, fixtures, planter pots, for any maintenance requirements is to be adhered to. Upon request from an Authorised officer, the permit holder must provide evidence of the permit which has been issued.

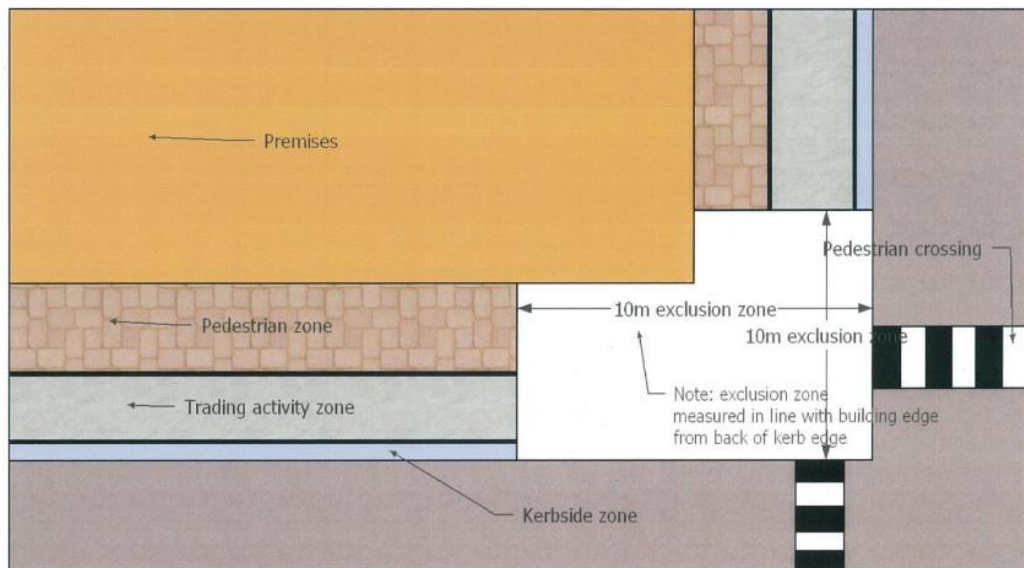
On street trading arrangements



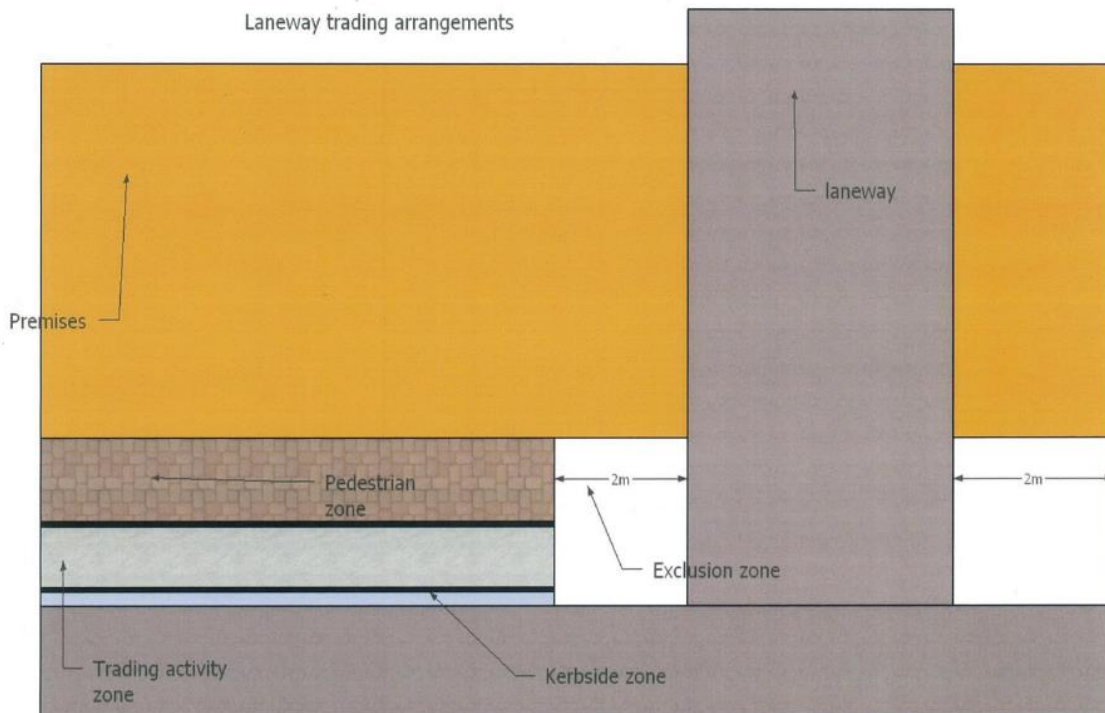
Corner location trading activity arrangements



Corner location trading activity arrangements for double crossings



Laneway trading arrangements



Collections, Subscriptions and Raffles

Clause Number: 10.2

Purpose of the clause:

To control soliciting for any money, gifts, donations or subscriptions in public places by requiring a permit.

Applies to:

Any organisation or person wishing to conduct a collection.

Who requires a permit?

Any organisation or person wishing to conduct a collection.

Exemptions:

Fee waived for registered charitable organisations

Procedure Guidelines

Applying for a Permit

A completed permit application form should be submitted fourteen (14) days prior to the period applied for.

Criteria for issuing permits

When dealing with applications for permits the Council or its delegate will consider the following factors:

- The amenity of the proposed location and the surrounding area
- The purpose and beneficiary of the collection
- Whether Australian Standard 1428.2 – 1992 “Design for access and mobility” or other disability standards can be complied with
- The effect on the quiet enjoyment of other users of the public place
- Any comments received in respect of the application
- Any further information required from the applicant
- Any other matters that may apply to the particular application
- The applicant’s record in conducting collections and
- Any appropriate permit fees

Permit Conditions

Collection permits will be subject to conditions pertaining to the following matters:

- The period of the permit (maximum one (1) year)
- The extent of the public places where collections are permitted
- Disclosure of the name and nature of the benefiting organisation
- The identification of collectors
- The issue of receipts to donors

Public Liability

The applicant is responsible for ensuring that the insurance policy covers the activity or event relevant to the application.

Busking, Spruiking

Local Law Clause 10.4 & 10.5

Purpose of the Clause

To regulate the use of Council land and the use of private land for busking

Applies to:

Anyone wishing to busk

What Public Places are affected?

Any council land or private land which the busking / street entertainment is being performed

Who requires a permit

Any person desiring to use a public place to busk or to perform street entertainment

Exemptions

None

Procedure Guidelines for Busking

Permits are required for busking or street entertainment.

When dealing with applications for permit, Council will consider the following factors:

- The amenity of the proposed location and the surrounding area
- The purpose and beneficiary of the activity
- Whether Australian Standard 1428.2 – 1992, Design for access and mobility or other disability standards can be complied with
- The effect on the quiet enjoyment of other users of the public place
- Any comments received in respect of the application
- Any further information required from the applicant
- Any other matters that may apply to the particular application
- The applicants record in conducting similar activities and
- A permit fee.

The permit holder at the request of an Authorised Officer must cease busking immediately or relocate to another site if the officer is of the opinion that the performance is:

- Loud and intrusive
- Excessively repetitive
- Causing public inconvenience

Conditions of the permit include:

- Persons under 16 years of age must be accompanied by a Parent or Guardian
- Busking times are between 9:00am to 9:00pm only
- Permission must be obtained from surrounding businesses prior to commencement of busking activity

PART 11 – Animals and Livestock

Number of Animals

Local Law Clause 11.2

Purpose of the Clause

Control the number animals on land.

Applies to:

Owner or Occupier of land

What Public Places are affected?

None

Who requires a permit

Any person wishing to keep more animals than permitted.

Exemptions

None

Procedure Guidelines for Number of Animals

Application for a permit must be completed fourteen (14) days prior and can be found on Council's website.

The application to keep more than the prescribed number is not in any way an assessment or referral for keeping animals for breeding purposes. An application through the planning department and an application for a Domestic Animal Business must be completed.

Permits will be issued to people who have, or are seeking to keep more than the prescribed number of animals stipulated, unless it is considered that the keeping of the animals would not comply with the Local Law.

This permit is conditional on the permit holder complying fully with these conditions and any other statutory obligation associated with the activity.

- All areas in which the animal, bird or reptile is kept must be secure and maintained in a clean environment.
- Owners/occupiers must ensure all waste matter is disposed of in the correct manner so as to prevent any offensive odour from occurring.
- All animals must not pose a danger to each other or any other animal
- All animals must be registered with Colac Otway Shire Council.

Before approval of a permit, an Authorised Council Officer will be required to inspect the property to properly assess the application.

Grazing or Droving of Livestock

Local Law Clause 11.9 & 11.10

Purpose of the Clause

To set requirements applying to the Droving/Grazing of livestock

Applies to:

Any person(s) who wish to move/Graze livestock.

What Public Places are affected?

All Council Land in the municipality

Who requires a permit

Any person(s) who wish to move livestock.

A person who wishes to apply for a *permit* may do so by:

- lodging with *Council* an application at least fourteen (14) days before the proposed activity, in a form approved by *Council*; and
- paying to *Council* the appropriate application fee; and
- in the case of a *permit* for driving of *livestock*, lodging with *Council* a bond in the amount of \$1,000 to \$10,000, as fixed by *Council* under this Local Law.
- *Council* may require an *applicant* to provide additional information before dealing with an application for a *permit* or for an *exemption*.
- *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 to be heard in support of such submission.

Authorised Relocation of Livestock other than in Daylight Hours

The provisions prohibiting *livestock* droving or movement on *roads* other than in *daylight hours* do not apply to:

- relocation of livestock by an Authorised Officer; or
- relocation of *livestock* in an emergency or to avoid or minimise danger; or
- movement of *livestock* in accordance with the requirements of the current clause and the *Guidelines*.

Exemptions

If the *livestock* are being moved across or along a *road* (whether directly or by being moved along and across or merely along a *road* or merely across a *road*) in order to travel from one property to another or from one part of a property to another part in accordance with clauses in this Local Law.

Penalty

Maximum penalty

- First Offence -10 *penalty units*; and
- Second Offence - 20 *penalty units*; and
- A further 2 *penalty units* for each day during which the offence continues after the conviction for the offence.

REQUIREMENTS APPLYING TO THE DROVING OF LIVESTOCK

Droving of Livestock

1. Council must not issue a permit for the droving of livestock if:
 - there are more than:
 - (a) 6,000 sheep, ewes, wethers and rams; or
 - (b) 500 *cattle*; or
 - (c) 200 of any other *livestock*; or
 - 1.2 it is not satisfied that the *livestock* are able to travel:
 - (a) eight kilometres each day (being *livestock* referred to in point 1(a) or 1(c)) in one direction; or
 - (b) ten kilometres each day (being *livestock* referred to in clause 1(b)) in one direction; or
 - 1.3 the *roads* proposed to be travelled:
 - 1.3.1 are or will be in use for the purpose for the droving of other *livestock* at the time proposed;
 - 1.3.2 are carrying such an extent of traffic or in such a condition or being used for such other purposes at the time proposed for the droving that the droving is impracticable; or
 - 1.3.3 contain areas of high conservation significance and the *applicant* cannot or is not prepared to give an undertaking to take all reasonable measures proposed to ensure that such areas are protected; or
 - 1.3.4 have been declared by *Council* under point 2 (Droving of livestock).
 - 1.4 the owner or person in charge of the *livestock* refuses to provide any bond, guarantee or indemnity requested by *Council* as security against *road* or adjacent fence or property damage; or
 - 1.5 the owner or person in charge of the *livestock* does not provide evidence, to the satisfaction of *Council*, of an ability to adequately water and feed the *livestock* and to safely contain them overnight; or
 - 1.6 the owner or person in charge does not supply a declaration of his/her knowledge of the health and fitness of the *livestock* in a form acceptable to *Council*; or
 - 1.7 a person proposing to introduce *cattle* into Victoria has not first obtained permission in writing from an Inspector of Livestock under the *Livestock Disease Control Act* 1994, provided certification regarding the *livestock* to the Inspector nearest the first point of entry and ensured that the *livestock* are ear-tagged with approved ear-tags prior to entry or otherwise complied with the *Livestock Disease Control Act*.
- 2 Council may declare a *road* for the purposes of point 1.3.4.
- 3 Any declaration made under point 2 (droving livestock) must be published in a newspaper generally circulating in the *municipal district*.
- 4 A person who is in charge of *livestock* which are being driven on a *road* must ensure that:
 - 4.2 the *livestock* are supervised and under *effective control* at all times by a person who is competent in the management of such *livestock*;
 - 4.3 *livestock* camped overnight are enclosed by a substantial and secure barrier (or otherwise isolated so as to prevent escape or danger to other *road* users);

- 4.4 proper disposal takes place of any carcass of any *livestock*, under that person's charge, which die on the *road*;
- 4.5 the *livestock* are only moved during *daylight hours*;
- 4.6 the *livestock* are not moved on roads which *Council* or an *authorised officer* has notified the person must not be used for the *droving of livestock*;
- 4.7 an Inspector of Livestock of the Department of Primary Industries or relevant authority administering the *Livestock Disease Control Act 1994* is notified if the person in charge of such *livestock* becomes aware or suspects that *livestock* (or any of them) have a *disease* or has died of a *disease* listed as a notifiable *disease* under that Act;
- 4.8 they complies with the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986;

Stock Crossings

- Livestock may travel on a road for the purposes of moving between contiguous properties if the properties are separated by a road, river or another impassable object or other circumstances which effectively prevent movement by another route.
- A person must comply with all stock crossing requirements of Department of Transport and Planning and the standards of Council set out in the Schedule.

Right of Way

- Travelling *livestock* (being *livestock* being moved in accordance with a valid livestock droving *permit*) have right of way over other stock on a *road*.
- If a person responsible for *livestock* on a *road* is notified of the approach of travelling *livestock*, the person must move the *livestock* for which they are responsible to an adjoining location or keep them separate from the travelling *livestock* by means suitable for the purpose.

