

ORDINARY COUNCIL MEETING

AGENDA

26 AUGUST 2015

at 4:00 PM

Birregurra Public Hall

Next Meeting:
23 September 2015 at 4.00pm
COPACC Meeting Rooms, Colac



Our Vision

Council will work together with our community to create a sustainable, vibrant future.

Our Mission

Council will work in partnership with our community and other organisations to provide:

- Effective leadership, governance and financial accountability
- Affordable and effective services
- An advocacy and engagement approach to sustainably grow our community

Our Values

Council will achieve its Vision and Mission by acting with:

- Respect
- Integrity
- Goodwill
- Honesty
- Trust

Our Strategic Direction

The four pillars of our Council Plan indicate our key strategic direction for 2013-2017.

An underlying principle in the development of the Council Plan was to more effectively integrate service delivery.

Pillar 1: Good Governance

Pillar 2: A Planned Future

Pillar 3: A Place to Live and Grow

Pillar 4: A Healthy Community and Environment

Our Councillors

Cr Frank Buchanan (Mayor), Cr Brian Crook (Deputy Mayor), Cr Michael Delahunty, Cr Stephen Hart, Cr Lyn Russell, Cr Chris Smith, Cr Terry Woodcroft.



Ordinary Meeting of Council

Welcome

Welcome to this Meeting of the Colac Otway Shire Council

Council Meetings are an important way to ensure that your democratically elected representatives are working for you in a fair and transparent way. They also allow the public to be involved in the decision making process of Council

About this meeting

There are a few things to know about tonight's meeting. The agenda itemizes all the different parts to the meeting. Some of the items are administrative and are required by law. In the agenda you will also find a list of all the items to be discussed this evening.

Each report is written by a Council officer outlining the purpose of the report, all relevant information and a recommendation. Council will consider the report and either accept the recommendation or make amendments to it. All decisions of Council are adopted if they receive a majority vote from the Councillors present at the meeting.

In accordance with Local Law 4, agenda items will be considered as follows:

- The item is introduced by the Mayor and Councillors are invited to ask questions of relevant officers
- A mover and a seconder of a motion is called for and if there is any Councillor who wishes to oppose the motion.
- The mover will then be invited to speak to the motion, followed by the seconder and then, if required, the Councillor who opposed the motion.
- Remaining Councillors will be given the opportunity to speak for or against the motion.
- If any Councillor speaks against the motion, the mover will be given the right of reply.
- There will be no further discussion of the item once the vote has been declared.

Public Question Time

Provision is made at the beginning of the meeting for general question time from members of the public. Matters relating to routine Council works should be taken up with Council's Customer Assist Staff.

Up to thirty minutes may be provided for Question Time. This is at the discretion of the Mayor.

Residents are encouraged to lodge questions in advance so that a more complete response can be given.

Questions can be submitted in writing up until 5.00pm on the Monday prior to each Council meeting. There is also provision for questions to be asked from the gallery. If you would like to ask a question during Question Time, it would be appreciated if you could please fill in the blue "Public Question Time – Council Meetings" form located in the meeting rooms and hand to the COPACC Duty Supervisor.

Questions relating to a topic on the agenda may be taken on notice and responded to after the meeting. Responses to questions taken on notice will be tabled at the following meeting and included in the minutes of that meeting.

Hearing of Submissions

Any person who has made a written submission on an item and requested that she or he be heard in support of that written submission pursuant to section 223 of the *Local Government Act 1989* will be entitled to address Council.

When the relevant item is listed for discussion, the Mayor/Chairperson will call your name and ask you to address the Council. The length of time available to each speaker is five minutes.

Recording of Meetings

All Council and Committee meetings are audio recorded, with the exception of matters identified as confidential items in the Agenda. This includes the public participation sections of the meetings. Audio recordings of meetings are taken to facilitate the preparation of the minutes of open Council and Committee meetings and to ensure their accuracy. In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

Council will not use or disclose the recordings for any other purpose. It is an offence to make an unauthorised recording of the meeting.

COLAC-OTWAY SHIRE COUNCIL MEETING

26 AUGUST 2015

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COLAC OTWAY SHIRE COUNCIL ORDINARY MEETING OF COUNCIL

NOTICE is hereby given that the next **ORDINARY COUNCIL MEETING OF THE COLAC-OTWAY SHIRE COUNCIL** will be held in Birregurra Public Hall on 26 August 2015 at 4.00pm.

1. 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. APOLOGIES

3. DECLARATION OF INTEREST

Pursuant to Sections 77, 78 and 79 of the Local Government Act 1989, direct and indirect conflict of interest must be declared prior to debate on specific items within the agenda; or in writing to the Chief Executive Officer before the meeting. Declaration of indirect interests must also include the classification of the interest (in circumstances where a Councillor has made a Declaration in writing, the classification of the interest must still be declared at the meeting), ie:

- a) direct financial interest
- b) indirect interest by close association
- c) indirect interest that is an indirect financial interest
- d) indirect interest because of conflicting duties
- e) indirect interest because of receipt of an applicable gift
- f) indirect interest as a consequence of becoming an interested party
- g) indirect interest as a result of impact on residential amenity
- h) conflicting personal 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.

Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

4. WELCOME & ACKNOWLEDGEMENT OF COUNTRY

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

Colac Otway Shire encourages community input and participation in Council decisions. Council meetings provide an opportunity for the community to ask Council questions, either verbally at the meeting or in writing.

Please note that Council may not be able to answer some questions at the meeting. These will be answered later.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

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In some circumstances a recording will be disclosed to a third party. Those circumstances include, but are not limited to, circumstances, such as where Council is compelled to disclose an audio recording because it is required by law, such as the Freedom of Information Act 1982, or by court order, warrant, or subpoena or to assist in an investigation undertaken by the Ombudsman or the Independent Broad-based Anti-corruption Commission.

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5. QUESTION TIME

A maximum of 30 minutes is allowed for question time. To ensure that each member of the gallery has the opportunity to ask questions, it may be necessary to allow a maximum of two questions from each person in the first instance. Once everyone has had an opportunity to ask their initial questions, and if time permits, the Mayor will invite further questions. Please remember, you must ask a question. If you do not ask a question you will be asked to sit down and the next person will be invited to ask a question. Question time is not a forum for public debate or statements.

1. Questions received in writing prior to the meeting (subject to attendance and time),
2. Questions from the floor.

6. TABLING OF RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS

These responses will not be read out but will be included in the minutes of this meeting.

7. PETITIONS/JOINT LETTERS (if required)**8. CONFIRMATION OF MINUTES**

- Ordinary Council Meeting held on the 22/07/15.

Recommendation

That Council confirm the above minutes.

As per Governance Local Law No 4, clause 34:

34. Objection to Confirmation of Minutes

- (1) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Except where sub-clause (1) applies, no vote shall be recorded against a motion to adopt the minutes.

OM152608-1 CEO'S PROGRESS REPORT TO COUNCIL

AUTHOR:	Rhonda Deigan	ENDORSED:	Sue Wilkinson
DEPARTMENT:	Executive	FILE REF:	F11/3291

EXECUTIVE

The CEO attending the following meetings and events during the past month:

- Advancing Country Towns Steering Group meeting
- Video conference with representatives of Barwon Child, Youth & Family
- Tour of COS sites with new General Managers
- Meeting with representatives from the Otway Forum in Apollo Bay
- Meeting with representatives from the Apollo Bay chamber of Commerce & Tourism in Apollo Bay
- Morning tea to farewell School Crossing Supervisors, Betty Monahan and Lillian Caspar after 34 years' service
- Tour of Anam Cara House
- Tour of Trinity College
- Meeting with Sarah Henderson MP, Member for Corangamite
- G21 Board Meeting
- Participated in the LGPro Women's Professional Development Forum as a panel member
- Meeting with representatives from Colac Area Health and Barwon Child, Youth & Family to discuss Early Years Facilities for Colac Otway Shire
- LGPro CEO Forum
- Guest speaker at two separate Colac Ladies Probus meetings
- Barwon South West Regional Management Forum
- Guest speaker at VPELA State Planning Conference
- Great South Coast Regional Forum and Board meeting.

