



Colac Otway
SHIRE

COUNCIL MEETING

AGENDA

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

NOTICE is hereby given that the next **COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 23 August 2023 at 4:00 PM.

AGENDA

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

3 APOLOGIES

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 will be 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.

As stated in the Governance Rules, other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be permitted without specific approval by resolution of the relevant Council Meeting.

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

5 QUESTION TIME

A maximum of 30 minutes is allowed for question time. Any person wishing to participate in public question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 21 August 2023. 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. You must ask a question. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting. Written questions must be received by 5pm on Monday 21 August 2023.
2. Questions via videoconference by prior arrangement.
3. Questions from the floor.

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

A Councillor who has declared a conflict of interest, must leave the meeting and remain outside the room while the matter is being considered, or any vote is taken.

8 CONFIRMATION OF MINUTES

- **Council Meeting held on Wednesday 26 July 2023.**

RECOMMENDATION

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

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]

1. PURPOSE

The purpose of this report is to present the proposed *Colac Otway Shire - Local Law No.1 – General Local Law 2023* to Council for adoption.

2. EXECUTIVE SUMMARY

Council is empowered through legislation to make Local Laws that are relevant to their community and municipality. Any Local Law made under legislation has a maximum term of 10 years and cannot be extended beyond this period. Colac Otway Shire Council has three current Local Laws that are about to sunset as follows:

- Local Law No 1 – Consumption of Alcohol in a Public Place (sunsets on 27 August 2023)
- Local Law No 2 – General Local Law (sunsets on 24 September 2023)
- Local Law No 3 – Livestock (sunsets on 27 August 2023)

In 2022 Council commenced preparation of a new Local Law to replace the above-mentioned Local Laws. Over a period of ten months, Council has undertaken a comprehensive review of existing provisions in the current Local Laws. This has included extensive community engagement in early 2023 and consultation with Councillors to assist in identifying key issues for consideration.

Councillors supported the direction of establishing a single contemporary Local Law and at its Unscheduled Council meeting on 5 July 2023, Council resolved to give notice and exhibit the proposed *Colac Otway Shire - Local Law No.1 – General Local Law 2023* in accordance with Section 73 of The *Local Government Act 2020 (the 2020 Act)*.

Council has received submissions and heard from people seeking to speak to their submissions at a Submissions Committee meeting held on 16 August 2023.

Concurrent to public exhibition, the proposed Local Law endorsed by Council has undergone legal review to ensure compliance with section 72 of the 2020 Act. This review has led to a series of amendments that seek to ensure consistency of terms, avoid ambiguity and ensure that if adopted the Local Law can be properly administered. The proposed Local Law, as amended, is attached as the final version (Attachment 1) with changes as itemised in Attachment 4.

The final version of the proposed Local Law (Attachment 1) has been reviewed by an Australian lawyer who has been admitted to the legal profession for at least 5 years and is a 'qualified person' pursuant to section 74(2) of the 2020 Act. A certification (Attachment 1) under section 74 of the 2020 Act has been received for the final version of the proposed Local Law and is tabled with this report in accordance with section 74(3) of the 2020 Act.

3. 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.**

4. KEY INFORMATION

Colac Otway Shire Council has three current Local Laws that are about to sunset as follows:

- Local Law No 1 – Consumption of Alcohol in a Public Place (sunsets on 27 August 2023)
- Local Law No 2 – General Local Law (sunsets on 24 September 2023)
- Local Law No 3 – Livestock (sunsets on 27 August 2023)

In 2022 Council commenced preparation of a new Local Law to replace the above-mentioned Local Laws. Over a period of ten months, Council has undertaken a comprehensive review of existing provisions in the current Local Laws and developed a proposed single Local Law to replace them.

An initial engagement campaign via survey to the community was carried out from 11 April 2023 to 5 May 2023 via Council's website, print media, social media, newsletters, mailing lists and Councillor Communications. External and Internal stakeholders (including Councillors) have also been consulted in the process. The community's feedback was analysed and helped to shape the proposed Local Law.

The proposed Local Law was prepared and approved by Council for public exhibition, along with a proposed Procedure Guideline document on 5 July 2023. The proposed Local Law and guidelines were exhibited from the 6 July to 10 August 2023 via Council's website, print media, social media, newsletters, mailing lists and Councillor Communications. At the time of writing this officer's report a total of 38 submissions were received with 8 submitters requesting to speak to their submission at the Submission Committee held on 16 August 2023. No submissions were received in relation to the guidelines.

Concurrent to public exhibition, the proposed Local Law endorsed by Council has undergone legal review to ensure compliance with section 72 of the 2020 Act. This review has led to a series of amendments that seek to ensure consistency of terms, avoid ambiguity and ensure that if adopted the Local Law can be properly administered. The suggested changes from the legal review were made to ensure that the proposed Local Law will be legally effective and enforceable. Amendments proposed by lawyers are outlined in Attachment 4.

The final version of the proposed Local Law (Attachment 1) has been reviewed by an Australian lawyer who has been admitted to the legal profession for at least 5 years and is a 'qualified person' pursuant to section 74(2) of the 2020 Act. A certification (Attachment 1) under section 74 of the 2020 Act has been received for the final version of the proposed Local Law and is tabled with this report in accordance with section 74(3) of the 2020 Act.

The following sections provide an overview of some key themes arising from the public exhibition period and the legal review, with relevant information in response to the matters raised.

Theme 1 - Clauses relating to access to Council Buildings

The current Local Law No. 2 includes Clause 11.10 as follows:

Except for a child under the age of ten (10) years in the care of a responsible person, and for a carer providing assistance to a person with a disability, enter or use any dressing room, shower, convenience or other area in a Municipal Building which has been appropriated for persons of the opposite gender.

This clause was not included when drafting the proposed Local Law as it is inconsistent with the amendments to the *Sex Discrimination Act 1984* that came into effect on 1 August 2013 and cannot be included in a new Local Law. This has been confirmed through legal advice which has been shared with the public via Council's website.

A total of 22 submissions and one petition with 295 signatures were received from the public and organisations during the consultation period requesting Council regarding this topic. The petition was presented as a joint submission to the Submissions Committee on 16 August 2023 in accordance with Council's Governance Rules, which was also the request of the first-named petitioner when it was lodged.

The proposed Local Law does include a clause that addresses behaviour of people that may be indecent, insulting, offensive, abusive, threatening or otherwise unreasonable. Importantly, there are already other Commonwealth and State laws in place to protect our community from people behaving in an offensive or threatening way anywhere, including in Council toilets and facilities. These laws include the Summary Offences Act 1966 (Section 17 - obscene, indecent, threatening language and behaviour in public, and Section 19 – sexual exposure) and the Crimes Act 1958 (Section 48 – sexual activity directed at another person).

Theme 2 - Control of Cats

In response to community input in the early phase of the review, the proposed local law included a new clause 11.5 below for the control cats within the Shire;

Clause 11.5 (a)

The owner of any cat must confine the cat to the owner's property either within the dwelling or within another escape-proof structure between the hours of sunset and sunrise.

A total of 8 submissions were received supporting the inclusion of the clause into the new Local Law with 3 submissions against the inclusion of the clause.

The legal advice received through the review of the proposed document has recommended that Council delete the clause from the proposed Local Law and instead make an Order under section 25 of the *Domestic Animals Act 1994*.

DOMESTIC ANIMALS ACT 1994 - SECT 25

Cats found at large

- (1) *If a cat is found at large outside the premises of the owner or not securely confined to the owner's premises, in a municipal district or a specified part of a municipal district in respect of which an order under this section has been made, during the hours specified in the order, the owner is guilty of an offence and liable to a penalty of not more than 1 penalty unit for a first offence and 3 penalty units for a second or subsequent offence.*
- (2) *A Council may, by resolution, make an order under this section.*
- (3) *An order made by a Council under this section must be published in the Government Gazette and in a newspaper circulating in the municipal district of the Council making the order.*

The final version (Attachment 1) reflects the above recommendation.

Theme 3 - Camping

The proposed Local Law as exhibited included Clause 6.3 (b) as follows:

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 financial year.*

Based on legal advice, the above clause has been reworded to '*not more than 6 months in any 12-month period*'.

Theme 4 - Definitions

Several definitions have been deleted from the proposed Local Laws in preparing the final version because they related to terms not used elsewhere in the Local Law document.

Theme 5 - Incorporated documents

The legal advice recommended that Council Include the following documents into the proposed Local Laws as incorporated documents

- AS 4687-2007: Temporary fencing and hoardings
- Apiary Code of Practice

The reason noted for the change is that the documents are integral to interpreting the Local Law and enabling enforcement, hence should be included in the final Local Law.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The proposed Local Law has been developed with the objective of achieving the best outcomes for the municipal community, including future generations.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Section 71 of the Act gives the power to Councils to make a Local Law whilst Section 72 of the Act outlines the requirements for the making of a Local Law, including a requirement that a local law must not be inconsistent with any Act (including the Charter of Human Rights and Responsibilities Act 2006) or regulations. Section 73 of the Act outlines community notice and consultation requirements. The legal certification required in Section 74 of the 2020 Act has been tabled with the final version of the proposed Local Law. The Local Law was developed in accordance with the 2020 Act.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

The Local Law aims to have positive impacts on the environment through protecting community amenity, the natural environment and public assets within the municipality.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Initial community consultation was undertaken from 11 April 2023 to 5 May 2023 via an online survey. Over 200 responses were received during the informal consultation period. The input from the online survey result and the input from the internal and external stakeholder consultation was used to formulate the proposed Local Law.

The proposed Local Law was formally placed on public exhibition from the 6 July 2023 to 10 August 2023. A total of 38 submissions were received with 8 submitters requesting to speak about their submission to the Submission committee.

It is proposed to be undertaken further community engagement after Easter 2024 when the Local Law has been in operation for over six months.

Public Transparency (s58 LGA 2020)

The making of the Local Law will occur at a meeting open to the public and follows a range of public activities that have provided transparency for the community.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 3: Key infrastructure investment supports our economy and liveability

Theme 2 - Valuing the Natural and Built Environment

Objective 3: Protect and enhance the natural environment

Objective 5: Provide and maintain an attractive and safe built environment

Theme 3 – Healthy and Inclusive Community

Objective 1: All people have the opportunity to achieve and thrive in our shire

Objective 3: We are a safe, equitable and inclusive community

Theme 4 – Strong Leadership and Management

Objective 1: We commit to a program of best practice and continuous improvement

Financial Management (s101 Local Government Act 2020)

The adoption of the proposed Local Law does not have a material impact on the adopted budget of Council.

Service Performance (s106 Local Government Act 2020)

The adoption of the proposed Local Law will enable Council to provide facilities and services in an equitable and lawful manner.

Risk Assessment

Section 84 of the Act provides that the Local Law is revoked 10 years after its making, unless sooner revoked. The Council's Local Law No 1 – Consumption of Alcohol in a public Place commenced 28 August 2013, Local Law No 3 – Livestock commenced -August 2013 Local Law No 2 – General Local 24 September 2013 will be revoked on 31 August 2023. If the new Local Law 2023 is not made prior to the sunset of these local laws, Council will progressively have the current local laws revoked and the ability of Council and Victoria Police to use these Local Laws will not be available.

Communication/Implementation

Council Officers have developed a detailed implementation plan to guide the implementation of the new Local Law, including Gazettal as required under the Local Government Act 2020.B

Pursuant to section 71 of the Local Government Act 2020, Council will give notice of its decision to make Local Law No 1 General Local Law No 1 August 2023 in the Government Gazette, a local newspaper and on the Council website, stating the title, objectives and the effect of the Local Law, and that a copy of the Local Law is available for inspection at Council offices and on the Council website.

Human Rights Charter

No impact. A gender impact assessment has been undertaken on the proposed local law and has been attached.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Adopt the Local Law as presented in Attachment 1

This option is recommended by officers as the Local Law has been developed following extensive internal and external consultation, including comparison with other Councils. Legal review has resulted in amendments to improve effectiveness of the document and a legal certificate is tabled in support of the proposed Local Law.

Option 2 – Seek to adopt the proposed Local Law with amendments

Council officers do not recommend that further amendments are made to the proposed Local Law. Any further changes will void the legal certificate and Council may need to repeat all or part of the processes undertaken to date.

Option 3 - Defer the adoption of the Local Law

This option is not recommended by officers as three Local Laws become inoperable in coming days and weeks.

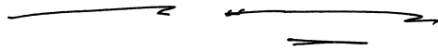
CERTIFICATE UNDER SECTION 74 OF THE LOCAL GOVERNMENT ACT 2020

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: 18 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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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 XX 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) Colac Otway Shire Weed Management Strategy.
 - (4) 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*

3.1 Introduction

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

3.2 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) plant any vegetation on *Council land* or a *road* or actively assist such vegetation to grow 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;
- (5) 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*;

- (6) place, or allow to be placed, any thing on *Council land* or any *road* so as to endanger any other *person* or any property;
- (7) 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;
- (8) 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);
- (9) light a fire, or allow a fire to be lit, on any *Council land* or any *road*, except in a properly constructed barbecue; or
- (10) 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), (5), (8) and (9) 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 10 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 12 month period; 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*; and
 - (2) who is the *owner* or *occupier* of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds* as listed in the Colac Otway Shire Weed Management Strategy 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</i> Required	<i>Permit</i> Required	No <i>Permit</i> Required
e	Pigeons	10	20	No <i>Permit</i> Required
f	Sheep or Goats	<i>Permit</i> Required	8	No <i>Permit</i> Required
g	<i>Cattle/Horses and other large animals</i>	<i>Permit</i> Required	4	No <i>Permit</i> Required
h	Pigs	<i>Permit</i> Required	<i>Permit</i> Required	No <i>Permit</i> Required
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

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:

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- (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) destroythe 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.

[9280949:38545055_1]

Schedule 1Fixed 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)(14)	Three (3) Penalty Units
2.3(a)(16)i	Three (3) Penalty Units
2.3(a)(16)ii	Three (3) Penalty Units
2.3(a)(20)i	Three (3) Penalty Units
2.3(a)(20)ii	Three (3) Penalty Units
2.3(a)(20)iii	Three (3) Penalty Units
2.4(d)1	Three (3) Penalty Units
2.4(d)2	Three (3) Penalty Units
2.4(d)3	Three (3) Penalty Units
2.4(d)4	Three (3) Penalty Units
2.4(d)5	Three (3) Penalty Units
2.5(a) 1 - 5	Three (3) Penalty Units
2.5(a)6 i & ii	Three (3) Penalty Units
2.5(a)7	Three (3) Penalty Units
2.5(a)8	Three (3) Penalty Units
2.5(a)9	Three (3) Penalty Units
2.5(a)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



Colac Otway
S H I R E

General Local Law No. 1

Procedure Guidelines 2023

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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

Procedure Guidelines

Criteria for Issuing a permit

1. Proposed location and surrounding area including
 - the day, time and duration of the proposed use
 - the type of activities
2. Any other matter or thing relevant to the application
3. Any comments received in respect of the application
4. The applicant's record
5. 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

Liquor is prohibited at all times in a public place within the Colac Otway Shire without a permit. For some public places Council may prohibit liquor consumption at specific times, days or period, e.g. A permit may not be required by a family group in a picnic or barbecue area during the day time.

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

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.

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 privately owned land, and vacant land

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.

- It is a requirement that a person must obtain a permit to camp from Council.
- Camping must not be a nuisance or unreasonably interfere with the enjoyment to any person.
- If the owner of the land has authorised the camping and the camping is:
 - Not for more than sixteen (16) consecutive weeks
 - For any more than a total of four (4) months in any calendar year
- If the owner of vacant land must not without a permit, occupy or allow any other person to occupy a tent, caravan, tiny house, movable dwelling or motor home on that land unless the following conditions are met:
 - It does not exceed four (4) consecutive weeks;
 - Occupation is not more than a total of three (3) months in any calendar year;
 - No rent, licence fee or charge is paid by any person in respect of the occupation;
 - The caravan, tiny house, movable dwelling or motor home is vacated on a declared days of total fire ban; and
 - Has adequate sanitary facilities.

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

Fire in Open Air and Incinerators Specifically

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.

Applies to:

All owners or occupiers of private land that is located within Designated Township Areas.

Who requires a permit?

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

Exemptions:

Properly constructed fireplace/barbeque that is constructed from non-flammable material which has the sole purpose of preparing a meal or means of generating warmth.

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)

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

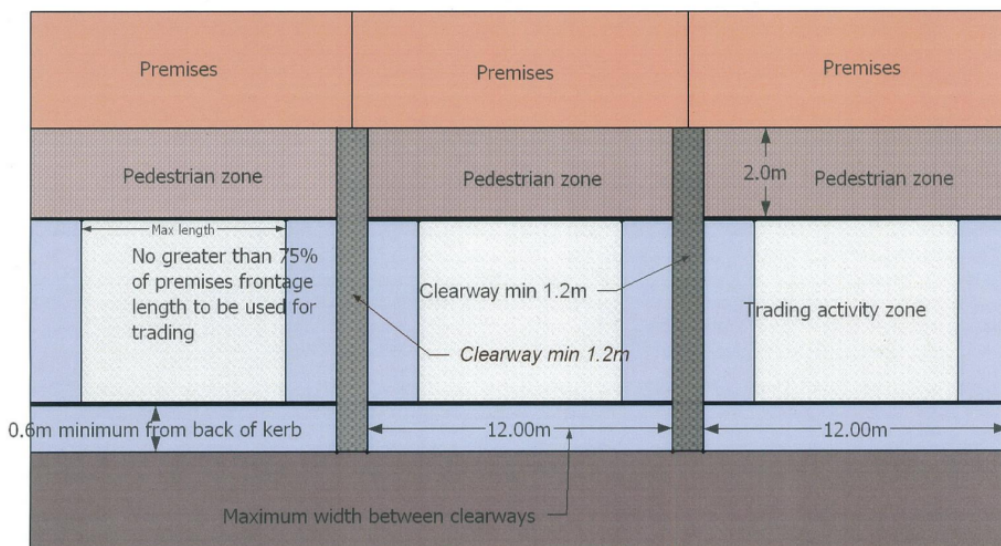
- Planters Boxes
- Display Racks/Goods
- Screens
- Vehicles/Machinery

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*.

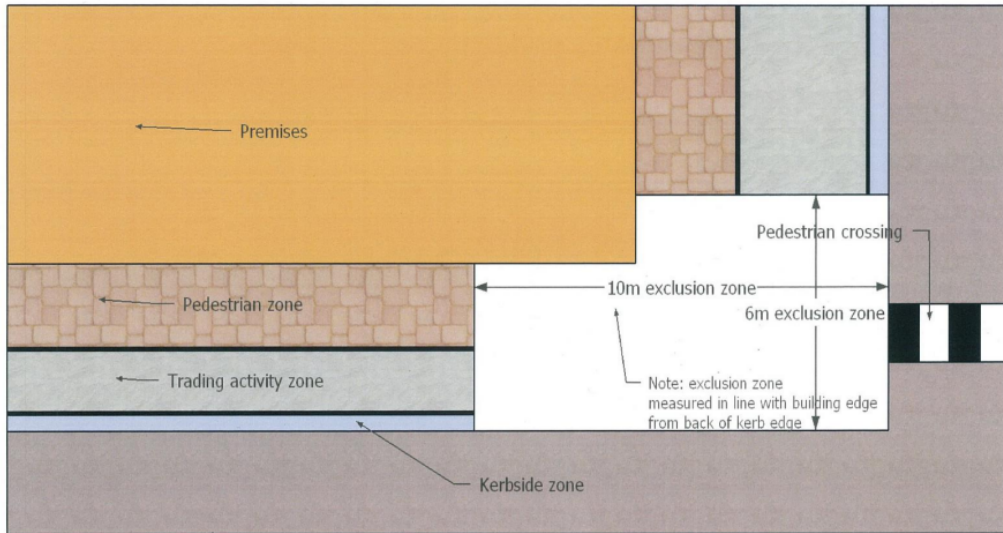
Screens must be positioned strictly in accordance with the approved plan or as directed by the appropriate Council officer at all times.

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.

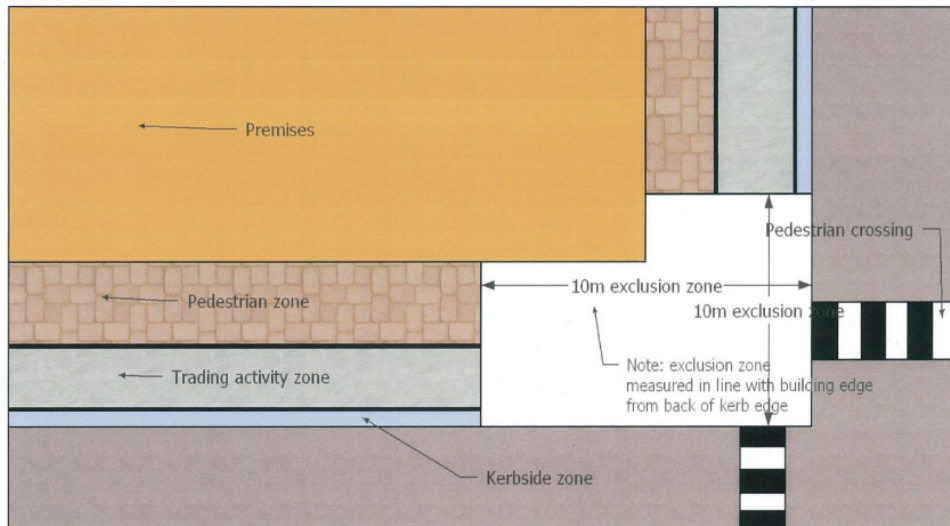
APPENDIX A
On street trading arrangements

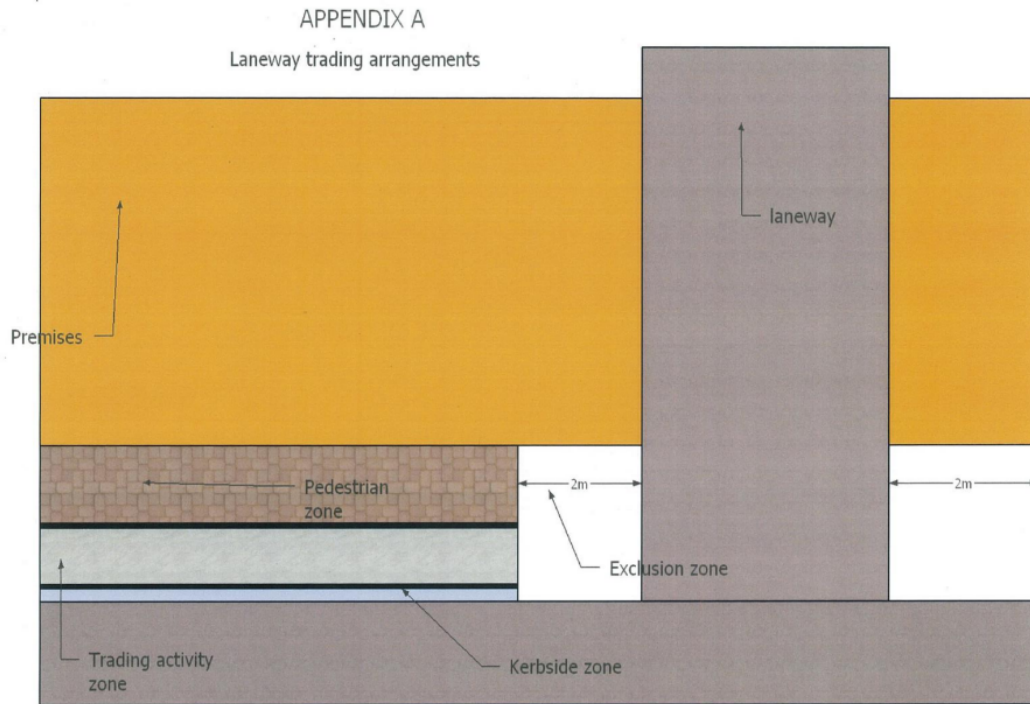


APPENDIX A
Corner location trading activity arrangements



APPENDIX A
Corner location trading activity arrangements for double crossings





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 nobility 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

2. 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

3. 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*.
4. 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.
5. 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*.
6. *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.
7. A person who undertakes an activity for which *Council* has issued a *permit* must comply with the conditions of the *permit*.
8. 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*.

9. 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

10. *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*.

11. *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*.

12. 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.

13. 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)

14. 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.

15. 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*.

16. 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*.

17. 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*.
18. 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

19. *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.
20. *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.
21. 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*.
22. 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.
23. 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*.
24. The owner is responsible to ensure confinement of *livestock*, while minimising hazards to persons, animals and property.

Movement of Livestock

25. 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 *Council's* (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.
26. 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.
- 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.



Colac Otway
S H I R E

General Local Law No. 1

Gender Impact Assessment

Introduction

Colac Otway Shire currently has three local laws that cover consumption of alcohol in a public place, a range of matters related to livestock and a general local law that provides for peace, order and good government as well as promoting a physical and social environment free from hazards to health. A summary of these Local Laws is as follows:

- Local Law No 1 – Consumption of Alcohol in a public Place commenced on 28 August 2013
- Local Law No 2 – General Local Law commenced on 24 September 2013
- Local Law No 3 – Livestock commenced on 28 August 2013.

Local Law No 1 and Local Law No 3 will cease to operate on 27 August 2023 and Local Law No 2 will cease to operate on 23 September 2023.

Over the past 10 months, Council embarked on a process of reviewing Council's existing Local Laws 1, 2 and 3 with a view to integrate the three local laws into a single contemporary Local Law designed to improve and protect the amenity of the shire.

The above Local Laws have been reviewed and streamlined into a new single local law called the General Local Law 1. This local law is now in draft form.