Factor to consider when determining the route to be travelled

1. The route to be travelled must be specifically determined by *Council* having regard to:
 - (a) the route requested by the *applicant*;
 - (b) the practicality of that route or alternative routes given:
 - the respective volume of traffic regularly using *roads* in the vicinity;
 - the proposed commencing and finishing locations;
 - the sensitivity of vegetation on that route;
 - the duration and/or frequency of *livestock* droving proposed;
 - the number of *livestock* involved in the droving or each *livestock* droving;
 - any permits already granted for *livestock* droving, grazing or movement on or adjacent to the proposed area;
 - the condition of the *road* and prevailing weather conditions at the time of the proposed *droving of livestock* or throughout the proposed *livestock* droving;
 - the availability of alternative routes;
 - the distance to be covered each day;

- the health and condition of the *livestock*;
- the nature of any weeds or growth along any proposed route and the potential for *livestock* to spread noxious or environmental weeds;
- the potential for safely accommodating any *livestock* overnight;
- the capacity to adequately warn other *road* users of the presence of *livestock* on the *road*;
- procedures for varying any route in situations of hardship;
- the availability of water and feed;
- the outcome of any consultation with the Department of Sustainability and Environment or relevant authority regarding native vegetation;
- the views of Department of Transport and Planning concerning any droving on *road* for which Department of Transport and Planning is the co-ordinating or responsible road authority under the *Road Management Act 2004*; and
- any other matters considered relevant by *Council*.

Conditions of permit

1. In determining conditions applying to any *permit* for the *droving of livestock*, *Council* may, in addition to any conditions, impose such conditions as it considers appropriate including conditions that:
 - *livestock* not be camped in an area which is a declared or designated area of medium or high conservation value as specified in the Colac Otway Roadside Management Prescriptions;
 - appropriate reflective signs or flashing lights be erected in front of, and at the rear of, any *livestock* camped overnight on a *road*;
 - the number of *livestock* which may be driven in the *municipal district* at any one time not exceed the number specified in respect of the *permit*;
 - the *livestock* travel not less than the distances specified by an *Authorised Officer* (which distances may allow for a rest day in appropriate circumstances);
 - the *permit holder* has a current public liability policy (minimum cover \$20 million) covering risks relevant to the droving;
 - the public liability policy notes the interests of *Council* and Department of Transport and Planning Strategic Plan;
 - the *livestock* be healthy and free of *disease*;
 - signs be displayed conforming to the *Guidelines*; and *livestock* are only to be driven on any *road* during *daylight hours*.
2. In addition to any other conditions which it may impose, *Council* may include in a *permit* or *exemption* other conditions which it considers to be appropriate, including conditions relating to:
 - a time limit to be applied either specifying the duration, commencement or completion date;
 - the happening of an event;
 - the rectification, remedying or restoration of a situation or circumstance;

- where the *applicant* is not the owner of the subject property, the written consent of the owner; and
 - the granting of some other permit or authorisation.
3. Apart from any mandatory provisions or conditions under this Local Law, the conditions of a *permit* must be set out in or attached to the *permit*.
 4. *Council* may, during the currency of *permit*, alter the conditions of a *permit* if it considers it to be appropriate to do so, after providing the *permit holder* with an opportunity to make comment on the proposed alteration.
 5. A person who undertakes an activity for which *Council* has issued a *permit* must comply with the conditions of the *permit*.
 6. Where an *Authorised Officer* considers that doubt arises as to the health and/or fitness of *livestock* to be grazed or moved within the *municipal district* without potential adverse health effect to other *livestock* in the *municipal district*, they may require the owner, drover or person in charge of the *livestock* being or proposed to be grazed or moved to have the *livestock* examined by a suitable veterinary practitioner appointed by *Council* for the purpose at the cost of the owner, drover or person in charge of that *livestock*.
 7. In the event that the veterinary practitioner confirms that the *livestock* are unhealthy or unfit to be grazed or moved in the *municipal district*, the *Authorised Officer* may refuse to allow such droving, grazing or movement

Notes

Upon the issue of a permit under this Part, Council must notify the Department of Primary Industries or relevant authority of the permit and of the livestock to be moved.

Bonds

1. *Council* must refund a bond on application:
 - within seven days after refusing to issue a *permit*; or
 - if a *permit* is issued, after the departure from the *municipal district* of the *livestock* if the *applicant* has, in the opinion of an *Authorised Officer*, complied with the conditions of the *permit*.
2. Council may retain all or part of a bond, to the extent of the cost to Council of repairing any damage to roads or other property which, in the opinion of an *Authorised Officer*, has occurred as a result of the moving of the *livestock*.
3. If a deduction is made from a bond before the *livestock* have left the *municipal district*, the *permit holder* must, within 48 hours, make further payment to maintain the amount of the bond at the prescribed amount.
4. In the event of the cost to *Council* of repairing any damage exceeding the amount of the bond, the *applicant* must pay the outstanding amount to *Council* and *Council* may serve a *notice to comply* on the *applicant*.

Warning Signs (refer Guidelines)

1. A person involved in *droving of livestock*, *grazing of livestock* or *movement of livestock* in the *municipal district* must ensure that adequate warning of the presence of *livestock* on the *road* is given to other *road users* or potential *road users*.

2. Apart from any other warnings considered appropriate by the person involved in such activities under point 1 (warning signs), such a person must display signs conforming to the *Guidelines*.
3. A person involved in *droving of livestock* or *grazing of livestock* must ensure that any signs referred to in point 3 (warning signs) are removed from the *road* at the time of completing such *droving of livestock* or *grazing of livestock* or otherwise deactivated as set out in the *Guidelines*.
4. A person involved in *movement of livestock* across a *road* must comply with whichever of the *Guidelines* and referred to in the *Regulations* is appropriate to the relevant *stock crossing*.
5. In addition to any other *permit* or *livestock* movement conditions relating to warning signs to other *road* users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of *livestock* on roads must have regard to:
 - any Australian Standards for such purposes;
 - any other signage for *road* safety having regard to topography, conditions, *livestock* type and numbers; or
 - any other requirements of Department of Transport and Planning Strategic Plan communicated to and published by *Council* in respect of *roads* for which Department of Transport and Planning Strategic Plan is the coordinating or responsible road authority under the *Road Management Act 2004*.

Grazing of Livestock

1. *Council* must not issue a *permit* for the grazing of a *road* by *livestock* unless:
 - the *road* or roads or part of them proposed to be grazed can be grazed without threat to areas of medium or high conservation significance as specified under the Colac Otway Roadside Management Prescriptions;
 - the *applicant* for the *permit* provides evidence to the satisfaction of *Council*:
 - that the *livestock* will be adequately supervised and effectively controlled;
 - that there will be compliance with all conditions of a *permit*;
 - where required, of the health and fitness of the *livestock*; and
 - of an ability to adequately feed and water the *livestock* on the *roads* proposed;
 - the *road* or roads or part of them are at the time proposed suitable for grazing by *livestock* which can be undertaken without damage to surface, plants or adjacent structures;
 - the *Guidelines* are in place; and
 - the width of the *road* is adequate and that grazing be restricted to that position of the *road* which is within the limit of the owner's boundary frontage, unless endorsed on the *permit* after receipt in writing from the owner of other land adjacent to the area to be grazed.
2. *Council* reserves the right to refuse permission for grazing on either or both sides of the road where it believes that safety issues may exist.
3. A person who is in charge of *livestock* which are being grazed on a *road* must ensure that:

- the *livestock* are supervised and under *effective control* at all times by a person who is competent in the management of *livestock*;
 - the carcass of any *livestock* under that person's charge which dies on a *road* is properly disposed of;
 - *livestock* are grazed only during *daylight hours*;
 - signs conform to the *Guidelines*;
 - appropriate precautions are taken to ensure that no damage occurs to *road* surfaces, furniture, drains, culverts, bridges and private entrance ways or to trees and shrubs growing within the *road* and that erosion is not caused by excessive grazing;
 - in the event that *livestock* are causing damage, including where overgrazing occurs, they are removed from the *road*;
 - the *livestock* are enclosed by an appropriate form of fencing or other control or removed from the *road* before *daylight hours* finish unless an *Authorised Officer* agrees to some other level of supervision or overnight arrangement;
 - the person has a current public liability policy (minimum cover \$20 million) on which *Council's* (and, where appropriate, Department of Transport and Planning Strategic Plan) interest is noted, and that proof of such notation is produced to the *Council* prior to commencement of grazing;
 - an Inspector of the Department of Primary Industries or relevant authority administering the *Livestock Disease Control Act 1994* is notified if the person in charge of such *livestock* becomes aware or suspects that *livestock* (or any of them) have a *disease* or has died of a *disease* listed as a notifiable *disease* under that Act;
 - they comply with the provisions of the *Livestock Disease Control Act 1994* and the *Prevention of Cruelty to Animals Act 1986*;
 - no roadside grazing takes place on any day declared as a Total Fire Ban Day for this Region under the *Country Fire Authority Act 1958*;
 - temporary fencing once erected is removed at the direction of an *Authorised Officer* before or at the expiry of the *permit*, unless the *permit* has been renewed for an extended period, or at the direction of *Council*; and
 - any other matters considered by *Council to be relevant*.
4. Failure to comply with any condition or direction may result in forfeiture of the bond, or removal of the fence by *Council*, at cost to the *permit holder* and/or *livestock* owner.
 5. The temporary fence must be constructed by or on behalf of the person in charge of *livestock* to a standard outlined in the conditions of the *permit*.
 6. The owner is responsible to ensure confinement of *livestock*, while minimising hazards to persons, animals and property.

Movement of Livestock

1. A person must not move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property unless:
 - in respect of any movement or part of any movement before *daylight hours* commence or after *daylight hours* end, suitable warning lights/signage conforming to the *Guidelines*;
 - the length of travel is minimised so far as is practicable;

- areas of medium or high conservation significance as specified under the Colac Otway Roadside Management Prescriptions are avoided or protected;
 - the location of any *road* crossing is chosen having regard to the safety of all *road* users;
 - there is compliance with any appropriate Code of Practice; and
 - the *applicant* has a current public liability policy (minimum cover \$20 million) on which *Councils* (and where appropriate Department of Transport and Planning Strategic Plan) interest is noted, and that proof of such notation is produced to *Council* on written request.
2. A person who is in charge of *livestock* being moved across or along a *road* must ensure that:
- the *livestock* are supervised and under *effective control* by a person who is competent in the management of *livestock*;
 - except where point 2.5 (movement of livestock guidelines) applies, signs conforming to the *Guidelines* are in place and removed or deactivated following completion of the movement;
 - subject to point 1 (movement of livestock guidelines), the *livestock* are not moved other than during *daylight hours*;
 - the *livestock* are moved promptly, to prevent unnecessary grazing of roads;
 - if there are more than 52 movements of *livestock* during a 12 month period on any *road* for which *Department of Transport and Planning Strategic Plan* is the co-ordinating or responsible road authority under the *Road Management Act* or any other *road* specifically determined by *Council*, and there is compliance with the *Guidelines* relating to signage and lighting;
 - if, due to the nature of the terrain, volume of traffic or visibility, vision may be restricted, additional warning is given to other *road* users;
 - where *livestock* are to be moved across or along and across any *road* in fog or other than in *daylight hours*, there is compliance with whichever of the *Guidelines* as is appropriate to the circumstance of the crossing;
 - any *livestock* deposits, on any *road* pavement, which cause or are likely to cause danger to other *road* users are removed as soon as practicable; and
 - the *livestock* are healthy and free of *disease*;

In the event of *livestock* being moved at a rate of less than one kilometre per hour, a *permit* must be obtained by the person in charge of the *livestock*.

Standards - Livestock

Introduction

The following Standards have been prepared to assist with the interpretation of this Local Law. Additional documentation is available from *Council's* Local Law Unit, to assist *livestock* owners comply with the provisions of this Local Law. E.g. Department of Transport and Planning Strategic Plan, *regulations, Impounding of Livestock Act 1994.*

Standard No. 1 Crossing the road/regular movement across roads

1. Where *livestock* are to be moved to a property across a *road*:
 - 1.1 *livestock* movements must be at (or as near as possible to) 90 degrees to the direction of the *road*; and
 - 1.2 no wires, strings, tapes or other things are used to form a laneway or temporary fence across a carriage way.

Standard No. 2 Construction of stock crossings, access laneways & fences

1. *Road* crossings are to be constructed to ensure:
 - 1.3 municipal assets, drains etc. are not damaged: and
 - 1.4 the safety of other *road* users is considered when sighting the crossing (sight distances, signs, etc.); and
 - 1.5 culvert sizes are adequate; and
 - 1.6 there is a minimum damage to native vegetation.

Livestock owners wishing to construct a crossing can contact appropriate *Council* officers for advice and on-site discussion on their proposal.

PART 13 – Administration and Fees/Administration of Local Law

Review Rights

Local Law Clause 13.11

Purpose of the Clause

To provide information on the process of reviewing any action taken by Council or an Authorised Officer under the General Local Law No 1

Applies to:

Authorised Officers

Who requires a permit

Nil

Exemptions

The review of Notices issued is carried under clause 14.7

Procedure Guidelines

A person aggrieved by any action taken by Council or an Authorised Officer under the General Local Law No. 1 can apply for a review including failure to issue a permit.

A person seeking a review issued under this Local Laws is required to submit a signed and dated application for a review form.

A person can request a review) if:

- forms an opinion that the Officers were unfair and unreasonable , or

There were special circumstances warranting consideration.

Expectations of all parties in administration and compliance with the Local Law

What Council expects from people who report allegations of non-compliance with the Local Law

Council expects that people who report allegations of non-compliance with the Local Law will cooperate and act in good faith in respect of any investigations conducted by council. This includes:

- providing a clear description of the problem (and the resolution sought, if relevant);
- giving all available and relevant information to council, including any new information about the alleged activity that may become known to the person following the making of their report;
- not giving any information that is intentionally misleading or wrong;
- cooperating with council's inquiries and giving timely responses to questions and requests for information;
- treating council's staff with courtesy and respect; and
- allowing the investigation to be completed without prematurely taking the matter to other agencies unless referred to by council.

If these expectations of the individual are not met, council may need to set limits or conditions on the continuation of the investigation or may need to restrict any further communications with the individual.

Any unreasonable conduct will be dealt with in accordance with the principles of *the Victorian Ombudsman's Managing Unreasonable Complainant Conduct Practice Manual 2nd Edition August 2012*.

What parties can expect from Council staff

Applicants, complainants and respondents can expect that council staff will:

- treat them with courtesy and respect;
- clearly explain decisions in plain English;
- provide information about any relevant internal and external appeal processes that may be available; and
- carefully assess any new information provided by any party after a decision has been made and advise whether further action will be taken.
- advise complainants of the outcome of the allegation reported, including an explanation of the reasons why that outcome was considered to be reasonable in the circumstances;

What parties can expect from Respondents

Respondents to allegations of non-compliance with the Local Law are expected to:

- treat Council staff with courtesy and respect;
- not give any information that is intentionally misleading or wrong;
- let Council know promptly if any circumstances relevant to the allegations change; and
- cooperate with council's inquiries and give timely responses to questions and requests for information.