Executive Management Team

The Colac Otway Shire Council welcomed two new General Managers over the past month. Ingrid Bishop, General Manager Infrastructure and Leisure Services, and Brydon King, General Manager Development and Community Services, started with us on 27 July 2015.

Colac Otway "Community Matters" Newsletter

Council's new quarterly newsletter, "Community Matters", has been released. This initiative has been implemented in response to feedback from the 2015 Community Satisfaction Survey which indicated that the community wanted more consultation and information on Council's activities.

The newsletter will be produced four times a year to inform the community about projects, services and opportunities to get involved in decisions that affect them.

Service Snapshot – April to June 2015

Service snapshot

delivering to our community APRIL - JUNE 2015



INFORMATION MANAGEMENT

 **10,234**
external emails,
letters and faxes
received and
actioned

COMMUNITY SUPPORT

2956
meals delivered
through Meals on
Wheels
9833
home and community care visits



**MATERNAL AND CHILD
HEALTH SERVICES**

 **774**
consultations
with new families,
babies and young
children

ARTS AND CULTURE

 **1650**
children attended
live performances
at COPACC

SERVICE HIGHLIGHT

Customer assist team second best in Australia

HEALTH PROTECTION

 **948**
immunisations
provided

ANIMAL MANAGEMENT

 **134**
animals re-homed
or returned
(with the help of the Murray
Street Vets)

Our customer assist
team was recently
named as one of
Australia's leading
customer service
providers within
the local government sector,
following an independent audit
of 56 councils in Australia.
A specialist firm undertook
random 'mystery shopper' calls
to test staff skills in four areas;
greetings, manner, enquiry
resolution and communication
skills.




ENVIRONMENT EDUCATION

 **430**
school children
participated in Council-
run environmental
activities


ROADS AND FOOTPATHS

 **20**
new bike
racks installed
throughout the
shire

SALEYARDS

 **11,691**
livestock sold at
Colac Regional
Saleyards

PLANNING AND BUILDING

 **83**
planning permit
applications
determined

Our customer assist staff in
Colac and Apollo Bay not only
increased their score by 30
points, they placed second in
Australia.
They were also compared
to 220 organisations across
the country, including multi-
nationals, and ranked eighth
which is a true credit to the
team's professionalism and
high level of skills.

COMMUNITY GRANTS

 **114**
projects and events
funded through the
Community Funding
Program, Festival
and Event Support
Scheme and the Small
Town Improvement
Program

SUPPORTING BUSINESS

 **140**
local business
people attended
business
development events

 **\$338,000**
provided for
community projects
and events in the
shire

Youth Council

Colac Otway Shire Youth Councillors have been involved with several great causes so far this year including assisting with the Long Road Appeal Ball, Tree Planting at Cape Otway and the 100th Anzac Commemoration Service.

After learning almost half Australia's Homeless Population is under 25 years of age, Youth Council decided this year would be primarily focused on raising awareness for homelessness, particularly Youth Homelessness, within Colac Otway Shire. Youth Council made a donation to the Neighbourhood House Community Dinner project and are presently planning their major event for the year. The "Youth Without A Roof" event to be held in the Memorial Square on Saturday 21 November will comprise information stands, guest speakers, entertainment, activities, a twilight food and craft market and culminate with a sleepover in Memorial Square and a free breakfast for sleepover participants on Sunday morning. The aim of the event is to break down the stereotypes and stigma that are associated with youth homelessness which often prevent many young people from seeking help.

INFRASTRUCTURE & LEISURE SERVICES

ARTS & LEISURE SERVICES

RECREATION

Playground Developments

Council is currently in the process of installing new playgrounds in Wyuna Estate Elliminyt and Colac East, as well as replacing old outdated play equipment in Western Bay Park, Colac. Consultation with the community about the new playgrounds has commenced with a series of public forums held during August. A 'drop box' is available at Council's Colac Customer Service Centre for community members to lodge ideas and thoughts on playground requirements.

COPACC

CrossXpollination

CrossXpollination, the third annual festival of textile and fibre art, was a popular success in July. More than 1,000 people attended the exhibit in COPACC's Civic Hall. More than 180 school children attended *CrossXpollination* in connection with their school studies with four groups offered talks and workshops tailored to their curriculum. The wearable art market and pop-up café were successful components of the exhibition. The partnership between COPACC and Red Rock Regional Theatre and Gallery will continue in 2016, with plans already underway.

I Am Jack

During July 2015, 250 primary students attended in-school workshops arranged by COPACC on the subject of bullying. These workshops were offered to schools attending *I Am Jack* a children's theatre production based on a true story about an Australian boy who overcame bullying. The show was performed at COPACC on 6-7 August 2015.

APACA Drover Award

COPACC is a finalist in the Australian Performing Arts Centres Association (APACA) Drover Award for Theatre Presenter of the Year. COPACC was nominated by touring arts organisations and theatre producers. This is the third time the centre has been a finalist in

the past six years, highlighting the fantastic facility and service offered by Council. The results will be announced at the Sydney Opera House on 20 August.

The Set List Project

The Set List brings the best new contemporary music acts to young, regional Australian audiences. Aimed at 16-22 year olds, the project puts the final programming choice of bands in the hands of young people and enriches their experience through a series of pre-show engagement activities designed to encourage active participation and a sense of ownership of the gig. Following engagement with our youth community, *Coin Banks* has been chosen and will be performing at COPACC on 2 October 2015.

Bluewater Leisure Centre

Stage 1 of the new Bluewater Leisure Centre was opened to the public on 17 August 2015 following a smooth transition of services from the temporary facility at the Colac Youth and Recreation Centre. Stage 1 includes the gymnasium, dry program rooms, foyer, reception, offices and dry change-rooms and amenities. Patrons are enjoying the fantastic new space and equipment with positive feedback from users.

Assets and Property Services

ACTIONS	STATUS	% COMPLETION	PROGRESS COMMENTS
Completion of Stage 2 of the Authority Asset Management Module implementation	In Progress	50%	Civica visits to implement the Strategic Asset Management (SAM) module have been deferred to late 2015 to enable attribute and condition data to be uploaded to Authority. This will complete the implementation of the Asset Management modules.
Monitor the performance and condition of Council's various asset types through programmed inspections and data collection.	In Progress	5%	The programme for asset condition surveys for this financial year is presently being developed. Work has commenced on developing the quotation documentation for the next round of sealed road condition surveys. Data collected from the ongoing asset condition audits are used to develop long term maintenance and renewal programs.
Implement the asset renewal and maintenance programs.	In Progress	5%	Project lists are presently being finalised for this year's renewal programmes, including footpath and kerb & channel replacement, sealed road reconstruction, resealing, and slip rehabilitation.

Complete specific incident inspections to identify and address safety/risk issues associated with elements of Council's road and footpath networks; including rail crossings and in response to reported incidents.	In Progress	8%	Incident inspections are completed as required in line with Council's Road Management Plan. Over the past month, one report of a fall has been reported to council requiring investigation.
Manage building maintenance programme to address programmed and reactive maintenance needs.	In Progress	8%	Reactive and routine maintenance activities are coordinated to ensure that Council's buildings are safe and functional. There have been no significant issues noted in the first month of this financial year.
Complete road and footpath network inspections to meet frequencies prescribed by Council's Road Management Plan (RMP).	In Progress	8%	All programmed inspections are conducted in accordance with Council's Road Management Plan. The following road asset inspections were completed in the period covering July and August 2015: <ul style="list-style-type: none"> - Rural Link Roads - Rail Crossings - Access Roads in the areas of Birregurra, Warncoort, Yeodene, Barongarook, Elliminyt, Kawarren, and Gellibrand
Annual Road Resealing Program.	In Progress	5%	List of candidate projects for this year's resealing programme has been finalised. A specialist consultant is to be engaged in the near future to compile designs for the sealing treatment to be used on each nominated road.