As required by the Gender Equality Act 2020 (GE Act) which commenced on 31 March 2021 requires the Victorian public sector, local councils and universities to take positive action towards achieving gender equality. Section 7 of the GE Act posits that

A defined entity must, in developing policies and programs and in delivering services that are to be provided to the public, or have a direct and significant impact on the public—

- (a) consider and promote gender equality; and*
- (b) take necessary and proportionate action towards achieving gender equality*

Whilst section 9 of the (GE Act) outline how a defined entity can achieve the above objectives. It make it mandatory for defined entities to undertake a gender impact assessment when developing or reviewing any policy of, or program or service provided by, the entity that has a direct and significant impact on the public.

Policies requiring a gender impact assessment under section 9 of the Act will mostly be policies that directly impact the participation or opportunity afforded to members of the public (for example, customers, clients, students, patients, community members, and consumers).

The Act states that a gender impact assessment must:

- assess the effects that the policy, program or service may have on people of different genders
- explain how the policy, program or service will be changed to better support Victorians of all genders and promote gender equality
- where practical, apply an intersectional approach to consider how gender inequality can be compounded by disadvantage or discrimination that a person may experience on the basis of other factors such as age, disability or ethnicity.

The objectives of the GIA can be summarised as

- to create better and fairer outcomes and ensure all people have equal access to opportunities and resources.
- to prevent a negative impact on gender equality and to strengthen gender equality through better designed, transformative legislation and policies.
- adapt the policy to make sure that any discriminatory effects are either removed or mitigated.

Gender Impact Assessment Methodology

In conducting the Gender Impact assessment for the proposed Local Law, a dual-pronged approach was undertaken which involves taking into account the current Local Laws gender-related position and the projected impacts on women and men once the new Local Law. This approach is based on the European Commission definitions of gender impact assessment below;

“Gender impact assessment is the process of comparing and assessing, according to gender relevant criteria, the current situation and trend with the expected development resulting from the introduction of the proposed policy.”

“Gender impact assessment is the estimation of the different effects (positive, negative or neutral) of any policy or activity implemented to specific items in terms of gender equality.”

This methodology was applied to the whole process of the making of the proposed Local law, the writing of the proposed local law and the effect proposed local law on women and gender non-binary individuals, people who have experienced disadvantage on the basis of their cultural identity, age, disability, sexual identity or preference or religion, may not have the same access to decision-making processes, resources, economic or social opportunities.

The Local Law review Process

The proposed local Law review process supported the representation of gender-balanced and underprivileged groups in the community. Community survey and stakeholder engagements were taken in order to allow members of the community to increase the integration of societal issues into the proposed local law. Further community engagement will be undertaken in line with the Council engagement Policy.

The Proposed General Local Law No 1

The table below provides some detail on gender equality issues that have been considered in the proposed Local Law. Parts of the proposed local law that are highlighted in the table below have direct or indirectly effect on gender equality issues. Parts of the Local Law not highlighted in the table below are taken to have a gender neutral effect.

Clause in the proposed Local Law	Effects/ Benefits	Benefits
<p>Part 2 Use of Council Land and Buildings</p>	<p>The proposed Local law make Council building and reserves accessible to all members of the community regardless of cultural identity, age, disability, sexual identity, preference or religion. In particular, clause 2.3 below takes into account the needs of the social disadvantaged group ,children , physically disabled person and people with limited mobility or healthy issues;</p> <p>Clause 2.3 <i>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 healthy issues;</i></p> <p><i>(18) bring any vehicle or toy vehicle into a Council Building without the consent of Council or an Authorised Officer, except for: iii. a pram or pusher being used by a child; or iv. a wheelchair or motor scooter being used by a physically disabled person;</i></p>	<p>Positive benefit</p>

Clause in the proposed Local Law	Effects/ Benefits	Benefits
Part 3 Consumption and possession of alcohol	The Local Law creates the ability for Council to prescribe areas for alcohol consumption, supporting community members to enjoy family gathering in council reserve with alcohol, supported by condition that maintain public safety and amenity.	Positive Benefit
Part 10 – Sale Of Goods And Services, Collections Street And Distributions	This Part of the Local Law gives equal access to economic resources or opportunities to everyone to conduct commercial activities on Council land and reserves regardless of their age , gender , cultural and background.	Positive Benefit
Part 13 Administration	The Local Law sets out a simple permit application process for the community to access Council reserves and building .The process can easily be followed by anyone in the community regardless of their gender, age, culture and background.	Positive Benefit
Part 14 Enforcement and Review	The Local Law provide for review of Authorised Officers’ decisions. The internal review officer is required to consider the application and relevant documents and make a new decision as if the reviewable decision had not been made.	Positive Benefit

The writing of the Proposed Local Law

The proposed Local Law has been prepared by adopting gender-neutral language as a way to promote gender equality and avoid gender bias. Several strategies have been adopted to promote gender equality throughout the proposed Local Law while still writing it in a clear way to retain the document’s goals. Some of the strategies adopted in writing of the document includes the use gender-neutral expressions and the use inclusive language.

i. Use gender-neutral expressions

The proposed Local Law avoids gender-specific nouns when making generic references. The document avoid expressions that use the masculine form when making generic references to both men and women. Where possible the proposed Local Law use a gender-neutral alternative.

The table below highlights some examples of the previous words in the used and the general neutral alternative words adopted in the proposed Local Law

Previous words	Preferred
Men, mankind	People
Businessmen	Representatives, business community
Chairman	Chairperson
Policeman	Police officer

Previous words	Preferred
Landlord, landlady	Owner
Firemen	Fire fighters

Overall Gender Impact

After comparing and assessing the proposed Local Law to the reviewed Local Laws, it is evident that the gender impact assessment of the proposed General Local Law is positive in that it: considers gender norms, roles and relations for women, men and gender diverse people and how they affect access to Council resources and it also considers the specific needs of women, men, gender diverse people and how their needs are related to other areas of potential discrimination or marginalisation.

Conclusion

In conclusion, council acknowledges the disadvantaged position some individuals have had historically in the general community because of their gender; and that achieving gender equality may require different treatment of men, women, intersex, transgender and gender diverse people in some circumstances to achieve similar outcomes. The proposed Local Law has considered this and addressed the different needs of women, men and gender diverse people so as to create better and fairer outcomes, and making sure that all people have equal access to opportunities and resources in the Colac Otway Shire .

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
1.4 Commencement	<p>(a) This Local Law:</p> <p>(1) Commences on the day following the gazettal of the Local Law in the Victorian Government Gazette</p> <p>(2) The Local Law comes into operation the day after it is made</p>	1.4 (a) This Local Law commences on the day following the gazettal of the Local Law in the Victoria Government Gazette.	Reworded and Deletion of 1.4 (a)(2)
1.6 Previous Local Laws	<p>(a) On commencement of this Local law, the following Local Laws are revoked:</p> <p>(1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013)</p> <p>(2) Local Law No. 2 – General Local Law commenced (September 2013)</p> <p>(3) Local Law No. 3 – Livestock commenced (August 2013)</p> <p>Save that any notice or consent given, or any business matter or thing commenced, made or done under the repealed local Laws is not affected.</p>	<p>(a) On commencement of this Local Law, the following Local Laws are revoked:</p> <p>(1) Local Law No. 1 – Consumption of Alcohol in a Public Place (August 2013);</p> <p>(2) Local law No. 2 – General Local Law commenced (September 2013); and</p> <p>(3) Local Law No.3 – Livestock commenced (August 2013).</p> <p>(b) Any notices or consent given, or any business matter or thing commenced, made or done under the revoked Local Laws is not affected</p>	<p>Addition of word 'and' at point (a)(2)</p> <p>Deletion of words 'Save that' and 'repealed' which was replaced with revoked</p>
1.8 Incorporated documents, codes and policies	<p>(a) The following documents are incorporated into this Local law in accordance with section 76 of the Act;</p> <p>(1) Colac Otway Shire – Local Law No. 1 – General Local Law 2023 – Procedure Guidelines</p>	<p>(a) The following documents are incorporated into this Local Law in accordance with section 76 of the Act:</p> <p>(1) Colac Otway Shire – Local Law no. 1 – General Local Law 2023 – Procedure Guidelines.</p> <p>(2) AS4687-2007</p> <p>(3) Apiary Code of Practice.</p>	These instruments are critical in determining compliance they must become incorporated documents.
1.10 Definitions	<p>“Act” means the Local Government Act 1989 and 2020</p>	<p>“Act” means the Local Government Act 2020.</p>	Deletion of 1989
	<p>“Asset Protection Permit” means a permit issued by Council under clause 5.8 and 5.9.</p>	<p>“Asset Protection Permit” means a permit issued by Council under clause 5.9.</p>	Deletion of clause 5.8

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
	<p>“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.</p>	<p>“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.</p>	<p>Addition of the words ‘so appointed’.</p>
	<p>“Commercial Waste” means a refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial industry.</p>	<p>“Commercial Waste” means refuse, rubbish, slops or other waste matter arising from or generated by any commercial trade, or industry.</p>	<p>Reworded and changed location of word ‘commercial’ and deletion of word ‘industry’</p>
	<p>“contaminated material” means any material designated 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.</p>	<p>“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</p>	<p>Deletion of the work ‘designated’ changed to prescribed</p>
	<p>“event” means a planned gathering of people for a specific purpose on Council owned or managed 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:</p> <ul style="list-style-type: none"> • Sporting activities (but does not include a regular, locally focused and organized 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 and the like; • Markets; • Shows and Exhibitions; and • Festivals 	<p>“event” means a planned gathering of people for a specific purpose on <i>Council land</i>, 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:</p> <ul style="list-style-type: none"> • 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. 	<p>Deletion of words ‘owned or managed’</p>

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
	<p>“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:</p> <ul style="list-style-type: none"> ▪ <i>fully commingled recyclables;</i> ▪ organic waste; ▪ material <i>prescribed</i> by Council to be prohibited; and ▪ any other material that Council <i>prescribes</i> to be household waste. 	<p>“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:</p> <ul style="list-style-type: none"> ▪ <i>fully commingled recyclables;</i> ▪ organic waste; ▪ material <i>prescribed</i> by Council to be prohibited; and ▪ any other material that Council <i>prescribes</i> not to be household waste. 	Addition of word 'not' to fourth point
	<p>“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:</p> <ul style="list-style-type: none"> ▪ enclosed in any building; ▪ a barbeque; or ▪ licensed under the provisions of the <i>Environment Protection Act 1970</i>. 	<p>“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:</p> <ul style="list-style-type: none"> ▪ enclosed in any building; ▪ a barbeque; or ▪ licensed under the provisions of the <i>Environment Protection Act 2017</i>. 	Changed the year of the Act
	<p>“Non Rural Area” means any area within Colac, Elliminyt, Apollo Bay or any other designated township area as identified by the Colac Otway Shire.</p>	<p>“Non Rural Area” means any area within Colac, Elliminty, Apollo Bay or any other Designated Township Area prescribed by Council.</p>	<p>In the interests of certainty and ensuring enforceability Council's decision must be prescribed (i.e. published on its website).</p> <p>Deleted 'as identified replaced with prescribed</p> <p>Deleted 'the Colac Otway Shire' replaced with Council.</p>
	<p>“owner” means the owner of premises.</p>	<p>“owner” means the owner of land or premises.</p>	Addition of “land or”
		<p>“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.</p>	New definition

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
	<p>“road” has the meaning ascribed to it by the Act, and means:</p> <ul style="list-style-type: none"> ▪ a street; ▪ a right of way; ▪ any land reserved or proclaimed as a street or road under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i>; ▪ a public road under the <i>Road Management Act 2004</i>; ▪ a public highway; ▪ a bridge or ford; ▪ a footpath, bicycle path or <i>nature strip</i>; and <p>any culvert or kerbing or other land or <i>works</i> forming part of the road.</p>	<p>“road” has the meaning ascribed to it by the Local Government Act 1989, and means:</p> <ul style="list-style-type: none"> ▪ a street; ▪ a right of way; ▪ any land reserved or proclaimed as a street or road under the <i>Crown Land (Reserves) Act 1978</i> or the <i>Land Act 1958</i>; ▪ a public road under the <i>Road Management Act 2004</i>; ▪ a public highway; ▪ a bridge or ford; ▪ a footpath, bicycle path or <i>nature strip</i>; and <p>any culvert or kerbing or other land or <i>works</i> forming part of the road.</p>	<p>Addition of words ‘Local Government’ and year 1989</p>
	<p>“trade waste” means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.</p>	<p>“trade waste” means any waste, refuse, slops or other matter arising from or generated by any trade or industrial undertaking.</p>	<p>Deletion of words ‘industry’ and ‘commercial’ with the addition of ‘industrial’</p>

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
	<p>“Unsightly and/or dangerous land” means land that:</p> <ul style="list-style-type: none"> • is being kept in a manner which is dangerous or likely to cause danger to life or property because of the materials or substances that are kept on the land; or • is unsightly or detrimental to the general amenity of the neighborhood because of rubbish, waste or other material giving the appearance of the land as one of neglect and out of character with other land in the vicinity; or • has dismantled vehicles or vehicle parts visible from adjoining roadway or properties; or • has any other matter deemed to be offensive or unsightly by an authorized officer of Council. 	<p>“Unsightly and/or dangerous” means:</p> <ul style="list-style-type: none"> • dangerous or likely to cause danger to life or property because of the materials or substances that are kept; or • unsightly or detrimental to the general amenity of the neighborhood 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. 	<p>The application of a provision cannot depend on the subjective opinion of a person. An objective standard must always exist.</p> <p>Deletion of ‘land’ in heading</p> <p>Point 1 – deletion of ‘is being kept in a manner which is’ and</p> <p>Point 2 – deletion of ‘is’, ‘of’, ‘as one of’ and ‘or’ included that, is and changed neglect to neglected</p> <p>Point 3 – changed has to having, addition of ‘an’</p> <p>Point 4 – changed has to having, deleted deemed to be and inserted which is, deleted ‘by an authorised officer of Council’.</p>
	<p>“vacant private land” means land on which no dwelling is erected.</p>	<p>“vacant private land” means land on which no building is erected.</p>	Replaced dwelling with building
Definitions deleted	Commercial area		only as the defined term (ie. this means this is referenced in definitions but not referred to in clause within the Local Law so no definition is needed)
	Co-ordinating Road authority		only as the defined term
	Daylight Hours		only as the defined term
	Declared State Road		only as the defined term
	Disease		only as the defined term and within the definition itself
	EPA Alert Day		only as the defined term
	Event Organiser		only as the defined term
	Grazing of Livestock		only as the defined term, the word “Grazing” appears but only in the heading of 11.10

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
	Minor Building Works		only as the defined term
	Outdoor eating facilities		only as the defined term, the words “outdoor eating” appear in 10.1(a)
	Permit Fee		only as the defined term
	Public Holiday		only as the defined term and within the definition itself
	Public protection Barrier		only as the defined term
	Regulations		this word only appears as the defined term
	Responsible Road Authority		
	Service Authority		only as the defined term and within the definition itself
	Stock Crossing		appears in the defined term “Guidelines” and otherwise only as the defined term and within the definition itself
2.1 What Council may do	<p>(a) Council may:</p> <p>(1) Restrict access to a Council Building or part of it;</p> <p>(2) Close any Council Building or part of it to the public;</p> <p>(3) establish conditions of entry to a Council Building;</p> <p>(4) set and collect fees or charges for admission to or the hire or use of a Council building or part of it;</p> <p>(5) set and collect fees or charges for the hire or use of any council property in connection with a council building; and</p> <p>authorize a person to do any one or more of the things described in clause 1 – 5 (inclusive).</p>	<p>(a) <i>Council</i> may:</p> <p>(1) establish conditions of entry to a <i>Council Building</i>;</p> <p>(2) set and collect fees or charges for admission to or the hire or use of a <i>Council Building</i> or part of it;</p> <p>(3) set and collect fees or charges for the hire or use of any <i>Council</i> property in connection with a <i>Council Building</i>; and</p> <p>(4) authorize a person to do any one or more of the things described in sub-clauses (1) - (3) (inclusive).</p>	<p>Point (a)(1) and (2) have been deleted as these provisions duplicate what appears in cl2.4(a)</p> <p>Changed the sub clause numbers to reflect the deletion of the top two clauses.</p>

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
2.3 Behaviour and Activities in Council Buildings	2.3(a)(17) bring any <i>animal</i> into, or allow any <i>animal</i> under their control to remain in, a <i>Council Building</i> without the consent of <i>Council</i> or an <i>Authorised Officer</i> , except for a guide dog being used by a visually impaired <i>person</i> , a hearing dog being used by a hearing impaired <i>person</i> or a dog being used to assist a <i>person</i> with limited mobility or healthy issues	2.3(a)(17) bring any <i>animal</i> into, or allow any <i>animal</i> under their control to remain in, a <i>Council Building</i> without the consent of <i>Council</i> or an <i>Authorised Officer</i> , except for a guide dog being used by a visually impaired <i>person</i> , a hearing dog being used by a hearing impaired <i>person</i> or a dog being used to assist a <i>person</i> with limited mobility or health issues	Changed the word 'healthy' to health
2.4 Access to Council Buildings	(a) Council or an Authorised Officer may: (4) Charge fees for admission to or the use of a Council Building or part of a Council Building.	(a) Council or an Authorised Officer may: (4) Charge fees for admission to a Council Building or part of a Council Building.	Deletion of the words 'or the use of'
	(e)(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 do so by Council or an Authorised Officer	(e)(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.	Deleted 'do so' and replaced with re-enter
2.5 Activities Prohibited in a Reserve	In a reserve, a person must not: (a)(8) ride any horse other than in an area and at a time designated by Council; (9) drive, ride in or on or otherwise use any motor vehicle other than in an area designated by Council.	(a)(8) ride any horse other than in an area and at a time prescribed by Council; (9) drive, ride in or on or otherwise use any motor vehicle other than in an area prescribed by Council.	Deleted the word 'designated' and replaced with 'prescribed'
2.6 Activities which may be permitted/allowed in a Reserve	Note: Clauses 2.6(a)(2), (3), (5), (6), (10), (12) do not apply to a person employed or engaged by Council while acting in the course of their duties	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	Note; - inclusion of the word 'Sub' and 'and into the clauses
3. Consumption and Possession of Alcohol	3.1 (a)(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, road or in or on a vehicle which is or at a prescribed place; or	3.2(a)(2) have in their possession or control any <i>alcohol</i> other than <i>alcohol</i> in a <i>sealed container</i> in a <i>prescribed</i> place, in or at a <i>public place</i> , on a <i>road</i> or in or on a <i>vehicle</i> which is or at a <i>prescribed</i> place.	Added 'on a' and deleted 'or' Amended number from 3.1 to 3.2

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
3.1 Consumption and Possession of Alcohol	<p>(b) Sub-clauses a.1 and a.2 does not apply in places which are:</p> <ol style="list-style-type: none"> (1) licensed premises within the meaning of <i>Liquor Control Reform Act 1988</i>; (2) areas in which the consumption of <i>alcohol</i> is permitted in accordance with a licence granted under the <i>Liquor Control Reform Act 1988</i> or this Local Law; or (3) an area in which <i>Council</i> has issued a <i>permit</i> for the consumption of <i>alcohol</i>; or (4) on any day during the period specified and, in the area specified in a notice signed by the <i>Council's Chief Executive Officer</i> as being the area and period during which <i>alcohol</i> may be possessed and consumed. 	<p>(b) Sub-clauses (a)(1) and (2) do not apply in places which are:</p> <ol style="list-style-type: none"> (1) licensed premises within the meaning of <i>Liquor Control Reform Act 1998</i>; (2) areas in which the consumption of <i>alcohol</i> is permitted in accordance with a licence granted under the <i>Liquor Control Reform Act 1998</i> or this Local Law; (3) areas in which <i>Council</i> has issued a <i>permit</i> for the consumption of <i>alcohol</i>; or (4) areas specified in a notice signed by <i>Council's Chief Executive Officer</i> as being areas in which <i>alcohol</i> may be possessed and consumed if the possession or consumption occurs during a period specified in the notice. 	<p>Amended number from 3.1 to 3.2</p> <p>Point 1 – changed the year from 1988 to 1998</p> <p>Point 2 – deletion of 'an'</p> <p>Point 3 – deletion of 'on any day during the period specified and, in the area', 'the' and 'and period during'</p> <p>Addition of ' if the possession or consumption occurs during a period specified in the notice.</p>
		<p>(c) Any notice referred to in sub-clause (b)(4) must be published on Council's website</p>	New addition to the clause
	<p>(e) A person who fails to comply with a direction of an Authorised Officer under sub clause 3.1(c) is guilty of an offence.</p>	<p>(e) A <i>person</i> to who fails to comply with a direction of an <i>Authorised Officer</i> under sub-clause (d) is guilty of an <i>offence</i>.</p>	Changed to reflect to introduction of clause (c)
	<p>(f) <i>Council</i> may <i>prescribe</i> any area to be a 'prescribed area' for the purpose of this Local Law including:</p> <ol style="list-style-type: none"> (1) on any day or between dates; (2) on any time or between times; or (3) or any other way. 	<p>(f) <i>Council</i> may <i>prescribe</i> any place for the purpose of sub- clause (a) including:</p> <ol style="list-style-type: none"> (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. 	<p>Deletion of:</p> <p>Area to be a 'prescribed area' – replaced with place</p> <p>Deletion of 'this Local law' – replaced with sub-clause (a)</p> <p>Point (1) – addition of 'a prescription that applies'</p> <p>Point (2) – addition of 'a prescription that applies at' and 'or'</p> <p>Point (3) – deleted or and replaced with in</p>

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
4.4 Taking water from Council Controlled Standpipes	(a) A <i>person</i> must not, without a <i>permit</i> , take water from a <i>Council operated standpipe</i> , other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a day of Total Fire Ban.	(a) A <i>person</i> must not, without a <i>permit</i> , take water from a <i>Council controlled standpipe</i> , other than for the purposes of filling a Country Fire Authority, or other authorised, firefighting appliance on any day, including a day of Total Fire Ban.	Deletion of the word 'operated' and replaced with 'controlled'
4.7 Directing Vehicle Crossing works	(a)(3) remove a <i>vehicle crossing</i> , and the reinstatement of any kerb, channel, footpath or other areas, to the satisfaction of the <i>Authorised Officer by the owner or occupier</i> of any adjacent land at their cost.	a)(3) remove a <i>vehicle crossing</i> , and reinstate any kerb, channel, footpath or other area, to the satisfaction of the <i>Authorised Officer</i> or the <i>owner or occupier</i> of any adjacent land at their cost.	Point 3 – deletion of the word 'the' and change reinstatement to reinstate
4.8 Damaging Council Land or Roads	(a)(1) erect or construct, or allow to be erected or constructed, any thing on <i>Council land</i> or a <i>road</i> that is inconsistent with an adopted <i>Council</i> policy or adopted precinct specific plan, or where mechanical plant is used for excavation (4) plant any vegetation on <i>Council land</i> or a <i>road</i> or actively assist such vegetation to grow that is inconsistent with an adopted <i>Council</i> policy or adopted precinct specific plan, or where mechanical plant is used for excavation;	(a)(1) erect or construct, or allow to be erected or constructed, any thing on <i>Council land</i> or a <i>road</i> that is inconsistent with an adopted <i>Council</i> policy or adopted precinct specific plan published on <i>Council's</i> website, or where mechanical plant is used for excavation 4) plant any vegetation on <i>Council land</i> or a <i>road</i> or actively assist such vegetation to grow that is inconsistent with an adopted <i>Council</i> policy or adopted precinct specific plan published on <i>Council's</i> website, or where mechanical plant is used for excavation;	For point 1 and 4 of this clause the addition of published on Council's website has been included. Also, the not section has been updated to read Sub clauses not clause
4.9 Nature Strips	(a) An <i>owner or occupier</i> of land that is not in a <i>Rural Zone</i> must ensure that the <i>nature strip</i> : (1) is maintained in a neat and tidy condition; and (2) does not contain grass, stubble, scrub or undergrowth exceeding 10 centimetres in height. An owner or occupier of land must not alter, or allow to be altered or remain altered any nature strip without a permit.	(a) An <i>owner or occupier</i> of land that is not in a <i>Rural Zone</i> must ensure that the <i>nature strip</i> directly outside that land: (1) is maintained in a neat and tidy condition; and (2) does not contain grass, stubble, scrub or undergrowth exceeding 10 centimetres in height. (b) Subject to sub-clause (a) an <i>owner or occupier</i> of land must not, without a <i>permit</i> , alter, or allow to be altered, or remain altered any <i>nature strip</i> .	The addition of 'directly outside and that land' has been added to (a) Rewording to (b)

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
4.10 Recreational Vehicles on Council Reserves	(2) allow a <i>person</i> under their care or control to drive, ride on or otherwise use a <i>recreational vehicle</i> on any <i>reserve</i> unless that <i>reserve</i> has been <i>designated</i> for that purpose or otherwise authorised by <i>Council</i>	(2) allow a <i>person</i> under their care or control to drive, ride on or otherwise use a <i>recreational vehicle</i> on any <i>reserve</i> unless that <i>reserve</i> has been <i>prescribed</i> for that purpose or otherwise authorised by <i>Council</i>	Change of the word 'designated' to 'prescribed'
5.1 Building work or works	(a) During building work the person in charge must ensure that the building work is carried out such:	(a) During <i>building work</i> the person in charge of that <i>building work</i> must ensure that it is carried out so	Change the placement of the words 'building work'
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 1,500m ² in size, the person in charge must ensure that a site fence is erected on each individual site that: (b) If the person in charge 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, shall protrude in or any land other than the building site on which the building work occurring. (d) Each section of the site fence is to be maintained as per AS4697-2007 and must remain erected until the completion of the building work	(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 1,500m ² in size, the person in charge of the building work must ensure that a site fence is erected on each individual site that: (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	Addition of words 'of the building work' to clause (a) and (b) Point (c) addition of 'must be allowed by the person in charge of the building work to' Point (d) reworded
5.3 Storm water protection at building sites	Where any <i>building work</i> is being carried out on any land, the person in charge must ensure that the <i>site</i> is developed and managed to minimise the risk of storm water pollution through the contamination of run-off by chemicals, sediments, <i>animal</i> waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:	Where any <i>building work</i> is being carried out on any land, the person in charge of the <i>building work</i> must ensure that the <i>building site</i> is developed and managed to minimise the risk of storm water pollution through the contamination of run-off by chemicals, sediments, <i>animal</i> waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:	Addition of the words "the building work' and 'building'