PART 14 – Enforcing this Local Law

Notices to comply

Local Law Clause 14.2

Purpose of the Clause

To provide a procedure for Notices to Comply with any direction under Colac Otway Shire General Local Law No. 1

Applies to:

Any person issued with a Notice to Comply

Procedure Guidelines

- *Council or an Authorised Officer, may serve a Notice to Comply, direct an owner occupier or other person in breach of this Local Law to remedy anything which constitutes an offence under this Local Law.*
- *A Notice to Comply must state the time and date by which the thing must be remedied.*
- *The time required by a Notice to Comply must be reasonable in the circumstances having regard to:*
 - *The amount of work involved;*
 - *The degree of difficulty;*
 - *The availability of necessary materials or other necessary items;*
 - *Climatic conditions;*
 - *The degree of risk or potential for risk; and*
 - *Any other relevant factor.*
 - *The time needed to reasonably comply with other statutory or regulatory requirements such as planning or building controls'*
- *Any person who fails to remedy a thing in accordance with a Notice to Comply within the time specified is guilty of an offence under this Local Law.*

If a Notice to Comply has been issued in relation to a permit and the permit holder is not the owner of the land and the owner's consent was required to be given for the application of the permit, the permit holder must notify the owner of the land of the Notice to Comply and the reason why it was served.

Infringement Notice

Local Law Clause 14.3

Purpose of the Clause

To provide a procedure for the issuance of infringement notices.

Procedure Guidelines

Service of an Infringement Notice

Infringement notices are served in accordance with section 315 of the *Local Government Act 2020*. Infringement Notices may be personally delivered to a person or by delivery to the person's usual or last known place of residence or business with a person apparently not less than 16 years of age who apparently resides or is employed at that place or sending the document by post addressed to the person at the person's last known place of residence or business.

An authorised officer may issue an infringement notice i.e. it is a discretionary decision left to the officer's judgment.

Representations

Written explanations or other relevant information or representations in respect of any infringement notice will be considered by the issuing officer provided it is received within 28 days of the date of issue. Such representations or information may be taken into account when deciding to proceed with or withdraw the notice or to grant additional time in which to pay the penalty.

Withdrawal

If unpaid and not withdrawn within 28 days, the relevant Infringement Review Officer will decide whether to take further proceedings. The Infringement Review Officer may withdraw an infringement notice for the purpose of taking a prosecution instead provided the penalty has not been paid. Eg: for repeated offences.

Prosecution

Prosecutions may be taken:

- if the infringement notice penalty remains unpaid, or
- the offence is a continuing one, a second or subsequent alleged offence by the same person or an offence of a serious nature warranting a prosecution.
- The Infringement Review Officer recommends prosecution to the relevant Manager or Coordinator who in turn, recommends prosecution to the Prosecutor or Council Solicitor.

Power of Authorised Officer to Act in Urgent Circumstances

Local Law Clause 14.4

Purpose of the Clause

To provide a procedure for Council to act in urgent circumstances

Applies to:

Council staff who have been delegated the power to issue Notices to Comply and permits.

Procedure Guidelines

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

- the circumstance arises out of a person's use of a Council land or a road or failure to comply with a provision of this Local Law;
- the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- the person to whom a Notice to Comply would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.
- wherever possible, a senior officer is given prior notice of the proposed action.

In deciding whether circumstances are urgent, an Authorised Officer must take into consideration, to the extent relevant:

- whether it is practicable to contact:
- the person by whose default, permission or sufferance the situation has arisen; or
- the owner or the occupier of the premises or property affected; and
- whether there is an urgent risk or threat to public health, public safety, the environment or animal welfare.
- The action taken by an Authorised Officer must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- An Authorised Officer who takes action must ensure that, as soon as practicable details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken.

Warning to Offenders

Local Law Clause 14.6

Purpose of the Clause

To provide guidance when authorised officers can issue warnings

Applies to:

Authorised officers

Who requires a permit

Nil

Exemptions

Nil

Procedure Guidelines

Authorised officers have the discretion to issue an official warning

Each application for an official warning is reviewed on a case-by-case basis with factors such as the circumstances, time of offence, Exceptional – nature of circumstances surrounding the offence and the offender records

If a person is cautioned and then repeats the conduct, the Authorised officer may decide not to caution them again.

Serious and safety related offences are ineligible for official warnings.

Reviewing a Notice

Local Law Clause 14.7

Purpose of the Clause

To provide information on the process of Reviewing a Notice

Applies to:

Authorised Officers

Who requires a permit

Nil

Exemptions

Nil

Procedure Guidelines

When served with an Infringement Notice or Penalty Reminder Notice, a person may be able to apply for the notice to be reviewed. This type of review is called an Internal Infringement Review.

A person seeking a review of a notice issued under this General Local Law No. 1, is required to submit a signed and dated application for a review form.

The outcome of the review could be the:

- fine is to stand; or
- being let off with a caution; or
- fine being cancelled.

A person can request a review of a fine (fine notice, fine reminder notice or overdue fine) if:

- A person is of the opinion that a mistake has been made, or
- there were special circumstances that led to the offence.

An application for the review must be received by Council within 28 days of receiving the Infringement Notice.

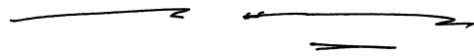
CERTIFICATE UNDER SECTION 74 OF THE LOCAL GOVERNMENT ACT 2020

I, **Mark Richard Hayes**, being a person who is:

- (a) an Australian lawyer who has been admitted to the legal profession for at least 5 years; and
- (b) not a Councillor of Colac Otway Shire Council

certify that, in my opinion, the draft Local Law attached to this Certificate and marked "MRH1" for identification is consistent with the local law requirements set out in section 72 of the *Local Government Act 2020*.

Dated: 21 August 2023



.....
Mark Richard Hayes
Maddocks

MRH1



LOCAL LAW No. 1

GENERAL LOCAL LAW 2023

LOCAL LAW ADOPTED BY COUNCIL: XX August 2023
OPERATION DATE: XX August 2023

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Schedule 159

COLAC OTWAY SHIRE
LOCAL LAW 1
GENERAL LOCAL LAW 2023
PART 1 – PRELIMINARY

1.1 Title

- (a) This Local Law (Local Law No. 1 – General Local Law 2023) will be known as the "General Local Law 2023" and is referred to subsequently as the "Local Law".

1.2 Purpose

- (a) The purpose of this Local Law is to:
- (1) provide for the peace, order and good government of the *municipal district*;
 - (2) promote a physical and social environment free from hazards to health and assets, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community;
 - (3) provide for the management of domestic and farm *animals* in a manner that promotes welfare and reduces nuisance, harm or environmental damage to residents and property;
 - (4) provide for the appropriate management of *Council Buildings* and *reserves*; and
 - (5) prevent and suppress nuisances which may adversely affect the enjoyment of life within the *municipal district* or the health, safety and welfare of *persons* and *animals* within the *municipal district*, by:
 - (i) regulating and controlling activities which may be dangerous, unsafe or cause detrimental impact on quality of life or the environment within the municipal district; and
 - (ii) providing standards and conditions for specified activities in order to reduce risk and increase safety.

1.3 The power to make this Local Law

- (a) This Local Law is made under section 71 (1) of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

1.4 Commencement

- (a) This Local Law commences on the day following the gazettal of the Local Law in the *Victoria Government Gazette*.

1.5 Area of Operation

- (a) This Local Law operates throughout the whole of the *Municipal District*, including public lands to the high water mark of inland lakes and foreshore *reserves*.
- (b) This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

1.6 Previous Local Laws

- (a) On commencement of this Local Law, the following Local Laws are revoked:
 - (1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013);
 - (2) Local Law No. 2 – General Local Law (September 2013); and
 - (3) Local Law No. 3 – Livestock (August 2013).
- (b) Any notice or consent given, or any business matter or thing commenced, made or done under the revoked Local Laws is not affected.

1.7 Local Law Cease to Operate

- (a) This Local Law ceases to operate on 23 August 2033, unless it is revoked sooner.

1.8 Incorporated documents, codes and policies

- (a) The following documents are incorporated into this Local Law in accordance with section 76 of the *Act*:
 - (1) Colac Otway Shire – Local Law No. 1 – General Local Law 2023 – Procedure Guidelines.
 - (2) AS4687-2007.
 - (3) Apiary Code of Practice.

1.9 Charter of Human Rights and Responsibilities

- (a) This Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

1.10 Definitions

- (a) Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

“Act” means the *Local Government Act 2020*.

“aircraft” means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface.

“alcohol” means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.

“allotment” means any land in separate ownership or occupation.

“animal” includes any mammal but excludes a human.

“applicant” means an applicant for a *permit* under this Local Law.

“appointed agent” means the *person* authorised in writing by an *owner* of land to make an application, appeal, referral or representation on the *owner’s* behalf.

“Asset Protection Permit” means a *permit* issued by *Council* under clause 5.9.

“Authorised Officer” means a *person* appointed by *Council* under section 224 of the *Local Government Act 1989* and includes all sworn members of the Victorian Police Force and Protective Services Officers so appointed.

“bird” means small birds suitable for domestic aviaries.

“builder” means:

- a builder under the *Building Act 1993*; and
- a builder under the *Domestic Building Contracts Act 1995*; and
- an *owner* of a *building site*.

“builder’s refuse” includes any solid or liquid domestic or *commercial waste*, debris or rubbish, and includes glass, metal, plastic, paper, fabric, wood, food, food wrappers and containers, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with *building work*.

“building site” means any land on which *building work* is being undertaken.

“building work” has the same meaning as:

- in the *Building Act 1993*; and
- domestic building work in the *Domestic Building Contracts Act 1995*

and includes building work that does not require a building permit.

“bulk rubbish container” means a bin, skip or other container used for the deposit of waste which is incapable of being lifted without mechanical assistance but excludes a bin used in connection with *Council’s* waste collection service.

“camping” means using a tent, *caravan*, articulated *recreational vehicle*, self-propelled self contained motor home, *vehicle* or any temporary form of accommodation (including sleeping bags or swags) for overnight sleeping.

“caravan” includes a mobile home and moveable *dwelling*.

“carriageway” means the portion of the *road* generally available for traffic by *motor vehicles*, whether sealed, formed or unconstructed.

“cattle” means any bull, cow, ox, steer, heifer, calf or buffalo.

“charity bin” means any bin placed by or on behalf of any charitable or non-profit organization and dedicated to the collection of used clothing or small household items.

“Chief Executive Officer” means the Chief Executive Officer of *Council*.

“commercial waste” means refuse, rubbish, slops or other waste matter arising from or generated by any commercial trade or industry.

“construction period” means the period during which *building work* is being carried on.

“contaminated material” means any material *prescribed* by *Council* as being incapable of deposit in a *Council*-approved mobile bin or other *Council*-provided bin or any class of such mobile or other bins.

“Council” means Colac Otway Shire Council.

“Council Building” means any building which is owned, occupied or under the management or control of *Council*, and includes any recreation centre which is owned, occupied or under the management or control of *Council*.

“Council controlled standpipe” means a water outlet owned and maintained by *Council* within the *municipal district* which is located in a *public place* and to which the public has access to water.

“Council infrastructure assets” include any *road*, drain, drainage infrastructure, kerb and channel, *nature strip*, street tree, street sign or any other property vested in or under the control of *Council*, which is:

- adjacent to a *building site*; or
- likely to be affected by *building work*.

“Council land” means any land vested in or under the control of *Council*, including a *reserve*, watercourse, jetty, reservation and the like but excludes a *road*, except that part of the *road* which is the *nature strip* and footpath.

“Designated Township Area” means the settlement areas of Alvie, Apollo Bay, Barwon Downs, Beeac, Beech Forest, Birregurra, Carlisle River, Colac, Coragulac, Cororooke, Cressy, Elliminyt, Forrest, Gellibrand, Kennett River, Lavers Hill, Marengo, Pirron Yallock, Separation Creek, Skenes Creek, Warrion, Wye River within the boundaries defined in the Colac Otway Shire Rural Living Strategy.

“droving of livestock” means the *movement of livestock* within or through the *municipal district* including supplementing feeding.

“dwelling” means a building or portion of a building which is used, or intended, adapted or designed for residential purposes.

“effective control” means control by a *person* or *persons* alone or using dogs, devices, fences or other equipment so as to ensure that *livestock* are not trespassing or endangering *persons* or objects.

“event” means a planned gathering of people for a specific purpose on *Council land*, where the number of people is greater than that normally found in that area or location at any one time. This activity may affect the location surrounding the area prior to, during or after the activity, and includes but is not limited to:

- sporting activities (but does not include a regular, locally focussed and organised sporting competition permitted by a user agreement);
- one off or annual events, such as fundraisers, religious meetings, weddings, functions, filming or broadcast activities, live performances and concerts, promotional activities or the like;
- markets;
- shows and exhibitions; and
- festivals.

“exemption” means an exemption issued by or under the authority of *Council* under this Local Law.

“Fire Danger Period” means the period declared by the Country Fire Authority to be a fire danger period under section 4 of the *Country Fire Authority Act 1958*.

“fire hazard” means anything that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of fire.

“frontage” means a boundary between an *allotment* and an adjoining *road*, and if an *allotment* adjoins more than one (1) *road* means the boundary between the *allotment* and the *road* to which the largest building on the *allotment* fronts.

“fully commingled recyclables” means, for the purpose of *Council's* waste collection service:

- glass bottles and jars;
- aluminium cans, food trays and foil;
- steel cans;
- steel aerosol cans;
- liquid paperboard containers;
- HDPE, PET and PVC bottles and containers;

- newspapers;
- magazines;
- leaflets and 'junk mail';
- stationary;
- envelopes;
- telephones books;
- cardboard (flattened);
- miscellaneous paper, including paper form a home office; and
- any other material that *Council prescribes* to be *fully commingled recyclables*.

“gender identity” means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person’s designated sex at birth.

“graffiti” means any writing, drawing or like marking which has not been authorised by the *owner* or *occupier* of the land or *Council*.

“Guidelines” means the Department of Transport and Planning Strategic Plan Guidelines for the Selection of Stock Crossing Sites and the Placement of Signs when Stock are on Roads.

“household waste” means, for the purpose of *Council's* waste collection service, all waste generated from residential and similar activities but excludes the following waste:

- *fully commingled recyclables*;
- organic waste;
- material *prescribed* by *Council* to be prohibited; and
- any other material that *Council prescribes* not to be household waste.

“incinerator” means any structure, device or item of equipment which is designed, adapted, used or capable of being used for the burning of any material or substance and is not:

- enclosed in any building;
- a barbeque; or
- licensed under the provisions of the *Environment Protection Act 2017*.

“Internal Infringement Review Panel” means *Council's* Internal Infringement Review Panel.

“intersex” means having physical, hormonal or genetic features that are:

- neither wholly female nor wholly male;
- a combination of female or male; or
- neither female nor male.

“livestock” means an *animal* (including a *bird*) of any species used in connection with primary production or kept for recreational purposes, other than a dog or cat.