Building Renewal Program.	In Progress	8%	<p>Planning has commenced for this year's Building Renewal Programme. Projects included this year include:</p> <ul style="list-style-type: none"> - Painting of the Birregurra Public Hall - Painting of the Beech Forest Toilets and Information Centre - Asset restoration works to the Beeac Public Toilets - Upgrade of the septic system at the Meredith Park Public Toilets <p>These projects will be progressively implemented over the course of this financial year.</p>
Coordinate inspections and reporting of Essential Safety Measures (ESM's) relating to nominated Council buildings.	In Progress	8%	<p>Programmed inspections of essential safety measures in nominated Council buildings is ongoing and is in line with statutory requirements. Any non-compliance issues identified are addressed in accordance with priorities and available budgets. Following a review of the current buildings being inspected, additional buildings have been included to ensure that Council complies with its legal obligations.</p>

CAPITAL WORKS

Road reconstruction program – Planning and investigation for the delivery of the road reconstruction program has commenced. Outline designs of the roads to be reconstructed are being developed.

Bridge reconstruction program – Planning and investigation for the delivery of the bridge reconstruction program has commenced. Bridges to be reconstructed this financial year have been prioritised according to available funds. As part of these works, a contract for the rehabilitation of the Cape Otway Road Bridge to full detailed design has been awarded to Fulton Hogan. Delivery of this project is expected to commence in September 2015.

SERVICES AND OPERATIONS

Works undertaken by Services and Operations during July are as follows:

Patching of Sealed Roads

Minor patching works are ongoing on sealed road repairs to keep up with potholes and edge breaks with granular materials across all areas of the shire. Mingawalla Road shoulders have been topped up with granular materials.

Road Regrading

Road regrading has been reduced in all areas due to increased rainfall creating soft pavement conditions which are not conducive to producing a serviceable finish.

Gravel Road Resheeting

Approximately 16 kilometres of resheeting works have been completed on:

- McPaddens Road
- Old Beech Forest Road
- Pipeline Road
- Boundary Road
- McNabbs Road
- Tuckers Orchard Road
- Carlisle - Gellibrand Road

Street Sweeping

Street Sweeping has been completed as per Council's monthly schedule, with a total of 650km of kerb & channel swept for the month.

Routine Drainage Works

During July routine drainage works were completed in the following townships and areas:

- Apollo Bay
- Kennett River
- Skenes Creek
- Hordern Vale
- Kawarren
- Aire Settlement
- McDonalds Access Road
- Old Friends Road
- Wye River
- Separation Creek
- Marengo
- Gellibrand
- Forrest
- Lardner's Track
- Christies Road

Bridge Maintenance

During July works were completed on Rolling's Bridge to replace the timber decking with a steel and concrete structure. The following bridges were pressure cleaned:

- James Access
- Hennigan Cres
- Kings Track
- Boundary Road
- Binns Road

Township Mowing

Township mowing has occurred as per the regular cycle in the following towns:

- Apollo Bay
- Beech Forest
- Forrest
- Colac
- Cressy
- Kawarren
- Gellibrand
- Barwon Downs
- Carlisle
- Beeac
- Birregurra

Vegetation Control

During July works were undertaken on:

- Binns Road
- Old Hordern Vale Road
- Jansil Court
- Barham River Road
- Alice Court
- Wild Dog Road

- Grey River Road

Tree Maintenance

Tree removal works were completed in Armstrong and Calvert Streets. Tree maintenance works were carried out at:

- Lake Colac foreshore embankment
- Aire Settlement Road
- Campbell Street
- Eastern Reserve

Sport Ovals

Mowing of sporting ovals continues during July as programmed. The Central Reserve oval has been fertilised by Contractors and the Lake Colac oval has been sprayed to treat Cape Weed.

Storm Damage

During July there has been an average amount of fallen, hanging and dangerous trees due to strong, gusty wind damage. This has been mainly in the southern sections of the shire.

Old Beechy Rail Trail

During July Crews worked on cleaning up of fallen trees, repairing gates, fencing and bollards, cleaning culverts due to tree damage, mowing and weed spraying is ongoing in various sections of the trail.

DEVELOPMENT & COMMUNITY SERVICES

Economic Development & Events

Colac VIC Visitor Stats

	2014	2015	% Change to previous year
Walk – Ins	2175	2044	-6%
Phone Calls	142	110	-23%
New Res Kits	3	3	0%
Love Our Region	6	23	+283%
VIC School Hols JUNE /JULY	1140	1248	+9.47%

Visitation July Overview

During July the Colac Visitor Information Centre assisted 2044 visitors, a 6% decrease on the previous year. The June/July winter Victorian school holiday visitation was slightly up on previous year this may be due to the poor start to the snow season and we saw many visitors stopping off on the way to Warrnambool Fun4Kids. Love Our Region has been extremely popular this month with many locals enticed by special offers during school holidays. ColacVIC phone calls and e-mail requests continue to decline. International visitors were travelling from China, USA and Germany whereas Interstate visitors were travelling from NSW,QLD and SA.

Its been a positive month for volunteer recruitment with a new volunteer commencing training and two volunteer applications under review.

Great Ocean Road Visitor Information Centre (GORVIC)

	July 2014	July 2015	% Change
Walk-ins	7,530	6,489	-14%
Phone calls	680	678	0%
E-mails	15	38	153%

GORVIC June Overview

The Great Ocean Road Visitor Information Centre had a total of 6,489 visitors in July, a 14% decrease on the previous year. Phone calls to the centre were around about the same as the previous year whereas e-mail enquiries were up by 153%. Main enquiries were for Accommodation (41%), followed by Great Ocean Road (11%), Great Otway National Park (13%), Attractions (9%), Great Ocean Walk (4%), Event & Transport Information (3%). International visitors were travelling from UK, USA and China whereas Interstate visitors were travelling from WA, NSW and South Australia.

Economic Development Strategy

Community Feedback - The business community has been invited to provide input/feedback into the strategy via an emailed survey link to all businesses on the Shire Business Directory and all businesses registered through the ABR with an email address. Within 10 minutes of the email being sent we already had 3 responses. A draft of the strategy will be presented to Council in late 2015 following the consultation process.

Great Ocean Road Strategic Master Plan

Great Ocean Road Regional Tourism (GORRT) has been working with industry and community on the development of a Master Plan for the region. The Project Committee presented a draft of the plan to the GORRT Board in April. The draft Master Plan was released for stakeholder consultation throughout May with the aim of finalising the Master Plan in August. Copies of the draft plan have been distributed to key stakeholders and are available in full on the Great Ocean Road Regional Tourism website. www.greatoceanroadtourism.org.au.

Tourism Public Relations

The Great Ocean Region and Colac Otway Shire received the following exposure via GORRT in the past month, the article link are listed below:

[Herald Sun: Top 10 things to see and do along the Great Ocean Road in Victoria](#)

[Australian Traveller: Australia's 10 Greatest Road Trips](#)

[The Daily Telegraph: Top 10 things to see and do along the Great Ocean Road in Victoria](#)

[Pieces of Victoria: Adventure and history along Great Ocean Road](#)

EVENTS

Calendar of Events Project

The Colac Otway Shire Calendar of Events Project offers free advertising opportunities for community events held within the Colac Otway Shire. The project promotes community events through a quarterly printed DL Calendar of Events flyer, the web based Calendar of Events and accompanying newspaper advertising.

The 2016 Spring Calendar of Events promotes 13 Colac Otway Shire events and four community markets. The printed Calendar will be available to the public in late August 2015 when 4000 DL flyers will be distributed throughout the community.

2016 Colac Otway Shire Australia Day Celebrations

The Colac Otway Shire in partnership with Birregurra Community Groups will host Colac Otway Shire Australia Day Celebrations in Birregurra on Australia Day Tuesday 26 January 2016.

The official ceremony will be held on stage in the Birregurra Park from 11.30am until 12.30pm and will be followed by live entertainment on stage, a free sausage sizzle, an Australia Day Market in the park and other activities.

Saleyards

A great effort from staff at the saleyards with cattle sales exceeding expectation.

Throughput figures for all cattle 2014/15: 47,125

Budget throughput figures for 2014/15: 42,000

Planning, Building & Health

Draft Domestic Wastewater Management Plan

The draft Domestic Wastewater Management Plan (DWMP) has been on exhibition since the start of August, after being considered by Council at the July Council meeting. The draft Plan fulfils regulatory requirements for Council to demonstrate how it will manage wastewater treatment on unsewered properties in the Shire, but also aims to create flexibility to vary State Government guidelines for water catchments which currently restrict development potential in the Otways. The written submission period closes on 28 September 2015. Public drop-in information sessions were held in Colac, Lavers Hill, Beech Forest and Gellibrand on 21 and 22 August, and were well attended.