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
5.4 Controlling Trade Waste and building materials at Building Sites	Prior to the commencement of building work and during any <i>building work</i> , the person in charge must:	Prior to the commencement of and during any <i>building work</i> , the person in charge must:	Deletion of the words 'building work' and the word 'and'
5.5 Controlling Mud, Dirt and Debris from Building Sites	(a) Prior to the commencement of building work and during any <i>building work</i> , the <i>person</i> in charge must ensure unsecured mud, dirt and debris is not carried from a <i>building site</i> by <i>vehicles</i> or persons.	(a) Prior to the commencement of and during any <i>building work</i> , the <i>person</i> in charge must ensure unsecured mud, dirt and debris is not carried from a <i>building site</i> by any <i>vehicle</i> or persons.	Deletion of 'building work' and addition of the word 'any'
5.6 Managing a Building or Subdivision Site	<p>(a) Prior to the commencement of any <i>building work</i> the person in charge must notify <i>Council</i> with the details and contract details of the person in charge.</p> <p>(b) If, prior to the completion of the <i>building work</i>, there is a change of person in charge, the new person in charge must, within (7) days of that change, notify <i>Council</i> with the details and contact details of the new person in charge.</p> <p>(c) Prior to the commencement of any subdivision work the person in charge must erect a sign at each access gate to the subdivision which:</p> <p>(1) is at least 800mm in height and 1,200mm in width; and</p> <p>(2) is securely placed in such a location that makes it clearly visible and legible from the <i>road</i>; and</p> <p>(3) contains the name, postal address and a business contact telephone number for the person in charge of the subdivision work which can be reached between 9am and 5pm on working days; and</p> <p>(4) The sign must be displayed until completion of the subdivision work.</p>	<p>(a) Prior to the commencement of any <i>building work</i> the person in charge of the <i>building work</i> must provide <i>Council</i> with their contact details.</p> <p>(b) If, prior to the completion of the <i>building work</i>, there is a change of person in charge, the new person in charge must, within (7) days of that change, notify <i>Council</i> of their contact details.</p> <p>(c) Prior to the commencement of any subdivision work the person in charge of the <i>building work</i> must erect a sign at each access gate to the subdivision which:</p> <p>(1) is at least 800mm in height and 1,200mm in width;</p> <p>(2) is securely placed in such a location that makes it clearly visible and legible from the <i>road</i>;</p> <p>(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</p> <p>(4) is displayed until completion of the subdivision work.</p>	<p>Point (a) addition 'of the building work', notify was changed to provide, deletion of 'details and' also deletion 'of the person in charge'</p> <p>Point (b) Deletion of 'with the details and' replaced with of their, and deletion 'of the new person in charge'</p> <p>Point (c) addition 'of the building work' deletion of the word 'and' Deletion of 'the sign must be'</p>

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
5.7 Inspection of Building Sites	<p>(a) An Authorised Officer may inspect a building or subdivision site at any reasonable time.</p> <p>(b) If, as a result of an inspection of a building or subdivision site, an Authorised Officer identifies any failure to comply with a Local Law, the Authorised Officer may verbally direct the person in charge to correct the breach within a specified time, and must provide the person in charge with written confirmation of the verbal direction and details of the breach, either at the time of the inspection or within a reasonable timeframe.</p>	<p>(a) An Authorised Officer may inspect a building site or subdivision site at any reasonable time.</p> <p>(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.</p> <p>(c) A person in charge to whom a direction is given under sub-clause (b) must comply with that direction.</p>	<p>Point (a) – addition of the word ‘site’</p> <p>Point (b) addition of the word ‘site’, deletion of correct the breach and changed to remedy the failure to comply</p> <p>Point (c) new clause</p>
5.9 Asset Protection and Building Work	must, at least seven (7) days before commencing <i>works</i> on the land	<p>must, at least seven (7) days before commencing any <i>works</i> on the land</p> <p>(c) A person to whom a direction is given under sub-clause (b)(1) must comply with that direction.</p>	<p>Addition of the word ‘any’</p> <p>New clause (c)</p>
6.1 Camping General	(a) <i>Camping</i> must not be a nuisance or unreasonably interfere with the enjoyment to any <i>person</i> of land proximate to the land on which the <i>camping</i> is carried out.	(a) An <i>owner</i> or occupier of land who allows <i>camping</i> on that land must ensure that the <i>camping</i> is not a nuisance and does not unreasonably interfere with the enjoyment to any <i>person</i> of land proximate to the land on which the <i>camping</i> is carried out.	Reworded this clause
6.3 Camping on Privately owned land where a dwelling is erected	(a) A person must not camp on private land, unless a camping permit has been issued by Council and is in force under this Local Law.	<p>(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.</p> <p>(b)(1) for not more than a total of six (6) months in any 12 month period</p>	<p>Deletion of the word ‘camping’</p> <p>(b) deleted Financial year and changed to 12 month period</p>

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
6.4 Camping on Vacant Private Land	<p>(a) The <i>owner</i> or <i>occupier</i> of <i>land</i> which is vacant must not, without a <i>permit</i>, occupy or allow any other <i>person</i> to occupy a <i>caravan</i>, tent, tiny house/movable <i>dwelling</i> or motor home on that land unless the following conditions are met:</p> <p>(6) Has adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.</p>	<p>(a) The <i>owner</i> or <i>occupier</i> of <i>vacant private land</i> must not, without a <i>permit</i>, occupy or allow any other <i>person</i> to occupy a <i>caravan</i>, tent, tiny house/movable <i>dwelling</i> or motor home on that land unless the following conditions are met:</p> <p>(6) the vacant private land has adequate sanitary facilities, and the sanitation are maintained to a reasonable standard.</p>	<p>(a) Deletion of words 'which is vacant' Addition of 'vacant private'</p> <p>(a)(6) Changed to 'vacant private land has adequate sanitary facilities and the sanitation facilities are maintained to a reasonable standard.'</p>
7.1 Dangerous land or Detriment to General Amenity	<p>(a) Unless permitted under a Planning Scheme applicable to the land, an <i>owner</i> or <i>occupier</i> of land must not allow that land to be kept in <i>dangerous and/or unsightly</i> condition.</p>	<p>(a) Unless permitted under a Planning Scheme applicable to the land, an <i>owner</i> or <i>occupier</i> of land must not allow that land to be kept in an <i>unsightly and/or dangerous</i> condition.</p>	Reworded this clause
7.3 Obstruction on Land – Vegetation and other Objects	<p>(2) Extends over any part of the road or on the boundary of a road so that it:</p> <p>(i) obstructs the view between vehicles at an intersection; or</p> <p>(ii) obstructs the view between vehicles and pedestrians; or</p> <p>(iii) obscures a traffic control item from an approaching vehicle(s) or pedestrian(s); or</p> <p>(iv) obscures street lighting; or</p>	<p>(2) extends over any part of the road or on the boundary of a road so that it:</p> <p>(i) obstructs the view between drivers of vehicles at an intersection;</p> <p>(ii) obstructs the view between drivers of vehicles and pedestrians;</p> <p>(iii) obscures a traffic control item from the driver of an approaching vehicle(s) or pedestrian(s); or</p> <p>(iv) obscures street lighting; or</p>	Point (2) addition of words 'drivers of' and 'the driver of'
7.5 Vegetation on Road and council Owned/Managed Land	<p>(2) who is the <i>owner</i> or <i>occupier</i> of land adjoining land owned or managed by <i>Council</i>, must ensure that environmental <i>weeds</i> as listed in the Colac Otway Shire Weed Management Strategy are contained to their property and not encroaching on <i>Council land</i>.</p>	<p>(2) who is the <i>owner</i> or <i>occupier</i> of land adjoining land owned or managed by <i>Council</i>, must ensure that environmental <i>weeds</i> as listed in the Colac Otway Shire Weed Management Strategy are contained to their land and not encroaching on <i>Council land</i>.</p>	Replaced the word 'property' to 'land'

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
8.1 Fire Hazards	<p>(a) An <i>owner</i> or <i>occupier</i> of land must not allow the land to contain any thing which constitutes or is likely to constitute a <i>fire hazard</i>, and ensure that:</p> <p>(1) all necessary steps are taken to;</p> <p>(i) prevent fire on; and</p> <p>(ii) minimise the possibility of spread of fire from those premises; and</p> <p>(2) the premises are kept free of material or substances likely to assist the spread of fire.</p>	<p>(a) An <i>owner</i> or <i>occupier</i> of land must not allow the land to contain any thing which constitutes or is likely to constitute a <i>fire hazard</i>, and ensure that:</p> <p>(1) all necessary steps are taken to;</p> <p>(i) prevent fire on; and</p> <p>(ii) minimise the possibility of spread of fire from that land; and</p> <p>(2) The land is are kept free of material or substances likely to assist the spread of fire.</p>	<p>Part (a)(1)(ii) deletion of the words 'those premises' and replaced with that land</p> <p>Part (2) deletion of the words 'premises are' and replaced with 'land is'</p>

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<p>8.2 Open Air Fires and Incinerators</p>	<p>(a) A <i>person</i> must not, without a <i>permit</i>, light a fire in the open air or in an <i>incinerator</i> on any land in a <i>Designated Area</i> on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.</p> <p>(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.</p> <p>(c) A <i>person</i> must not light a fire during a CFA declared <i>Fire Danger Period</i>.</p> <p>(d) A <i>person</i> must not, without a <i>permit</i>, light a fire in the open air where the open air fire will be lit or used on any <i>Council land</i> or <i>public place</i>.</p> <p>(e) The requirement to obtain a <i>permit</i> does not apply to:</p> <p>(1) a <i>person</i> lighting a barbeque or similar appliance for cooking food; or</p> <p>(2) a constructed fireplace, recreational fire pit or brazier; or</p> <p>(3) a fire that is authorised or directed to be lit under any other legislation.</p> <p>(f) A <i>person</i> must not light a fire in the open air or an <i>incinerator</i> to burn any material or substance that could cause a nuisance to any other <i>person</i> or could harm or damage a <i>person's</i> health.</p> <p>(g) The Designated Area referred to in sub clause 8.29a) will be the Designated Township Area unless Council resolves to establish an alternative Designated Area</p>	<p>(a) A <i>person</i> must not, without a <i>permit</i>, light a fire in the open air or in an <i>incinerator</i> on any land in an area <i>prescribed</i> by <i>Council</i> (or if no area has been <i>prescribed</i> by <i>Council</i> then in a <i>Designated Township Area</i>) on any day or at times other than on a Friday or a Saturday between the hours of 10am and 6pm.</p> <p>(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.</p> <p>(c) A <i>person</i> must not light a fire during a <i>Fire Danger Period</i>.</p> <p>(d) A <i>person</i> must not, without a <i>permit</i>, light a fire in the open air on any <i>Council land</i> or in any <i>public place</i>.</p> <p>(e) The requirement to obtain a <i>permit</i> does not apply to:</p> <p>(1) a <i>person</i> lighting a barbeque or similar appliance for cooking food; or</p> <p>(2) a constructed fireplace, recreational fire pit or brazier; or</p> <p>(3) a fire that is authorised or directed to be lit under any other legislation.</p> <p>(f) A <i>person</i> must not light a fire in the open air or an <i>incinerator</i> to burn any material or substance that could cause a nuisance to any other <i>person</i> or could harm or damage a <i>person's</i> health.</p>	<p>(a) Amended wording to include prescribing designated areas</p> <p>(c) Deletion of CFA declared</p> <p>(d) Deletion of 'where the open air fire will be lit or used' addition of 'in any'</p> <p>(g) Deleted</p>
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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
8.3 Fire Danger Days	<p>(a) Nothing in clause 8.2 authorises a <i>person</i> to light a fire, or allow a fire to be lit or remain alight:</p> <p>(1) during the Declared <i>Fire Danger Period</i>; or</p> <p>(2) on a day where the air quality category is poor, very poor or extremely poor as described by the Environment Protection Authority</p>	<p>(a) Nothing in sub-clause 8.2 authorises a <i>person</i> to light a fire, or allow a fire to be lit or remain alight:</p> <p>(1) during a <i>Fire Danger Period</i>; or</p> <p>(2) on a day where the air quality category is poor, very poor or extremely poor as declared by the Environment Protection Authority</p>	<p>(a) inclusion of the word 'sub'</p> <p>(a)(1) deletion of words ' the Declared'</p> <p>(a)(2) deletion of word 'described' replaced with declared</p>
8.4 Nuisances	<p>(b) A <i>person</i> must not burn, or cause, or allow to be burned any:</p> <p>(1) rubber or plastic substance;</p> <p>(2) waste petroleum oil or material containing waste petroleum oil;</p> <p>(3) paint or receptacle which contains or has contained paint;</p> <p>(4) manufactured chemical or chemically treated material;</p> <p>(5) pressured container;</p> <p>(6) textile fabric; or</p> <p>(7) food waste;</p>	<p>(b) A <i>person</i> must not burn, or cause, or allow to be burned any:</p> <p>(1) rubber or plastic substance;</p> <p>(2) waste petroleum oil or material containing waste petroleum oil;</p> <p>(3) paint or receptacle which contains or has contained paint;</p> <p>(4) manufactured chemical or chemically treated material;</p> <p>(5) pressured container;</p> <p>(6) textile fabric;</p> <p>(7) food waste; or</p> <p>(8) batteries</p>	Addition of batteries
9.3 Sale of Vehicles	<p>(c) A <i>person</i> must not, without a <i>permit</i>, park any <i>vehicle</i> which has advertising painted or stuck directly onto it, or in any way attached to the body of the <i>vehicle</i>, with the intention of advertising by directing a <i>person</i> to a business, on <i>Council land</i> including a <i>road</i>, or in a <i>public place</i>.</p>	<p>(b) A <i>person</i> must not, without a <i>permit</i>, park any <i>vehicle</i> which has advertising painted or stuck directly onto it, or in any way attached to the body of the <i>vehicle</i>, with the intention of advertising by directing a <i>person</i> to a business, on <i>Council land</i> or a <i>road</i>, or in a <i>public place</i>.</p>	Deletion of the word 'including' replaced with 'or'

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
9.4 Abandoned Vehicles	(2) Which has been left standing for at least seven (7) consecutive days and has, in the opinion of an Authorised Officer, been abandoned.	(2) which has been left standing for at least seven (7) consecutive days and gives the appearance of having been abandoned.	The application of a provision cannot depend on the subjective opinion of a person. An objective standard must always exist. Added 'and gives the appearance of having been abandoned''
9.6 Public Events	Deletion of 4 Penalty Units on the spot fine		
10.1 Commercial Activities on Council Land	(a) A person must not, without a permit, conduct commercial activities on a footpath, road reserve or Council land where that person proposes to use a footpath, road reserve, Council land or public place for:	(b) 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:	Addition of 'public place'
11.1 Application of this part	(a) This Part does not apply to any land: (1) On which a pet shop is located; (2) On which an animal hospital or veterinary practice is located; or (3) other like facility, that is subject to the provisions of a code of practice or planning scheme. if the use of the land for this purpose is permitted under a Planning Scheme applicable to the land	(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	Replacement of words on which. Point 3 'other' replaced with 'of 'there exists another'', 'that' replaced with 'the operation of which' Deletion of 'or planning scheme.
11.3 Number of Animals	(a) An owner or occupier of land must not, without a permit, (1) keep or allow to be kept any more in number for each type of animal as is set out in the following table:	(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:	Combined point (1) with (a)
11.5 (a) Control of Cats	Highlighted the entire clause		This appears to be inconsistent with section 26 of the Domestic Animals Act 1994. We recommend that Council delete cl 11.5, and instead make an order under section 26.

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
11.6 Animal Excrement	The owner or person in charge of an animal must: (1) Whilst 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	The owner or <i>person</i> in charge of an <i>animal</i> must, while on <i>Council land</i> or a <i>road</i> or in a <i>public place</i> , have in their possession a bag or container which can be used for the collection of that <i>animal's</i> excrement, and immediately collect and remove excrement	Reworded
11.7 Feeding of Wild Animals	(a) If the feeding of an uncaged <i>bird</i> and/or any <i>animal</i> by a <i>person</i> is causing a nuisance, damage to property or contributing to health issues, an <i>Authorised Officer</i> may direct the <i>person</i> to cease feeding the <i>bird</i> and/or <i>animal</i> .	(a) If the feeding of an uncaged <i>bird</i> and/or any <i>animal</i> by a <i>person</i> is causing a nuisance or damage to property or creating a risk to health, an <i>Authorised Officer</i> may direct the <i>person</i> to cease feeding the <i>bird</i> and/or <i>animal</i> . (b) A <i>person</i> to whom a direction is given under sub-clause (a) must comply with that direction.	Deleted 'contributing to health issues' and replaced with creating a risk to health New clause (b)

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
11.8 Shelters for Animals	<p>(a) The <i>owner</i> or <i>occupier</i> of a property must ensure that any structure on that property used for housing any <i>livestock</i>, <i>small bird</i>, <i>large bird</i>, <i>rodent</i> or <i>reptile</i> or any other <i>animal</i> and the area within three (3) metres of such structure is maintained:</p> <ol style="list-style-type: none"> (1) in a clean, inoffensive and sanitary condition; and (2) so it does not cause any nuisance. <p>(b) All <i>animal</i> shelters must be maintained so that:</p> <ol style="list-style-type: none"> (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, <i>weeds</i>, refuse, rubbish and other material does not build up within three (3) metres of the <i>animal</i> shelter; and <p>the <i>animal</i> shelter and the land are kept in a clean and sanitary condition.</p>	<p>(a) The <i>owner</i> or <i>occupier</i> of land must ensure that any structure on that land used for housing any <i>livestock</i>, <i>small bird</i>, <i>large bird</i>, <i>rodent</i> or <i>reptile</i> or any other <i>animal</i> and the area within three (3) metres of such structure is maintained:</p> <ol style="list-style-type: none"> (1) in a clean, inoffensive and sanitary condition; and (2) so that it does not cause any nuisance. <p>(b) The <i>owner</i> or <i>occupier</i> of land on which there is an <i>animal</i> shelter must maintain that <i>animal</i> shelter so that:</p> <ol style="list-style-type: none"> (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, <i>weeds</i>, refuse, rubbish and other material does not build up within three (3) metres of the <i>animal</i> shelter; and <p>the <i>animal</i> shelter and the land are kept in a clean and sanitary condition.</p>	<p>Deleted the words 'a property' and replaced with 'land'</p> <p>Point (b) Added the words ' the owner or occupier of land on which there is an' and 'that animal shelter'</p>
11.9 Adequate Fencing for Livestock		<p>(c) A <i>person</i> to whom a direction is given under sub-clause (b) must comply with that direction.</p>	New Clause
11.10 Grazing or Droving of Livestock	<p>A <i>person</i> must not, without a <i>permit</i>, drove or graze <i>livestock</i> on a road or <i>Council land</i> in the <i>municipal district</i>.</p>	<p>A <i>person</i> must not, without a <i>permit</i>, drove or graze <i>livestock</i> on a road or <i>Council land</i>.</p>	Deletion of 'in the municipal district'

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
11.11 Droving of Livestock within the Municipal District	(a) A <i>person</i> must not, move <i>livestock</i> across and/or along a <i>road</i> to travel from one property being part of a <i>single farming enterprise</i> to another being part of the same farming enterprise or from one part of a property to another part of the same property without a permit.	(a) A <i>person</i> must not, without a <i>permit</i> , move <i>livestock</i> across and/or along a <i>road</i> to travel from one property being part of a <i>single farming enterprise</i> to another being part of the same farming enterprise or from one part of a property to another part of the same property.	Changed the location of the words 'without a permit'
11.12 Bees and Wasps	An <i>owner</i> or <i>occupier</i> 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 <i>Authorised Officer</i> , must take steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.	(a) An <i>owner</i> or <i>occupier</i> 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 <i>Authorised Officer</i> , take reasonable steps to cause the removal of the wasp nest or bee nest by an appropriate contractor.	Deletion of the word 'must' and addition of the word 'reasonable'
12.1 Disposal of Household Waste, Recyclables and Organic Waste and Glass	<p>(2) Must deposit <i>household waste</i> only in the mobile garbage bin (MGB – Red Lidded), <i>recyclables</i> only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile <i>organic waste</i> bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);</p> <p>(7) Must not leave the mobile bins out more than one day before or one day after a designated collection day</p> <p>(11) Must ensure that the area where the mobile bins are kept on the property is kept clean and in a sanitary condition</p> <p>(12) Must ensure that the lid of the mobile bins are closed other than when material is being deposited in them</p>	<p>(2) deposit <i>household waste</i> only in the mobile garbage bin (MGB – Red Lidded), <i>fully commingled recyclables</i> only in the mobile recycling bin (MRB – Yellow Lidded) and organic and food waste only in the mobile <i>organic waste</i> bin (MOB – Green Lidded) and mobile glass bin (MGB – Purple Lidded);</p> <p>(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 <i>Authorised Officer</i></p> <p>(11) ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition</p> <p>(12) ensure that the lid of the mobile bins is closed other than when material is being deposited in them</p>	<p>Deletion of the word 'must' at the start of each sub clause has been added at the start of part (a)</p> <p>Point 2 – added word 'fully commingled'</p> <p>Point 7 – added words 'or day directed by an Authorised Officer'</p> <p>Point 11 – Deletion of the word 'property' and replaced with premises</p>

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CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
12.2 Prohibited Waste	(12) any other waste <i>prescribed</i> by Council. (i) must, if directed by Council to do so, remove <i>contaminated material</i> from mobile bin/s; (ii) must, if directed by Council to do so, dispose of all contents of mobile bins containing contaminated material	(12) any other waste <i>prescribed</i> by Council and must, if directed by Council to do so: I. remove <i>contaminated material</i> from mobile bin/s; and II. dispose of all contents of mobile bins containing <i>contaminated material</i>	Deletion of Must, if directed by Council to do so – added into the main part of the clause
12.3 Placement of Mobile Bins	(4) at a suitable location within or outside the premises with an Authorised Officer's approval, where restrictions on space or access do not allow placement in accordance with clauses (1), (2) (3), (5) at a suitable location within the premises, where an <i>Authorised Officer</i> certifies that special circumstances or hardship exists;	(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 <i>Authorised Officer</i> approving such location; (5) at a suitable location within the premises, where an <i>Authorised Officer</i> certifies in writing that special circumstances or hardship exists;	Point 4 - Deletion of 'with an Authorised Officer's approval, where' Addition of 'subject to an Authorised Officer approving such location' Point 5 – addition of 'in writing'
12.5 Disposal of disused refrigerators and other compartments	(a)(2) remove every lock, catch and hinge attached to a door or lid	(a)(2) removing every lock, catch and hinge attached to a door or lid	Change word remove to removing
12.6 Restriction on Use of Public Waste and Recycle Bins	(a) The <i>owner</i> or <i>occupier</i> of premises must not place or deposit any <i>household waste</i> , <i>recyclables</i> , <i>organic waste</i> , glass or other waste material of any kind which has been generated in or from that premises in a public waste bin.	(a) The <i>owner</i> or <i>occupier</i> of land must not place or deposit any <i>household waste</i> , <i>recyclables</i> , <i>organic waste</i> , glass or other waste material of any kind which has been generated in or from that land in a public waste bin.	Change of wording – replaced premises with land

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
12.8 Screening of Bin and Hoppers	<p>(a) <i>Council</i> may, by notice in writing, direct the <i>owner</i> or <i>occupier</i> of any land to:</p> <p>(1) install;</p> <p>(2) repair;</p> <p>(3) replace; or</p> <p>(4) modify</p> <p>a fence or other means of screening an approved mobile bin or <i>trade waste hopper</i> from public view if it the opinion that the approved mobile bin or <i>trade waste hopper</i> is:</p> <p>(5) unsightly;</p> <p>(6) dangerous; or</p> <p>(7) detrimental to the general amenity of the neighbourhood in which it is located.</p>	<p>(a) <i>Council</i> may, by notice in writing, direct the <i>owner</i> or <i>occupier</i> of any land to:</p> <p>(1) install;</p> <p>(2) repair;</p> <p>(3) replace; or</p> <p>(4) modify</p> <p>a fence or other means of screening an approved mobile bin or <i>trade waste hopper</i> from public view if the approved mobile bin or <i>trade waste hopper</i> is:</p> <p>(5) unsightly;</p> <p>(6) dangerous; or</p> <p>(7) detrimental to the general amenity of the neighbourhood in which it is located.</p> <p>(b) A <i>person</i> to whom a direction is given under sub-clause (a) must comply with that direction.</p>	Deletion of words ' it is of the opinion' and a new clause (b)
12.9 Deposition of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres	Highlighted point 4 – may only deposit material permitted by an Environment Protection Authority Site Licences applying to the facility or centre from time to time	(4) Must not deposit any hazardous, dangerous or infectious materials	Reword to use language that the general person understands, noting that they wouldn't know the details of the site licence. .
13.1 Application for permit	<p>(d) unless otherwise stated in the permit, a permit:</p> <p>(1) Only authorizes the person named in the permit to carry out the permitted activity; and</p> <p>(2) Is not transferrable</p>	(d) Unless otherwise stated in the <i>permit</i> , a <i>permit</i> only authorises the <i>person</i> named in the <i>permit</i> to carry out the permitted activity and is not transferable.	<p>Addition of 'only authorises the person named in the permit to carry out the permitted activity and is not transferable'</p> <p>Deleted points (1) and (2)</p>
13.2 Decision on Permit Applications	After considering all relevant documentation <i>Council</i> may decide to	After considering all relevant information <i>Council</i> may decide to	Replaced documentation with information
13.7 Fees and Charges	(a) <i>Council</i> may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any <i>Council</i> property, undertaking, good, service or other act, matter or thing, as per section 77 of the <i>Act</i> .	(a) <i>Council</i> may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any <i>Council</i> property, undertaking, good, service or other act, matter or thing, in accordance with section 77 of the <i>Act</i> .	Replaced 'as per' with 'in accordance'