“local water authority” means Barwon Region Water Authority or its successor in law.

“motor vehicle” has the meaning ascribed to it by the *Road Safety Act 1986*.

“movement of livestock” means individual or regular movement of *livestock*:

- as part of normal farm management operations of one farming enterprise but not for the purposes of grazing;
- from one property within the *municipal district* to another property within the *municipal district* or from or to one property in the *municipal district* to or from a property within an adjacent *municipal district*;
- at the rate of not less than one kilometre per hour in the direction of movement between the two properties;
- where the properties concerned are occupied by the one farming enterprise; and
- the movement is completed on the day of commencement.

“municipal district” means the municipal district of *Council*.

“nature strip” means that part of any *road* which adjoins the land and which is designed or intended for pedestrian traffic or use and includes a lawn or garden and a crossing.

“non-binary” means a *gender identity* that sits within, outside of, across or between the spectrum of the male and female binary but excludes *transgender*.

“Non-Rural Area” means any area within Colac, Elliminyt, Apollo Bay or any other *Designated Township Area prescribed by Council*.

“Notice to Comply” means a notice served under clause 14.2 of this Local Law.

“occupier” includes any *person* who is residing or using a property as its *owner* or tenant with or without consent of the titled *owner* of the land.

“organic waste” means, for the purpose of *Council’s* waste collection service, food organics as *prescribed by Council* and garden waste material, including:

- prunings, small branches (not greater than 100mm in diameter or 300mm in length), twigs and including cut up palm fronds;
- leaves, small plants and grass clippings; and
- weeds and flowers (free of soil).

“offence” means an act or default contrary to this Local Law.

“owner” means the owner of land or premises.

“Penalty” means the maximum fine that may be imposed by a court of appropriate jurisdiction.

“Penalty Unit” has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*.

“permit” means a permit in writing issued by or under the authority of *Council* under this Local Law.

“permit holder” is the *person* to whom a *permit* has been issued under this Local Law.

“person” has the same meaning as in section 38 of the *Interpretation of Legislation Act 1984*.

“person in charge” includes, in Part 5 a *builder*, site supervisor or foreman or other person who provides general directions on a *building site* or subdivision site.

“poultry” includes hens, roosters, ducks, geese, peacocks, turkeys, bantam, squab, guineafowls and other edible *birds* over the age of 12 weeks.

“prescribe” means determine and give notice:

- by public notice, published in a newspaper generally circulating in the *municipal district*; and
- on *Council’s* website.

“private land” means any land which is not *Council land* nor land occupied or under the control or management of a public body.

“procession” includes a fun run and bicycle *event*.

“public place” has the meaning ascribed to it by the *Summary Offences Act 1966*.

“recreational vehicle” means any mini-bike, trail-bike, motor bike, motor scooter, go-kart, monkey bike or other *vehicle* propelled by a motor which is ordinarily used for recreational purposes but excludes a motorised wheelchair or scooter designed to transport a *person* of limited mobility, and a motorised bicycle with a maximum capacity of 22 watt aggregate power.

“recyclables” means any substances or articles which *Council prescribes* to be recyclables for the purposes of this Local Law.

“refuse facility” means a receptacle capable of retaining all *builders’ refuse* within a *building site* and preventing removal of the *builder’s refuse* by unauthorised *persons* or by wind or rain.

“reptile” includes lizards, snakes and turtles.

“reserve” means any land which is owned, occupied or managed or controlled by *Council* and dedicated or used for outdoor cultural, environmental, sporting or recreational purposes.

“road” has the meaning ascribed to it by the *Local Government Act 1989*, and means:

- a street;
- a right of way;
- any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
- a public road under the *Road Management Act 2004*;
- a public highway;
- a bridge or ford;
- a footpath, bicycle path or *nature strip*; and
- any culvert or kerbing or other land or *works* forming part of the road.

“Rural Zone” means a zone designated by *Council* as a Rural Zone under the Colac Planning Scheme.

“Schedule” means a schedule to this Local Law.

“sealed container” means a container sealed at the point of manufacture.

“security bond” means a sum of money, or another means of security acceptable to *Council*, the amount of which has been determined by *Council*, after taking account of:

- the nature of the *building work*;
- likely costs that would be incurred for repairs to *Council infrastructure assets*, if damage does occur to them, during or as a result of the *building work*;
- requirements which are commonly applied in comparable situations; and
- any relevant Commonwealth or State government legislation or policy directives.

“sell” includes:

- sell by means of any machine or mechanical device;
- barter or exchange;
- agree to sell;
- offer or expose for sale;
- keep or have in possession for sale; and
- directing, causing or attempting any such acts or things.

“single farming enterprise” means a business of farming *livestock* run by one or more *persons* as a single business.

“stormwater system” means a drainage system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems, constructed wetlands and natural waterways.

“temporary structure” means a structure that is easily transportable, is able to be removed from site within 24 hours and does not have permanent footings.

“Total Fire Ban Day” means a day declared either totally or partially to be a fire ban day by the Country Fire Authority under the *Country Fire Authority Act 1958*.

“toy vehicle” means:

- a child's pedal car, scooter or tricycle or similar toy but only when it is being used by a child who is under the age of 12 years; and
- a wheeled device built to transport a *person*, propelled by human power or gravity and ordinarily used for recreation or play, including rollerblades, roller-skates, a skateboard or any similar wheeled device but excluding a golf buggy, pram, stroller, bicycle or wheelchair.

“trade waste” means any waste, refuse, slops or other matter arising from or generated by any trade or industrial undertaking.

“trade waste hopper” means a purpose-built receptacle for the deposit of *trade waste* that is ordinarily emptied by mechanical means.

“transgender” includes gender fluid, trans masculine, trans feminine and agender.

“unsightly and/or dangerous” means:

- dangerous or likely to cause danger to life or property because of the materials or substances that are kept;
- unsightly or detrimental to the general amenity of the neighbourhood because of rubbish, waste or other material giving the appearance that the land is neglected and out of character with other land in the vicinity;

- having dismantled *vehicles* or *vehicle* parts visible from an adjoining roadway or properties; or
- having any other matter which is offensive or unsightly.

“vacant private land” means land on which no *dwelling* is erected.

“vehicle” includes any conveyance propelled or drawn by human, *animal*, mechanical, electrical or other power.

“vehicle crossing” means the constructed surface between the *road* pavement and the property boundary for *vehicle* access to the property, including any footpath section, crossing culverts, kerb and channel or layback.

“weeds” means a plant described as a locally emergent pest plant as *prescribed* by *Council*.

“works” includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

1.11 Notes in this Local Law

- (a) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

PART 2 – USE OF COUNCIL LAND AND BUILDINGS

Introduction

This Part contains provisions that define what is and what is not allowed on *Council land*. Generally, the provisions apply to what are known as *Council Buildings*. Specific provisions then extend to *reserves*.

2.1 What Council may do

(a) *Council* may:

- (1) establish conditions of entry to a *Council Building*;
- (2) set and collect fees or charges for admission to or the hire or use of a *Council Building* or part of it;
- (3) set and collect fees or charges for the hire or use of any *Council* property in connection with a *Council Building*; and
- (4) authorise a *person* to do any one or more of the things described in sub-clauses (1) - (3) (inclusive).

2.2 What a person cannot do

(a) A *person* must not, without the consent of *Council* or an *Authorised Officer*:

- (1) act contrary to any conditions of entry applicable to a *Council Building*;
- (2) enter a *Council Building* without paying any admission fee or charge applicable to that *Council Building* or the hire or use of the *Council Building*;
or
- (3) hire or use any *Council* property in connection with a *Council Building* without first paying any fee or charge which is applicable.

2.3 Behaviour and Activities in *Council Buildings*

(a) A *person* must not:

- (1) commit any nuisance in a *Council Building*;
- (2) interfere with another *person's* use and enjoyment of a *Council Building*;
- (3) act in a manner which endangers any other *person* in a *Council Building*;
- (4) use indecent, insulting, offensive or abusive language in a *Council Building*;
- (5) behave in an indecent, offensive, insulting or riotous manner in a *Council Building*;
- (6) destroy, damage, interfere with or deface a *Council Building*;
- (7) destroy, damage, interfere with or deface anything located at, on or in a *Council Building*;

- (8) act in a manner contrary to any restriction or prohibition contained in the inscription on a sign at, on or in a *Council Building*;
- (9) deposit any litter in a *Council Building*, except in a receptacle provided for that purpose;
- (10) without the consent of *Council* or an *Authorised Officer*, sell any goods or services in a *Council Building*;
- (11) without the consent of *Council* or an *Authorised Officer*, erect, affix, place or leave any advertisement in a *Council Building*;
- (12) without the consent of *Council* or an *Authorised Officer*, erect, operate or cause to be erected or operated any amusement in a *Council Building*;
- (13) obstruct, hinder or interfere with any member of staff of *Council* in the performance of their duties in a *Council Building*;
- (14) act contrary to any lawful direction of an *Authorised Officer* or member of *Council* staff given in a *Council Building*, including, without limitation, a direction to leave the *Council Building*, whether or not a fee for admission to the *Council Building* has been paid;
- (15) use or interfere with any lifesaving or emergency device located in a *Council Building*, unless:
 - (i) using the device in an emergency; or
 - (ii) participating in an instruction approved by *Council* or an *Authorised Officer*;
- (16) organise any function or event in a *Council Building* without the consent of *Council* or an *Authorised Officer*;
- (17) bring any *animal* into, or allow any *animal* under their control to remain in, a *Council Building* without the consent of *Council* or an *Authorised Officer*, except for a guide dog being used by a visually impaired *person*, a hearing dog being used by a hearing impaired *person* or a dog being used to assist a *person* with limited mobility or health issues;
- (18) bring any *vehicle* or *toy vehicle* into a *Council Building* without the consent of *Council* or an *Authorised Officer*, except for:
 - (i) a pram or pusher being used by a child; or
 - (ii) a wheelchair or motor scooter being used by a physically disabled *person*; or
- (19) bring into a *Council Building* any substance, liquid or powder which may:
 - (i) be dangerous or injurious to health;
 - (ii) have the potential to foul, pollute or soil any part of the *Council Building*;
or

- (iii) cause discomfort to any *person*.

Penalty: A Maximum of 20 Penalty Units

2.4 Access to Council Buildings

- (a) *Council* or an *Authorised Officer* may:
- (1) determine the hours when any *Council Building* will be open to the public;
 - (2) restrict access to a *Council Building* or part of a *Council Building*;
 - (3) close any *Council Building* or part of a *Council Building* to the public; and
 - (4) charge fees for admission to a *Council Building* or part of a *Council Building*.
- (b) *Council* may:
- (1) authorise any *person* to occupy a *Council Building* or restrict access to a *Municipal Building*; or
 - (2) authorise any *person* to charge and collect fees for admission to or the use of a *Council Building* or part of a *Council Building*;
- (c) *Council*, an *Authorised Officer* or any *person* authorised by *Council* may from time to time establish:
- (1) conditions applying to and fees or charges for admission to or the hire or use of a *Council Building* or part of a *Council Building*; and
 - (2) conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Council Building*.
- (d) In exercising the powers conferred by sub-clause 2.4(a), *Council*, an *Authorised Officer* or any *person* authorised by *Council* may determine conditions applying to and fees and charges for admission to or the use of a *Council Building*:
- (1) on multiple occasions;
 - (2) over a period of time; or
 - (3) on any other basis that they consider appropriate.
- (e) A *person* must not, without the consent of *Council* or an *Authorised Officer*:
- (1) enter a *Council Building* other than through an entrance provided for that purpose;
 - (2) enter or remain in a *Municipal Building* during hours when the *Municipal Building* is not open to the public;
 - (3) enter or remain in a *Council Building* without having paid any fee or charge imposed by *Council*, an *Authorised Officer* or any *person* authorised by *Council* for admission to the *Council Building*;

- (4) remain in a *Council Building* after being directed to leave by an *Authorised Officer*; or
 - (5) enter a *Council Building* after having been directed to leave that *Council Building* by an *Authorised Officer*, until they are granted written permission to re-enter by *Council* or an *Authorised Officer*.
- (f) A person must not enter or use any dressing room, shower, convenience or other area in a *Council Building* which has been appropriated for persons of a *gender identity* that does not correspond with that person's *gender identity*, unless the person:
- (1) is a child under the age of ten (10) years in the care of an adult whose *gender identity* corresponds with the gender assigned to the area;
 - (2) is a carer providing assistance to a person with a disability;
 - (3) is *intersex*;
 - (4) is *transgender*; or
 - (5) identifies as *non-binary*.

Penalty: A Maximum of 20 Penalty Units

2.5 Activities Prohibited in a Reserve

- (a) In a *reserve*, a *person* must not:
- (1) enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering, unless that *person* is a player, official or competitor in or at a sporting match or gathering;
 - (2) act in any manner so as to endanger any other *person*, cause any damage to any property or the environment or interfere with the quiet enjoyment of the *reserve* by any *person*;
 - (3) use any children's playground equipment other than for the purpose for which it is provided;
 - (4) fish in or swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain contrary to any sign erected in the *reserve*;
 - (5) throw, place or allow to be thrown or placed any liquid, rubbish, dirt or other object, or substance into any wetland, lake, pond or fountain;
 - (6) play, engage in or practise any game or sport, whether or not in accordance with a *permit* issued under this Local Law, in a manner that is:
 - (i) dangerous to any other *person* in the *reserve*; or
 - (ii) likely to interfere with the reasonable use or enjoyment of the *reserve* by any other *person*;

- (7) play or practise golf in a *reserve* to the danger or detriment of any *person*, *animal* or property;
- (8) ride any horse other than in an area and at a time *prescribed* by *Council*; or
- (9) drive, ride in or on or otherwise use any *motor vehicle* other than in an area *prescribed* by *Council*.
- (10) enter a *reserve*, or part of a *reserve*, contrary to signage prohibiting access to the *reserve* or part of the *reserve*.

Penalty: A Maximum of 20 Penalty Units

2.6 Activities which may be permitted/allowed in a Reserve

- (a) In a *reserve*, a *person* must not, without a *permit* or the consent of an *Authorised Officer*:
 - (1) fly or allow or be flown any *aircraft* (including any powered modelled aeroplane, drone but excluding a kite);
 - (2) drive or ride a *vehicle* or *animal* in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *reserve* by another *person*;
 - (3) light a fire or allow any fire to remain alight except in:
 - (i) a barbecue provided by *Council*;
 - (ii) a portable liquid petroleum gas barbecue; or
 - (iii) a charcoal fuelled barbecue;
 - (4) organise any competitive sport, game, *event* or activity other than a sport, game, *event* or activity played for family or social purposes;
 - (5) camp or pitch, erect or occupy any camp, tent, *caravan* or *temporary structure*;
 - (6) place or erect any fence, gate or any other object that impedes the public access and use of any *Council land*;
 - (7) conduct or celebrate a wedding;
 - (8) organise or hold any rally, *procession*, demonstration or any other public gathering;
 - (9) make a collection of money;
 - (10) destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
 - (11) use an amplifier;
 - (12) walk on any plot, bed, border or any other area set aside for vegetation;

- (13) operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);
- (14) construct or install a film set, or record for television or other media purposes any *event* or activity, if the construction, installation or recording (as the case may be) is for fee or reward or commercial purposes (but excluding wedding and general photography or recording and any media photography or recording for news production purposes);
- (15) conduct any commercial activity; or
- (16) drive any *livestock*.