Planning Scheme Amendment C78 (Wyuna Estate)

Council will be exhibiting a planning scheme amendment early in September that seeks to rezone land immediately adjoining the eastern boundary of the existing Wyuna Estate residential subdivision in Harris Road, Elliminyt. This follows consideration by Council at its July meeting. The rezoning proposes to change a small parcel of land from Farming Zone to General Residential Zone, allowing development up to the former Colac to Beech Forest rail line which is to be contributed by the developer as a linear open space link. This amendment was recommended by the independent planning panel that considered submissions to Amendment C55 which implemented the Colac Structure Plan.

Colac Commercial and Industrial Land Use Strategy

Council has engaged Essential Economics to prepare a Commercial and Industrial Land Use Strategy for Colac as a first stage of the Colac 2050 project. The Strategy will be seeking to ensure that adequate land is available to support new commercial and industrial employment to match future growth in Colac's population. There has been significant public engagement as part of this work during August, with a resident survey seeking feedback on retail spending by Colac residents, and a survey to all businesses which ask questions about future land needs for commercial and industrial development in Colac, and how Council can support such businesses into the future. This was supplemented by workshops with business, government agencies and Councillors, as well as 'listening posts' on Murray Street outside Target on two occasions. A draft Strategy will be developed in September based on this information.

Environment & Community Safety

Lake Colac Foreshore Master Plan

Council has undertaken a comprehensive community engagement process during August to get a broad range of ideas for the new Lake Colac Foreshore Master Plan. The community have filled in surveys, made formal submissions, commented on facebook and sent in pictures that have been put up in COPACC to form a collage of the different ideas. In addition Council Officers have met with people in main street and in a number of locations around the lake to discuss their ideas face to face. In early September workshops will be held with key stakeholder groups to discuss the key themes that came through from the consultation process and use this information to develop a new vision for the lake foreshore and parkland. The aim is to have the new Master Plan developed by the end of the year so we can start seeking funding to implement actions on the ground in 2016.

Lavers Hill Community Fire Refuge

In response to strong community concern Council has been strongly advocating for the construction of a Community Fire Refuge in Lavers Hill. Lavers Hill is one of the highest fire risk areas in Victoria so Council has been working with Emergency Management Victoria (EMV), CFA and SES to help plan and design a refuge. The construction of the refuge is being led by EMV and CFA. It is anticipated that the refuge will be constructed on the area where the current CFA shed is situated. Council currently owns the land where the CFA shed is situated but due to the size of the refuge more of the adjoining land will need to be acquired by the CFA to allow construction to go ahead. A meeting is being organized in September with key stakeholders from the local community so that they can understand exactly what is being proposed. As the project progresses there will be further community engagement undertaken to ensure people can ask questions and be kept aware of progress.

Community Services

Rural Access

Discussions between Colac Otway Shire, the Department of Health and Human Services (DHHS) and the National Disability Insurance Agency (NDIA) continue to take priority as the Rural Access role is being considered against the proposed NDIA's Information Linkages and Capacity (ILC) Building Framework. Weekly meetings are occurring at many levels and Rural Access is regularly being asked to provide evidence of past projects and review draft documents that delineate roles and activities up to June 2016.

KPMG were appointed by the State Government to work with all of the Rural Access officers in the Barwon Region to better understand the role of Rural Access and its relationship to NDIS. As the release of the final Information Linkages and Capacity Building Framework has not yet occurred, remains uncertain whether or not Rural Access roles will continue past June 2016 and whether local government will have to take part in the tender process for ILC roles. Council's Rural Access officer hosted the joint discussion between Barwon Rural Access officers, DHHS and NDIA in Colac on 4 August 2015.

Supporting external groups with participation and inclusion issues continues with current focus being on:

- Working with Women's Health and Well Being, Barwon South West to develop and host a forum on violence against women with disabilities in the G21 area on 2 September 2015.
- Colac Neighbourhood House – Indigenous Story Wall.
- G21 Refugee and Asylum Seeker group.

- Colac Disability Network – is gathering case studies of individuals not being able to access supports and disability services that aim to prevent family breakdown.

Maternal and Child Health (M&CH)

After 2 months of higher than average births, this month has had an average of 16 births, which included 5 first time mothers. The service has been busily planning and setting goals for services over the next 12 months including the production of a new M&CH Families Calendar, following the success of this year's calendar.

The new transportable office at the rear of the Queen Street, Colac M&CH building is now providing much needed additional consulting space for families.

Key Ages and Stages Consultations

Over the past month Council has delivered 177 Key Ages and Stages consultations which focus on child development and health, maternal wellbeing and health promotion.

Statistics – July 2015

- 16 infants enrolled from birth notifications.

Other services provided included:

- M&CH sessions were held in Apollo Bay, Cororooke, Carlisle River and Birregurra.
- 101 additional consultations
- 27 phone consultations
- 11 opportunistic immunisations
- From 57 counselling sessions, 15 families were referred to additional services by M&CH staff. The main issues being nutrition, vision, hips, domestic violence and emotional health.
- New Parents Groups - 4 sessions from the Queen Street centre and other community venues.
- The 'Enhanced Maternal and Child Health Service' provides more intensive levels of support for vulnerable families. This month we commenced with 41 cases, 4 new cases were opened and 9 closed.

Attachments

Nil

Recommendation(s)

That Council notes the CEO's Progress Report to Council.

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**OM152608-2****LOCAL GOVERNMENT RATES CAPPING & VARIATION  
FRAMEWORK REVIEW**

|             |                    |           |               |
|-------------|--------------------|-----------|---------------|
| AUTHOR:     | Colin Hayman       | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Corporate Services | FILE REF: | F15/5962      |

**Purpose**

For Council to consider the responses to the recommendations in the Local Government Rates Capping & Variation Framework Review.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

As part of their pre-election campaign pledge, the Victorian Government announced that it planned to legislate to cap Council rate increases to CPI. This will have effect from 1 July 2016, that is, from the 2016/17 financial year onwards. In January 2015, the Essential Services Commission (ESC) received terms of reference from the Minister for Finance and the Minister for Local Government to conduct a review and report on a local government rates capping and variation framework.

The Commission was tasked to inquire into and advise the Ministers on options and a recommended approach for a rates capping framework for implementation from the 2016-17 financial year. The Commission was also required to provide advice on the processes and guidance to best give effect to the recommended approach for the rates capping and variation framework with a final report due to the Victorian Government by 31 October 2015.

On 17 April 2015, the Commission released an initial Consultation Paper outlining the review's timelines and process, the ESC's approach and seeking feedback from interested parties on key matters for the review. That document outlined eight principles guiding the development of the framework as follows;

**Principle 1** — Local communities differ in their needs, priorities and resources.

**Principle 2** — Local communities and ratepayers are entitled to hold their councils to the highest standards of accountability and transparency when setting rates.

**Principle 3** — The framework should support the autonomy of councils to make decisions in the long-term interests of their community and ratepayers.

**Principle 4** — Councils will need to satisfy the burden of proof outlined in the framework when seeking a variation above the cap.

**Principle 5** — Rate increases should be considered only after all other viable options have been explored.

**Principle 6** — The framework should support best practice planning, management systems and information sharing to uphold council decision-making.

**Principle 7** — The framework should be flexible and adaptable.

**Principle 8** — There should be few surprises for ratepayers and councils in the implementation of the framework.

Submissions to the initial Consultation Paper closed 5 May 2015. The ESC received 287 submissions in response to the Consultation Paper including from Colac Otway Shire Council expressing concerns related to the fact that the Consumer Price Index (CPI) is not a true measure of the annual increase on Council's operations and encouraging the ESC to explore all available options.

On 31 July 2015, the ESC released a draft report (in two volumes) outlining the details of the draft framework that the ESC are proposing. The first volume sets out the key design features of the framework whilst Volume II (Supporting Material and Analysis) outlines the analysis undertaken to develop the proposed framework and includes draft guidance material.