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
13.9 Delegation	(a) <i>Council</i> may delegate to the <i>Chief Executive Officer</i> all powers, functions and duties under this Local Law, and authorise the <i>Chief Executive Officer</i> to delegate any powers to <i>Authorised Officers</i> and other Authorities.	(a) <i>Council</i> may delegate to the <i>Chief Executive Officer</i> all powers, functions and duties under this Local Law, and authorise the <i>Chief Executive Officer</i> to delegate any powers to <i>Authorised Officers</i> and other members of <i>Council</i> staff.	Replaced 'Authorities' with 'members of Council staff'
14.1 Failure to comply with this Local Law, Permit or Notice to Comply	Highlighted (a)(1) contravenes or fails to comply with any provision of this Local Law, or any document incorporated by reference (6) fails to comply with a sign erected by Council	(a)(1) contravenes or fails to comply with any provision of this Local Law; (6) fails to comply with a sign displayed by Council	Documents incorporated by reference do no more than set the standard set out in one of the provisions of the Local Law. The exception is the Guidelines but these can no more than inform the public and Council staff about the administration of the Local Law. (1) Deleted "or any document incorporated by reference" (6) replaced 'erected' with 'displayed'

Amendments to the Proposed Local Law – as at 18 August 2023

CLAUSE	PROPOSED CLAUSE BEFORE REVIEW	CHANGE TO READ	REASONS WHY
14.5 Impounding or Seizure	<p>Highlighted: An Authorised Officer may seize and impound any item, thing or animal which is the subject of a breach of this Local Law or any legislation which is administered and enforced by Council.</p> <p>(b) Where any item, thing or <i>animal</i> is impounded or seized pursuant to this Local Law, notice of the impounding or seizure is to be given to the <i>person</i> that is known or appears to the <i>owner</i> of the impounded item, thing or <i>animal</i></p> <p>(i) If an impounded thing has not been surrendered to its <i>owner</i> or a <i>person</i> acting on the <i>owner's</i> behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, of the act of impounding, <i>Council</i> may, at its discretion:</p> <ol style="list-style-type: none"> (1) <i>sell</i>; (2) <i>give away</i>; or (3) <i>destroy</i> <p>the impounded thing.</p>	<p>An Authorised Officer may seize and impound any item, thing or animal which is the subject of a breach of this Local Law.</p> <p>(b) Where any item, thing or <i>animal</i> is impounded or seized pursuant to this Local Law, notice of the impounding or seizure must be given to the <i>person</i> who is known or appears to the <i>owner</i> of the impounded or seized item, thing or <i>animal</i>.</p> <p>(i) If an impounded or seized thing has not been surrendered to its <i>owner</i> or a <i>person</i> acting on the <i>owner's</i> 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, <i>Council</i> may, at its discretion:</p> <ol style="list-style-type: none"> (1) <i>sell</i>; (2) <i>give away</i>; or (3) <i>destroy</i> <p>the impounded or seized thing.</p>	<p>Council cannot, by local law, confer upon itself a power to seize and impound under legislation that itself does not confer such a power.</p> <p>Deleted “or any legislation which is administered and enforced by Council”</p> <p>Addition of “or seized” and “or seizing” throughout this clause</p>
	<p>Deleted “A copy of this Local Law was sent to the Minister for Local Government on”</p>		<p>It is no longer necessary for Local Laws to be sent to the Minister for Local Government</p>
	<p>Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on 25 September 2023</p>	<p>Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on 23 August 2023</p>	<p>Changed from September to August</p>

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]

1. PURPOSE

The purpose of this report is to consider submissions to the Lake Colac Holiday Park lease Expression of Interest (EOI) process.

2. EXECUTIVE SUMMARY

At the Council meeting held 27 July 2022, Council resolved to seek Expressions of Interest (EOI) for the lease of the Lake Colac Holiday Park from 26 January 2023. Council approved the documentation seeking EOIs including key lease terms. The documentation also included the assessment criteria. Council concurrently sought EOI and undertook public consultation on its intent to lease the land.

No responses to the EOI were received with feedback from the market, and officers were advised by parties that considered the EOI (but chose not to make a submission) that a lease for the park was not commercially viable. This was primarily due to the combination of the constrained scale of operation due to the limited site area, and the relatively poor condition of existing site infrastructure if required to be funded solely by the lessee.

Council resolved at its meeting on 22 February 2023 to make a capital investment of \$500,000 in long-term infrastructure at the Lake Colac Holiday Park, in recognition of the park's community and economic importance considering the local and regional visitor accommodation shortage.

A second round of EOI commenced on 24 March 2023. The 'Invitation for Expression of Interest' for the lease of the Lake Colac Holiday Park was advertised via Council's e-procure portal, direct notification to regional holiday park owners / managers and through online and print media, among other means. The updated EOI documentation included Council's funding commitment to

infrastructure and revised administrative matters such as dates, but key components such as assessment criteria remains remained the same as that approved by Council in July 2022.

The EOI was released with a submission deadline of 2:00pm on 26 April 2023. This report considers responses to the EOI.

3. 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.***

4. KEY INFORMATION

EOI Advertisement

An 'Invitation for Expression of Interest' for the lease of the Lake Colac Holiday Park was advertised via Councils e-procure portal, direct notification to regional holiday park owners / managers and through online and print media, among other means. The EOI was released on 24 March 2023 with a submission deadline of 2:00pm on 26 April 2023.

Two potential proponents requested an extension to the EOI deadline leading to the submission deadline extending for all parties to 2:00pm on 5 May 2023.

Council advertised three scheduled site inspection opportunities whilst the EOI was open and all parties that submitted a proposal attended one or more inspections.

Evaluation of EOI

Submissions to the EOI were evaluated against the criteria listed in the 'Invitation for Expression of Interest' which are described below.

EOI Reference	Evaluation Criteria
5.1.1	Maximise the financial return to Council and / or investment in long term infrastructure at the Caravan Park, including evidence of an ability to deliver capital improvements.
5.1.2	Maximise the social return to Council and the community through an operator that is committed to work with the community and local businesses.
5.1.3	Procure a quality Caravan Park service inclusive of excellent customer service.
5.1.4	Well credentialed Proponent to operate the Caravan Park with appropriate experience and capability.
5.1.5	Well credentialed Proponent who can demonstrate they have capacity to operate the Caravan Park, including suitable business plan and cash flow forecast.
5.1.6	Achieve a relevant and mutually beneficial lease that value adds to Colac and surrounds as a tourism destination.

An internal assessment panel evaluated submissions against the adopted evaluation criteria has recommended a preferred lessee for consideration by Council.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The overarching governance principles are:

- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
- The ongoing financial viability of the Council is to be ensured.
- The transparency of Council decisions, actions and information is to be ensured.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Section 115 and 116 of the *Local Government Act 2020* provides local governments with the authority to lease land. Council has complied with Section 115 by previously undertaking a community consultation process seeking feedback from the community about its intention to lease the land. No submissions were received from the community.

The process undertaken is in accordance with Council's Lease and Licence Policy.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

The proposed lease includes the requirement for the tenant to purchase 100% renewable energy from year four onwards.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Community engagement on the future lease of the Lake Colac Holiday Park was undertaken in 2022 when Council advertised its intention to lease the land and invited submissions from the community. No submissions were received.

Public Transparency (s58 LGA 2020)

Council has undertaken a public EOI process seeking submissions from interested parties. If a lease is executed, the name of the lessee and key terms will be made publicly available.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 2: Attract, retain and grow business in our Shire

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 4: Colac Otway Shire is a destination to visit

Financial Management (s101 Local Government Act 2020)

Council resolved to allocate \$500,000 towards capital upgrades at the Lake Colac Holiday Park at its 22 February 2023 meeting. The funds were sourced from the sale 36-52 Bruce Street, Colac.

Should a lease be entered into with Submitter 1, the lease will provide an annual financial return to Council. In addition, it would also result in capital investment by the lessee to at least match Council's contribution, in accordance with the resolution of Council at its 22 February 2023 meeting and the proposal by Submitter 1.

Service Performance (s106 Local Government Act 2020)

Once a lease is entered into, Council will be required to actively manage the lease and the service requirements contained within.

Risk Assessment

Not applicable.

Communication/Implementation

Following Council's consideration of this matter, the outcome will be communicated via a range of mediums including direct discussions and correspondence with key stakeholders and via local media outlets.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Conclude the EOI process by nominating the preferred lessee in order to execute a lease agreement.

This option is recommended by officers. The submission was a high-quality proposal which would provide benefits to Council and the community. There is a lack of visitor accommodation in Colac and this option would enable the Lake Colac Holiday Park to continue to provide an important accommodation offering in Colac.

Option 2 – Conclude the EOI process and not determine a preferred lessee.

This option is not recommended by officers as it would risk closing the Lake Colac Holiday Park in the short to medium term. If Council doesn't progress a lease at this time it will need to consider operating the park directly (not currently within Council's capability), outsourcing the park operations, or face closure of the park which will leave Colac with reduced visitor accommodation.

Option 3 – Conclude the EOI process and undertake a new EOI process.

This option is not recommended by officers. Council has undertaken two EOI processes and it is highly unlikely to receive a different response by going out to the market for a third time.

Date 3 March 2023



Invitation for Expression of Interest

Lease of the buildings and land known as "Lake Colac Holiday Park", 51 Fyans St, Colac.

Colac Otway Shire Council

Expressions of Interest close at 2.00pm (Australian Eastern Standard Time) on Wednesday 26 April 2023.

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Invitation for Expression of Interest

1. Definitions

In this Invitation:

Lake Colac Holiday Park means the buildings and land as set out in the attached plan in Schedule 2.

Council means Colac Otway Shire Council.

Invitation means this invitation for Expressions of Interest.

Land means the land and building known as Lake Colac Holiday Park at 51 Fyans St, Colac.

Premises means the areas to be leased, as per the Attached plan in Schedule 2.

Proponent means a person or corporate body who lodges a Proposal in accordance with this Invitation.

Proposal means the Proponent's response to this Invitation.

Registration Form means the registration form attached in Schedule 1.

2. Overview and Purposes

2.1 Overview

Council is seeking to secure a tenant to operate the Lake Colac Holiday Park as a caravan park business.

2.2 Purposes

Council's purposes in undertaking this Invitation are:

2.2.1 to provide sufficient details to enable each Proponent to make an assessment of the premises and prepare an informed proposal; and

2.2.2 to enable Council to identify proposals which meet Council's objectives.

2.3 Background & Key Information

2.3.1 The township of Colac has a population of around 13,000, located on the edge of Lake Colac. Colac is the administrative centre and largest town in the Colac Otway Shire and services many smaller nearby communities. For visitors, Colac is positioned on the Princes Highway, providing ready access to the Otways, 12 Apostles, Great Ocean Road, surrounding Hinterland, Volcanic Lakes and Plains and destinations to the west of the region. It is often a stop for food, fuel and supplies for travellers on the Great Ocean Road journey. Colac is considered a hub for exploring major regional attractions and destinations – less than an hour's drive to Lorne, Apollo Bay and the 12 Apostles, while attractions like Lake Colac, Colac Botanic Gardens and nearby Red Rock provide activities in and around the township.

- 2.3.2 Lake Colac Holiday Park is located on the Lake Colac foreshore beside the beautiful Colac Botanic Gardens and Barongarook Creek. The site is a short walk from a regional playground, the Lake View Café (within the Botanic Gardens), a bird sanctuary and a 900m walk from the Colac CBD.
- 2.3.3 Lake Colac Holiday Park is one of the main providers of visitor accommodation to the township of Colac alongside a number of small motels. Council aims for the site to be suitable for all types of visitors including family's and grey nomads. Council is seeking an operator to drive growth in the caravan park whilst working collaboratively with Council's tourism team and Great Ocean Road Regional Tourism to achieve regional tourism development goals.
- 2.3.4 The current agreement with the operator of the Lake Colac Holiday Park is due to end on 30 June 2023, with this EOI being for the lease from 1 July 2023 onwards. The lease document will include the Crown land caravan park lease template as included in Schedule 4 of this EOI.
- 2.3.5 Lake Colac Holiday Park is currently registered as a caravan park with 64 sites under the Caravan Park and Residential Tenancies Regulations 2020. The current 3 year registration expires on 31 December 2025.
- 2.3.6 At 1 March 2023 there were five permanent residents living at Lake Colac Holiday Park. All permanent residents live in self-owned portable caravans. Prospective proponents will be provided the current rental income for permanent residents on request. No additional permanent residents will be permitted at Lake Colac Holiday Park once the current five vacate the site.
- 2.3.7 The Lake Colac Holiday Park has a number of powered and unpowered sites. Council is also seeking a proponent to bring additional accommodation infrastructure being proponent owned cabins and/or glamping tents.
- 2.3.8 To align with Council's environmental objectives, proponents will be required to purchase 100% 'green power' at Lake Colac Holiday Park using electricity generated from renewable electricity sources.
- 2.3.9 The site includes the following existing infrastructure. A full list of chattels can be provided to prospective proponents on request.
- (a) 12 amenity buildings "en-suites" (Schedule 3, Figure 6)
 - (i) En-suites have two private bathroom including a shower and toilet that service powered sites, servicing 24 sites.
 - (b) Laundry and amenity building (Schedule 3, Figure 7)
 - (i) This building includes a cleaning/storage room, one female toilet, one male toilet, laundry room and one shower.
 - (c) Storage Shed (Schedule 3, Figure 8)
 - (i) Includes solar panels on roof.
 - (d) Temporary office (does not form part of the infrastructure to remain onsite)
 - (e) Bitumen laneways
 - (f) Sewer system

- (g) Water supply system

2.3.10 Council Capital Investment:

It has been identified that the site's existing amenities including ensuites require improvement to ensure they meet the expectations of a contemporary holiday park and provide sufficient capacity to cater for the number of powered/unpowered sites the land area at the caravan park can accommodate. In acknowledgement, Council has committed up to \$500,000 to capital investment in long-term infrastructure at the Lake Colac Holiday Park, which will be based on a master plan for the site to be prepared by the proponent and agreed to by Council.

Council is seeking a tenant that will also invest in the long term capital infrastructure of the site, at least to the value of Council's investment, on infrastructure agreed to by Council within the first 3-5 years of the lease, noting that some infrastructure (eg: amenities) will be required to be improved as a priority. It is Council's expectation that the capital improvements will be undertaken by the successful proponent with Council providing funding as per the final agreement.

Proposals are to include details of the proposed infrastructure improvements including but not limited to:

- (a) Footprint and general appearance/materials
 - (b) Location
 - (c) Inclusions (number of toilets, showers, any cooking facilities etc.)
 - (d) Budget
 - (e) Plans for existing laundry and amenity building
 - (f) Plan to remove, keep or refurbish the en-suites.
 - (g) Provision of cabins, glamping tents or other accommodation provision (which could be from the proponent's contribution)
- 2.3.11 It is noted that a successful proponent will be responsible for maintenance and renewal of all infrastructure at Lake Colac Holiday Park for the duration of the lease.
- 2.3.12 It is stated that Council currently operates a business on the subject land through a management agreement. This invitation is expressly not offering any interest in Council's business interests. The land and buildings offered will be subject to vacant possession and any expression of interest shall be proposed on that basis. The current business name 'Lake Colac Holiday Park', and RMS booking system can be transferred to the successful proponent upon negotiation. At the end of the lease agreement, the business name used by the proponent must be transferred to Council.
- 2.3.13 Council is currently taking forward bookings at Lake Colac Holiday Park until 31 December 2023. Any booking including income received for bookings after the commencement date of a new lease will be transferred to the successful proponent within 30 days of the commencement of the lease. Council can provide details on future bookings to date on request.
- 2.3.14 From 27 January 2023 Council has been operating Lake Colac Holiday Park through a management agreement. Council can provide occupancy data from 27

January 2023 onwards to potential proponents upon request. Council does not have occupancy data for Lake Colac Holiday Park prior to 27 January 2023.

2.3.15 The site is split across two zones being Public Park and Recreation Zone (PPRZ) and Public Conservation and Resource Zone (PCRZ). The site also has an Environmental Significance Overlay (ESO2) and Heritage Overlay (HO113). Development of the site as a caravan park is permitted under the zones with a planning permit required for installation of any cabins and construction of amenity blocks or associated facilities. Land owner/manager consent is also required for any development, with Council delegated as the land manager.

2.3.16 Useful links:

- (a) Visit Colac Website: https://visitgreatoceanroad.org.au/post_location/colac/
- (b) Lake Colac Foreshore Masterplan: <https://www.colacotway.vic.gov.au/files/assets/public/trimfiles/my-property/lake-colac-masterplan-project-2015-2016/lake-colac-foreshore-master-plan-final.pdf>
- (c) Colac Destination Action Plan 2022-2025: <https://www.colacotway.vic.gov.au/files/assets/public/trimfiles/council-and-the-shire/colac-destination-action-plan-dap-2020-2021/colac-destination-action-plan-2020-2025-great-ocean-road-regional-tourism.pdf>

2.3.17 Table with description of existing site:

Site Information	
Property	Lake Colac Holiday Park 51 Fyans St, Colac
Owner	Crown Land (DELWP)
Crown Land Manager	Colac Otway Shire Council (leased for commercial use)
Allotment Size	Lease area 1.67ha (approx.)
Existing Site Use	Caravan / Holiday Park <ul style="list-style-type: none"> - 64 sites - Amenity blocks including 12 ensuite blocks serving 24 sites

3. Council's Objectives for the Premises

The principal objectives of Council are to:

- 3.1 maximise the financial and/or economic stimulus to Council and the community;
- 3.2 procure a quality caravan park service including investment in capital upgrades for the development of the caravan park facilities;
- 3.3 create a caravan park that adds value to Colac and surrounds as a tourism destination;

- 3.4 select a well credentialed and financially credible proponent to operate the caravan park with appropriate experience and capability;
- 3.5 achieve a relevant and mutually beneficial lease including development options;
- 3.6 deliver a range of camping and accommodation options.

4. The Expression of Interest Process

4.1 Timetable

This Invitation is issued on 3 March 2023 and all Proposals must be submitted by 2:00pm (Australian Eastern Standard Time) on Wednesday 26 April 2023 (**Closing Date**), in accordance with clause 4.5.1.

4.2 Inspection

It is recommended that prospective Proponents to inspect the Premises with a Council Officer prior to the Closing Date. There will be a minimum of two Council representatives at all site visits. All site visits will be minuted.

Site inspections and briefings are scheduled for:

- Wednesday 15 March 2023 at 10am
- Tuesday 21 March 2023 at 2pm
- Friday 14 April 2023 at 10am

Prospective proponents are to register their attendance via the following:

Property and Procurement Team
Colac Otway Shire Council
Telephone: (03) 5232 9400
Email: procurement@colacotway.vic.gov.au

4.3 Key Terms of lease

The lease will contain the following terms (and any other terms required by Council or contained in the Council Lease Template):

- 4.3.1 The suggested term of the lease will be 21 years commencing on or after 1 July 2023. Council will consider applications requesting an alternative length of term. Leases with a term over 21 years on crown land require ministerial approval.
- 4.3.2 The rent will increase on a schedule that is dependent on level of capital investment as outlined below:
 - (a) For proposals with minimal capital investment in facilities, rent will increase by CPI per annum on each anniversary of the commencement date during the initial term, any further term(s) and any period of holding over, and on the commencement date of each further term. There will be an independent valuation of rental value after 10 years to which the rent will change.

- (b) For commercial development leases with significant capital investment in facilities, rental increase methodology will be negotiated with preferred proponents.
- 4.3.3 The tenant must provide Council with a bank guarantee to the value of \$6,000.
- 4.3.4 If the tenant is a Company other than a Public Company, the execution of a guarantee and indemnity by each of the directors of the company in a form required by Council.
- 4.3.5 The tenant must pay the following outgoings:
 - (a) 100% of all rates and taxes for the area of the Premises;
 - (b) 100% of all outgoings such as electricity, water, sewerage and gas for the area;
- 4.3.6 The tenant may not place marketing material on or within the grounds without the approval of Colac Otway Shire and relevant Planning permission.
- 4.3.7 The tenant must provide all equipment, accommodation, fixtures etc. necessary for operating the Caravan Park. Ownership of all chattels, fixtures and fittings will be clearly defined in the lease.
- 4.3.8 The tenant must maintain the Premises to an agreed minimum standard (fair wear and tear excepted) at its own cost.
- 4.3.9 At the end of the lease, the tenant must give the Premises back to Council in a condition consistent with the tenant having complied with its repair and maintenance, and any capital investment obligations.
- 4.3.10 The tenant must maintain the Lake Colac Holiday Park to an acceptable standard including cutting grass and maintain facilities.
- 4.3.11 The tenant is required to provide Council with annual user figures broken down by month.
- 4.3.12 The tenant must maintain, clean and manage all on-site facilities to an agreed standard required for a high quality caravan park.
- 4.3.13 All internal infrastructure is the responsibility of the tenant including but not limited to maintenance and renewal.
- 4.3.14 The tenant and any permanent resident may undertake no major works onsite without the approval of Council. All minor works and maintenance by the tenant and any permanent resident must be in accordance with the agreed maintenance and condition standards.
- 4.3.15 The tenant is required to undertake an annual arborists report for all canopy trees on the site and rectify any issues occurring that impact the safety of facility users. The annual arborist report is to be provided to Council.
- 4.3.16 All other conditions as per the draft lease.
- 4.3.17 The tenant must take out, and keep in force Public Liability Insurance with a minimum cover of \$20 million throughout the currency of the lease. The Policy must note Council as landlord.

As in Schedule 1, proposals can include requests for alteration to any of the key terms.

4.4 Expression of interest – registration form

Each Proponent must submit a Proposal in the form attached in Schedule 1 of this Invitation. Additional information can be attached if required.

4.5 Proposals

Each Proposal must include the following:

4.5.1 Registration Form

A completed, signed and dated Registration Form.

4.5.2 Financial return to Council

- (a) The proposed rent per annum, plus GST and outgoings.
- (b) Proposed capital investment in the development of existing and/or new facilities including a 3-5 year implementation plan for key infrastructure (eg: a new amenity block). This would include itemised capital expenditure for Council's (up to) \$500,000 contribution and the required matching contribution from the proponent.

4.5.3 Details of the operation of the Caravan Park including additional benefits to Council and the Community including details of:

- (a) The proponents proposed site plan.
- (b) The proponents investment in fixed accommodation and other supporting infrastructure.
- (c) The proponents plan for permanent residents.
- (d) Customer service expectations, levels of staff on site, booking systems etc.
- (e) Key terms of operational policies e.g. cancelation policy.
- (f) Proposed pricing model.
- (g) Marketing plan including value add to Colac and surrounds as a tourism destination.
- (h) Any additional proposed uses of the site or relevant operational matters.

4.5.4 Details of the Proponent's experience with operating a Caravan Park or similar and details of:

- (a) The Proponent's financial position, including balance sheet and profit and loss statement for the previous financial year if requested;
- (b) Business Plan and cash flow forecast for the proposed business; and
- (c) Any other relevant matters concerning the Proponent, including but not limited to insolvency events.

4.5.5 Proposed changes to lease terms including:

- (a) Any additional key terms of the lease; and
- (b) Any departures from Council's key terms.
- (c) Proponent estimate of required capital expenditure

4.5.6 Any other information requested in Schedule 1.

4.6 Procedure for Lodgement

4.6.1 All Proposals must be completed in accordance with clause 4.6 and Schedule 1. Proposals may be lodged:

Electronically at www.colacotway.vic.gov.au

Then select **Jobs and Tenders**

Select **Tenders and Expressions of Interest**

Select **Here**

This takes you to **eProcure**

Either select **Register** or **view and download document**

Please contact **eProcure** on 1800377628 if you are experiencing any difficulties

[Note: Proposals can be uploaded to the **eProcure** tender box in Microsoft Word or Adobe PDF document format. Adobe PDF is Council's preferred format for submissions. Submission files should be placed in a .zip format where convenient].

Council accepts no responsibility for proposals not being received prior to 2:00pm on the Closing Date. Proposals not received by 2:00pm on the Closing Date will be treated as late.

4.6.1 **Proposals that are late or which are not submitted in accordance with clause Error! Reference source not found. above may not be considered by Council.**

4.7 Variations

Council is under no obligation to provide a Proponent with a further opportunity to respond to this Invitation or allow a Proponent to vary its Proposal, once that Proposal has been lodged.

4.8 More than one Proposal

Proponents may submit more than one Proposal in response to this Invitation.

4.9 Non-conforming Proposals

Council may consider Proposals which do not conform to this Invitation.