Penalty: A Maximum of 20 Penalty Units

Note: *Sub-clauses 2.6(a)(2), (3), (5), (6), (10) and (12) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

PART 3 – Consumption and Possession of *Alcohol*

Introduction

This Part deals with the consumption of *alcohol* and possession of *alcohol* other than in a *sealed container* in *public places*.

3.1 Consumption and Possession of *Alcohol*

- (a) A *person* must not, without a *permit*:
- (1) consume any *alcohol*; or
 - (2) have in their possession or control any *alcohol* other than *alcohol* in a *sealed container*
- in a *prescribed place*, in or at a *public place*, on a *road* or in or on a *vehicle* which is in or at a *prescribed place*.
- (b) Sub-clauses (a)(1) and (2) do not apply in places which are:
- (1) licensed premises within the meaning of *Liquor Control Reform Act 1998*;
 - (2) areas in which the consumption of *alcohol* is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1998* or this Local Law;
 - (3) areas in which *Council* has issued a *permit* for the consumption of *alcohol*; or
 - (4) areas specified in a notice signed by *Council's Chief Executive Officer* as being areas in which *alcohol* may be possessed and consumed if the possession or consumption occurs during a period specified in the notice.
- (c) Any notice referred to in sub-clause (b)(4) must be published on *Council's* website.
- (d) If an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened sub-clause (a), the *Authorised Officer* may direct the *person* to seal any container or dispose of the contents of any *unsealed container*.
- (e) A *person* to who fails to comply with a direction of an *Authorised Officer* under sub-clause (d) is guilty of an *offence*.
- (f) *Council* may *prescribe* any place for the purpose of sub-clause (a) including:
- (1) a prescription that applies on any day or between dates;
 - (2) a prescription that applies at any time or between times; or
 - (3) in any other way.

Note This clause enables *Council* to issue a Local Law permit to licensed premises to extend their licensed use from adjoining premises onto footpaths and is authorised under the Colac Planning Scheme.

PART 4 – PROTECTION OF COUNCIL LAND AND ASSETS

Introduction

This Part is designed to protect *Council land* and assets. Specifically, it regulates drains, *vehicle crossings*, standpipes, watercourses and *recreational vehicles*.

4.1 Protection of drains.

- (a) A *person* must not, without a *permit*, enter, destroy, damage or tap into any drain or culvert vested in *Council* or divert the contents of any such drain or culvert.

Penalty: A Maximum of 20 Penalty Units

- (b) A *person* must not deposit, or allow to be deposited, into any drain vested in *Council* any waste material other than stormwater.

Penalty: A Maximum of 20 Penalty Units

4.2 Legal Point of Discharge

- (a) An *owner* of land must ensure that any stormwater from that land is discharged to the legal point of discharge nominated by *Council* or an *Authorised Officer*.

Penalty: A Maximum of 20 Penalty Units

4.3 Interference with Watercourse

- (a) A *person* must not, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of *Council*.
- (b) A *person* must not, without a *permit*, divert the contents of any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of *Council*.

Penalty: A Maximum of 20 Penalty Units

4.4 Taking water from *Council Controlled Standpipes*

- (a) A *person* must not, without a *permit*, take water from a *Council controlled standpipe*, other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a *Total Fire Ban Day*.

Penalty: A Maximum of 20 Penalty Units

4.5 Constructing *Vehicle Crossings*

- (a) A *person* must not, without a *permit*, construct, remove or relocate any temporary or permanent *vehicle crossing(s)*.
- (b) Each *owner* and *occupier* of land must not, without a *permit*:
- (1) construct or allow to be constructed; or

- (2) use or allow to be used

a second or subsequent *vehicle crossing* to service the land.

Penalty: A Maximum of 20 Penalty Units

4.6 Maintaining *Vehicle Crossings*

- (a) Each *owner* and *occupier* of land must maintain and keep in good condition any *vehicle crossing(s)* which services that land.

Penalty: A Maximum of 20 Penalty Units

4.7 Directing *Vehicle Crossing Works*

- (a) *Council* or an *Authorised Officer* may direct the *owner* or *occupier* of land to:
 - (1) construct a temporary or permanent *vehicle crossing*;
 - (2) repair or reconstruct a *vehicle crossing*; or
 - (3) remove a *vehicle crossing*, and reinstate any kerb, channel, footpath or other area, to the satisfaction of the *Authorised Officer* or the *owner* or *occupier* of any adjacent land at their cost.
- (b) The *owner* or *occupier* of land to whom a direction has been given under this clause must first apply to *Council* for a *permit* to do the thing which is directed.

Penalty: A Maximum of 20 Penalty Units

4.8 Damaging *Council Land or Roads*

- (a) A *person* must not, without a *permit*:
 - (1) erect or construct, or allow to be erected or constructed, any thing on *Council land* or a *road* that is inconsistent with an adopted *Council* policy or adopted precinct specific plan published on *Council's* website, or where mechanical plant is used for excavation;
 - (2) occupy or fence off any *Council land*;
 - (3) construct an opening or gate in a fence on the boundary of *Council land* which is more than one (1) metre wide, excluding driveways from access *roads*;
 - (4) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, (other than recognised *weeds*) any *Council land* or any *road* or thing on *Council land* or any *road*;
 - (5) place, or allow to be placed, any thing on *Council land* or any *road* so as to endanger any other *person* or any property;
 - (6) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a *road* and thereby become a hazard;

- (7) remove, or allow to be removed, any thing from *Council land* or any *road* which is affixed or attached to the *Council land* or *road* (as the case may be);
- (8) light a fire, or allow a fire to be lit, on any *Council land* or any *road*, except in a properly constructed barbecue; or
- (9) launch into any wetland, lake, pond or other watercourse on *Council land* any watercraft excluding canoes, kayaks and surf paddles, other than from a launching facility designated for such purpose.

Penalty: A Maximum of 20 Penalty Units

Note: *Sub-clauses 4.8(a)(1), (2), (3), (4), (7) and (8) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

4.9 Nature Strips

- (a) An *owner* or *occupier* of land that is not in a *Rural Zone* must ensure that the *nature strip* directly outside that land:
 - (1) is maintained in a neat and tidy condition; and
 - (2) does not contain grass, stubble, scrub or undergrowth exceeding 30 centimetres in height.
- (b) Subject to sub-clause (a) an *owner* or *occupier* of land must not, without a *permit*, alter, or allow to be altered or remain altered, any *nature strip*.

4.10 Recreational Vehicles on Council Reserves

- (a) A *person* must not:
 - (1) drive, ride on or otherwise use; or
 - (2) allow a *person* under their care or control to drive, ride on or otherwise use a *recreational vehicle* on any *reserve* unless that *reserve* has been *prescribed* for that purpose or otherwise authorised by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 5 – BUILDING SITES

Introduction

This Part contains provisions that control construction movements and construction waste on *building site(s)*. It also handles issues around *building sites* such as mud and debris on *roads*, stormwater runoff, and the preservation of some *Council* assets.

5.1 **Building Work or Works**

- (a) During *building work* the *person in charge* of that *building work* must ensure that it is carried out so:
- (1) as not to emit excessive dust into the air and onto land proximate to the land on which the *building work* is carried out; and
 - (2) that it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the *building work* is carried out.

Penalty: A Maximum of 20 Penalty Units

5.2 **Fencing of Building Sites**

- (a) Prior to the commencement of any *building work* on land that is in a residential zone, commercial zone or industrial zone, and less than 1,500m² in size, the *person in charge* of the *building work* must ensure that a site fence is erected on each individual site that:
- (1) complies with AS4687-2007;
 - (2) is not less than 1,500mm in height and not greater than 2,000mm in height;
 - (3) will prevent windblown *trade waste* and litter from being transported from the site; and
 - (4) will not have more than one access opening to the site which is;
 - (i) not greater than 2,800mm in width;
 - (ii) fitted with gates that are the same height as the associated fence that will prevent windblown refuse and litter being transported from the site;
 - (iii) located to correspond with the location of the temporary *vehicle crossing* for the *building site*; and
 - (iv) kept closed at all times when *works* are not in progress.
- (b) If the *person in charge* of the *building work* has multiple and adjoining sites where *building work* is being undertaken simultaneously, the site fence may enclose all of those sites, and one access opening is allowed per *allotment*.

- (c) No part of the site fence, including support feet, must be allowed by the *person in charge* of the *building work* to protrude into or onto any land other than the *building site* on which the *building work* is occurring.
- (d) The *person in charge* of the *building work* must ensure that the site fence is maintained in accordance with AS4697-2007 and remains erected until the completion of the *building work*.

Penalty: A Maximum of 20 Penalty Units

5.3 Stormwater Protection at *Building Sites*

- (a) Where any *building work* is being carried out on any land, the *person in charge* of the *building work* must ensure that the *building site* is developed and managed to minimise the risk of stormwater pollution through the contamination of run-off by chemicals, sediments, *animal* waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:
 - (1) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* or washed into the *stormwater system*; and
 - (2) prevent building clean-up, wash-down or other wastes being discharged off-site or allowed to enter the *stormwater system*.

Penalty: A Maximum of 20 Penalty Units

5.4 Controlling *Trade Waste* and Building materials at *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must:
 - (1) provide a *refuse facility* for depositing *trade waste* and litter, which must:
 - (i) be maintained in working order by having a functioning lid that effectively contains all the *trade waste* and litter; and
 - (ii) be not less than 1.5 cubic metres in volume;
 - (2) ensure *trade waste* and litter is efficiently and effectively deposited into the *refuse facility*;
 - (3) keep the *refuse facility* in place until the *building work* is complete, except when it is necessary to remove the *refuse facility* for the purpose of emptying it;
 - (4) ensure all aspects of the *refuse facility* are within the *building site*;
 - (5) ensure all building materials are contained within the *building site*;
 - (6) ensure that all lightweight materials on the *building site* are secured at all times so that any materials cannot become airborne; and

- (7) ensure the *refuse facility* is removed from the *building site* within seven (7) days of completion of the *building work* or issue of an occupancy *permit* or certificate of final inspection, whichever occurs last.

Penalty: A Maximum of 20 Penalty Units

5.5 Controlling Mud, Dirt and Debris from *Building Sites*

- (a) Prior to the commencement of and during any *building work*, the *person in charge* must ensure unsecured mud, dirt and debris is not carried from a *building site* by any *vehicle* or persons.

Penalty: A Maximum of 20 Penalty Units

5.6 Managing a Building or Subdivision Site

- (a) Prior to the commencement of any *building work* the *person in charge* of the *building work* must provide *Council* with their contact details.
- (b) If, prior to the completion of the *building work*, there is a change of *person in charge*, the new *person in charge* must, within (7) days of that change, notify *Council* of their contact details.
- (c) Prior to the commencement of any subdivision work the *person in charge* of the *building work* must erect a sign at each access gate to the subdivision which:
- (1) is at least 800mm in height and 1,200mm in width;
 - (2) is securely placed in such a location that makes it clearly visible and legible from the *road*;
 - (3) contains the name, postal address and a business contact telephone number of the person in charge of the subdivision work, which can be reached between 9am and 5pm on working days; and
 - (4) is displayed until completion of the subdivision work.

5.7 Inspection of *Building Sites*

- (a) An *Authorised Officer* may inspect a *building site* or subdivision site at any reasonable time.
- (b) If, as a result of an inspection of a *building site* or subdivision site, an *Authorised Officer* identifies any failure to comply with this Local Law, the *Authorised Officer* may verbally direct the *person in charge* to remedy the failure to comply within a specified time, and must provide the *person in charge* with written confirmation of the verbal direction and details of the failure to comply, either at the time of the inspection or within a reasonable timeframe.
- (c) A *person in charge* to whom a direction is given under sub-clause (b) must comply with that direction.

5.8 Controlling Asset Protection during *Building Works* or Work

(a) The:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*;
- (4) driver of any *vehicle* involved in placing or removing a *refuse facility* on land;
or
- (5) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must, in respect of the *building work* or *works*, ensure that:

- (i) entry takes place only across a temporary *vehicle* crossing unless otherwise allowed by *Council* and in accordance with that permission; and
- (ii) no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

Penalty: A Maximum of 20 Penalty Units

5.9 Asset Protection and *Building Work*

(a) Regardless of whether a building *permit* or planning permit has been issued, the:

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) *appointed agent*; or
- (4) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition,

must, at least seven (7) days before commencing any *works* on the land:

- (i) obtain an *Asset Protection Permit*;
- (ii) advise *Council* in writing of any damage that exists to any *Council infrastructure assets*; and
- (iii) pay, or lodge, a *security bond* to, or with, *Council*.

Penalty: A Maximum of 20 Penalty Units

5.10 Controlling *Building Sites*

(a) *Council* or an *Authorised Officer* may inspect a *building site* at any reasonable time.

- (b) If *Council* or an *Authorised Officer* identifies any damage which appears to result from non-compliance with this Local Law, an *Authorised Officer*:
- (1) may direct the responsible party to reinstate the damage within a specified time; and
 - (2) must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
- (c) A *person* to whom a direction is given under sub-clause (b)(1) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

- (d) Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out the *building work* on the land or *appointed agent* must:
- (1) provide a *refuse facility* for the purpose of disposal of *builder's refuse* to the satisfaction of *Council* or an *Authorised Officer*;
 - (2) place the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;
 - (3) not place the *refuse facility* on any *Council land* or *road* without a *permit*; and
 - (4) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

Penalty: A Maximum of 20 Penalty Units

PART 6 – CAMPING

Introduction

In this Part, the provisions regulate the *camping* on privately owned land, vacant land and *camping* on *Council land* or in *public places*.

6.1 **Camping General**

(a) Prior to the commencement of any *camping*, a *person* must obtain a *permit* to camp from *Council*, if required to do so by this Local Law, unless the land is a:

- (1) registered *caravan* park or *camping* ground; or
- (2) *camping* area approved by *Council*.

Penalty: A Maximum of 20 Penalty Units

(b) An *owner* or occupier of land who allows *camping* on that land must ensure that the *camping* is not a nuisance and does not unreasonably interfere with the enjoyment to any *person* of land proximate to the land on which the *camping* is carried out.