The three elements of the ESC proposed framework are:

**Rate cap;**

The maximum annual rate of increase by which councils can increase the rates.

The cap will be set annually and will apply to general rates and municipal charges only. It will be based on average rate revenue per assessment. The level of the cap will be based on the forecast rate of increase in the CPI, together with an allowance for the wage price index. An efficiency factor will also be applied to the cap.

The 2016-17 rate cap will be based on the 2015-16 revenue from general rates and municipal charges.

**Variation process;**

A mechanism for councils to seek (and have considered) increases in rate revenue that are above the rate cap.

Under the proposed framework, Councils will be able to apply to the ESC for a rate increase above the cap. The Commission will be responsible for assessing all applications.

The variation process aims to recognise that there are differences between individual councils and the need for flexibility. Applications for variations will need to take into account ratepayer and community views.

**Monitoring and reporting;**

A means for verifying and reporting on compliance with the cap or variation conditions and providing accurate and reliable information about overall outcomes for ratepayers and communities under the framework. Monitoring and reporting also facilitates a process for identifying and addressing unusual or unexplained outcomes.

The ESC has invited submissions to be provided in response to their Draft Report by Friday, 28 August 2015.

**Council Plan / Other Strategies / Policy**

**Good Governance**

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

*Our Goal:*

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

**Issues / Options****General Comments**

It should be noted from the outset that only providing a 4 week period to respond to what will be one of the most important issues impacting the future of Local Government in Victoria is considered to be unreasonable and fundamentally unfair.

There are significant issues and concerns regarding the potential impact rate capping may have on the future of Council's services for the municipality. Further, it is unclear what, if any, analysis by the ESC has occurred to understand what the potential impacts and benefits are of the model proposed and to assure the Victorian community that rate capping represents a strong and sustainable public policy outcome.

Colac Otway Shire currently delivers approximately 90 services across a diverse community. Financial modelling indicates that the rate capping model that is proposed by the ESC will mean that the future sustainability of smaller councils like Colac Otway will need to be carefully managed. In order to do this, Colac Otway Shire will need to significantly review the level and range of services that are currently delivered to our community and consider reducing or ceasing some of our current services and activities.

The level of rates that Colac Otway Shire Council currently charge is based on the services that council delivers and the funding required to maintain the significant community asset base to the level required. It is important that local government in Victoria continues to have the capacity to raise the appropriate level of rates to meet service needs.

Further, in addition to financial considerations, it is important that the State Government be encouraged to take into account other factors when assessing any of the benefits and risks associated with rate capping. Councils play a critical role in community development and delivery of social policy outcomes for the community which cannot be ignored. This is particularly true for Colac Otway Shire where we have pockets of high socio-economic disadvantage characterised by lower incomes, education and skill levels, alongside higher levels of unskilled occupations, family and health issues.

To date, the Victorian Government has not clearly outlined what they are trying to achieve through the rate capping agenda - that is:

- What is to be achieved?
- What are the issues that exist in the Local Government sector that need to be addressed?
- Were other methods to address these issues explored/considered?

It should also be noted that there is an inherent contradiction that the current process highlights that the ESC have been requested by the State Government to design a system to introduce rate capping as well as a system to work around rate capping.

According to the Local Government Rates Capping & Variation Framework Review — Draft Report Volume 2;

*“Victoria’s 79 councils manage around \$78 billion of community infrastructure and assets, generate revenue of \$7.8 billion, incur expenses of \$7.2 billion and employ around 42 500 people...*

*Councils provide more than 100 services in areas such as social and community services, health, transport and infrastructure, planning and building, environment and emergency services. Service delivery varies across the state reflecting the different composition, expectations and priorities of communities. The types, levels, and quality of service that councils provide also vary depending on the geography and topography of their region, the demographic and economic profile of their communities, their financial circumstances, and the assets and infrastructure at their disposal.*

*...Victorian councils’ major revenue streams include rates and charges, Commonwealth and State Government grant funding, user fees (such as recreation and leisure centre entry fees), statutory fees and fines (such as statutory planning fees) and developer contributions.*

*...The main areas of local government expenditure include employee wages and entitlements, materials and services (council plant, equipment and contracts with external service providers) and capital works (road and building construction).*

*Small rural councils spent the largest share of their operating and capital expenditure on capital works (29 per cent compared with 25 per cent for all councils). This finding may reflect the additional challenges faced by rural councils in servicing large road networks and dispersed communities, as well as the capital expenditure required to address the impacts of natural disasters. Expenditure by all councils grew by an average 5 per cent per year between 2010-11 and 2013-14.*

*...Victorian councils held approximately \$1.5 billion in debt in 2013-14. No legislative limitations inhibit councils’ ability to borrow. The Local Government Funding Vehicle, established by Municipal Association of Victoria (MAV), generally provides councils with the ability to borrow funds at lower interest rates than those available if councils individually sought debt financing. In particular, rural councils may not be able to secure the same favourable financing rates offered to large metropolitan councils.*

*...Each year, councils receive untied Financial Assistance Grants from the Commonwealth Government. In its 2014-15 Budget, the Commonwealth Government announced that indexation of these grants would be paused or ‘frozen’ for three years from 2014-15 to 2016-17. Figure 1.2 illustrates the impact of this pause, which the VGC estimated will reduce funding by \$64 million (from the 2013-14 base) for councils by the time indexation resumes in 2017-18.*

*All councils will be affected by the grant freeze but rural councils will be most affected because they have smaller rate bases and rely more heavily on grants...*

*...The local government sector uses the term ‘cost shifting’ to describe situations where the Commonwealth and State Governments expect or require local governments to deliver services, but do not fully fund service delivery. The sector also considers cost shifting occurs when the State Government sets fees to be charged by local government, but holds the fees below the cost of service delivery (for example, the sector cited planning fees).*

*Many submissions to our consultation paper argued a rate capping framework should consider this issue because rate revenue is often used to cover shortfalls that result from cost shifting. They identified the following situations as cost shifting:*

- *when the Commonwealth or state governments confers responsibility for providing a service, asset or regulatory functions on local government without providing corresponding funding*
- *when another level of government passes on its responsibility for funding a service or function (including concessions and rebates) to local government*
- *when local government agrees to provide a service or function on behalf of another level of government but funding is subsequently reduced or stopped, and community demand means the council cannot stop the service provision or function.*

*While we could not directly quantify the extent and impact of cost shifting onto local government, many council submissions included examples of cost shifting in health and aged care, libraries, school crossings, maternal and child care, statutory planning, road-side weed management, immunisation and preschools.*

*Moreland City Council estimated the impact of cost shifting in maternal and child health was \$193 000 between 2011-12 and 2014-15. Similarly, Whittlesea City Council estimated an impact of \$790 000 between 2010-11 and 2014-15. Over the same period, these councils estimated cost shifting in home and community care cost them \$1.42 million and \$1.7 million, respectively.*

*Dandenong City Council reported the State Government funded 27 per cent of the costs of school crossings in 2006 and 22 per cent in 2014 leaving the council to fund the remaining share of the total cost.*

*...Victorian councils manage around \$78 billion worth of assets to provide council services. A significant part of their annual expenditure relates to the maintenance, renewal or replacement of infrastructure assets. The rates capping and variation framework needs to recognise councils' responsibility to maintain and invest in their infrastructure. It also needs to recognise that some councils have spent less than is needed to maintain the service capacity of their infrastructure assets. For this reason, 'robust' indicators are needed to measure councils' infrastructure needs. This section summarises how the sector attempts to quantify infrastructure needs.*

*In 2014, VAGO conducted an audit of council asset management and maintenance. It identified a number of concerns, including:*

- *deficiencies in renewal planning and practice*
- *inadequate asset management plans*
- *poor links between assets and services level*
- *inadequate asset management information systems and council monitoring, evaluation and reporting of asset management.*

*Although VAGO found asset management practices were improving, it noted renewal gaps had almost doubled since 1998 and further improvement is needed. The renewal gap seeks to measure the difference between what a council spends on renewing its assets and what it should spend. The sector mainly uses two measures to assess asset management:*