4.10 Local Government Act 2020

Proponents acknowledge that Council must comply with sections 118 (4) of the *Local Government Act 2020* (Vic) and the Colac Otway Shire Council Community Engagement Policy before being able to enter into a lease for the Premises.

5. Evaluation Process

5.1 In assessing each Proposal received, Council will use the following evaluation criteria (not listed in any order of importance):

- 5.1.1 Maximise the financial return to Council and / or investment in long term infrastructure at the Caravan Park, including an evidence of an ability to deliver capital improvements;
 - 5.1.2 Maximise the social return to Council and the community through an operator that is committed to work with the community and local businesses;
 - 5.1.3 Procure a quality Caravan Park service inclusive of excellent customer service;
 - 5.1.4 Well credentialed Proponent to operate the Caravan Park with appropriate experience and capability;
 - 5.1.5 Well credentialed Proponent who can demonstrate they have capacity to operate the Caravan Park, including suitable business plan and cash flow forecast;
 - 5.1.6 Achieve a relevant and mutually beneficial lease that value adds to Colac and surrounds as a tourism destination.
- 5.2 On completion of assessment of Proposals, Council may decide to:
- 5.2.1 proceed to a request for proposals process with short-listed Proponents;
 - 5.2.2 appoint a Proponent as preferred Proponent;
 - 5.2.3 negotiate with any or several of the Proponents; or
 - 5.2.4 terminate this Invitation.
- 5.3 Council will not be bound to engage any Proponent or review any Proposal that does not conform with the requirements set out in this Invitation.
- 5.4 The Proponent acknowledges that Council is not bound to accept the Proposal with the highest proposed rent or any Proposal submitted in respect of this Invitation and may terminate the Expression of Interest process at any time.
- 5.5 The submission of a Proposal does not give rise to any contract governing, or in any way concerning, the Expression of Interest process, or any aspect of the Expression of Interest process. Council expressly disclaims any intention to enter into such a contract.

6. No Fettering of Council's Powers

Nothing in this Invitation shall fetter or restrict the power or discretion of the Council to make or impose requirements or conditions in connection with any use or development of the Premises, or the granting of any planning approval or building permit, the approval or certification of any plans of subdivision or consolidation applicable to the Premises or the issue of a statement of compliance in connection with any such plans.

7. Costs and Expenses

Proponents will be responsible for all costs associated with making and submitting their Proposal in response to this Invitation. Proponents will also be responsible for any legal costs incurred by Council in negotiation of lease terms or finalisation of the lease document. Proponents will be informed before legal costs are incurred.

8. Agency

If Proponents are responding through agents, then they must:

- 8.1 note that the agent is acting for and will be remunerated by the Proponent; and
- 8.2 provide formal written confirmation of authority from the Proponent with their response.

Neither Council nor any of its consultants will deal with or recognise any party other than those who have submitted the requested formal authority.

9. Nomination

Where a Proponent proposes forming a company specifically to be the tenant pursuant to any lease, Council may permit that lease to be executed in the name of the Proponent or nominee (or both of them) where the nominee will be the company to be formed, provided that:

- 9.1 such a proposal is clearly identified in the Proposal;
- 9.2 the proposed principals of such company are clearly identified in the Proposal; and
- 9.3 both the Proponent and the principals of that company guarantee the performance of that company pursuant to the provisions of the lease.

10. Confidentiality

Until a Proponent's offer is accepted by entry into a lease, neither the Proponent, nor Council, may disclose the terms of any Proposal, unless:

- 10.1 in the case of proposed disclosure by the Proponent, the Proponent obtains the consent of Council;
- 10.2 in the case of proposed disclosure by Council, Council obtains the consent of the Proponent; or
- 10.3 such disclosure is required for the purpose of the implementation of this Expression of Interest process.

11. Canvassing

- 11.1 The Proponent, its employees and consultants, must not approach, or request any other person to approach, any member, employee, officer or consultant of Council:
 - 11.1.1 to solicit support for its Proposal; or
 - 11.1.2 otherwise seek to influence the outcome of this Invitation.
- 11.2 The Proponent will, to the extent practicable and reasonable, avoid socialising with members, employees, officers or consultants of Council and, where such socialising occurs, refrain from discussing its Proposal or the Invitation.

- 11.3 The Proponent will direct all communications during this Expression of Interest process to Council's nominated representative, in written form, either by post or by email.
- 11.4 If the Proponent breaches this clause 11, Council may, in its sole discretion, disqualify the Proponent from participating in this Expression of Interest process.

12. Conflicts of interest

Proponents must declare to Council any direct or indirect conflict of interest of:

- 12.1 the Proponent;
- 12.2 any agent acting for the Proponent; and
- 12.3 any other consultant acting for the Proponent,
in respect of Council or this Expression of Interest process.

13. Public statements

A Proponent must not make any public statement, including doing any media releases, in relation to this Expression of Interest process and must refer all enquiries from the media to Council until a lease agreement is signed.

14. Disclaimer

- 14.1 Neither Council nor any of its consultants accept any responsibility to any Proponent or other third parties under the law of contract, tort or otherwise for any loss or damage which may arise from anything contained in this Invitation, any matter deemed to form part of this Invitation, the supporting information or documents referred to in this Invitation, or any other information supplied to any Proponent on behalf of Council.
- 14.2 All information given to a Proponent and ultimately the preferred Proponent by Council or its respective officers or agents will be given on an "all care and no responsibility" basis.
- 14.3 By receiving delivery of this Invitation, each organisation and ultimately the Proponent shall, without qualifications, be deemed to have acknowledged acceptance of and shall be bound by the provisions of this clause 14.
- 14.4 Council reserves the right not to proceed with the Invitation and to decline to discuss the Invitation further with any parties. No reimbursement of costs will be paid to persons or organisations preparing Proposals in relation to this Invitation.
- 14.5 No unsuccessful organisation will be entitled to any redress against Council or in the event that Council permits any amendments or additions to any Proposals or enters into any agreement in relation to the Premises with any other person whether an organisation or not.

15. Further Information

- 15.1 All requests for further information regarding this Invitation should be directed to:
Property, Procurement & Contracts Team

Colac Otway Shire Council
2-6 Rae Street
COLAC VIC 3250
Telephone: 03 5232 9400
Email: procurement@colacotway.vic.gov.au

- 15.2 Questions must be received no later than five (5) working days prior to the Closing Date, and will be responded to within two (2) working days of being received by Council.
- 15.3 Unless Council is of the opinion that questions or requests for further information or clarification are specific to a particular Proponent, answers provided to questions or requests for further information or clarification will be made available to all Proponents. Council will not disclose the identity of the Proponent that submitted the question or request for further information or clarification.
- 15.4 Council, in its absolute discretion, reserves the right not to respond to questions or requests for further information or clarification.
- 15.5 After the Closing Date, Council may seek to clarify any aspect of a Proposal that it considers to be unclear, ambiguous or contain contradictory statements on the following basis:
 - 15.5.1 requests for clarification may be issued to Proponents with response time constraints. If the Proponent fails to respond within the requisite timeframe, the answer, once received, may not be admissible;
 - 15.5.2 requests for clarification will be presented in writing to the Proponent's nominated contact person via the email address stated in Schedule 1;
 - 15.5.3 Proponents may be invited to an interview to provide responses to requests for clarification; and
 - 15.5.4 responses to a request for clarification must not change a Proposal and any response attempting to change a Proposal will be withheld from consideration.

B. ITEMS TO BE COVERED IN THIS PROPOSAL INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

- Financial & Investment:
 - The proposed rent per annum, plus GST and outgoings
 - Proposed capital investment in the development of existing and / or new facilities including how Council's capital investment will be matched and utilised with the initial 3-5 years (mandatory to address).
 - Proponents investment or provision of fixed accommodation e.g. cabins.
 - Caravan Park pricing model.
 - The Proponents financial position including balance sheet and profit and loss statement for the previous financial year (if requested).
 - Business Plan and cash flow forecast for the proposed business.
 - Any other relevant matters concerning the Proponents, including but not limited to insolvency events.
- Operational
 - The proponents proposed site plan
 - The proponents plan for permanent residents
 - Customer service expectations, including but not limited to levels of staff on site and booking systems
 - Key terms of operational policies, including but not limited to a cancelation policy
 - Marketing plan including value add to Colac as a tourism destination
 - Any additional proposed uses of the site or relevant operational matters
- Lease Terms
 - Any additional key terms of the lease
 - Any departures from Council's key terms
 - Proponent estimate of required capital expenditure
 - Confirmation of pre-application site visit with Council's representatives

Schedule 2 Maps of Lease Area



Figure 1 – Aerial image of Lake Colac Holiday Park with rough boundaries for reference. The blue area is the Lake Colac Holiday Park lease area.



Figure 2 – Current draft site map for Lake Colac Holiday Park showing locations of sites, amenities, and fire services.

Colac Caravan Park - Explanatory sheet supporting site map			
Site number	Type	Size (Sq M)	Attributes
1	Ensuite gravel	130	Power, water, grey water
2	Ensuite gravel	130	Power, water, grey water
3	Ensuite gravel	130	Power, water, grey water
4	Ensuite gravel	130	Power, water, grey water
5	Ensuite gravel	130	Power, water, grey water
6	Ensuite gravel	130	Power, water, grey water
7	Ensuite gravel	130	Power, water, grey water
8	Ensuite gravel	130	Power, water, grey water
10	Ensuite gravel	130	Power, water, grey water
11	Ensuite gravel	130	Power, water, grey water
12	Ensuite gravel	130	Power, water, grey water
13	Ensuite gravel	130	Power, water, grey water
14	Ensuite gravel	130	Power, water, grey water
15	Ensuite gravel	130	Power, water, grey water
16	Ensuite gravel	130	Power, water, grey water
17	Ensuite gravel	130	Power, water, grey water
19	Ensuite grass/concrete	130	Power, water, grey water
20	Ensuite grass/concrete	130	Power, water, grey water
21	Ensuite grass/concrete	130	Power, water, grey water
22	Ensuite grass/concrete	130	Power, water, grey water
23	Ensuite grass/concrete	130	Power, water, grey water
24	Ensuite grass/concrete	130	Power, water, grey water
25	Ensuite grass/concrete	130	Power, water, grey water
26	Ensuite grass/concrete	130	Power, water, grey water
27	Unpowered grass tent site	50	Nil
18	Powered site	70	Power, water, grey water
9	Powered site	70	Power, water, grey water
28	Unpowered grass tent site	50	Nil
29	Unpowered grass tent site	50	Nil
30	Unpowered grass tent site	50	Nil
31	Unpowered grass tent site	95	Nil
32	Unpowered grass tent site	95	Nil
33	Powered grass site	95	Power, water
34	Powered grass site	95	Power, water
35	Unpowered grass site	50	Nil
36	Unpowered grass site	50	Nil
37	Unpowered grass site	50	Nil
38	Unpowered grass site	50	Nil
39	Unpowered grass site	50	Nil
43	Powered grass site	70	Power, water
44	Powered grass site	70	Power, water
47	Powered grass site	70	Power, water
40	Unpowered grass site	95	Nil
41	Unpowered grass site	95	Nil
42	Unpowered grass site	95	Nil
45	Unpowered grass site	95	Nil
46	Unpowered grass site	95	Nil
55	Powered grass site	95	Power, water
56	Powered grass site	95	Power, water
48	Powered grass site	95	Power, water
49	Powered grass site	95	Power, water
50	Unpowered grass site	95	Nil
51	Powered grass site	95	Power, water
52	Powered grass site	95	Power, water
53	Unpowered grass site	95	Nil
54	Unpowered grass site	95	Nil
57	Unpowered grass tent site	50	Nil
58	Unpowered grass tent site	50	Nil
59	Unpowered grass tent site	50	Nil
60	Unpowered grass tent site	50	Nil
61	Unpowered grass tent site	50	Nil
62	Unpowered grass tent site	50	Nil
63	Unpowered grass tent site	50	Nil
64	Unpowered grass tent site	50	Nil

Figure 3 – Explanatory sheet for current draft site map in Figure 2.

Schedule 3 Additional Photo's



Figure 4 – Lake Colac Holiday Park Entrance



Figure 5 – Image looking at Lake Colac from within Lake Colac Holiday Park



Figure 6 – Image of an en-suite at Lake Colac Holiday Park.



Figure 7 – Image of Lake Colac Holiday Park laundry and amenity block.



Figure 8 – Image of storage shed/workshop at Lake Colac Holiday Park.

Item: 9.3

Sale of 69 McLachlan Street Apollo Bay

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

1. PURPOSE

To approve the method and terms of sale of the property located at 69 McLachlan Street, Apollo Bay.

2. EXECUTIVE SUMMARY

Council has considered the potential sale of 69 McLachlan St, Apollo Bay on several occasions since 2016, in recognition that the building has served the community well for many decades as a kindergarten, but that the sale of aging facility and property could assist in funding a new fit-for-purpose kindergarten for the community at the Apollo Bay school site. The new kindergarten commenced operation in February 2022.

As construction of the new Early Years Hub neared completion in late 2021, Council resolved on 27 October 2021 to give notice of its intention to sell 69 McLachlan St, Apollo Bay. Council undertook the formal process in accordance with the *Local Government Act 2020* and subsequently resolved on 22 February 2022 to sell the property known as 69 McLachlan Street, Apollo Bay (former Apollo Bay Kindergarten).

At its meeting on 20 April 2022, Council resolved to offer to sell the property in the first instance to Homes Victoria for affordable housing. Homes Victoria declined the offer, and officers then commenced the process to sell the property by public auction before the end of 2022, as per Council's decision of April 2022. Councillors later asked that this process be paused for further consideration and the expected deadline of the end of 2022 has passed. This report is now presented to seek direction from Council about its intention with respect to the sale of the property.

3. 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.***

4. KEY INFORMATION

At its 23 February 2022 meeting, Council resolved to sell the property known as 69 McLachlan Street, Apollo Bay following a Notice of Intention to sell process.

That Council:

- 1. Acknowledges the written submissions received and thanks the submitters for their contribution to the land sale consideration process.***
- 2. Resolves to sell the property known as 69 McLachlan Street Apollo Bay.***
- 3. Determines the method of sale and allocation of the proceeds of sale at a future meeting of Council.***

- 4. Notes that when Council considers any offer of purchase acceptance will be subject to the sale price and conditions being to the satisfaction of Council.***

Furthermore, at its 20 April 2022 meeting, Council again considered the sale of the property and resolved:

RESOLUTION 1

That Council:

- 1. Resolves to offer to sell the property known as 69 McLachlan Street, Apollo Bay to Homes Victoria for affordable housing for key and essential workers for the amount stated in the Valuation dated 31 March 2022 provided in confidential Attachment 4.***
- 2. Authorises the Chief Executive Officer to arrange for the property known as 69 McLachlan Street, Apollo Bay to be sold by public auction before the end of 2022, should Homes Victoria not accept Council's offer by 30 September 2022.***
- 3. Authorises the Chief Executive Officer, as part of an auction process, to accept an offer above Council's agreed auction reserve amount which will be determined through resolution at a Council meeting prior to the public auction.***
- 4. Authorises the Chief Executive Officer to execute all necessary documentation of, and incidental to, a contract of sale.***
- 5. Authorises the use of the common seal in accordance with Colac Otway Shire's Governance Local Law No 4 - 2020.***
- 6. Resolves to release the sale amount following the execution of a contract of sale.***
- 7. Notes that Council has allocated \$353,000 of the 69 McLachlan Street sale proceeds towards construction of the Maternal and Child Health component of the Early Years Hub per its agreement with the Victorian Schools Building Authority.***
- 8. Notes that Council has allocated up to \$80,000 of the sale proceeds for Early Years Hub equipment and other expenses outside the agreement with the Victorian Schools Building Authority.***

RESOLUTION 2

That Council:

- 1. Resolves to reserve the remaining net sale proceeds for part funding of the childcare component of the Apollo Bay Early Years Hub per Council's 16 December 2020 resolution.***
- 2. Requests a progress report be presented to Council by no later than 31 December 2023.***

The property has not been “sold by public auction before the end of 2022” as per the 20 April 2023 resolution. Officers are seeking direction from Council include the method of sale if Council still intends to sell the property.

Advice has been received from real estate agents experienced in the Apollo bay market, indicating that if the sale is to be straight-forward with minimal conditions, the most appropriate method is to sell the property by public auction.

Following a procurement process, Great Ocean Road Real Estate has been engaged to act on Council's behalf in relation to the proposed sale of the subject property.

Council has received a valuation of the property from a registered Valuer. It is recommended that the reserve price for auction be the amount stated in the valuation, which is provided as a confidential attachment.

It is recommended that the public auction process be commenced during Spring of 2023 as advice received is that property clearance rates in Apollo Bay are higher at that time compared to the winter period.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

- The transparency of Council decisions, actions and information is to be ensured.
- Council decisions are to be made and actions taken in accordance with the relevant law.
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
- The ongoing financial viability of the Council is to be ensured.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

Local Government Act 2020

Transfer of Land Act 1958

Colac Otway Shire Council Acquisition and Disposal of Council Property

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

Not Applicable to this report.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Whilst not applicable to this report, it is relevant to note that Council undertook a community consultation process following its decision to give notice of its intention to sell the property known as 69 McLachlan Street, Apollo Bay.

Council received nine submissions to this process. Following consideration of the submissions, Council resolved to sell the property at its 23 February 2022 Council meeting. It further reiterated this decision at its 20 April 2022 meeting.

Public Transparency (s58 LGA 2020)

Public transparency is achieved through this matter being decided at an open Council meeting. Some information such as commercial matters and the property valuation will not be provided in a public report as this information may prejudice the competitive sale process.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Theme 4 – Strong Leadership and Management

Objective 2: We are a financially robust organisation

Financial Management (s101 *Local Government Act 2020*)

In December 2020, Council committed to use the proceeds from the sale of the property as a contribution to the Maternal and Child Health component of the new Apollo Bay Early Years Hub (the Hub). Council's contribution to the construction and fit out of the Hub was approximately \$350,000. These funds have been paid, however Council is yet to receive the income from the sale of the property to pay back the costs already incurred.

Processing the sale of the property will recoup the funds that Council has already contributed to the Hub. Council has also resolved at its 20 April 2022 meeting to reserve the remaining net sale proceeds for part funding of the childcare component of the Apollo Bay Early Years Hub.

Service Performance (s106 *Local Government Act 2020*)

Not applicable to this report.

Risk Assessment

Risk is mitigated through the process of using the services of an experienced real estate agent. A formal valuation has been received to understand the value of the property and to set the reserve price.

Communication/Implementation

Following the decision by Council on the method of sale, Council will work with its agent to undertake a marketing campaign for sale of the property.

Human Rights Charter

Officers have considered the Human Rights Charter and confirm that this matter has no impact on a person's human rights.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

Option 1 – Sell the property via a public auction

Council has previously resolved to sell the property known as 69 McLachlan Street, Apollo Bay. It is now required to determine the method of sale. Following advice from a number of real estate agents, it is recommended that the best method of sale is via a public auction as it would be the best approach to get best value for the property.

This option would enable Council to recoup funds already committed to the construction and fit out of the new Apollo Bay Early Years Hub.

Option 2 – Sell the property via an Expression of Interest process

Council could sell the property via an Expression of Interest process. Typically, this process would be beneficial if the sale of the property was conditional. However, as there are no conditions to be placed on the sale of the property, it is recommended that the best method of sale would be through a public auction.

Option 3 – Not sell the property

This option is not recommended. Council has previously resolved to sell the property and commit funds from the sale to the construction and fit out of the new Apollo Bay Early Years Hub. The Hub has been completed at a cost of approximately \$350,000 to Council. Council is yet to receive the proceeds of the sale to recoup the funds already paid.

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]

1. PURPOSE

The purpose of the report is to seek Council endorsement of the process for an intended purchase of part of the former Colac High School site for a road reserve to support residential development of land.

2. EXECUTIVE SUMMARY

Council officers are working with a number of landowners to prepare a Development Plan to facilitate residential development of land in the Colac West area, specifically between the former Colac High School and Rifle Butts Road. A key feature of the proposed development plan is a north-south collector road that would connect Murray Street with Lake Colac for pedestrians, cyclists and vehicles. To facilitate this connection and support subdivision of adjoining land, a strip of land needs to be acquired from the western edge of the former school site from the Department of Education.

It is proposed that Council purchases the land required for the road reserve and creates the road through a plan of subdivision, and that the cost of the purchase be met by payment from the adjoining developer. This will secure the necessary land in the most efficient manner available, at no cost to Council. Support from Council is sought to endorse the process that is intended to pursue acquisition of this land.

3. RECOMMENDATION

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.**

4. KEY INFORMATION

Council officers have been working with land-owners preparing a development plan for land zoned General Residential in Colac West between the former Colac High School land and Rifle Butts Road.

Subdivision of the land is not able to be approved until such time that a development plan has been approved. Progress with the development plan is currently ongoing due to the actions of the purchaser of land in the northern part of the development plan and decisions they are making regarding the location of a wetland detention basin.

In the meantime, the owner of 439-455 Murray Street (land immediately to the west of the former High School site) has lodged a subdivision application over his land working in parallel with the preparation of the development plan. Both the draft development plan and the subdivision application propose a 21.1m shared road along the western boundary of the former high school land and the eastern boundary of the adjoining land (the 'north-south connector road'). This would connect Murray Street with Lake Colac and provide public access to future open space on the former High School site.

The proposed cross-section of the new north-south connector road prepared by Council shows a 21.1 metre road reservation width (see Attachment 1). The road reserve is wider than the standard 16m reserve as it will contain a shared path between the Princes Highway and Lake Colac and on-street car parking for Council's future sports fields.

The cross-section also shows 10.05 metres of road reserve provided as part of the future subdivision to the west. The balance 11.05 metres will need to be obtained from the Department of Education land. To create this road reserve the land must be purchased from the Victorian Government, and a Plan of Subdivision prepared that vests the land in Council ownership as a road. A 12.96m² splay is also required for construction of the road and appropriate sight lines at the Murray Street intersection. Attached is a plan showing the strip of land required (see Attachment 2).

While the developer of the adjoining land has agreed in principle to pay for the land purchase, the process for obtaining the land needed for the road reserve is made simpler if the land is sold to Council as another Government agency rather than if it were to be sold to a private third party. The land required for the road is surplus to the land required for the Specialist School that has been constructed around the former Colac High School building.

The landowner to the west has agreed in principle to cover the cost of the survey fees and pay back to Council the cost of the purchase. Quotes have been obtained from surveyors to proceed with

preparing a Plan of Survey for the land required for the north-south connector road. This work can commence after Council has indicated it supports the process.

The Valuer General from the Department of Treasury and Finance will value the land. This step needs to occur before an accurate estimate of the cost of the land purchase can be made, although the transaction will be at no net cost to Council, and the cost is not expected to be high based on its intended use as a road reserve.

The following is a summary of next steps:

1. Officers confirm to Department of Education and Training an intent to proceed.
2. Officers engage a surveyor to prepare the Plan of Subdivision (quotes already received).
3. Valuer General prepares a valuation for Council consideration.
4. Final agreement from the adjoining landowner to the west to pay Council the full cost of the land purchase.
5. Officer report to Council for resolution to purchase the land based on the agreed valuation.
6. Plan of subdivision processed and approved to create the road.
7. Council receives payment for land purchase and associated costs and settles purchase with the State Government.

Whilst this report seeks endorsement of the intended approach, a further report and Council resolution needs to be obtained to buy the land from the Victorian Government for the road in accordance with the above process.

The north-south connector road is a key element of the draft Colac West Development Plan that will unlock residential development in this part of Colac and provide primary access to Council's future sports fields north of the new Colac Specialist School.

5. CONSIDERATIONS

Overarching Governance Principles (s(9)(2) LGA 2020)

The proposal is consistent with the Governance Principles by transparently advising Council and the community of the process intended to purchase the land required for the north-south connector road.

Policies and Relevant Law (s(9)(2)(a) LGA 2020)

The land transfer will be undertaken in accordance with the relevant legislation.

Environmental and Sustainability Implications (s(9)(2)(c) LGA 2020)

There are no environmental implications arising from the land purchase.

Community Engagement (s56 LGA 2020 and Council's Community Engagement Policy)

Not applicable at this stage. There will be further engagement with the community once a revised Development Plan and Shared Infrastructure Funding Plan has been completed.

Public Transparency (s58 LGA 2020)

As noted above, this report establishes transparency to the public concerning the intended process for the land purchase.

Alignment to Plans and Strategies

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

Objective 1: Affordable and available housing will support our growing community and economy

Objective 5: Grow the Colac Otway Shire's permanent population by at least 1.5%

The land purchase is necessary to stimulate residential development on land zoned residential to the north and west of the former High School and aligns well with strategies and actions in the Council Plan aimed at increasing the supply of affordable housing in Colac.

Financial Management (s101 Local Government Act 2020)

The land purchase is intended to be cost neutral to Council. The landowner to the west has agreed in principle to cover the costs of the purchase and other incidental costs associated with the purchase (such as survey costs). This will be confirmed in writing once the valuation has been agreed with the Victorian Government, and before a final Council resolution to proceed with the purchase.

Service Performance (s106 Local Government Act 2020)

Not applicable.

Risk Assessment

The purchase will be cost neutral to Council.

Communication/Implementation

There will be communication to the Victorian Government of Council's intent to proceed with a purchase, and a surveyor will be engaged to prepare the plan of subdivision. There will also be promotion publicly of the proposal.

Human Rights Charter

No impact.

Officer General or Material Interest

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.