Penalty: A Maximum of 20 Penalty Units

6.2 **Camping on Council Land or in a Public Place**

(a) A *person* must not camp on *Council land*, a *public place* or *road reserve* unless a *camping permit* has been issued by *Council* and is in force under this Local Law.

(b) Clause (a) does not apply to:

- (1) land where *camping* is authorised under the *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*; or
- (2) *camping* for less than twenty four (24) hours in an area where *Council* has determined that overnight *camping* is permitted.

Penalty: A Maximum of 20 Penalty Units

6.3 **Camping on Privately Owned Land where a Dwelling is Erected**

(a) A *person* must not camp on *private land*, unless a *permit* has been issued by *Council* and is in force under this Local Law.

(b) Sub-clause (a) does not apply if the *owner* of the land has authorised the *camping*, and the *camping* is:

- (1) for not more than a total of six (6) months in any calendar year; or
- (2) not occurring within a distance of one (1) metre from the side or rear boundaries of the land; and
- (3) not occurring within 30 metres of a waterway.

Penalty: A Maximum of 20 Penalty Units

6.4 *Camping on Vacant Private Land*

- (a) The *owner* or *occupier* of *vacant private land* must not, without a *permit*, occupy or allow any other *person* to occupy a *caravan*, tent, tiny house/movable *dwelling* or motor home on that land unless the following conditions are met:
- (1) the occupation does not exceed four (4) consecutive weeks;
 - (2) the occupation is not more than a total of three (3) months in any calendar year;
 - (3) no rent, licence fee or charge is paid by any *person* in respect of the occupation;
 - (4) the *caravan*, tent, tiny house/movable *dwelling* or motor home is not located within:
 - (i) one (1) metre of any boundary of the land; or
 - (ii) 30 metres of a waterway.
 - (5) the *caravan*, tent, tiny house/movable *dwelling* or motorhome is vacated on a day of Total Fire Ban; and
 - (6) the *vacant private land* has adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.

Penalty: A Maximum of 20 Penalty Units

6.5 *Exemption*

- (a) *Council* or an *Authorised Officer* may from time to time exempt any:

- (1) *person*;
- (2) class of *person*;

from the requirement to obtain a *permit* under sub-clauses 6.2 - 6.4 (inclusive) and from the application of sub-clauses 6.1, 6.2, 6.3 and 6.4.

PART 7 – MUNICIPAL AMENITY

Introduction

This Part is concerned with the visual amenity of the *municipal district*. Its provisions control a number of activities which, if left uncontrolled, have the potential to detract from the natural environment.

7.1 Dangerous Land or Detriment to General Amenity

- (a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not allow that land to be kept in an *unsightly and/or dangerous* condition.

Penalty: A Maximum of 20 Penalty Units

7.2 Prohibition on Graffiti

- (a) Unless permitted under a Planning Scheme applicable to the land, each *owner* or *occupier* of land must not allow any *graffiti* to remain on any building, wall, fence or other structure erected on their land.

Penalty: A Maximum of 20 Penalty Units

7.3 Obstruction on Land - Vegetation and other Objects

- (a) A tree or plant, fencing or a sign or other similar object must not be planted or located on a *person's* property so that it obstructs or interferes with pedestrian or vehicular traffic because it:
- (1) overhangs a property boundary onto a footpath or other part of the *road* used by pedestrians limiting safe access or likely to cause injury or damage;
 - (2) extends over any part of the road or on the boundary of a *road* so that it:
 - (i) obstructs the view between drivers of *vehicles* at an intersection;
 - (ii) obstructs the view between drivers of *vehicles* and pedestrians;
 - (iii) obscures a traffic control item from the driver of an approaching *vehicle(s)* or pedestrian(s); or
 - (iv) obscures street lighting; or
 - (3) constitutes a danger to *vehicles* or pedestrians or compromises the safe and convenient use of the *road*.

Penalty: A Maximum of 20 Penalty Units

7.4 Overhanging Vegetation

- (a) Notwithstanding sub-clause 7.3, an *owner* or *occupier* of any land must not allow a tree, shrub, hedge, or other vegetation on that land to overhang a *road* at a height of less than 2.4 metres from the surface of the *road*.

Penalty: A Maximum of 20 Penalty Units

7.5 Vegetation on Road and Council Owned/Managed Land

- (a) *A person:*
- (1) must not, without a *permit*, plant or allow to be planted any seedling or vegetation on a *road* other than:
 - (i) plants that are consistent with an adopted *Council* policy that is published on *Council's* website;
 - (ii) plantings specified in an adopted precinct specific plan published on *Council's* website; and
 - (iii) grass; or
 - (2) must not, without a *permit*, use mechanical plant or equipment for excavation when planting or removing plants on a *road* or *Council land*; and
 - (3) who is the *owner* or *occupier* of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds prescribed* by *Council* are contained to their land and not encroaching on *Council land*.

Penalty: A Maximum of 20 Penalty Units

7.6 Numbering of Allotments

- (a) *Council* or an *Authorised Officer* may from time to time allot a number to an *allotment* and may from time to time allot a different number to an *allotment* or otherwise change the numbering.
- (b) The *owner* or *occupier* of an *allotment* to which a number has been allotted by *Council* or an *Authorised Officer* must mark the *allotment* with the number in:
- (1) a sufficient size; and
 - (2) such a position, clear of vegetation, and other obstructions
- so as to be clearly visible and legible from the *road* on which the *allotment* has its *frontage*.

Penalty: A Maximum of 20 Penalty Units

- (c) The *owner* or *occupier* of an *allotment* must ensure that all numbers marking the *allotment* are:
- (1) made of durable materials;
 - (2) kept in a good state of repair; and
 - (3) renewed as often as may be necessary.

Penalty: A Maximum of 20 Penalty Units

7.7 Recreational Vehicles on Private Land

(a) A person:

- (1) must not, drive, ride on or otherwise use any *recreational vehicle* on *private land* in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any *person* of land proximate to the land on which the *recreational vehicle* is being used; and
- (2) who is the *occupier* of any *private land* must not allow a *person* to drive, ride on or otherwise use any *recreational vehicle* on that land in a manner which constitutes a nuisance or unreasonably interferes with the enjoyment by any *person* of land proximate to the land on which the *recreational vehicle* is being used.

Penalty: A Maximum of 20 Penalty Units

7.8 Shopping Trolleys

(a) The owner of any shopping trolley that is made available to members of the public must ensure that the shopping trolley legibly identifies the owner's business name and trading address.

Penalty: A Maximum of 20 Penalty Units

(b) A person must not leave a shopping trolley on:

- (1) a road;
- (2) *Council land* except in an area designated by *Council* for the leaving of shopping trolleys; or
- (3) any vacant land.

Penalty: A Maximum of 20 Penalty Units

PART 8 – FIRE HAZARDS

Introduction

The purpose of this Part is to set out the requirements to manage, control and regulate activities and uses of land that may be dangerous, cause nuisance or damage to others and/or the environment, and could affect the health and safety or amenity of others.

8.1 *Fire Hazards*

- (a) An *owner* or *occupier* of land must not allow the land to contain any thing which constitutes or is likely to constitute a *fire hazard*, and ensure that:
- (1) all necessary steps are taken to;
 - (i) prevent fire on; and
 - (ii) minimise the possibility of spread of fire from that land ; and
 - (2) the land is kept free of material or substances likely to assist the spread of fire.

Note: For the purpose of this clause “material or substances” includes undergrowth, scrub, bracken ferns, weeds, stubble and grass.

Penalty: A Maximum of 10 Penalty Units

8.2 *Open Air Fires and Incinerators*

- (a) A *person* must not, without a *permit*, light a fire in the open air or in an *incinerator* on any land in an area *designated* by *Council* (or if no area has been *designated* by *Council* then in a *Designated Township Area*) on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.
- (b) The open air fire and the matter being burnt must occupy no more than 1 cubic metre of land and space, and must be dried vegetation only.
- (c) A *person* must not light a fire during a *Fire Danger Period*.
- (d) A *person* must not, without a *permit*, light a fire in the open air on any *Council land* or in any *public place*.
- (e) The requirement to obtain a *permit* does not apply to:
- (1) a *person* lighting a barbeque or similar appliance for cooking food; or
 - (2) a constructed fireplace, recreational fire pit or brazier; or
 - (3) a fire that is authorised or directed to be lit under any other legislation.

- (f) A *person* must not light a fire in the open air or an *incinerator* to burn any material or substance that could cause a nuisance to any other *person* or could harm or damage a *person's* health.

Penalty: A Maximum of 20 Penalty Units

8.3 Fire Danger Days

- (a) Nothing in sub-clause 8.2 authorises a *person* to light a fire, or allow a fire to be lit or remain alight:
- (1) during a *Fire Danger Period*; or
 - (2) on a day where the air quality category is poor, very poor or extremely poor as declared by the Environment Protection Authority.

Penalty: A Maximum of 20 Penalty Units

8.4 Nuisances

- (a) A *person* must not burn or cause or allow to be burned any substance, either in the open air or within a structure, if the burning of the substance is likely to:
- (1) cause a nuisance;
 - (2) be dangerous to the health of any *person*; or
 - (3) be offensive to any *person*.

Penalty: A Maximum of 20 Penalty Units

- (b) A *person* must not burn, or cause, or allow to be burned any:
- (1) rubber or plastic substance;
 - (2) waste petroleum oil or material containing waste petroleum oil;
 - (3) paint or receptacle which contains or has contained paint;
 - (4) manufactured chemical or chemically treated material;
 - (5) pressured container;
 - (6) textile fabric;
 - (7) food waste; or
 - (8) batteries.

Penalty: A Maximum of 20 Penalty Units

8.5 Extinguishing Fires

- (a) A *person* who has lit or allowed a fire to be lit or remain alight, or who has burned or caused or allowed to be burned any substance, contrary to sub-clause 8.1 or

8.2 must extinguish the fire or burning substance immediately on being directed to do so by:

- (1) an *Authorised Officer*;
- (2) a member of the Victoria Police;
- (3) an officer of the Country Fire Authority; or
- (4) an officer in charge of a Country Fire Authority Brigade.

Penalty: A Maximum of 20 Penalty Units

(b) Any *person* described in sub-clause 8.5(a)(1), (2), (3) or (4) may enter or remain on any land and extinguish any fire or burning substance if:

- (1) the *person* to whom a direction has been given under sub-clause (a) fails immediately to extinguish the fire or burning substance; or
- (2) a fire or an *incinerator* is apparently unattended.

Penalty: A Maximum of 20 Penalty Units

8.6 Permissible Burning

(a) Notwithstanding anything else contained in this Local Law:

- (1) an *Authorised Officer*;
- (2) an officer of the Country Fire Authority; or
- (3) an officer in charge of a Country Fire Authority Brigade:

may authorise the burning of a *fire hazard* on any land if it is impracticable or dangerous to remove, slash or cut the *fire hazard*.

Penalty: A Maximum of 20 Penalty Units

8.7 Discharging Into Air

(a) An *owner* or *occupier* of land must not cause or allow any chimney, flue or other discharge outlet on that land to discharge any:

- (1) dust;
- (2) grit;
- (3) ashes; or
- (4) odours

to such an extent that the discharged material is dangerous to health or a nuisance to any other *person*.

Penalty: A Maximum of 20 Penalty Units

PART 9 – ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

Introduction

In this Part, the emphasis is on things which interfere with the use and enjoyment of *roads* and *Council land*.

9.1 Spoil on Roads

(a) A *person* must not:

- (1) drive; or
- (2) allow or cause to be driven

a *vehicle* on a *road* if the *vehicle* is being or has been used directly or indirectly in:

- (3) the filling or excavation of any land; or
- (4) *building work*

unless the exterior of the *vehicle* is free from soil, earth and clay.

Penalty: A Maximum of 20 Penalty Units

9.2 Repair of Vehicles

(a) A *person* must not dismantle, paint, carryout maintenance or repair a vehicle on *Council land* or *road* except for an emergency or where it is necessary to enable the *vehicle* to be removed.

Penalty: A Maximum of 20 Penalty Units

9.3 Sale of Vehicles

(a) A *person* must not, without a *permit*, park or cause a *vehicle* to be parked or left standing on any *road* or other *public place* for the purpose of exposing or displaying that *vehicle* for sale.

(b) A *person* must not, without a *permit*, park any *vehicle* which has advertising painted or stuck directly onto it, or in any way attached to the body of the *vehicle*, with the intention of advertising by directing a *person* to a business, on *Council land* or a *road*, or in a *public place*.

Penalty: A Maximum of 20 Penalty Units

9.4 Abandoned Vehicles

(a) A *person* must not leave standing on any *road* or *Council land* a *motor vehicle*:

- (1) which is unregistered; or
- (2) which has been left standing for at least seven (7) consecutive days and gives the appearance of having been abandoned.

Penalty: A Maximum of 20 Penalty Units

9.5 Storage of *Caravans* and Trailers in *Public Places*

- (a) A *person* must not allow any *caravan* or trailer that is currently registered or having a permit from Department of Transport and Planning, or any other relevant authorities, to be left standing continuously in a *public place* or places for a period in excess of fourteen (14) consecutive days.
- (b) The *caravan* or trailer may not be removed to another *public place* to immediately commence a further fourteen (14) day period.

Penalty: A Maximum of 20 Penalty Units

9.6 Public Events

- (a) A *person* must not, without a *permit*, hold an *event* in public spaces or on *roads* owned or managed by *Council*.

Penalty: A Maximum of 20 Penalty Units

PART 10 – SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS

Introduction

This Part is concerned with commercial activities on *Council land* and *roads*. It establishes a *permit* system to regulate these commercial activities.

10.1 Commercial Activities on *Council Land*

- (a) A *person* must not, without a *permit*, conduct commercial activities on a footpath, *road reserve*, *Council land* or *public place* where that *person* proposes to use a footpath, *road reserve*, *Council land* or *public place* for:
- (1) outdoor eating;
 - (2) displaying goods or services for sale;
 - (3) placing signs and/or advertising goods and services for sale; or
 - (4) placement of signage on a *vehicle*.
- (b) A *person* must not, without a *permit*:
- (1) erect a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or
 - (2) trade from *Council land* or a *road* where trading is to be done from a *vehicle*, stall or any other *temporary structure* and irrespective of whether trading is on a permanent or casual basis.

Penalty: A Maximum of 20 Penalty Units

10.2 Collections, Subscriptions and Raffles

- (a) A *person* must not, without a *permit*, or permission from an *Authorised Officer*, solicit to collect:
- (1) on a *road*;
 - (2) on *Council land*; or
 - (3) from any *dwelling*,
- any gifts, donations, or subscriptions for any purpose or cause nor authorise another *person* to do so.