- *VAGO's renewal gap*
- *MAV's STEP program.*

*These indicators have shown a general improvement in asset renewal in the sector over recent years. However, they may not fully indicate a council's asset renewal performance.*

*...Between 2008-09 and 2013-14, VAGO's renewal gap indicator remained steady or improved slightly for most council groups. In the last 3 years small rural councils have*

*shown a significant improvement in the renewal gap ratio, indicating that their renewal expenditure was around 50 per cent more than depreciation.*

*...A number of councils used the MAV's STEP program to improve their asset management and to address renewal gaps. STEP uses a renewal gap calculation based on an assessment of the asset's condition, in contrast to the accounting approach based on straight-line asset depreciation. While it is a potentially more robust measure of asset management, it requires time and effort to prepare, report and monitor. Not all councils use the STEP program and some who use it, may apply it differently. While councils using STEP generally improved their asset management and planning, progress has been slow. By December 2013, only 23 of the 79 councils had reached a satisfactory level of asset management and renewal, as measured by the STEP program. Regional councils particularly struggled to improve their asset management performance.*

*...Another cost pressure identified by councils is the funding of defined benefit superannuation shortfalls. Local government's defined benefit superannuation fund is legally required to be 'fully funded', meaning it must have all payments available if all members were to withdraw at once. As a result, councils often have to top-up contributions based on regular actuarial assessments of the liabilities of the defined benefits scheme. Currently, Victorian councils are progressively funding a \$396.9 million shortfall.*

*...The City of Greater Bendigo Council, for example, contributed approximately \$23 million in top-up funding to meet its liabilities from 1993 to 2015. Additionally, Indigo Shire Council commented in its submission to our consultation paper that their last defined benefits top-up cost over \$1 million.*

*...Councils collected a total of \$4.6 billion in rates and charges in 2013-14, comprising rate revenue (85 per cent), garbage charges (10 per cent) and municipal charges (3 per cent). Supplementary rates and charges, special rates and charges, revenue in lieu of rates and revenue from cultural and recreational land, made up the remaining 2 per cent.*

*...Our terms of reference require us to assess the magnitude and impact on ratepayers of Victorian councils' successive above CPI increases in rates and charges. To illustrate this impact, we compared actual increases in the average total charges per assessment for Victoria, between 2005-06 and 2013-14 (eight years), with the increases that would have occurred if rates had increased at:*

- the same rate as the CPI*
- the rate calculated by the capping approach used in chapter 2 (that is 60 per cent CPI and 40 per cent wage price index).*

*...Between 2005-06 and 2013-14, total rates and charges per assessment increased by around 5.8 per cent per year, compared with an annual CPI increase of 2.7 per cent.*

*...Victorian ratepayers paid \$1,448 more over the period than if average rates and charges per assessment had increased at the same rate as the CPI. If our proposed rate cap had applied over the period, ratepayers rates could have been lower by \$1,242 (assuming councils did not apply for a variation during that period). Although the annual growth in total rates and charges was approximately 7 per cent over recent years, rateable assessments also grew (by approximately 2 per cent) which explains why rates and charges per assessment grew by only 5.8 per cent per year.*



*...We received submissions from 61 councils in response to our consultation paper. These submissions outlined key features of councils, including the different communities that they serve and the geographic and natural environment of individual municipalities.*

### **Rural councils**

- Rural councils have a limited ability to raise revenue through rates, due to their smaller populations, population decline and lower land values, compared with metropolitan councils.*
- They rely more heavily on Commonwealth and State Government grants. The current grant freeze has been a large revenue constraint for rural councils.*
- They face higher service delivery costs due to disperse communities and large road networks.*
- They face more difficulty in managing asset renewals and maintenance back logs due to their limited own-source revenue streams and disperse communities.*
- Finding multiple and competitive prices and tenders for services in rural areas is difficult.*
- Rural communities have ageing populations, meaning fewer people are in the workforce and more elderly people use health services.*
- Residents in rural communities have fewer employment opportunities.*
- Public transport options are limited compared with those in metropolitan areas, and rural communities rely more on cars.*

*...In considering council diversity, we also examined some structural differences amongst councils.*

*...small and large rural councils face particular challenges. On average they have the largest road networks and the most bridges. Further, their communities are older, have lower Socio-Economic Indexes for Areas (SEIFA) 25 scores and incomes, have the fewest building approvals, and are the most dispersed. The challenges of a small rate base for small rural councils are illustrated by the impact on ratepayers of a council raising an additional \$1 million through rates and charges. If a small rural council were to raise an additional \$1 million in 2013-14, it would have added \$142 to the average assessment (compared with an additional \$56 for ratepayers in large rural councils and \$17 for those in metropolitan councils.*

### **Proposed Colac Otway Response to the draft ESC Report**

#### **Rate Capping - Draft Recommendation 1**

**The Commission recommends that there should be one rate cap that applies equally to all councils in Victoria.**

In its report the ESC notes;

*"Councils, peak bodies and other council groups identified factors such as growth, population density and dispersion and huge networks of inherited roads, which they suggest should be considered when setting the cap. They suggested that multiple rate caps should be adopted to accommodate these structural differences. Conversely, ratepayers, some councils and other organisations suggested that applying multiple rate caps across Victoria would lead to ratepayers being treated inequitably depending on the council area in which they lived.*

*They argued for a single cap on the basis that:*

- ratepayers should be treated equally*

- *different caps for different types of councils might be 'detrimental to the originally intended outcome that all Victorian ratepayers will have relief from the financial burden of excessive and increasing annual council rates charges*
- *a single cap is simple to administer and to communicate statewide and easier for the community to understand*
- *different caps would cause a great deal of inequity and confusion among Victorian ratepayers*
- *a single cap would ensure consistency among councils.*

*We have considered whether and how structural differences among councils might be taken into account when setting the rate cap. One option we considered was whether separate groups of councils could be subject to different caps. This approach ran into problems.*

*When we compared the rate of growth of councils' population (both historical and forecast) we observed that not all interface councils had experienced or will experience significant population growth. Some large rural councils, regional centres and metropolitan councils had also experienced significant growth in the past. We also compared data on road networks and we observed that while most rural councils have huge networks of roads to maintain, some interface and peri-urban councils are facing the same issue.*

*...On balance, we have decided against these approaches for a number of reasons. Our primary concern was the arbitrariness of such arrangements. The adjustments that might be made under either of these approaches are not self-evident and would involve a large degree of judgement. We expect neither the community nor councils would be well served with a capping regime that relied extensively on such subjective assessments. We were also concerned that any effort to tailor the rate cap would suggest a false degree of precision in setting the cap and may lead to confusion in the community.*

### **Colac Otway Response:**

It is recognised that having one cap creates an illusion of equality across all councils, but it also needs to be recognised that each grouping of councils and each council has different needs and pressures.

It is important to note that a number of councils in rural areas have limited other income streams. It has been well documented the financial pressures that smaller sized councils (in terms of population) are under in maintaining financial sustainability in the current environment. Further pressures on rating, which is council's main revenue stream, will place added pressure on council's already tight budgets and financial situation.

The impact for councils in regional and rural areas will be significantly bigger as the opportunity to raise revenue from other income sources like fees and charges is harder than in metropolitan areas.

It is also important to note that rural municipalities have significant infrastructure to maintain. For example Colac Otway Shire Council maintains 1,632 kms of local roads and 134 bridges and culverts.

It is suggested that there is further consideration given to having a different level of rate cap for the various Council groupings.

**Rate Capping - Draft Recommendation 2**

The Commission recommends that:

- revenue from general rates and municipal charges should be subject to the rate cap
- revenue from special rates and charges, 'revenue in lieu of rates' and the fire services levy should not be included in the rate cap and
- service rates and charges should not be included in the rate cap, but be monitored and benchmarked.