Options

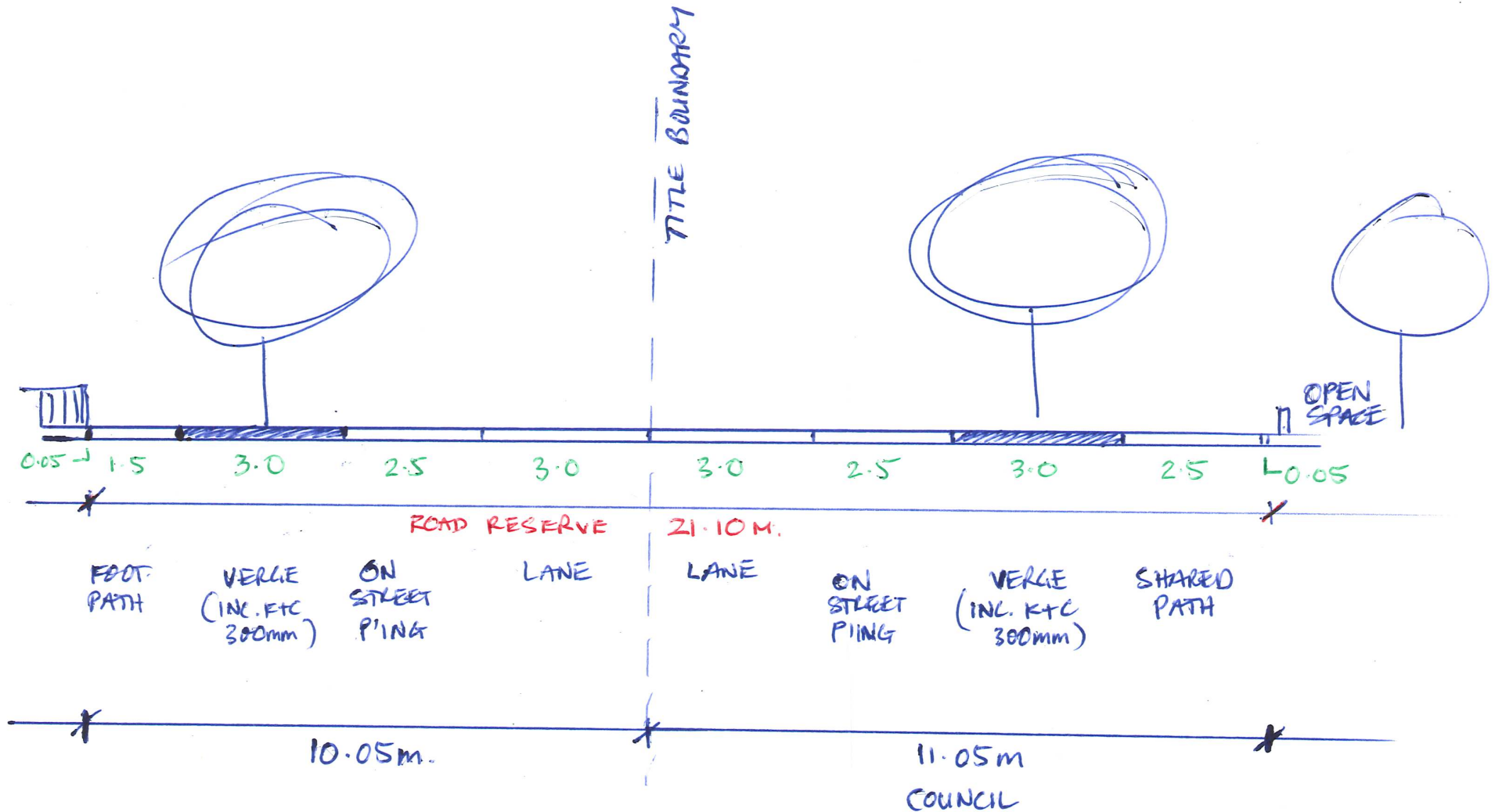
Option 1 – Endorse the process for purchasing land required for a road reserve from the Department of Education.

This option is recommended by officers as it will expeditiously establish road access into the Colac West Development Plan area. The proposal would be at no cost to Council and would help facilitate residential development of adjoining land consistent with strategies in the Council Plan aimed at improving the supply of affordable housing in Colac.

Option 2 – Do not endorse the process for purchasing land required for road reserve from the Department of Education.

This option is not recommended by officers as it will not facilitate road access into the Colac West Development Plan area in a timely manner. There is less certainty of the outcome for establishment of the road, and over a longer time frame, if the Department of Education sell the land on the open market.

2/12/21



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]

1. PURPOSE

To report the Informal Meetings of Councillors.

2. EXECUTIVE SUMMARY

INFORMAL MEETINGS OF COUNCILLORS

The Colac Otway Shire Governance Rules require that records of informal meetings of Councillors which meet the following criteria:

If there is a meeting of Councillors that;

- *is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;*
- *is attended by at least one member of Council staff; and*

- *is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting*

be tabled at the next convenient meeting of Council and recorded in the minutes of that Council meeting.

All relevant meetings have been recorded and documented, as attached.

3. 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

4. KEY INFORMATION

The following Informal Meetings of Councillors have been held and are attached to this report:

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

5. OFFICER GENERAL OR MATERIAL INTEREST

No officer declared an interest under the *Local Government Act 2020* in the preparation of this report.



Informal Meeting of Councillors Record

Councillor Briefing

Date: 19 July 2023

Time: 12.30pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin (videoconference), Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Erin Sonogo, Doug McNeill, Rhassel Mhasho, Mark McLennan, David Butterfield, James Myatt.
External attendees:
Trail Coordinator GORCAPA, Director of Infrastructure and Planning GORCAPA
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 12.36pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Councillor Briefing – 19 July 2023 (continued)		
Time	Item	Attendees
12.36pm - 1.10pm	Regional Trails Management Strategy	Trail Coordinator GORCAPA Director of Infrastructure and Planning GORCAPA
1.10pm - 1.29pm	Deans Creek Precinct Structure Plan Update Cr Hanson left the meeting at 1.18pm.	Erin Sonogo Doug McNeill
1.29pm - 1.40pm	Building Services Review	Rhassel Mhasho
1.40pm - 1.56pm	Proposed disposal of surplus Council property Cr Hanson returned to the meeting at 1.44pm.	Mark McLennan David Butterfield
1.56pm – 2.18pm	Service Review Update	James Myatt
2.18pm – 3.07pm	<u>General Business</u> <ul style="list-style-type: none"> • Colac Maker’s Space • Community Care Review • Lake Colac Holiday Park • Amy’s Gran Fondo 2023 • Proposed Local Law Cr Hanson left the meeting at 2.38pm and did not return.	
3.07pm	Meeting Closed	



Informal Meeting of Councillors Record

Council Meeting Preparation

Date: 26 July 2023

Time: 2.00pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Brendan Walsh, Doug McNeill, Steve O’Dowd, James Myatt, David Butterfield, Paula Gardiner
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 2.09pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Nil			



Council Meeting Preparation – 26 July 2023 (continued)		
Time	Item	Attendees
2.09pm – 2.59pm -	<p>Council Meeting Preparation</p> <p>Cr Hanson left the meeting at 2.46pm; returned to the meeting at 2.54pm.</p>	<p>Brendan Walsh Doug McNeill Steve O’Dowd James Myatt Paula Gardiner David Butterfield</p>
2.59pm	Meeting Closed	



Informal Meeting of Councillors Record

Councillor Briefing

Date: 2 August 2023

Time: 1.00pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt, Mark McLennan, David Butterfield, Nicole Frampton, Tamzin McLennan, Doug McNeill (videoconference), Vikram Kumar, Ravi Ayyagari, Blaithin Butler
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 1.11pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Graham Costin	General conflict of Interest	1.5 PP101/2020-1 – 979 Corangamite Lake Road, Alvie – Proposed Dwelling and Shed	A family member assisted with preparation of the application.



Councillor Briefing – 2 August 2023 (continued)		
Time	Item	Attendees
1.13pm – 2.01pm	<p>Risk Appetite Conversation</p> <p>Cr Hart left the meeting at 1.32pm and returned to the meeting at 1.33pm. Cr Costin left the meeting at 1.35pm and returned to the meeting at 1.37pm. Cr Arnott left the meeting at 1.39pm and returned to the meeting at 1.42pm. Cr Hudson left the meeting at 1.53pm and return to the meeting at 1.55pm. Cr Hart left the meeting at 2.00pm and returned to the meeting at 2.02pm.</p>	Marlo Emmitt
2.01pm – 2.23pm	Old Beechy Rail Trail - Road Deviation and Land Exchange - Crown Land and Humphris Land Swap	Mark McLennan David Butterfield Nicole Frampton Tamzin McLennan
2.23pm – 2.38pm	Break	
2.38pm – 3.00pm	Cleaning Services Contract workshop	Cameron Duthie
3.00pm – 3.21pm	PP329/2022-1 – 465 Birregurra Forrest Road Birregurra – Two (2) lot subdivision	Doug McNeill (via videoconference) Vikram Kumar
3.21pm – 3.38pm	<p>Proposed Dwelling and Shed at 979 Corangamite Lake Road, Alvie (PP101/2020-1)</p> <p>Having declared a conflict of interest, Cr Graham Costin left the meeting at 3.21pm, prior to discussion taking place on item 1.5:PP101/2020-1 – 979 Corangamite Lake Road, Alvie – Proposed Dwelling and Shed; and returned to the meeting at 3.38pm after discussion had concluded on this item.</p>	Ravi Ayyagari Doug McNeill (via videoconference) Blaithin Butler
3.38pm – 3.46pm	<p><u>General Business</u></p> <ul style="list-style-type: none"> Bruce Street 	
3.46pm	Meeting Closed	



Informal Meeting of Councillors Record

Councillor Briefing

Date: 9 August 2023

Time: 12.30pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott (videoconference), Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Fiona Maw, Marlo Emmitt, Natasha Skurka, Tamzin McLennan, Doug McNeill, Simon Clarke, Scott Hilditch, Carolyn Trowell, James Myatt, Maddison Harty, Amanda Hibbert, Nicole Frampton
External attendees:
Executive General Manager Commercial and Marketing, AusCycling (videoconference), Executive General Manager Sport, AusCycling (videoconference)
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 12.35pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Max Arnott	General conflict of interest	Community Care Services Review Update	Family member receives OPASS services
Cr Tosh-Jake Finnigan	General conflict of interest	Community Care Services Review Update	Family member works in the Colac Otway Shire Council's OPASS team
Ian Seuren	Material conflict of interest	Community Care Services Review Update	Family member is employed by Council in the OPASS team



Councillor Briefing – 9 August 2023 (continued)		
Time	Item	Attendees
12.35pm – 12.52pm	Great Ocean Road Events Cr Kate Hanson left the meeting at 12.49pm and returned to the meeting at 12.51pm.	Fiona Maw, Maddison Harty Aus Cycling Executive General Manager Commercial and Marketing, (videoconference) Aus Cycling Executive General Manager Sport, (videoconference)
12.52pm – 1.23pm	Risk Appetite and Matrix Cr Chris Potter left the meeting at 12.54.	Marlo Emmitt Natasha Skurka
1.23pm – 1.38pm	Break	
1.38pm – 2.04pm	Gender equity - Fair Access Policy Roadmap	Tamzin McLennan Amanda Hibbert Nicole Frampton
2.04pm – 2.24pm	Purchase of part of former Colac High School site for road reserve	Doug McNeill Simon Clarke
2.24pm – 2.47pm	Energy Resilience Solutions Proposal from Department of Energy, Environment and Climate Action (DEECA) Cr Chris Potter returned to the meeting at 2.44pm.	Scott Hilditch Rhassel Mhasho
2.47pm – 2.52pm	Community Care Services Review Update Having declared a conflict of interest, Cr Max Arnott and Cr Tosh-Jake Finnigan left the meeting at 2.48pm, prior to discussion taking place on the item Community Care Services Review Update; and returned to the meeting at 2.53pm after discussion had concluded on this item.	Carolyn Trowell
2.52pm – 3.15pm	Lake Colac Holiday Park Cr Kate Hanson left the meeting at 3.00pm and returned to the meeting at 3.07pm.	James Myatt
3.15pm	Meeting Closed	



Informal Meeting of Councillors Record

Planning Committee Meeting Preparation

Date: 9 August 2023

Time: 3.15pm

Meeting Location: Meeting Rooms 1 and 2, COPACC

Invitees:
Cr Max Arnott, Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Marlo Emmitt
Attendees:
Cr Graham Costin, Cr Kate Hanson, Cr Stephen Hart, Cr Chris Potter, Cr Margaret White, Cr Tosh-Jake Finnigan, Cr Max Arnott (videoconference), Anne Howard, Andrew Tenni, Heath Chasemore, Ian Seuren, Vikram Kumar, Doug McNeill, Ravi Ayyagari, Blaithin Butler
External attendees:
Nil
Apologies:
Nil
Absent:
Nil

Meeting Commenced at: 3.15pm

Declarations of Interest:

Name	Type of Disclosure	Item	Reason
Cr Graham Costin	General conflict of interest	7.2 - Proposed Dwelling and Shed at 979 Corangamite Lake Road, Alvie (PP101/2020-1)	Family member helped prepare application



Planning Committee Meeting Preparation – 9 August 2023 (continued)		
Time	Item	Attendees
3.15pm – 3.46pm	<p>Planning Committee meeting preparation</p> <p>7.1 - PP329/2022-1 – 465 Birregurra Forrest Road Birregurra – Two (2) lot subdivision</p> <p>7.2 - Proposed Dwelling and Shed at 979 Corangamite Lake Road, Alvie (PP101/2020-1)</p> <p>Having declared a conflict of interest, Cr Graham Costin left the meeting at 3.35pm, prior to discussion taking place on item 7.2 Proposed Dwelling and Shed at 979 Corangamite Lake Road, Alvie (PP101/2020-1) and returned to the meeting at 3.45pm after discussion had concluded on this item</p> <p>Cr Kate Hanson left the meeting at 3.41pm and returned to the meeting at 3.42pm.</p>	<p>Vikram Kumar</p> <p>Doug McNeill</p> <p>Ravi Ayyagari</p> <p>Blaithin Butler</p>
3.46pm	Meeting Closed	

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]

1. PURPOSE

To report to Council on the Municipal Association of Victoria's (MAV) State Council meeting, held on Friday 19 May 2023.

2. REPORT FROM DELEGATE

State Council report

The Chief Executive Officer, Anne Howard, and I attended the MAV State Council meeting at Melbourne Town Hall in Melbourne, on Friday 19 May 2023.

The meeting included a financial report and workshop on the MAV strategy and focus. The MAV agenda also included 98 motions lodged by member Councils.

Prior to the State Council meeting on 19 May 2023, I invited all Councillors by email to contact me with any feedback on the MAV State Council agenda. A copy of the agenda was made available to all Councillors on their iPads.

Colac Otway Shire lodged a motion for the MAV State Council meeting regarding the high cost of transitioning Regional Library Corporations arising from changes to the *Local Government Act 2020*. Council endorsed the lodgement of that motion at its Council meeting held on 22 February 2023. The motion as it appeared in the MAV agenda is attached (refer Attachment 1) and was strongly supported at the State Council meeting. As it was supported, it appears in the adopted resolutions on page 15 of Attachment 2.

Of the 98 motions from member Councils, 21 were 'late motions'. In one sense it understandable that with the more restrictive rules on lodging motions for State Council meetings, rules which were opposed by Colac Otway, that more motions may be lodged late. Of note, however, was that one municipality, Stonnington, lodged 14 of the 21 late motions.

Motion 98 was lodged by Northern Grampians Council regarding transmission lines. They had only one late motion. On this occasion, the issue about transmission lines was able to be considered earlier in the meeting as another Council had raised a similar issue.

The meeting did not have sufficient time to consider all of the late motions and these were referred to the MAV Board for consideration.

The next MAV State Council meeting will be on Friday 13 October 2023. All Councillors are permitted to attend.

Motion 26. Regional Library Corporation Transition

Submitting Council: Colac Otway Shire Council

Motion:

That the MAV:

1. Notes that regional library corporations are largely funded by their member Councils.
2. Notes that the Local Government Act 2020 requires existing regional library corporations to be wound up by 30 June 2031, which is 10 years after the commencement of section 110 of the Act.
3. Notes that the cost to transition to an alternate management model may be significant and will be borne by the regional library corporations and their member Councils.
4. Supports regional library corporations and their member Councils to advocate to the Victorian Government for resources, both financial and other support, to transition to an alternative model.

Submitting Council Confirmation and Rationale:

Council Resolution Date	22/02/2023	
MAV Strategy 2021-2025 Priority or 'Other – Of significance to Local Government'	Other - Of Local Government significance*	
Is the motion repetitive in a form or substance of a motion or item considered at the most recently held meeting of the State Council?	No	

**The Local Government Act 2020 requires regional library corporations to be wound up and transition to a new corporate structure by 30 June 2031 under legislation that governs corporate entities: Corporations Act (Com), Associations Incorporation Reform Act (Vic), or the Cooperatives National Law Application Act (Vic).*

In a financially constrained environment, the impact to regional library corporations and member Councils is likely to be significant, particularly for low-resource Councils such as Colac Otway, and external support from the Victorian Government would be extremely beneficial.

MAV's assistance with advocacy efforts in seeking financial and other support from the Victorian Government will be important to the 20 impacted member councils (a quarter of Victorian councils).

The Local Government Act 2020 requires regional library corporations to be wound up and transition to a new corporate structure by 30 June 2031 under legislation that governs corporate entities.

The Geelong Regional Library Corporation (GLRC) has commenced investigations into what is required to transition to a new alternative business enterprise model, with a Board workshop

held in October 2022. Early indications are that the cost to transition to a new model will likely be significant and will be borne by regional library corporations and their member Councils.

At this point in time, there is no identified funding or other support available from the Victorian Government. There is an opportunity to seek support, however this will require advocacy to government. Whilst Councils can advocate independently, support from the sector through the MAV is likely to provide greater strength to any advocacy efforts regarding this issue.

The MAV State Council provides an opportunity to present business to be considered by member Councils. Seeking MAV's support to advocate to government on behalf of the 20 member Councils that make up the seven regional library corporations could provide strength to advocacy efforts.



**MAV State Council
Resolutions
Friday 19 May 2023**



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

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MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Safety at Public Council Meetings

Submitting Council: Yarra Ranges Council

Resolution:

That the MAV call on the Victorian Government to actively work with the local government sector and other relevant stakeholders to:

1. develop state-wide measures that support councils to manage and prevent disruptive and unsafe behaviour, particularly at Council meetings.
2. coordinate a response to the expanding and increasingly aggressive cohort in the community that have been targeting local councils in recent months.

Resolution:

That the MAV call on the Victorian Government to actively work with the local government sector and other relevant stakeholders to support councils and their communities to hold inclusive activities and events that celebrate our collective diversity of gender identity, sex, sexual orientation, religion, colour, disability, cultural and language backgrounds, and all protected attributes. We stand firmly behind the principle of equality as protected by human rights frameworks.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Consolidated Motions

Under the MAV Rules 2022, motions or items which relate to the same subject may be consolidated into a single matter, with such amendments as the Board in its discretion determines are warranted, prior to inclusion in the business papers and circulation to delegates (Rule 17.2.)

C1: Financial Sustainability

Resolution:

That the MAV take on a leading role in advocating for the financial sustainability of local government by:

1. Facilitating a comprehensive assessment of the impact of cost-shifting on Victoria's 79 councils
2. Exploring the suitability of the Consumer Price Index as the basis for the rate-cap, compared to other measures
3. Calling on the Victorian Government to:
 - a) Review the method for determining the rate cap in line with the costs facing local government,
 - b) Establish a review into the short, medium, and long-term financial sustainability of local government,
 - c) Commit to not placing additional responsibilities on local government without a sustainable revenue stream to support them, and to revisit recent decisions that have resulted in cost-shifting onto local government,
 - d) Distribute a one-off untied grant equivalent to 0.5% of each Council's general rates revenue to bridge the gap between the Essential Service's Commission's recommendation and the rate cap set for 2023/24.

Consolidated motions:

- Long-term sustainability of local government – Glen Eira City Council (Motion 1)
- Rate Capping – City of Melbourne Council (Motion 2)
- Also noting late motions: Rate Capping Process (Motion 93) and Cost Shifting to Local Government (Motion 96) – City of Stonnington.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

C2: Windfall Gains Tax

Resolution:

That the MAV calls on the Victorian Government to amend the Windfall Gains Tax so that:

1. Local government is exempt from the Windfall Gains Tax
2. A proportion of Windfall Gains Tax collected in each municipality be hypothecated for projects within that municipality
3. When identifying projects to fund within a municipality, the Victorian Government partner with the relevant council to jointly determine and prioritise the infrastructure needs of the community.

Consolidated motions:

- Exemption of Local Government from Windfall Tax – Knox City Council (Motion 4)
- Impact of Windfall Gains Tax – Corangamite Shire (Motion 17)
- Also noting late motion – Windfall Gains Tax – Greater Dandenong City (Motion 83)

C3: Reducing Harm from Electronic Gaming Machines

Resolution:

The MAV calls on the Victorian Government to introduce regulatory reforms to prevent and reduce gambling harm, including:

1. A mandatory cashless pre-commitment scheme for all electronic gaming machines (EGMs) in Victoria, in line with the system being introduced in Tasmania. This should be a universal system with binding limits.
2. All Victorian gaming venues to be closed between 2am and 6am daily, with a phased reduction to be introduced over time.
3. Change the definition of what is classified as community benefit, under the Gambling Regulation Act 2003, to genuine philanthropic organisations or charities as defined by tax deductible status or grass roots activities.
4. Introduce a State Government fund to support gaming venues that wish to transition away from EGMs.

Consolidated motions:

- Reducing Harm from Electronic Gaming Machines – Brimbank City Council (Motion 30)
- Reducing Harm from Electronic Gaming Machines – Maribyrnong City Council (Motion 31)



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

C4: Funding for Kindergarten Infrastructure

This consolidated motion was considered as separated resolutions:

- Expanding Funding for Kindergarten Infrastructure – Nillumbik Shire Council (Motion 15)
- Fund and deliver Best Start, Best Life Infrastructure – Baw Baw Shire Council (Motion 16)

C5: Electric line clearance in low bushfire risk areas

Resolution:

That the MAV advocate to the State Government to review the Electricity Safety (Electric Line Clearance) Regulations 2020 to embed consideration of amenity, biodiversity, and urban heat island effect in low bushfire risk areas.

Consolidated motions:

- Electric Line Clearance Guidelines Review for Urban Trees – Brimbank City Council (Motion 51)
- Improved Electric Line Clearance Regulations – City of Port Phillip Council (Motion 52)

C6: Circular economy market development

Resolution:

That the MAV advocate to the State Government to:

1. significantly increase its investment in the Recycling Victoria: a new economy policy and action plan to boost processing capacity and markets for recycled materials.
2. set and report on state-wide targets for the use of recycled content in the construction of State-funded infrastructure.

Consolidated motions:

- Circular Economy – Mitchell Shire Council (Motion 18)
- Greater State investment in boosting recycling market capacity – Glen Eira City Council (Motion 19)



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

C7: Critical local government skill shortages

Resolution:

That the MAV calls on the Victorian State Government to:

1. Establish funded student placement and career pathway programs within local government, with the support of tertiary institutions.
2. Tackle skills shortages of urban and regional town planners in particular and including:
 - a) Increase support and funding for university placements and introduction of traineeships and short course certificates for entry-level planners and/or candidates with existing tertiary qualifications to commence working in the sector.
 - b) Release qualified planners from State Government roles to enable recruitment of qualified planners into local government positions.
 - c) Finalise and release the various planning reforms currently being developed to improve the operational efficiency of the Local Government sector to deliver more efficient planning decisions in a timely manner
 - d) Review the statutory timeframes outlined in the Planning and Environment Act 1987 to better differentiate between simple, moderate and complex planning matters.
3. Coordinate a media and advocacy campaign to attract skilled resourcing to the local government sector.

Consolidated motions:

- Critical sector-wide skill shortage in Statutory and Strategic Town Planning specialists – Yarra Ranges Shire Council (Motion 21)
- Local Government Staff Attraction and Retention Issues – Maribyrnong City Council (Motion 22)
- Address skill shortages in Local Government – Maroondah City Council (Motion 23)

Motions

Long-term sustainability of local government

Submitting Council: Glen Eira City Council

Consolidated

Refer to C1: Financial Sustainability.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Rate Capping

Submitting Council: City of Melbourne Council

Consolidated

Refer to C1: Financial Sustainability.

Review of the VEC costs associated with the Electoral Structure Review Process

Submitting Council: Strathbogie Shire Council

Resolution:

That the MAV meets with the Minister for Local Government to urgently request a review of the VEC local government structural review to:

1. Reconsider the current fee structure for the 39 councils required to undergo the VEC electoral structural review forum and the financial burden that this represents for small rural shires; and
2. Strongly encourage the VEC panels to the minister to give strong consideration to the submission from even local government about the most appropriate council structure to best serve their communities.

Exemption of Local Government from Windfall Gains Tax

Submitting Council: Knox City Council

Consolidated

Refer to C2: Windfall Gains Tax

Review of Developer Contribution Schemes

Submitting Council: Baw Baw Shire Council

Resolution:

That the MAV advocate to the Victorian Government for the Department of Transport and Planning to urgently review the developer contributions schemes in light of rising property and construction costs.