Penalty: A Maximum of 20 Penalty Units

- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

10.3 Unsolicited Material

- (a) A *person* must not, without a *permit* or approval from an *Authorised Officer*, distribute any handbills, placecards, notices, advertisements, books, pamphlets, goods, gifts or samples to any *person* on any *road* or *Council land*.
- (b) Nothing in sub-clause (a) applies to any *person* who is acting under or with the authority of an Act or Regulation.

Penalty: A Maximum of 20 Penalty Units

10.4 Busking

- (a) A *person* must not, without a *permit*, busk on any:
 - (1) *road*; or
 - (2) *Council land*; or
 - (3) a *public place*

with the object, or apparent object, of collecting money.

Penalty: A Maximum of 20 Penalty Units

10.5 Spruiking

- (a) A *person* must not, without a *permit*, spruik on any:
 - (1) *road*; or
 - (2) *Council land*,

with the object, or apparent object, of attracting custom.

Penalty: A Maximum of 20 Penalty Units

10.6 Pavement Art

- (a) A *person* must not, without a *permit*, paint or draw on any *Council land*, including a *road* or any property belonging to *Council*, for the purpose of public entertainment, performance or the collection of money.

Penalty: A Maximum of 20 Penalty Units

PART 11 – ANIMALS AND LIVESTOCK

Introduction

In this Part, the provisions regulate the *movement of livestock* and keeping of *animals, birds, reptiles* and bees.

11.1 Application of this Part

(a) This Part does not apply to any land on which:

- (1) a pet shop is located;
- (2) an *animal* hospital or veterinary practice is located; or
- (3) there exists another like facility, the operation of which is subject to the provisions of a code of practice,

if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land.

11.2 Keeping of *Animals, Birds, Reptiles* and Bees Generally

(a) Unless permitted under a Planning Scheme applicable to the land, an *owner* or *occupier* of land must not keep or allow to be kept on that land, and any other *person* must not keep or allow to be kept on the land, any *animal, bird, reptile* or bee in such a manner as to:

- (1) be offensive;
- (2) be dangerous;
- (3) be injurious to health; or
- (4) cause a nuisance.

Penalty: A Maximum of 20 Penalty Units

11.3 Number of *Animals*

(a) An *owner* or *occupier* of land must not, without a *permit*, keep or allow to be kept any more in number for each type of *animal* as is set out in the following table:

	<i>Animal</i>	<i>Property Size</i> <i>up to 0.25 (ha)</i>	<i>Property Size</i> <i>0.25 (ha) to 1(ha)</i>	<i>Property Size</i> <i>1 (ha) and above</i>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5
c	<i>Poultry</i>	10	20	No <i>Permit</i> Required

	<i>Animal</i>	<i>Property Size up to 0.25 (ha)</i>	<i>Property Size 0.25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
d	Roosters	<i>Permit Required</i>	<i>Permit Required</i>	No <i>Permit Required</i>
e	Pigeons	10	20	No <i>Permit Required</i>
f	Sheep or Goats	<i>Permit Required</i>	8	No <i>Permit Required</i>
g	<i>Cattle/Horses and other large animals</i>	<i>Permit Required</i>	4	No <i>Permit Required</i>
h	Pigs	<i>Permit Required</i>	<i>Permit Required</i>	No <i>Permit Required</i>
i	<i>Reptiles</i>	Subject to the issuing of a licence by the Department of Energy, Environment and Climate Action (DEECA) or other relevant authority		
j	Bees	Subject to hives being licensed with Agriculture Victoria and complying with the Apiary Code of Practice.		

- (b) For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a *permit* under sub-clause (a), the progeny of any *animal* will, for 12 weeks after the birth, be deemed not to be an *animal*.
- (c) In *relation* to the keeping of *poultry* (including Roosters) and Pigeons a *permit* will not be required by *owners* who are current financial members of a relevant Club or Organisation and abide with the relevant code of practice.

Penalty: A Maximum of 20 Penalty Units

11.4 *Animal Control (Housing of Animals)*

- (a) An *owner* or *occupier* of land must ensure that any *animal* and *birds* on that land are kept in a secure shelter or enclosure or confined to the land unless they are under the *effective control* of a *person*.
- (b) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have *effective control* of that *animal*.

Penalty: A Maximum of 20 Penalty Units

11.5 *Animal Excrement*

- (a) The owner or *person* in charge of an *animal* must, while on *Council land* or a *road* or in a *public place*, have in their possession a bag or container which can be used for the collection of that *animal's* excrement, and immediately collect and remove excrement.

Penalty: A Maximum of 20 Penalty Units

11.6 *Feeding of Wild Animals*

- (a) If the feeding of an uncaged *bird* and/or any *animal* by a *person* is causing a nuisance or damage to property or creating a risk to health, an *Authorised Officer* may direct the *person* to cease feeding the *bird* and/or *animal*.

- (b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.7 Shelters for *Animals*

- (a) The *owner* or *occupier* of land must ensure that any structure on that land used for housing any *livestock*, small *bird*, large *bird*, rodent or *reptile* or any other *animal* and the area within three (3) metres of such structure is maintained:
- (1) in a clean, inoffensive and sanitary condition; and
 - (2) so that it does not cause any nuisance.
- (b) The *owner* or *occupier* of land on which there is an *animal* shelter must maintain that *animal* shelter so that:
- (1) manure and other waste do not remain on the land;
 - (2) food is kept in fly and vermin proof container;
 - (3) adequate drainage of the land is provided;
 - (4) grass, *weeds*, refuse, rubbish and other material does not build up within three (3) metres of the *animal* shelter; and
 - (5) the *animal* shelter and the land are kept in a clean and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

11.8 Adequate Fencing for *Livestock*

- (a) An *owner* or *occupier* of land on which *livestock* are kept must ensure that the fencing of any *cattle* grids relating to that land is or are adequate to prevent the escape of that *livestock*.
- (b) Where an *Authorised Officer* gives a *Notice to Comply* to an *owner* or *occupier* of land who appears to be in breach of sub-clause (a), the *Authorised Officer* may direct that *person* to immediately remove the *livestock*, or install, repair, replace or modify the fencing or *cattle* grids, including through the installation or repair of gates.
- (c) A *person* to whom a direction is given under sub-clause (b) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

11.9 Grazing or *Droving* of *Livestock*

- (a) A *person* must not, without a *permit*, drove or graze *livestock* on a *road* or *Council land*.

11.10 Droving of Livestock within the Municipal District

- (a) A *person* must not, without a *permit*, move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property.

Penalty: A Maximum of 20 Penalty Units

11.11 Bees and Wasps

- (a) An *owner* or *occupier* of *private land* on which bees are kept must comply with the Apiary Code of Practice.
- (b) An *owner* or *occupier* of *private land* on which bees are kept must ensure that the bees are not a nuisance.
- (c) An *owner* or *occupier* of land must, upon becoming aware of the existence of a non-native wasp nest or bee nest on the land or at the direction of an *Authorised Officer*, take reasonable steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.

Penalty: A Maximum of 20 Penalty Units

PART 12 – WASTE MANAGEMENT

Introduction

This Part is concerned with the domestic kerbside collection and disposal of waste. Among other things, it regulates the collection and disposal of *household waste*, *organic waste*, *recyclables*, *glass* and hard waste.

12.1 Disposal of *Household Waste*, *Recyclables* and *Organic Waste* and Glass

- (a) To use the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must:
- (1) use only *Council*-supplied mobile bins for *household waste*, commingled recycling and organic bin, glass bin and/or *Council* approved bins for *organic waste*;
 - (2) deposit *household waste* only in the mobile garbage bin (MGB – Red Lidded), *fully commingled recyclables* only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile *organic waste* bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);
 - (3) if directed by *Council* to do so, remove *contaminated material* from mobile bin/s;
 - (4) if directed by *Council* to do so, dispose of all contents of mobile bins containing *contaminated material*;
 - (5) leave the mobile bins out for collection on days designated by *Council* from time to time as collection days, or such other days as may be directed by an *Authorised Officer*;
 - (6) place the mobile bins out for collection no later than the night before the day of collection or such other time as designated by *Council* from time to time;
 - (7) not leave the mobile bins out more than one day before or one day after a designated collection day or day directed by an *Authorised Officer*;
 - (8) place all mobile bins out for collection in a manner specified in any written advice made available to the *occupier* by *Council*.
 - (9) ensure that any mobile bin (including contents) placed for collection does not exceed 80 kg;
 - (10) maintain the mobile bins in a clean and sanitary condition;
 - (11) ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
 - (12) ensure that the lid of the mobile bins is closed other than when material is being deposited in them;
 - (13) not cause damage to mobile bins;

- (14) ensure that the mobile bins are not overfilled thus preventing the lids from being completely closed down;
- (15) not place any material immediately adjacent to the mobile bin for collection; and
- (16) ensure that the mobile bins provided by *Council* are not removed from the premises except for collection of material in accordance with this Local Law.

Penalty: A Maximum of 20 Penalty Units

12.2 Prohibited Waste

- (a) *A person* must not place, or cause or allow to be placed, in any mobile bin provided by *Council* any:
 - (1) *trade waste*;
 - (2) Medical or Infectious Waste;
 - (3) Slops or Liquid Waste;
 - (4) Human or *animal* Waste;
 - (5) night soil or *animal* excrement (except that disposable nappies or *animal* excrement may be placed or caused to be placed in a refuse receptacle if they are wrapped);
 - (6) soil, dirt, dust or other matter from any vacuum cleaner sweepings, shavings, ashes, hair or other similar or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
 - (7) sharps, including hypodermic needles, blades or scalpels;
 - (8) sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
 - (9) ash or ashes (unless such ash or ashes have been effectively dampened so as to be non-combustible);
 - (10) oils, solvents flammable liquids or paint (other than paint residue contained in a closed container);
 - (11) bricks, concrete, masonry, engine blocks or *vehicle* parts (whether or not in pieces); or
 - (12) any other waste *prescribed* by *Council*and must, if directed by *Council* to do so:
 - (i) remove *contaminated material* from mobile bin/s; and
 - (ii) dispose of all contents of mobile bins containing *contaminated material*.

Penalty: A Maximum of 20 Penalty Units

12.3 Placement of Mobile Bins

- (a) To use the recycling and the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must place the mobile bins:
- (1) at the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
 - (2) immediately behind the kerb of the street *frontage* of the premises;
 - (3) on the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
 - (4) at a suitable location within or outside the premises if restrictions on space or access do not allow placement in accordance with sub-clauses (1), (2) and (3), subject to an *Authorised Officer* approving such location;
 - (5) at a suitable location within the premises, where an *Authorised Officer* certifies in writing that special circumstances or hardship exists;
 - (6) with the wheels facing the premises; and
 - (7) at least 50cm away from any:
 - (i) mobile bin;
 - (ii) power pole;
 - (iii) street furniture;
 - (iv) tree; or
 - (v) other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin.

12.4 Hard Waste

- (a) The *occupier* of every premises to which a hard waste collection service is provided may place out for collection accepted hard waste, and must do so in a manner set out in a notice published by *Council* or as specified in any written advice provided to the *occupier* by *Council* or in a newspaper generally circulating in the *municipal district*.
- (b) The *occupier* of every premises to which a hard waste collection service is provided by *Council*:
- (1) may deposit hard waste on the *nature strip* at the front of the premises, for collection on days designated by *Council* from time to time as collection days;
 - (2) must not deposit items or material on the *nature strip* other than hard waste;

- (3) must not leave the hard waste on the *nature strip* for more than six days before a collection day;
- (4) must place the hard waste and arrange it in a manner, as specified in any written advice provided to the *occupier* by *Council*, in front of the premises that allows collection by a collection *vehicle*; and
- (5) must remove items or material so placed, which is not collected within one day after the collection day.

Penalty: A Maximum of 20 Penalty Unit

12.5 Disposal of disused refrigerators and other compartments

- (a) A *person* must not place or leave a disused refrigerator or freezer, trunk, chest or any similar article having a compartment with a capacity of 0.04 cubic metres or more on any rubbish tip, *road*, *Council land*, *public place* or unfenced vacant land without first:
 - (1) removing every door and lid;
 - (2) removing every lock, catch and hinge attached to a door or lid; and
 - (3) otherwise rendering every door and lid incapable of being fastened.
- (b) Nothing in sub-clause (a) is to be taken as allowing domestic *household waste*, *recyclables*, *organic waste* or hard waste to be taken outside premises and deposited on a *road* other than in accordance with this Local Law.

Penalty: A Maximum of 20 Penalty Units

12.6 Restriction on Use of Public Waste and Recycle Bins

- (a) The *owner* or *occupier* of land must not place or deposit any *household waste*, *recyclables*, *organic waste*, glass or other waste material of any kind which has been generated in or from that land in a public waste bin.
- (b) A *person* must not deposit into a public waste bin any uncooked meat, uncooked fish heads or entrails or material *prescribed* by *Council* other than in a public waste bin designated for such waste.
- (c) A *person* may only place *animal* excreta in a public waste bin if it is wrapped in impermeable material.

Penalty: A Maximum of 20 Penalty Units

12.7 Interference with Household, Recyclables, Glass, Organic Waste or Hard Waste

- (a) Except if authorised, a *person* must not remove, add to or interfere with any *household waste*, *recyclables*, glass, *organic waste* or hard waste or mobile bin left out by any other *person* on a *road* or other *Council land* for collection by *Council*.

Penalty: A Maximum of 20 Penalty Units

12.8 Screening of Bins and Hoppers

(a) *Council* may, by notice in writing, direct the *owner* or *occupier* of any land to:

- (1) install;
- (2) repair;
- (3) replace; or
- (4) modify

a fence or other means of screening an approved mobile bin or *trade waste hopper* from public view if the approved mobile bin or *trade waste hopper* is:

- (5) unsightly;
- (6) dangerous; or
- (7) detrimental to the general amenity of the neighbourhood in which it is located.

(b) A *person* to whom a direction is given under sub-clause (a) must comply with that direction.

Penalty: A Maximum of 20 Penalty Units

12.9 Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres

(a) *Council's* recycling and waste transfer facilities, resource recovery centre will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by *Council* from time to time.

(b) A *person* using *Council's* recycling and waste transfer facility or, resource recovery centre:

- (1) must pay the fees and charges and comply with the terms and conditions determined by the *Council* for use of the landfill, facility or centre for such *persons*, including Waste Disposal tickets and Hard Waste Vouchers;
- (2) must deposit waste in accordance with the directions of the facility attendant or *Authorised Officer* and in accordance with any signs erected at the landfill, facility or centre;
- (3) may only deposit material designated by *Council* from time to *time*; and
- (4) must not deposit any hazardous, dangerous or infectious materials.