In its report the ESC note;

*"For the rate cap to be effective, it should be applied to the bulk of the rates revenue unless there are compelling reasons not to do so. The Commission uses the following considerations in assessing which council rates and charges should be excluded from the rate cap:*

- 1. Is the charge cost reflective?** — charges, such as garbage charges, are often linked to the costs associated with providing specific services. Capping charges for specific services would make them less cost reflective and could distort price signals for the provision of these services. Further, users of these services can monitor the level and rate of increase of their charges over time and some may compare them with similar councils.
- 2. Is the charge market tested?** — if a service that is funded by charges can generally be procured through competitive bidding, this gives some level of assurance that these charges are based on competitive costs.
- 3. Are there adequate financial constraints under current legislation?** — it is not necessary to add another layer of financial discipline if the Act or other relevant legislation already provides constraints on how rates or charges are to be set, collected and used; or if there are clear engagement requirements and appeal and/or arbitration processes.
- 4. Is the charge a pass through cost?** — levies collected by councils on behalf of the State Government are not within the control of the councils and are direct transfers to government. The State Government normally also sets the annual escalation factor for these levies.

We are recommending that the rate cap should apply to general rates and municipal charges only — noting that these two account for about 88 per cent of the total rate revenue raised by councils. Based on the above listed considerations, we are recommending that the cap should not apply to service rates and charges, special rates and charges, 'revenue in lieu of rates', and the fire services levy. These are discussed in more detail below.

**Service rates and charges**

Councils' current service (or garbage) rates and charges appear to partly satisfy criteria 1 and 2. For now, we are recommending that service rates and charges (garbage rates and charges) be excluded from the rate cap.<sup>41</sup> In our survey of council rates and charges, councils reported that their garbage rates and charges are cost reflective and market tested. Capping service rates and charges would make them less cost reflective and could distort price signals for the provision of these services. Further, users of these services can monitor the level and rate of increase of their charges over time and some may compare them with similar councils. Therefore, for now, we are not suggesting that these charges be made subject to the rate cap. Nonetheless, we will monitor and benchmark garbage rates and charges. If we find unexplained differences across councils, or if we find that councils are

*disproportionately allocating their overhead costs to their service rates and charges, then we will make appropriate recommendations to the Government at that time.*

### **Special rates and charges**

*Special rates or charges are cost reflective and constrained by legislation, therefore the cap need not apply to them. The Act specifies that a special rate or a special charge can only be used to defray expenses or repay loans where there is a special benefit to the persons required to pay the special rate or charge. It also prescribes the formula to be used by Councils in setting the maximum special rate or charge including the required engagement and appeal process.*

*... The current legislative framework for special rates and charges includes appropriate constraints on the use of special rates and charges schemes — such as by clearly defining the benefits derived from the project and polls of the beneficiaries if their contribution is above the threshold level.*

### **Revenue in lieu of rates**

*'Revenue in lieu of rates' is constrained by legislation and should not be capped. Our survey of councils' rates and charges shows that most 'revenue in lieu of rates' comes from power stations.<sup>48</sup> In this case, the 'revenue in lieu of rates' is negotiated by the two parties consistent with section 94 of the Electricity Industry Act 2000 (the EI Act). The EI Act also prescribes an arbitration process.*

### **Fire services levy**

*Councils currently collect the fire services levy on behalf of the State Government. The fire services levy is a property-based levy collected with council rates. All revenue collected through the fire services levy goes to support the State's fire services (vital life-saving equipment, firefighters, staff and volunteers, training, infrastructure and community education). The fire services levy should be excluded from the cap on the grounds that it is not within the control of the councils and is a direct transfer to Government.*

### **Supplementary Rates**

*Councils also collect supplementary rates. These are additional rates collected during the course of the year if the value of a property is altered after rates notices have been issued. Supplementary valuations may be a result of either changes in the value of existing properties or the entry of new properties — for example, due to renovations or subdivisions, respectively.*

*Supplementary rates accounted for 1 per cent of Victorian councils' total rates and charges revenue in 2013-14. The VGC data shows that interface (growth councils) received the highest supplementary rates but the trend is declining. Regional centres seem to have experienced a 40 per cent increase in supplementary rates for 2013-14. At the end of each financial year, a council will adjust its valuation base and the base for its general rate revenue, to include the actual supplementary valuation and supplementary rates revenue received in the year just concluded. The adjusted amounts become the basis for determining the next year's rate base. That is, valuations and rates are only treated as 'supplementary' in the year they occur. Thereafter, they are included in the base value and rates of the properties in question. We are proposing that supplementary rates be excluded from the rate cap in the year they occur.*

**Colac Otway Response:**

It is recommended that Colac Otway agrees with the recommendation.

With respect to service rates and charges, Colac Otway reviews its Waste Management Charge on an annual basis to ensure that the charge covers the cost of providing the service to those receiving it.

It needs to be noted that with respect to Waste Management charges they have been impacted by the higher standards required by State Government. The trend indicates that the waste disposal gate fee has been increasing at a rate of approximately 15% per year. This not only affects the kerbside budget but also council's waste and litter disposal costs. These costs are unavoidable and will still need to be paid when rate capping is implemented.

The Landfill Levy implemented by the State Government has increased from \$7 per tonne in 2009 to \$29.30 per tonne for the rural landfill sites. This has had a significant impact on council rates and the annual waste charge. This will not only affect the kerbside budget but also council's waste and litter disposal costs. These costs are unavoidable and will still need to be paid when rate capping is implemented.

Many of the contracts including the waste contract involve transportation which is affected by fuel costs. These costs are highly variable and impacted by international factors as well as the rise and fall of the Australian dollar which are outside council's control. Council's rate has to be responsive to the variable fuel price on a year to year forecast basis.

**Fire Services Levy:**

It is also important to note that while local government is being asked to keep rates and charges increases to a minimum the State Government has significantly increased the Fire Services Property Levy (FSPL) for 2015-16.

Whilst this is not a council charge, council is forced to collect the FSPL on behalf of the Victorian Government through the rate collection process. The fixed portion of the FSPL will increase in 2015-16 by \$2 per property (from \$102 to \$104) for residential properties, and by \$5 (from \$205 to \$210) for other properties.

The large increase however, will be in the variable rate, which sees a 32% increase for residential properties, with a 13% increase for commercial and primary production and a 12% increase for industrial properties. Whilst the proportion of the variable charge is significantly less than the fixed charge as a whole of the charge, the overall rise in the FSPL payable by ratepayers per category is as follows:

|                                      |    |
|--------------------------------------|----|
| Residential                          | 9% |
| Commercial                           | 8% |
| Industrial                           | 9% |
| Primary Production                   | 5% |
| Public Benefit                       | 7% |
| Vacant Land (other than residential) | 7% |

The FSPL is collected by Council on behalf of the Victorian Government via the rate collection process – i.e the FSPL actually appears on each ratepayer's rate notice. Council needs to be very vigilant in identifying the different charges to ratepayers so as to make it clear that the increase in the FSPL is not a result of a Council decision.

**Rate Capping - Draft Recommendation 3**

The Commission recommends that the cap should be applied to the rates and charges paid by the average ratepayer. This is calculated by dividing a council's total revenue required from rates in a given year by the number of rateable properties in that council area at the start of the rate year.