The MAV also advocates for a more efficient and clearer procedure in preparing developer contribution schemes and amendments to existing schemes that reduce the administrative burden, time and costs for councils.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Fines Victoria

Submitting Council: City of Melbourne Council

Resolution:

That the MAV State Council calls on the State Government to:

1. Note:
 - 1.1. That technical and system integration problems led to significant backlog and delay when Fines Victoria was charged with managing collections in 2017/18.
 - 1.2. The disbursements per fee are only now reaching similar levels of collections that existed pre-Fines Victoria.
 - 1.3. Significant collection issues in the early years has compounded and led to a significant increase in the provision for doubtful debts. This has also led to a greater number of fines being determined to be uncollectable bad debts.
2. Provide:
 - 2.1. Significant compensation by allowing the responsible Minister to write-off bad debts held by Fines Victoria on behalf of Councils (anticipated to include any amounts exceeding 24 months) and provide compensation to each Council for an equivalent value.
 - 2.2. Changes to the methodology and agreed service performance levels that Fines Victoria operates within.

Regulation of Social Media Bullying towards Candidates and Councillors

Submitting Council: Kingston City Council

Resolution:

That the MAV advocate on behalf of candidates and Councillors for additional resources for the eSafety commissioner, Local Government Inspectorate and other relevant bodies to address online bullying, harassment and trolling of candidates and Councillors on social media platforms, including but not limited to:

1. Expanding the authority of the eSafety Commissioner to remove online abuse on online service provider platforms which would either fall under the current threshold of content with the 'intent of causing serious harm' or under a new threshold of 'unintentionally causing serious harm';
2. Work with local governments to develop specific support and social media management programs available for candidates and Councillors through the eSafetywomen program in the lead up to the 2024 elections.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Reporting of Childcare Reimbursements

Submitting Council: Kingston City Council

Resolution:

That the MAV advocate to the Minister for Local Government to amend the Local Government (Planning and Reporting) Regulations to not require reimbursements of childcare costs or expenses incurred by a Councillor who is a carer in a carer relationship as a reported expense item in the Annual Report or elsewhere published.

Maternal and Child Health Program Model and Funding Review

Submitting Council: Nillumbik Shire Council

Resolution:

That the MAV advocate to the State Government to undertake a review of the Maternal and Child Health Program Model and Funding with the intention to improve key quality components of the program including:

1. Key Ages and Stages model to address increased scope
1. Workforce attraction and retention to address workforce shortages
2. Database functionality
3. Program and capital funding provided by the State.
4. Review of enhanced MCH funding model to better support family violence and mental health across all LGA's.

Expanding Funding for Kindergarten Infrastructure

Submitting Council: Nillumbik Shire Council

Resolution:

That the MAV advocate for expanded capital funding for kindergarten infrastructure to ensure that eligibility:

1. Recognises individual needs and usage patterns of funded kindergarten programs across different LGAs,
2. Considers the ability of non-growth areas to expand facilities with limited land availability,
3. Funding streams and associated agreements offered by the State can work in partnership with each other to enable larger projects to be co-funded, and
4. For the strategy applied for infrastructure planning for funded 3 year old kindergarten planning be reconsidered and a new approach be developed to plan for future infrastructure for expanded 4 year old kindergarten.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Fund and deliver Best Start, Best Life Infrastructure

Submitting Council: Baw Baw Shire Council

Resolution:

That the MAV advocates to the Victorian Government on:

1. the significant impact of the Kindergarten – Best Start, Best Life reform has on councils and requests detail on how the Victorian Government plans to fund and deliver infrastructure for the reform.
2. establishing long-term funding streams for local government, which covers the full cost of expanding or building new kindergarten infrastructure to facilitate the Victorian Government's Kindergarten Reform
3. that the Victorian Government take responsibility for the costs associated with implementing and the ongoing servicing of the Kindergarten – Best Start, Best Life reform and not increase the financial burden on councils.

Impact of Windfall Gains Tax

Submitting Council: Corangamite Shire Council

Consolidated

Refer to C2: Windfall Gains Tax

Circular Economy

Submitting Council: Mitchell Shire Council

Consolidated

Refer to C6: Circular economy market development.

Greater State investment in boosting recycling market capacity

Submitting Council: Glen Eira City Council

Consolidated

Refer to C6: Circular economy market development.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Electrification of swimming pools and community facilities

Submitting Council: Banyule City Council

Resolution:

That the MAV calls on the State and Federal Government to provide for an ongoing funding allocation to retrofit existing leisure centres and community facilities to be carbon neutral.

Critical sector-wide skill shortage in Statutory and Strategic Town Planning specialists

Submitting Council: Yarra Ranges Shire Council

Consolidated

Refer to C7: Critical local government skill shortages.

Local Government Staff Attraction and Retention Issues

Submitting Council: Maribyrnong City Council

Consolidated

Refer to C7: Critical local government skill shortages.

Address skill shortages in Local Government

Submitting Council: Maroondah City Council

Consolidated

Refer to C7: Critical local government skill shortages.

Empowering electoral representation advisory panels

Submitting Council: City of Yarra Council

Resolution:

That this State Council call on the Minister for Local Government to:

- a) recognise the expertise of its own appointed electoral representation advisory panels and their ability to recommend an appropriate constitution of a Council, guided by consultation with local communities; and
- b) publish a notice in the Government Gazette in accordance with section 13 of the Local Government Act 2020 enabling all Victorian Councils to be constituted in any one of the three permissible manners, which will have the effect of allowing the electoral representation advisory panels to consider all options.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Regional Library Corporation Transition

Submitting Council: Colac Otway Shire Council

Resolution:

That the MAV:

1. Notes that regional library corporations are largely funded by their member Councils.
2. Notes that the Local Government Act 2020 requires existing regional library corporations to be wound up by 30 June 2031, which is 10 years after the commencement of section 110 of the Act.
3. Notes that the cost to transition to an alternate management model may be significant and will be borne by the regional library corporations and their member Councils.
4. Supports regional library corporations and their member Councils to advocate to the Victorian Government for resources, both financial and other support, to transition to an alternative model.

Disaster Recovery and Resilience Support for Local Government

Resolution:

That the MAV calls on the Victorian and Australian Governments to:

1. Simplify the methodology and data inputs required in Victoria to prove Council's eligibility for Disaster Recovery Funding, bringing it in line with other States and ahead of any national unification of claims processes.
2. Financially support Local Government to ensure post-disaster funding programs enable betterment to improve assets beyond the 'previous condition' to provide resilience against future damage resulting from disaster events.
3. Financially support Local Government with an ongoing betterment program to upgrade existing public infrastructure in readiness for increased exposure to future disaster events.

Maintenance of Arterial Road Network

Submitting Council: Brimbank City Council

Resolution:

That the MAV calls on the Victorian Government to take back responsibility for the maintenance of their arterial roads and provide an appropriate maintenance response.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Reducing Harm from Electronic Gaming Machines

Submitting Council: Brimbank City Council

Consolidated

Refer to C3: Reducing Harm from Electronic Gaming Machines.

Reducing Harm from Electronic Gaming Machines in Victoria

Submitting Council: Maribyrnong City Council

Consolidated

Refer to C3: Reducing Harm from Electronic Gaming Machines.

Addressing Underlying Causes of Crime and Anti-Social Behaviour

Submitting Council: Brimbank City Council

Resolution:

The MAV calls for the Victorian Government to:

1. Adequately resource the Safer Communities Taskforce to enable proactive policing in local streets and neighbourhoods.
2. Provide funding for Homeless Outreach Psychiatric Services and Assertive Outreach Teams to attend incidents with Victoria Police where mental health, homelessness or alcohol and other drug (AOD) misuse is a driving factor.
3. Support local governments to adopt a localised approach to crime prevention by bringing together police, outreach support services, business and community groups to ensure a coordinated response that focuses on both safety and wellbeing.

Supporting building resilience to natural disasters

Submitting Council: Mitchell Shire Council

Resolution:

That the MAV call on the Federal and State Governments to increase funding available to local communities, local government, and individuals, and implement legislation, policy, and regulations to improve and support building resilience to natural disasters.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Affordable Housing

Submitting Council: Banyule City Council

Resolution:

That the MAV calls on the Victorian Government to create an integrated planning framework across State and Local Government Departments for delivery of sufficient affordable housing that achieves best practice urban design whilst protecting existing neighbourhood character and heritage values.

Safe active transport

Submitting Council: Banyule City Council

Resolution:

That the MAV advocates to the State Government to plan and fund safer pedestrian and cycling access along the arterial road network within activity centres to reduce incidents involving collisions between cyclists/pedestrians and motorists.

Review of gas, water, and electricity service providers

Submitting Council: Banyule City Council

Resolution:

That the MAV advocates to the State Government to:

1. Undertake a review of the requirements of gas, water and electricity service providers with respect to the placement of infrastructure within front setbacks of new developments to ensure that objectives in relation to access and safety are balanced with impacts on neighbourhood character and streetscape.
2. Require that the current and future requirements of gas, water and electricity service providers with respect to the placement of infrastructure within front setbacks of new developments are published and made available to enable for the orderly planning of new developments and an integrated approach to landscaping and the placement of service infrastructure.
3. Recognise that progressing the State Government's ESD Roadmap Project can eliminate the need for gas servicing which will directly contribute to the outcomes sought in point 1 above.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Renewable Energy Transmission Infrastructure

Submitting Council: Moyne Shire Council

Resolution:

That the MAV advocate to the Minister for Climate Action, Energy & Resources and State Electricity Commission that infrastructure to support energy transmission across Victoria be developed using existing easements, be located where practicable underground and require co-location of connecting lines to reduce the impact on agriculture, the visual landscape, recognise risks of bushfire and protect amenity, and that extensive consultation be conducted before any further advancement of energy transmission lines is undertaken.

Social and Affordable Housing

Submitting Council: Frankston City Council

Resolution:

The MAV calls on the Victorian Government to:

1. establish regional targets for the supply of social housing to better match the number of vulnerable households;
2. expand the Big Housing Build to further increase the supply of social and affordable housing;
3. conduct an audit of state government land for social housing development opportunities;
4. review the private rental assistance programs as they are not currently supporting people to maintain tenancies;
5. undertake immediate legislative reform to strengthen minimum standards for rooming houses;
6. recognise that private market mechanisms are not fit-for-purpose for many people experiencing homelessness to secure long-term private rental housing, and explore innovative models to support people from rough sleeping into social and affordable housing; and
7. improve the homelessness service system to prevent people from experiencing acute homelessness by rolling out the Zero model across the state, supported by state government funding.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Create environmentally sustainable forms of transport.

Submitting Council: City of Yarra Council

Resolution:

That the MAV requests the State Government:

1. commit to creating a State that is climate-safe, equitable and liveable for all residents and visitors through ensuring an accessible and reliable public transport network.
2. commit to the permanency of the Strategic Cycling Corridors pop-up bike lanes and that these will remain a priority for the State Government.

Flood Recovery

Submitting Council: Maribyrnong City Council

Resolution:

That the MAV work with the State Government to release a flood recovery roadmap outlining next steps, future engagement and potential policy changes in relation to flood recovery.

Active Transport

Submitting Council: Maribyrnong City Council

Resolution:

That the MAV call on the State Government to invest in improving the safety of active transport infrastructure. This includes:

1. Implementation of the strategic cycling corridors.
2. Separate trucks, pedestrians and bicycle riders.
3. Greater provision of separated and safe bicycle infrastructure.
4. Improvement of walking networks and intersection level of service for pedestrians

Public Transport Improvements

Submitting Council: Maribyrnong City Council

Resolution:

That the MAV call on the State Government to invest greater public transport services including:

1. Increasing non-peak train frequencies.
2. Implementing bus reform that provides high-capacity, high frequency and direct routes, across metropolitan Melbourne.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Critical Community Infrastructure

Submitting Council: Maribyrnong City Council

Resolution:

That the MAV call on the State Government to implement an ongoing funding stream and prioritisation framework to support the delivery of critical higher order community infrastructure for local government such as public libraries, cultural and community centres, aquatic centres, bicycle infrastructure, and significant recreation facilities to ensure that collectively we can support Victoria's growing population and ensure every Victorian has equitable access to services.

Municipal Building Surveyor legislative reform

Submitting Council: City of Port Phillip Council

Resolution:

That the MAV:

1. Notes with concern the potential impacts of the recent Supreme Court decision in the case of Shout Rock Cafes Pty Ltd v City of Port Phillip & Anor [2022] VSC 615 on the ability of Municipal Building Surveyors to remedy illegal building works or dangerous and non-compliant buildings and land, and
2. Advocates to the State Government to enact legislative reform to confirm the power of Municipal Building Surveyors to issue a building order, including a building order for minor work, to ensure that Councils and the MBS can require remediation in instances of illegal building work or dangerous buildings or land, beyond the limited type of work prescribed in the Building Regulations 2018.

Reform the funding models for social and affordable housing and the planning system to ensure it consistently facilitates new social and affordable housing development.

Submitting Council: City of Whittlesea Council

Resolution:

That the MAV State Council advocates to the State Government to:

1. Implement mandatory contributions via the planning system that require the provision of land and/or dwellings for social and affordable housing as part of new residential development, and
2. Provide permanent and ongoing funding to address the critical shortage of social and affordable housing.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Major Infrastructure Funding

Submitting Council: Mitchell Shire Council

Resolution:

That the MAV call on the Federal and State Governments to develop, prioritise and appropriately fund major infrastructure for communities in Australia's rapidly growing urban fringe including road, transport, and social infrastructure.

Guidelines outlining minimum consultation requirements for Major Projects

Submitting Council: South Gippsland Shire Council

Resolution:

That the MAV advocates to the Commonwealth Government to develop in partnership with state and territory governments, a community engagement framework which includes local government authorities and minimum consultation requirements to be imposed on proponents of projects that achieve 'Major Project' status.

Circular Economy (Waste Reduction and Recycling Act 2021) – Proposal to amend Kerbside Glass Collection Methodology

Submitting Council: Banyule City Council

Resolution:

That the MAV:

1. Advocate to the State Government to collaborate with other local government agencies to investigate options to provide alternatives to the 4th Glass Bin Collection Service.
2. Advocate to the State Government to review and comment upon the NSW business case to expand the CDS service rather than provide a 4th bin to the kerbside service.
3. Advocate to the State Government to ensure that the Container Deposit Scheme equipment and locations allow for future expansion.

State management of Flood Overlays

Submitting Council: Baw Baw Shire Council

Resolution:

That the MAV advocate to the Victorian Government to take on the planning, designing and delivery of flood overlays across Victoria.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Electric Line Clearance Guidelines Review for Urban Trees

Submitting Council: Brimbank City Council

Consolidated

Refer to C5: Electric line clearance in low bushfire risk areas.

Improved Electric Line Clearance Regulations

Submitting Council: City of Port Phillip Council

Consolidated

Refer to C5: Electric line clearance in low bushfire risk areas.

Action on Air Pollution

Submitting Council: Maribyrnong City Council

Resolution:

That the MAV call on the State Government to work with local government to support the transition of industry and freight to low or no emission methods of operation. This includes:

1. Implementing low emission zones in freight and industry heavy areas, near residential and other sensitive uses.
2. Providing grant programs and funding to support business transition to zero emission methods of operation.
3. Undertaking initiatives to greater separate trucks from where people live and learn.
4. Initiating a heavy vehicle buy-back scheme to incentivise more fuel efficient heavy vehicles.
5. Greater investment in air quality monitoring stations.
6. Greater investment in active and public transport projects.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Planning reform: Sustainable rooftop infrastructure

Submitting Council: City of Port Phillip Council

Resolution:

That the MAV advocate to the State Government for:

1. Stronger planning controls for new development to maximise the use of rooftop spaces (including podium roofs) for infrastructure that enhances the environmental performance of the building;
2. For such infrastructure to include, but not be limited to, solar panels, green roofs and walls, stormwater capture and retention, urban ecology, food organic gardens, and organics recycling; and
3. The development to be designed so that landscaped roofs are accessible to building residents and/or tenants as communal open space to provide health and wellbeing benefits.

Tree canopy mapping across Victoria

Submitting Council: Knox City Council

Resolution:

That the MAV advocate to the State Government (via DEECA) for a State Government sponsored tree canopy aerial mapping service to provide communities across Victoria with consistent, comparable, long term tree canopy measurement data to facilitate understanding and reporting of movements in tree canopy to support aligned local and State Government vegetation and climate change policies.

Seeking a variation to landfill levy – Community clean days.

Submitting Council: City of Whittlesea Council

Resolution:

That the MAV advocate to the State Government to provide a mechanism for councils to seek dispensation for payment of the landfill levy where this dispensation advances the strategic aim of the landfill levy.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Seeking a variation to landfill levy – Water sensitive urban design clean outs.

Submitting Council: City of Whittlesea Council

Resolution:

That the State Government creates a mechanism to allow for dispensation of the landfill levy for the disposal of contaminated sediments from urban wetlands and Water Sensitive Design Urban (WSUD) assets.

Support for the Public and Environmental Health sector

Submitting Council: Yarra Ranges Shire Council

Resolution:

That the MAV call on the Victorian Government to:

1. Provide support and funding to Councils to ensure that changes to legislation and regulation can be adequately implemented, as well as funding administrative overheads incurred in the management of State Government systems.
2. Subsidise the cost to implement and administer state-wide technology platforms including FoodTrader.
3. Engage with and provide training to Local Government prior to the implementation of amendments or new legislation impacting the Environmental Health sector.
4. Commit to an education recruitment program and supporting universities to undertake Industry Based Learning (IBL) to attract further education seekers to the fields of Health Sciences and Environmental Health.
5. Encourage and support universities to implement IBL and workforce placements with Council to combat the current skills shortage.

Development of a state-wide illegal dumping campaign including specific materials for CALD communities

Submitting Council: City of Whittlesea Council

Resolution:

That the MAV State Council advocates to the State Government to develop a state-wide communications campaign materials relating to the issue of illegal dumping, including development of specific material for culturally and linguistically diverse communities.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Disaster Recovery and Resilience Support for the establishment of new fit for purpose relief centres and an upgrade of current relief centre assets

Submitting Council: Campaspe Shire Council

Resolution:

That the MAV urgently advocates to State Government and Federal governments for need to allocate funding for fit for purpose relief centres and the ability to scale up of ERC's regionally to support campaign style emergency events.

Disaster Recovery and Resilience Support for the establishment of new system that enables the response agency to have a standardised and uniform approach to evacuations.

Submitting Council: Campaspe Shire Council

Resolution:

That the MAV urgently advocates to State Government for the need, should an evacuation order is given, that there is an ability for the response agency to be adaptive and provide warning systems are considered and progressive for individual events.

Reinstate 'Know Your Council' Website

Submitting Council: Maroondah City Council

Resolution:

That the MAV calls on the Victorian Government to reinstate recurrent funding for the Know Your Council website

Benchmarking Cyber Security Incidents and Actions

Submitting Council: Maroondah City Council

Resolution:

That the MAV calls on the Victorian Government to lead a project to undertake ongoing benchmarking of cyber security incidents and mitigation activities at a local government level and provide Council's access to these reports.



MAV STATE COUNCIL RESOLUTIONS FRIDAY 19 MAY 2023

Regulation on short-stay accommodation

Submitting Council: City of Port Phillip Council

Resolution:

That the MAV advocate for more effective and uniform State Government legislation in relation to short-stay accommodation, including AirBnB, to alleviate amenity impacts, and to consider limiting the amount of time in a given year whereby dwellings can be rented out on a short-stay basis in areas where housing availability has been identified as a particular issue.

Increase Growing Suburbs Fund

Submitting Council: Baw Baw Shire Council

Resolution:

That the MAV advocate to the Victorian Government for increased funding of Councils by doubling the Growing Suburbs Fund to \$100 million commencing from the 2024/25 Budget.

Investing in Telecommunications & Digital Connectivity in Regional and Rural Communities

Submitting Council: City of Greater Bendigo Council

Resolution:

That the MAV calls on Government to provide greater investment in telecommunications and digital connectivity in regional and rural communities to support increasing populations and industries, growth in jobs and investment, and remove the technological divide.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Urban Food Strategy

Submitting Council: Banyule City Council

Resolution:

That the MAV:

1. Advocates to the State Government the need to prioritise the conclusion of the Green Wedge and Agricultural Land review in a manner consistent with the vision and goals of a food-secure Melbourne.
2. Call on the State Government to take all appropriate measures in a timely manner to ensure long-term protection of Melbourne's Green Wedge areas as Melbourne's food bowl, with an accompanying commitment to development a state-wide Food System and Food Security Strategy and Action Plan as called for in the Consensus Statement; and
3. Advocate and support for the protection and enhancement of Melbourne's food bowl, to guard against future shocks associated with climate change and emergencies such as pandemics, and to future proof a resilient, sustainable local food system for Melbourne's population.

Improved financial vulnerability and wellbeing funding for our communities.

Submitting Council: Cardinia Shire Council

Resolution:

That the MAV calls on the Australian Government on behalf of Victoria to conduct a review into the funding mechanism that addresses financial vulnerability and wellbeing nationally and establish a dedicated fund that councils can access to address the financial vulnerability and wellbeing within communities.

Mental Health and Wellbeing

Submitting Council: Nillumbik Shire Council

Resolution:

That the MAV seek funding to improve mental health services by increasing support for the delivery of flexible and dynamic youth outreach and support services with an increased focus on mental health prevention.



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Private Health Insurance Lifetime Health Cover (LHC)

Submitting Council: Frankston City Council

Resolution:

That the MAV call upon the State Government to advocate for the removal of the Australian Government, Private Health Lifetime Insurance levy to allow more people access to private health insurance and improve the waiting period for public medical treatments and Local Government in home supports.

Police resourcing and support

Submitting Council: City of Port Phillip Council

Resolution:

That the MAV advocate to the State Government for additional resources for Victoria Police and related government agencies to support councils addressing anti-social, illegal and challenging behaviour by individuals in public spaces.

Management of Crown Land Recreation Facilities

Submitting Council: Baw Baw Shire Council

Resolution:

That the MAV advocate to the Victorian Government for the Department of Energy, Environment and Climate Action to proactively manage community facilities located on Crown Land including regular maintenance and upgrades.

Protection & enhancement of biodiversity

Submitting Council: Banyule City Council

Resolution:

That the MAV advocate to the State Government to provide support to the local government sector to achieve 'No Local Species Extinction' which will support the national response to ongoing biodiversity decline.

Promotion of environmental sustainability

Submitting Council: Bass Coast Shire Council

Resolution:

That the MAV advocates to the office of the Prime Minister to write to the governing authority of the Nobel Prize in Sweden to include a new category "Sustainability of the Planet".



MAV STATE COUNCIL RESOLUTIONS

FRIDAY 19 MAY 2023

Local Government Divestment from Investment in Fossil Fuel Financing Institutions

Submitting Council: City of Greater Bendigo Council

Resolution:

That the MAV calls on the State Government to promote and incentivise local governments to redirect funds over and above operational cash towards Authorised Deposit-taking Institutions (ADIs) that do not invest in fossil fuel industries, eventually moving towards 100% divestment.

Hoon Driving Regulation

Submitting Council: City of Port Phillip Council

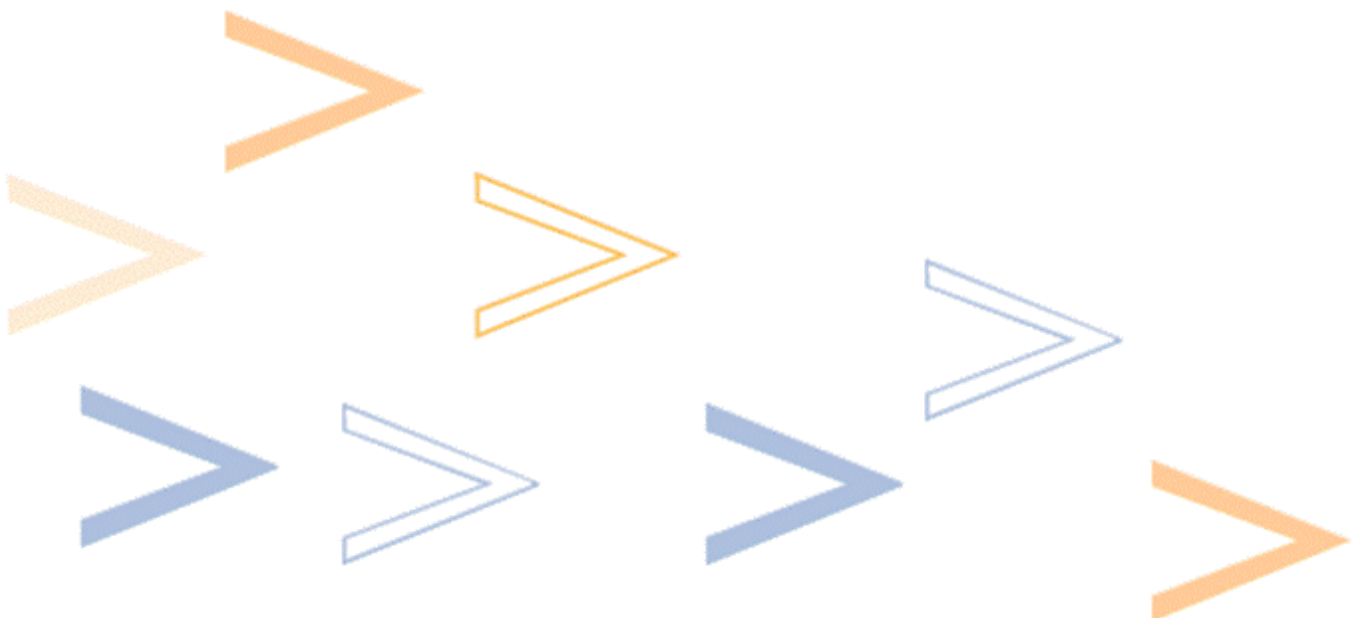
Resolution:

That the MAV advocate to the State Government to develop effective regulation to stop hoon driving, because of the impact of anti-social hoon driving on communities.