Penalty: A Maximum of 20 Penalty Units

- (c) A *person* must not deposit any waste at any transfer facility or resource recovery centre which is not at the time of deposit open to accept such waste or any such category of waste.

Penalty: A Maximum of 20 Penalty Units

12.10 Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres

- (a) A *person* must not, without a *permit* or permission of an *Authorised Officer*, remove material of any kind which has been deposited at any recycling and waste transfer facility, resource recovery centre.

Penalty: A Maximum of 20 Penalty Units

12.11 Storage of Trade Waste

- (a) The *owner* or *occupier* of any land must ensure that any *trade waste hopper* or other *waste bin* kept on the land and used for *trade waste* is:
- (1) constructed of impermeable material;
 - (2) watertight;
 - (3) water, fly and vermin proof;
 - (4) equipped with any removable drainage plug required by an *Authorised Officer* for public health or safety reasons;
 - (5) thoroughly cleaned following each occasion when it is emptied;
 - (6) equipped with a fly and vermin proof lid which is kept closed at all times except when *trade waste* is being deposited in or removed from the *trade waste hopper*;
 - (7) emptied at appropriate times or when an *Authorised Officer* directs for public health or safety reasons; and
 - (8) maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.12 Storage Site for Trade Waste

- (a) If directed by *Council* for public health or safety reasons, the *owner* of any land must ensure that any area where a *trade waste hopper* is or other bins are placed:
- (1) is suitable for such placement or is an area directed or approved by an *Authorised Officer*;
 - (2) has an impermeable surface;
 - (3) is drained to a sewer approved by the *local water authority* for the receipt of any discharge or other outlet approved by *Council*;

- (4) is supplied with water from a tap and hose; and
- (5) is maintained in a clean, inoffensive and sanitary condition.

Penalty: A Maximum of 20 Penalty Units

12.13 Waste Receptacles on Roads and Reserves

- (a) Unless in accordance with this Local Law, a *person* must not, without a *permit*, place or cause to be placed on any *road* or *reserve* any mobile bin, *trade waste hopper*, waste container or waste materials of any nature.

Penalty: A Maximum of 20 Penalty Units

12.14 Obstructions on Roads or Council Land

- (a) A *person* must not, without a *permit*, leave or allow to be left any *bulk rubbish container* on a *road* or *Council land*, or leave or allow to be left on a *road* or *Council land* any *charity bin*.

Penalty: A Maximum of 20 Penalty Units

12.15 Commercial Waste

- (a) A *person* must not place, cause or allow to be placed or deposited any refuse, rubbish or waste from Commercial, Industrial or Trade premises in a bin in a *public place* or a household refuse receptacle or recyclable materials receptacle.

Penalty: A Maximum of 20 Penalty Units

PART 13 – ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be administered. In particular, the system of applying for, obtaining and retaining *permits* is provided for. It also covers reviewing of decisions, delegations and *exemptions*.

13.1 Application for *Permits*

- (a) An application for a *permit* must be in the form *prescribed* by *Council* and must be accompanied by the appropriate fees *prescribed* by *Council*.
- (b) *Council* may require an *applicant* to:
 - (1) provide additional information; and
 - (2) give notice of the application or invite any *person* to make a submission or do both, before the application is determined.
- (c) A *permit* may include any condition which the *Council* considers to be reasonable and appropriate having regard to the activity to be authorised by the *permit* and the effects or anticipated effects of that activity.
- (d) Unless otherwise stated in the *permit*, a *permit* only authorises the *person* named in the *permit* to carry out the permitted activity and is not transferable.

13.2 Decision on *Permit* Applications

- (a) After considering all relevant information *Council* may decide to:
 - (1) grant a *permit*;
 - (2) grant a *permit* subject to conditions;
 - (3) refuse to grant a *permit*; or
 - (4) exempt a *person* or class of *persons* from the requirement to obtain a *permit*.

13.3 Duration of *Permits*

- (a) A *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.
- (b) If no expiry date is indicated on the *permit*, the *permit* expires twelve (12) months after the date on which it is issued.
- (c) Before the *permit* expires, a *person* may request *Council* to extend the *permit* for a further period of time, not exceeding twelve (12) months.

13.4 Correction of *Permits*

- (a) *Council* or an *Authorised Officer* may correct a *permit* issued if the *permit* contains:

- (1) a clerical mistake or an error arising from any accident, slip or omission; or
 - (2) an evident and material miscalculation of figures or any evident and material mistake in the description of any *person*, thing or property referred to in the *permit*.
- (b) *Council* or the *Authorised Officer* must note the correction in the register of *permits*.

13.5 Amendment, Cancellation and Suspension of *Permits*

- (a) *Council* may cancel, suspend or amend a *permit* at any time if it:
- (1) is required to do so by the *permit holder*; or
 - (2) considers that there has been:
 - (i) a material misstatement or concealment of fact in relation to the application for the *permit*;
 - (ii) any material mistake in relation to the issue of the *permit*;
 - (iii) any material change of circumstances which has occurred since the grant of the *permit*; or
 - (iv) a substantial failure to comply with the *permit* or a *Notice to Comply*.
- (b) *Council* must give written notice to a *permit holder* of any correction, cancellation, suspension or amendment of a *permit*.
- (c) Before it cancels a *permit*, *Council* must provide the *permit holder* an opportunity to make a submission on the proposed cancellation.
- (d) If a *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 of any *Notice to Comply* subsequently issued by *Council* and the reason why it has been served.

13.6 Transfer of a *Permit*

- (a) A *permit* is not transferable by the *permit holder* to any other *person* without the consent of *Council*.

13.7 Fees and Charges

- (a) *Council* may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any *Council* property, undertaking, good, service or other act, matter or thing, in accordance with section 77 of the *Act*.
- (b) *Council* may, from time to time by resolution, determine fees, charges, guarantees or bonds that are applied for the purposes of approvals required under this Local Law.

- (c) In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, including setting no charge.
- (d) *Council* may waive, reduce or alter any specific fee, charge or bond or guarantee with or without conditions.

13.8 Registers

- (a) *Council* must maintain a record of *permits*, including details of corrections and cancellations.
- (b) *Council* must maintain a register of determinations made and of guidelines or procedures prepared for the purposes of this Local Law.
- (c) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours otherwise in accordance with its Public Transparency Policy.

13.9 Delegation

- (a) *Council* may delegate to the *Chief Executive Officer* all powers, functions and duties under this Local Law, and authorise the *Chief Executive Officer* to delegate any powers to *Authorised Officers* and other members of *Council* staff.

13.10 Exemption from the requirement

- (a) *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times. An *exemption* may be granted subject to conditions.
- (b) A *person* must comply with the conditions of an *exemption*.
- (c) An *exemption* may be cancelled as if it were a *permit*.
- (d) Despite any provision in the Local Law requiring a *permit* to undertake any particular activity, no *offence* will arise where *Council* or its delegate has granted an *exemption* from the requirements to hold any such *permit* and the holder of that *exemption* carries out the activity authorised by, and in accordance with any conditions contained in, that *exemption*.
- (e) 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. *Council* may exempt a *person* from compliance with that condition or vary the condition in a way which is capable of compliance.

13.11 Review Rights

- (a) If any *person* is aggrieved by the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer* under this Local Law, including failure to be granted a *permit*, they may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.

- (b) If the *Chief Executive Officer* elects to review 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 sub-clause (a).

PART 14 – ENFORCING THIS LOCAL LAW

Introduction

This Part aims to supplement the preceding provisions of the Local Law by explaining how the Local Law may be enforced, in particular powers to impound, Notices to Comply and Infringement Notices. It also covers reviewing of decisions, delegations and *exemptions*.

14.1 Failure to Comply with this Local Law, *Permit* or *Notice to Comply*

(a) A *person* who:

- (1) contravenes or fails to comply with any provision of this Local Law;
- (2) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law;
- (3) knowingly provides false information in support of an application for a *permit* issued under the Local Law;
- (4) knowingly supplies false or misleading information to an *Authorised Officer*;
- (5) fails to comply with a verbal direction issued, or a *Notice to Comply* served by an *Authorised Officer*;
- (6) fails to comply with a sign displayed by *Council*; or
- (7) makes or attempts to make any agreement with an *Authorised Officer* to compromise their duty

is guilty of an *offence* and is liable to:

- (i) the maximum *Penalty* stated under a provision or, if no *Penalty* is stated, a maximum of two (2) *Penalty Units*;
- (ii) a further *Penalty* of two (2) *Penalty Units* for each day after a finding of guilt or conviction for an *offence* during which the contravention continues; and
- (iii) upon conviction for a second or subsequent *offence*, double the *Penalty* stated under a provision of *Penalty Units*.

14.2 Notices to comply

- (a) *Council* or an *Authorised Officer* may serve a *Notice to Comply*, directing an *owner occupier* or other *person* in breach of this Local Law to remedy anything which constitutes an *offence* under this Local Law.
- (b) A *Notice to Comply* must state the time and date by which the thing must be remedied.
- (c) The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:

- (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 for risk; and
 - (6) any other relevant factor.
- (d) Any *person* who fails to remedy a thing in accordance with a *Notice to Comply* within the time specified is guilty of an *offence* under this Local Law.

Penalty: Maximum of 10 Penalty Units

Note: Nothing in this Local Law obliges Council or an *Authorised Officer* to serve a *Notice to Comply* or precludes Council or an *Authorised Officer* from both serving a *Notice to Comply* and also serving an *Infringement Notice* or prosecuting for an *offence*.

14.3 Infringement Notice

- (a) As an alternative to prosecution for an *offence*, an *Authorised Officer* may issue an *Infringement Notice* containing the information required by the *Infringements Act 2006*.
- (b) The *infringement Penalty* for an *offence* against this Local Law is the *Infringement Penalty* specified in *Schedule 1*.
- (c) If no *infringement Penalty* is specified in *Schedule 1* the *infringement Penalty* will be 2 *Penalty Units*.
- (d) All *Infringement Notices* issued under this Local Law will be dealt with in accordance with the provisions of the *Infringements Act 2006*.

14.4 Power of *Authorised Officer* to Act in Urgent Circumstances

- (a) Where, in the opinion of an *Authorised Officer*, a breach of the Local Law or a *permit* issued under the Local Law arises which may place a *person*, *animal* or property or thing at risk or in danger and there is not time or it is impractical to serve a *Notice to Comply*, then the *Authorised Officer* may take reasonable action to immediately abate or minimise the risk or danger identified.
- (b) As soon as practicable, the *Authorised Officer* must contact the *person* by whose fault, permission or decision the situation has arisen, whether they be the *owner*, *occupier* of the land, *animal*, property or thing involved.

14.5 Impounding or Seizure

- (a) An *Authorised Officer* may seize and impound any item, thing or *animal* which is the subject of a breach of this Local Law.

- (b) Where any item, thing or *animal* is impounded or seized pursuant to this Local Law, notice of the impounding or seizure must be given to the *person* who is known or appears to the *owner* of the impounded or seized item, thing or *animal*.
- (c) Any item, thing or *animal* impounded or seized in accordance with this Local Law may be held until any fee or charge for its release is paid.
- (d) *Council* may include in any fee or charge any cost that *Council* has incurred in impounding, seizing, transporting, holding, storing or disposing of the item, thing or *animal*.
- (e) If the specified time for retrieval of an impounded or seized item, thing or *animal* has expired and it has not been claimed then it may be disposed of or destroyed according to the following principles, if it has:
 - (1) no saleable value, in the most economical and appropriate way as determined by an *Authorised Officer*; or
 - (2) a saleable value, by public auction, tender or private sale as determined by an *Authorised Officer*.
- (f) The monies realised from the sale of any impounded or seized item, thing or *animal* must be disbursed as follows:
 - (1) in payment of any expenses incurred by the *Council*; and
 - (2) the balance to be paid to the *owner* or *person* who, in the opinion of *Council's Chief Executive Officer*, appears to be authorised to receive them money.
- (g) If no *person* can be identified for payment of any money then any excess must be treated in accordance with legislation dealing with unclaimed money or, failing this, paid into the *Council's* revenue.
- (h) Sub-clauses (b), (c), (d) and (i) do 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*.
- (i) If an impounded or seized thing has not been surrendered to its *owner* or a *person* acting on the *owner's* behalf within 14 days of the notice of impounding or seizing being served or, if no notice of impounding or seizing has been served, of the act of impounding, *Council* may, at its discretion:
 - (1) *sell*;
 - (2) *give away*; or
 - (3) *destroy*the impounded or seized thing.

14.6 **Warning to Offenders**

- (a) 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.

14.7 **Reviewing a Notice**

- (a) All requests for Infringement Notice review will be dealt with by way of *Council's Internal Infringement Review Panel*, which may withdraw the Infringement Notice, deal with the Infringement Notice by way of official warning, extend the due date to allow additional time for payment or to proceed with prosecution of the *offence*.
- (b) 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.

14.8 **Requirement to Act Fairly and Reasonably**

- (a) In exercising any power under this Local Law, *Council* and an *Authorised Officer* must act fairly and reasonably and in proportion to the nature and extent of the breach of this Local Law.
- (b) Where *Council* or an *Authorised Officer* may take action forming any particular opinion, or, where *Council* or an *Authorised Officer* is required to form an opinion prior to taking any action under this Local Law, the opinion must be reasonably held having regard to all the circumstances.

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on 23 August 2023.

The COMMON SEAL of the Colac Otway Shire Council was affixed in accordance with its Local Law No 4

.....

Chief Executive Officer

This day of 20.....

Notices of the proposal to make and of the making of this Local Law were included in the Victoria Government Gazette dated the and the respectively.

Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the on and respectively.

Schedule 1

Fixed Infringement *Penalties*:

Clause	Fixed Penalty
2.3(a)(3)	Three (3) Penalty Units
2.3(a)(6)	Three (3) Penalty Units
2.3(a)(7)	Three (3) Penalty Units
2.3(a)(13)	Three (3) Penalty Units
2.3(a)(15)(i)	Three (3) Penalty Units
2.3(a)(15)(ii)	Three (3) Penalty Units
2.3(a)(19)(i)	Three (3) Penalty Units
2.3(a)(19)(ii)	Three (3) Penalty Units
2.3(a)(19)(iii)	Three (3) Penalty Units
2.4(e)(1)	Three (3) Penalty Units
2.4(e)(2)	Three (3) Penalty Units
2.4(e)(3)	Three (3) Penalty Units
2.4(e)(4)	Three (3) Penalty Units
2.4(e)(5)	Three (3) Penalty Units
2.5(a)(1) - (10)	Three (3) Penalty Units
2.6(a)(1) - (16)	Three (3) Penalty Units
7.7(a)(1) - (2)	Three (3) Penalty Units
9.6	Four (4) Penalty Units
11.5(a)	Three (3) Penalty Units