State Council Strategic Directions

May 2023



Message from the President

As many of you are aware, the Municipal Association of Victoria (MAV) brings together our members for State Council twice a year.

Councils submit motions and delegates then debate the big-ticket items for the local government sector. In May we came together at Melbourne Town Hall with a newly elected board and a number of new delegates.

The results of the lively discussion are collated for you as asks within this document, highlighting how State and Local Governments can work together in the interest of our communities.

There was particular focus on threats to local democracy in the face of increasingly unpredictable and disruptive protests at council meetings and events, the urgent need for various reforms to improve the supply of social and affordable housing, and the impacts of continued cost-shifting by the State onto local government.

The asks below are ordered to align with the MAV's Strategic Plan, which ensures the focus is on:

- economically sound councils;
- healthy, diverse and thriving communities;
- well-planned, connected and resilient built environment;
- changing climate and a circular economy; and
- sector capability and good governance.

We encourage parliamentarians of all persuasions to take advantage of the connections and understanding councils enjoy with their local communities and hope this document provides insights for you on the issues important on a local level.

I'd welcome meeting with you to provide further details on these or any other issues. Feel free to email me via dclark@mav.asn.au to set up a meeting.

Kind regards,

Cr David Clark
MAV President



Economically sound councils

On behalf of our member councils, the MAV is asking:

THE STATE GOVERNMENT TO:

1. Review the method for determining the rate cap taking into consideration councils' costs and establish a review into the short, medium, and long-term financial sustainability of local government.
2. Commit to not placing additional responsibilities on local government without a sustainable revenue stream to support them and revisit recent decisions that have resulted in cost-shifting onto local government.
3. Provide support and funding to councils to ensure that changes to legislation and regulation can be adequately implemented, and fund administrative overheads incurred in the management of state government systems.
4. Distribute a one-off untied grant equivalent to 0.5% of each council's general rates revenue to bridge the gap between the Essential Service's Commission's recommendation and the rate cap set for 2023/24.
5. Write-off bad debts not collected by Fines Victoria in excess of 24 months by compensating councils with an equivalent amount, and review Fines Victoria's service performance levels noting the significant technical and systems issues experienced to date.
6. Provide support and early information to councils to ensure that changes to legislation and regulation are practicable to implement and accommodate the administrative costs councils incur to comply with mandatory state-wide technology platforms, such as the new FoodTrader registration system.



Healthy, diverse and thriving communities

On behalf of our member councils, the MAV is asking:

THE STATE GOVERNMENT TO:

7. Actively work with the local government sector and other relevant stakeholders to support councils and their communities to hold inclusive activities and events that celebrate our collective diversity of gender identity, sex, sexual orientation, religion, colour, disability, cultural and language backgrounds, and all protected attributes.
8. Introduce regulatory reforms to prevent and reduce gambling harm, including a mandatory cashless pre-commitment scheme for all electronic gaming machines; venues to be closed between 2am and 6am daily; amend "community benefit" definition to apply to genuine philanthropic organisations or charities; and introduce a fund to support gaming venues wanting to transition away from EGMs.
9. Review the Maternal and Child Health program model and funding including the Key Ages and Stages framework to address increased scope, workforce attraction and retention, database functionality, capital funding, and better support for family violence and mental health.
10. Expand capital funding for kindergarten infrastructure to ensure that eligibility recognises individual needs and usage patterns of funded kindergarten programs across different local government areas and considers the ability of non-growth areas to expand facilities with limited land availability.
11. Ensure funding streams and associated agreements offered by the State for kindergarten infrastructure can work in partnership with each other to enable larger projects to be co-funded.
12. Reconsider the strategy applied for infrastructure planning for funded 3-year-old kindergarten and develop a new approach to plan for future infrastructure for expanded 4 year old kindergarten.
13. Provide detail on how the Victorian Government plans to fund and deliver infrastructure for the Kindergarten – Best Start, Best Life reform. Establish long-term funding streams for local government, which covers the full cost of expanding or building new kindergarten infrastructure to facilitate the Victorian Government's kindergarten reform; and take responsibility for the costs associated with implementing and the ongoing servicing of the reform.
14. Implement an ongoing funding stream and prioritisation framework to support the delivery of critical higher order community infrastructure such as public libraries, cultural and community centres, aquatic centres, bicycle infrastructure, and recreation facilities.
15. Establish regional targets for the supply of social housing to better match the number of vulnerable households.
16. Expand the Big Housing Build to further increase the supply of social and affordable housing.
17. Provide permanent and ongoing funding to address the critical shortage of social and affordable housing.
18. Conduct an audit of state government land for social housing development opportunities.
19. Introduce legislation in relation to short-stay accommodation, including AirBnB, to alleviate amenity impacts and limit the amount of time dwellings can be rented out on a short-stay basis

in areas where housing availability is a particular issue.

20. Review private rental assistance programs, undertake immediate legislative reform to strengthen minimum standards for rooming houses, and recognise that private market mechanisms are not fit-for-purpose for many people experiencing homelessness to secure long-term rental housing.
21. Explore innovative models to support people sleeping rough into social and affordable housing and roll out the Zero model across the state, supported by state government funding.
22. Improve mental health services by increasing funding support for the delivery of flexible and dynamic youth outreach and support services with an increased focus on mental health prevention.
23. Advocate to the Australian Government for the removal of the Lifetime Health Cover loading to allow more people to access private health insurance and improve the waiting period for public medical treatments and local government in-home supports.
24. Adequately resource the Safer Communities Taskforce to enable proactive policing in local streets and neighbourhoods.
25. Provide funding for homeless outreach psychiatric services and assertive outreach teams to attend incidents with Victoria Police where mental health, homelessness or alcohol and other drug (AOD) misuse is a driving factor.
26. Support local governments to adopt a localised approach to crime prevention by bringing together police, outreach support services, business and community groups to ensure a coordinated response that focuses on both safety and wellbeing.
27. Provide additional resources for Victoria Police and related government agencies to support councils addressing anti-social, illegal and challenging behaviour by individuals in public spaces.
28. Develop effective regulation to stop hoon driving, because of the impact of anti-social hoon driving on communities.



Well-planned, connected and resilient built environment

On behalf of our member councils, the MAV is asking:

THE STATE GOVERNMENT TO:

29. Exempt local government from the windfall gains tax.
30. Hypothecate a proportion of the windfall gains tax collected in each municipality for projects within that municipality and partner with the relevant council to determine and prioritise the infrastructure needs of the community
31. Urgently review developer contributions schemes and develop a more efficient and clearer procedure for preparing and amending schemes to reduce the administrative burden and cost on councils.
32. Develop, prioritise and appropriately fund major infrastructure for communities in the rapidly growing urban fringe, including road, transport, and social infrastructure.
33. Double the Growing Suburbs Fund to \$100 million commencing from the 2024/25 Budget.
34. Simplify the methodology and data inputs required in Victoria to prove council's eligibility for Disaster Recovery Funding, bringing it in line with other states.
35. Ensure post-disaster funding programs for councils enable betterment to improve assets beyond the previous condition to provide resilience against future damage resulting from disaster events.
36. Financially support local government with an ongoing betterment program to upgrade existing public infrastructure in readiness for increased exposure to future disaster events.
37. Release a flood recovery roadmap outlining next steps, future engagement and potential policy changes in relation to flood recovery.
38. Take on the planning, designing and delivery of flood overlays across Victoria.
39. Increase funding available to local communities, local government, and individuals, and implement legislation, policy, and regulations to improve and support building resilience to natural disasters.
40. Implement mandatory contributions via the planning system that require the provision of land and/or dwellings for social and affordable housing as part of new residential development.
41. Create an integrated planning framework across state and local government departments for delivery of sufficient affordable housing that achieves best practice urban design whilst protecting existing neighbourhood character and heritage values.
42. Consult and work with local government on planning reforms to improve the operational efficiency and timeliness of planning decisions.
43. Review the statutory timeframes outlined in the Planning and Environment Act 1987 to better differentiate between simple, moderate and complex planning matters.
44. Tackle shortages of urban and regional town planners in councils by increasing support and funding for university placements and introduction of traineeships and short course certificates for entry-level planners.

45. Release qualified planners from state government roles to enable recruitment of qualified planners into local government positions.
46. Review requirements for placement of gas, water and electricity service infrastructure within front setbacks of new developments to ensure access and safety objectives are balanced with impacts on neighbourhood character and streetscape, and ensure requirements are published.
47. Progress the ESD Roadmap project to eliminate the need for gas services infrastructure in new developments.
48. Plan and fund safer pedestrian and cycling access along the arterial road network within activity centres.
49. Commit to creating a state that is climate-safe, equitable and liveable for all residents and visitors through ensuring an accessible and reliable public transport network.
50. Commit to the permanency of the Strategic Cycling Corridors pop-up bike lanes.
51. Improve active transport infrastructure safety through implementation of the Strategic Cycling Corridors; separation of trucks, pedestrians and bicycle riders; greater provision of separated and safe bicycle infrastructure; and improvement of walking networks for pedestrians.
52. Invest in greater public transport services including increasing non-peak train frequencies and implementing bus reform to provide high-capacity, high frequency, direct routes across metropolitan Melbourne.
53. Take back responsibility for maintenance of arterial roads and provide an appropriate maintenance response.
54. Enact legislative reform to confirm the power of municipal building surveyors (MBS) to issue a building order, including for minor work, to ensure that councils and the MBS can require remediation in instances of illegal building work or dangerous buildings or land.
55. Prioritise the conclusion of the green wedge and agricultural land review to ensure long-term protection of Melbourne's food bowl, with an accompanying commitment to development a state-wide food system and food security strategy and action plan.
56. Proactively manage community facilities located on Crown Land including regular maintenance and upgrades.



Changing climate and a circular economy

On behalf of our member councils, the MAV is asking:

THE STATE GOVERNMENT TO:

57. Provide for an ongoing funding allocation to retrofit existing leisure centres and community facilities to be carbon neutral.
58. Ensure energy transmission infrastructure across Victoria is developed using existing easements, is located underground where practicable, is co-located with other lines to reduce impacts, and is subject to extensive consultation before any decision on implementation.
59. Significantly increase its investment in the Recycling Victoria: a new economy policy and action plan to boost processing capacity and markets for recycled materials.
60. Set and report on state-wide targets for the use of recycled content in the construction of State-funded infrastructure.
61. Work with councils to investigate options to provide alternatives to a fourth bin for glass, noting that the NSW and South Australian Governments both determined that an expanded container deposit scheme offered significantly better return on investment than introduction of a fourth kerbside bin.
62. Ensure that the container deposit scheme regulatory settings and collection network allow for future expansion of the scheme.
63. Work with local government to support the transition of industry and freight to low or no emissions operations by implementing low emission zones in freight and industry heavy areas near residential and other sensitive uses.
64. Provide grant programs and funding to support businesses to transition to zero emission methods of operation.
65. Undertake initiatives to achieve greater separation of trucks from where people live and learn.
66. Initiate a heavy vehicle buy-back scheme to incentivise more fuel-efficient heavy vehicles.
67. Increase investment in air quality monitoring stations.
68. Introduce stronger planning controls for new development to maximise the use of rooftop spaces for infrastructure that enhances the environmental performance of the building.
69. Review the Electricity Safety (Electric Line Clearance) Regulations 2020 to embed consideration of amenity, biodiversity, and urban heat island effect in low bushfire risk areas.
70. Sponsor a tree canopy aerial mapping service to provide communities across Victoria with consistent, comparable, long term tree canopy measurement data.
71. Provide a mechanism for councils to seek dispensation for payment of the landfill levy where this dispensation advances the strategic aim of the landfill levy.
72. Create a mechanism to allow for dispensation of the landfill levy for the disposal of contaminated sediments from urban wetlands and water sensitive urban design assets.

73. Develop state-wide communications campaign materials relating to the issue of illegal dumping, including development of specific material for culturally and linguistically diverse communities.
74. Allocate funding for fit-for-purpose relief centres and the ability to scale up relief centres regionally to support campaign-style emergency events.
75. Ensure that, in the event of an emergency evacuation order, that there is an ability for the response agency to be adaptive and provide warning systems for individual events.
76. Provide support to the local government sector to achieve no local species extinction.
77. Promote and incentivise local governments to redirect funds over and above operational cash towards authorised deposit-taking institutions that do not invest in fossil fuel industries, moving towards 100% divestment.
78. Support councils and regional library corporations to transition to alternate management models to meet the 30 June 2031 wind-up requirements set by the Victorian Government in the Local Government Act 2020.



Sector capability and good governance

On behalf of our member councils, the MAV is asking:

THE STATE GOVERNMENT TO:

79. Actively work with local government and other relevant stakeholders to develop state-wide measures that support councils to manage and prevent disruptive and unsafe behaviour, particularly at council meetings, and coordinate a response to the expanding and increasingly aggressive cohort in the community that have been targeting local councils in recent months.
80. Provide additional resources for the eSafety Commissioner, Local Government Inspectorate and other relevant bodies to address online bullying, harassment and trolling of candidates and councillors on social media platforms.
81. Expand the authority of the eSafety Commissioner to remove online abuse of councillors and candidates which would fall under the current threshold of content with the 'intent of causing serious harm' or under a new threshold of 'unintentionally causing serious harm'.
82. Work with local government to develop support and social media management programs for candidates and councillors through the eSafetyWomen program in the lead up to the 2024 elections.
83. Undertake ongoing benchmarking of cyber security incidents and mitigation activities at a local government level and provide councils access to these reports.
84. Amend the Local Government (Planning and Reporting) Regulations 2020 to remove the requirement for reimbursements of childcare costs or expenses incurred by a councillor who is a carer to be published as a reported expense item in the Annual Report or elsewhere.
85. Reconsider the fee structure for the 39 councils required to undergo the VEC electoral structural review forum, noting the financial burden that this represents for small rural shires, and encourage VEC panels to give greater consideration to council submissions on the most appropriate electoral structure for their communities.
86. Recognise the expertise of the Minister for Local Government's own appointed electoral representation advisory panels to recommend an appropriate constitution of a council, guided by consultation with local communities.
87. Publish a notice in the Government Gazette in accordance with section 13 of the Local Government Act 2020 enabling all Victorian councils to be constituted in any one of the three permissible manners.
88. Establish funded student placement and career pathway programs within local government with the support of tertiary institutions and coordinate a media and advocacy campaign to attract skilled resourcing to the local government sector.
89. Commit to an education recruitment program and support universities to undertake industry-based learning and work placements within councils to attract people to the fields of health sciences and environmental health.
90. Reinstate recurrent funding for the Know Your Council website.



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Item: 10.2

Notice of Motion - 69 McLachlan Street, Apollo Bay

COUNCILLOR	Cr Graham Costin
ATTACHMENTS	Nil

1. NOTICE OF MOTION

That Council:

Part A

- 1. Resolves not to sell 69 McLachlan Street, Apollo Bay unless needed for an identified strategic requirement of Council and approved by Council resolution.*
- 2. Investigates other financing options for the Apollo Bay Maternal and Child Health building cost of \$348,000 including the sale of other Council-owned properties identified as surplus to Council needs.*

Part B

- 3. Calls for expressions of interest from local community groups for uses of 69 McLachlan Street, Apollo Bay that align with Council's Creative Colac Otway – Arts & Culture Strategy 2018-2022.*

2. COUNCILLOR COMMENT

Following the State Government's full funding of the new Apollo Bay Kindergarten build, Council's better-than-expected result from the sale of 36-52 Bruce Street and with Council owning many other less well-positioned properties identified as having potential for sale, there is no longer any pressing need to sell 69 McLachlan Street to finance the \$348,000 build of the new Apollo Bay Maternal and Child Health beside the new kindergarten.

The former preschool at 69 McLachlan Street is exceptionally well located within the Health and Education precinct identified by the 2021 Apollo Bay Community Infrastructure Assessment. The Assessment recommended Council prepare a master plan for the development of this precinct and that Council support arts and culture by "*development of a designated art space to run artist workshops, etc*". The sale of 69 McLachlan Street would constrain this master plan and remove what is likely Apollo Bay's best option for the provision of a community arts space.

Council can afford to hold 69 McLachlan Street for longer-term redevelopment as medium-density social or affordable housing, allied health or childcare services, or other similar strategic purpose as funding opportunities arise. One recently emerged opportunity is the State Government's redirection of \$1.0 billion to regional areas for social and affordable housing following its decision not to proceed with the Commonwealth Games.

A precedent for strategic retention of 69 McLachlan Street is Council's 2011 purchase of the old Civic Hardware Store in Gellibrand St, Colac for \$800,000 for car parking and for some future higher-level use to be identified in the Colac Civic Precinct master planning.

The Community Infrastructure Assessment noted the community view that it needs more spaces for community use not just spaces for tourist use. The Assessment identified the need for the creation of a community arts space and noted this was consistent with best practice planning to recognise the role of the arts industry in creating a local cultural economy and promoting innovation through arts precincts. 69 McLachlan Street is well suited for use as a community arts space pending the emergence of any higher-level strategic development opportunity.

A 2018 structural assessment of 69 McLachlan Street identified decayed stumps, bearers and joists in some locations around the perimeter walls. Remedial works were undertaken to the high standard required to allow the preschool to continue to operate safely on the site. As a result of these works, the building still has some remaining years of useful life, and the property includes two structurally sound storage sheds.

Arts Inc. has made several requests to Council for a community arts space – 2017, 2019 and in their 2023-24 budget submission – however, Council has been unable to assist due to the lack of any suitable Council-owned space. Leasing the property to Apollo Bay Arts Inc. in the shorter term as a community arts space could minimise Council's holding costs and upkeep costs on a vacant property.

A precedent is Council's 2019 refurbishment and lease of the vacant Colac Library Annex to Creative Otways Inc. (i.e. Colac Makers' Space). Council granted a lease at a nominal rent of \$150 pa with conditions to allow access for other aligned community groups and to reinvest any profits into arts activities.

Legislation, Policy, Council Plan & Governance

The sale of Council-owned land is final and irreversible except in exceptionally rare circumstances. Council decisions can have a very significant impact on individuals, communities and future generations. For this reason, the Local Government Act 2020 Section 9 requires Councils to prioritise "... achieving the best outcome for the community, including future generations." This Notice of Motion complies with this requirement.

Council must also consider its Acquisition and Disposal of Council Property Policy (4.3). Section 4.1 of this policy sets out the criteria Council should use to determine if a property is surplus to council needs. These criteria include:

- c) *"Disposal of the property will not inhibit or prevent the fulfilment of an identified strategic requirement of Council, now or in the future", and*
- d) *The property is not required for recreational, environmental or community use with a demonstrated demand, now or in the future.*

This Notice of Motion meets these Policy criteria.

The [Council Plan 2021-25](#) incorporates Council's Public Health and Wellbeing Plan. Theme 3 of the Council Plan – A Healthy and Inclusive Community - includes the Strategic Objective *“People are active and socially connected through engaging quality spaces and places”*. This is to be achieved by *“Provide(ing) fit for purpose accessible and well-utilised recreational, arts and community facilities and services.”* This Notice of Motion follows this strategic objective and action.

Community consultation on the proposed sale was undertaken in Nov-Dec 2021. However, the resolution to consult was tainted by the inclusion of Council’s intention to offer to sell the property to Homes Victoria for social and affordable housing. The local newspaper headline on the resolution is *“Sale for housing”*. This constrained those who might otherwise have made submissions contrary to the proposed sale for housing.

The April 2022 Council resolution authorising the CEO to sell 69 McLachlan Street by public auction before the end of 2022 has now expired. Considering the emergence of the new circumstances and future funding opportunities outlined above, it is reasonable for Council to consider retaining the property in the best interests of the community.

Housing Crisis

In May 2020, Council responded to the Victorian Planning Association *Key and Essential Worker Housing Supply Action Plan (2020)*, the GOR Tourism GOR Visitor Economy Workforce Development Strategy (2020) and substantial community concern by declaring a *Key and Essential Worker Housing Crisis*. In doing so it noted the substantial shortage of key and essential workers in coastal towns and the urgent need to secure affordable seasonal worker housing and longer-term housing to grow the permanent population of coastal towns.

In response to the coastal need for affordable housing, Council allocated \$120,000 of the \$2.86 million Bruce Street sale proceeds in its 2023/24 Budget to commence a \$480,000 feasibility study into the use of its Nelson St works depot for an affordable housing project. This project may well conclude the use of this site for housing is not feasible. 69 McLachlan Street is the only other option Council has for social or affordable housing as it does not own any other suitable land.

Creative Colac Otway – Arts and Culture Strategy 2018-2022

Council’s *Creative Colac Otway – Arts and Culture Strategy 2018-2022* highlights arts and culture services are an increasing expectation of modern contemporary places and can provide direct and indirect benefits to local communities by contributing to a sense of belonging and community inclusion. It states, *“Council believes our lives are made richer through participation in arts and culture activities. ... Arts, Heritage and culture help us create better communities.”*

The Strategy is based on a framework of principles for how Council, partners and stakeholders can help support and implement the vision for a Creative Colac Otway. The Strategy is based on Statements of Principle that include *“We will promote and support access and participation in Arts and Culture ensuring equity across programs and services”*. Strategy 3.2.4 is *“Facilitate opportunities to provide low-cost spaces for creative practitioners in vacant buildings and within under-utilised facilities.”* 69 McLachlan Street is the only realistic option available for Council to implement this strategy in our coastal communities as Council doesn’t own any other suitable coastal buildings or facilities.

Apollo Bay Arts Inc.

Apollo Bay Arts Inc. is the umbrella organisation for multiple coastal arts and culture groups with an aggregate membership of 418, with 3000+ subscribers to its newsletters and social media. It has been operating since 1985. It hosts an annual art show and writers’ festival (WordFest), manages a small

gallery (Mech Hall Annex), assists various weekly arts, performance and pottery groups, maintains the timber sculptures and seating on the foreshore, provides small community grants for local artistic endeavours and promotes all local and regional arts events. It attracts a substantial number of tourists to our region and significantly contributes to the liveability of our coast and hinterland.

Although Arts Inc. has made repeated requests for Council to assist with a community arts space in 2017, 2019 and again this year as a 2023-24 Budget submission. Council has responded that it is unable to assist due to the lack of any suitable Council-owned building or facility. Arts Inc. didn't make a submission during the November 2021 consultation period as it considered Council was already aware of its requests for a community arts centre and it didn't wish to threaten Council's intent to sell the property for affordable or social housing.

In this year's budget submission, Arts Inc. stated it is willing to contribute towards ongoing property costs and to develop the rear of the property as a public arts/sculpture space. Arts Inc. - and the Apollo Bay community generally - have a proven track record of fundraising, sourcing grants and volunteerism; and have a ready pool of local tradespersons skilled and experienced in building construction, repair and maintenance.

Gifted asset?

Almost all community submissions during the November 2021 consultation on the proposed sale highlighted perceptions of community ownership of 69 McLachlan Street. Fortunately the Pre-school Committee has kept meticulous records and minutes since the first community meeting in 1953 that resolved to buy land, build a preschool, and form a Preschool Committee to run classes.

These records show the Pre-school Committee purchased 69 McLachlan Street with community donations and through fund-raising. It obtained capital grants totalling £4,068 from the Education and Health Departments. However, a condition of the Health Department grant to include an Infant Welfare Centre was conditional on Council (Shire of Otway) ownership.

The Shire was initially reluctant to accept ownership but eventually agreed to "purchase" the property in December 1957 for £200 on the conditions that the Committee would:

- i) be solely responsible for funding all future building, operating and maintenance costs, and
- ii) pay the Shire £200 for Council supervision of the preschool building works.

In effect, the Committee never saw the £200 it was "paid" by the Shire. The grants proved inadequate to fund the building plans accepted by the Shire and so the Committee took out a loan of £(...) to fund the shortfall.

The Pre-school Committee stuck by the agreement to pay all building and ongoing costs from when the Shire approved the building plans in March 1958 right up until around 2016 when Colac Otway Council officers started discussions with the Committee about the possible sale of the property to contribute towards a new kindergarten on Apollo Bay P-12 College land. Up until that time the Committee self-funded all operations, maintenance, and repair costs (including major works like reroofing) through fees, community fundraising, donations, government grants and numerous working bees for a period of 60+ years. A preschool working bee was always a well-attended social event.

This documented history leaves little doubt that 69 McLachlan Street has been a substantial "windfall" for Council and explains the local community views that this property is, at least in part, a community-owned asset.

Item: 10.3

Notice of Motion - GORCAPA and Apollo Bay Harbour

COUNCILLOR Cr Tosh-Jake Finnigan

ATTACHMENTS Nil

1. NOTICE OF MOTION

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.***

2. COUNCILLOR COMMENT

Colac Otway Shire Council approved the Apollo Bay Harbour Development Plan on 16 December 2020.

This Development Plan came about as the result of many years of input and engagement from countless stakeholders in our coastal community, and was meant to clear the way for work to begin in earnest to deliver upon this \$12m project to bring new life to the Apollo Bay Harbour.

It is now August 2023, and the delivery of the Apollo Bay Harbour redevelopment seems just as far away as when Council approved the plan almost three years ago.

Earlier this year we saw the cancellation of the Apollo Bay to Skenes Creek Coastal Trail, with the bulk of the \$5m earmarked for that project under the Geelong City Deal transferred to projects outside of the Colac Otway Shire's boundaries, and the \$12m funding allocated to the Apollo Bay Harbour Redevelopment under the City Deals project is being eaten away by the inflation each and every day the project remains incomplete.

It is the expectation of the Colac Otway Shire Council and the Apollo Bay community that the Great Ocean Road Coast and Parks Authority (GORCAPA) fully delivers upon the Apollo Bay Harbour Redevelopment as per the \$12m Development Plan adopted by Council in December 2020 under the City Deals project, with no cuts.