The ESC advise:

*In our consultation paper, we asked stakeholders whether the cap should apply to each council's total rate revenue or to average rate revenue per assessment. ...*

*Both options are technically viable and relatively straightforward to administer (particularly with the exclusion of supplementary rates). Both options maintain councils' flexibility to adopt or change their rating policies — that is, both options allow councils to rebalance their revenue raising efforts between general rates and municipal charges. Likewise, councils retain the capacity to rebalance between different types of ratepayers (differential rating).*

*We consider that the Government's objective in establishing a rate cap is to give ratepayers, individual and collectively, confidence in councils' rate setting processes. Most ratepayers are not directly involved in councils' budget and rate setting processes. Rather, they focus on the observed change in the 'amount owing' shown in their annual rates notice. As such, we are proposing that the framework cap rate revenue per assessment rather than total rate revenue as this most closely reflects most ratepayers' experience with council rating.*

*However, even under a binding rate cap per assessment, individual ratepayers will experience rate changes that differ from the capped rate. There are numerous reasons for these differences that are beyond the control of a rate capping and variation framework. Some of these reasons include:*

- market forces altering the relative value of properties within an individual council*
- owner actions altering the value of properties, for example, through renovation or subdivision or*
- council policies such as altering the differential rates at which different classes of properties are rated.*

*In light of these uncontrollable factors, we consider that the best option for the rate cap involves applying the rate cap to a 'typical' or 'average' ratepayer — although we recognise that there will be some or many ratepayers who experience higher and lower rate changes than this notional ratepayer.*

*When determining the 'rate in the dollar' to apply in a particular year, a council will divide the total revenue it requires from rates by the total value of rateable properties in its municipality. In other words, we are recommending that the cap should be applied to the rates and charges paid by the average ratepayer and that this is calculated by dividing a council's total required rate revenue in a given year, by the number of properties in that council's area. We expect that both these figures should be readily available to councils and should be readily verifiable.*

*The rate cap would apply to the year-by-year increase in the rate paid by this average rate payer. Even so, it will be important for councils (and the Commission) to communicate that this is an 'average' outcome and some ratepayers can expect higher increases, while others will experience lower increases for the reasons stated above. We have also considered whether 'rebalancing constraints' should be applied. These constraints would limit how far above (or below) the cap an individual ratepayer's rates could be increased (or decreased).*

*For now, we are not proceeding with this idea on the basis that we expect the cost of implementing the required changes to councils' billing systems would outweigh any benefits produced by doing so.*

### **Colac Otway Response:**

Colac Otway agrees with the recommendation providing the guidelines are very clear on the way supplementary rates are accounted for. Councils cannot be disadvantaged by the method of calculating the average rates and charges. Supplementary rates should be excluded from the cap. Supplementary rates would become part of the base for the following year.

#### **Rate Capping - Draft Recommendation 4**

The Commission recommends that the annual rate cap should be calculated as:

$$\begin{aligned} \text{Annual Rate Cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor}) \end{aligned}$$

With: CPI = DTF's forecast published in December each year

WPI = DTF's forecast published in December each year

The efficiency factor will initially be set at zero in 2016-17 but increasing by 0.05 percentage points each year from 2017-18. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.

The ESC advise;

*"The terms of reference for this review indicate that the annual rate of change in the CPI should be the Commission's starting point when considering the allowable increase in council rates. We are also required to provide advice on 'any refinements to the nature and application of the cap that could better meet the Government's objectives.' Importantly, the terms of reference require us to have regard to the pressures applying on ratepayers and on councils — for example, through references such as: 'contain[ing] the cost of living' and 'sustainability of councils' financial capacity', respectively.*

*In considering how best to balance the requirements of the terms of reference, we have considered which measure of CPI to adopt and which refinements are necessary to address the pressures faced by ratepayers and councils.*

*There are numerous available measures of CPI and these can be backward looking (that is, telling us what inflation was in a past period) or forward looking (that is, based on a forecast of what inflation will be in a future period). Each option has its merits and each has its flaws.*

*Based on our consultations to date, we are recommending that the framework should adopt a cap based on the forecast rate of increase in the CPI for the year in question. This approach appears to align with councils' current practices of estimating their annual budgets using their forward assumptions of CPI or some other relevant indices. We also recommend that the annual rate cap include forward indicative caps for the next two years to help councils in their strategic resource planning. The CPI forecast we are proposing to adopt is the measure produced by the Victorian Department of Treasury and Finance (DTF) which is published in May as part of the State Budget and it is updated in December. On each occasion, DTF releases its four year forecast of inflation. The CPI forecasts released by DTF are adjusted for volatile items making them more stable than the 'headline' rates of inflation*

*typically reported in the media. We have reviewed the forecasts produced by DTF and found them to be reasonably accurate and unbiased.*

*A number of councils, peak bodies and other council groups have argued that the rate cap should be refined to account for cost pressures that are beyond councils' control such as cost shifting, defined superannuation benefit shortfalls, reduced Government grants, new legislation, and infrastructure renewal. Some councils also provided us with information about their specific cost pressures. Given the timelines for this review, the Commission was not able to verify the full extent of the impact of these cost pressures on these councils, much less across all councils. It would be difficult to estimate an adjustment factor to account for these costs in the rate cap, and further work would need to be undertaken if this approach were considered appropriate. Councils' current renewal gaps reflect their policies on investment and financing infrastructure renewal, which in turn were influenced by their communities' needs and their different financial circumstances. Given this, we do not consider a blanket adjustment factor to account for infrastructure renewal is justified.*

*...Councils and their representative bodies have made repeated representation to the Commission that a cap based solely on changes in the CPI may unduly constrain their operations. Most councils, local government peak bodies, other council groups, unions, service providers and not-for-profit organisations argued that the cap on rate increases should exceed increases in the CPI. They argued that:*

- the CPI does not accurately reflect increases in costs faced by local councils, because they have a significantly different composition of expenditure compared to households*
- key council expenditures (wages, construction, utilities, others) required to provide council services have been increasing faster than the CPI (also because councils are absorbing the impacts of cost shifting)*
- CPI tends to fluctuate in a way that is unrelated to the underlying costs of councils and therefore will introduce undesirable uncertainty*
- capping rate increases at the rate of increase of the CPI may lead to most, if not all, councils applying for variations and compromise the variation process, or to job losses, reduced non-core services or a deterioration in the quality of community infrastructure over time.*

*They suggested that to refine the cap the Commission should consider applying MAV's local government cost index (LGCI); or developing a LGCI that accounts for changes in wages, construction costs, other operating costs or constructing a simple index of CPI and wages. Conversely, most of the ratepayers and ratepayers' associations who responded to our consultation paper supported capping council rates at CPI. But a few acknowledged that the CPI may not be an appropriate index for local government related expenditure.*

*Ratepayers Victoria supported capping rates at CPI but is concerned that 'productive work would be curtailed and the administrative work expanded'. It also pointed out that CPI may not be appropriate when dealing with council costs but 'it is appropriate to use when dealing with the capacity of a community to pay'. One ratepayer rejected all form of rate capping because it might lead to deterioration in services and infrastructure.*

*The relatively high proportion of employee costs, and the relatively high rate of increase in those costs in recent years, across the local government sector appears to be the primary cause for capping rates at CPI. These claims are supported by the VGC's data. Elsewhere in the economy, where prices are regulated, the price regulator will generally not concern itself with an individual service provider's costs of procuring services. Rather, benchmarks for the cost of acquiring those services will be used to inform price decisions. We accept that there are merits for adopting a similar approach within the rate capping and variation framework.*



*On the basis of the evidence before us, we consider that any such refinements to the rate cap should be limited to councils' main source of concern, namely, labour costs. Councils vary considerably in terms of the composition of their costs and the proportion comprising labour costs. Based on the VGC data, the unweighted average proportion that labour costs represent across the Victorian local government sector is around 40 per cent.<sup>66</sup> We therefore propose that this proportion be assigned to labour costs when constructing each year's rate cap. In other words, a 60 per cent weighting would be applied to the rate of increase in the CPI and a weighting of 40 per cent would be applied to the benchmark rate of increase in labour costs. As with CPI, we propose adopting the Wage Price Index (WPI) increases reported by DTF as the benchmark rate for labour costs in the rates capping framework.*

**Efficiency Factor**

*While this proposed adjustment for labour accounts for the cost pressures facing local government, it does not address the 'cost of living' pressures faced by ratepayers. The standard approach to creating incentives for service providers to pursue efficiencies in their operations, and then share the benefits of those efficiencies with 'customers', is to impose an efficiency factor on those service providers. Known as the 'efficiency factor', this imposed efficiency requirement can vary significantly from sector to sector. For example, in our water pricing function we impose an efficiency factor of between 1-2 per cent, and for tow trucks pricing, an efficiency factor of as low as 0.5 per cent. The NSW rates capping regime adopts an efficiency factor of 0.04 per cent. We believe there is merit in adopting an efficiency factor in the proposed rate capping and variation framework. However, given that at the outset of the new framework councils will have locked in costs under contracts, we propose that the efficiency factor initially be set at zero increasing by 0.05 percentage points each year. We would propose to undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.*

**Colac Otway Response:**

Colac Otway disagrees with the methodology in setting the rate cap. It is recommended that the CPI represents 60% of the proposed Annual Rate Cap. As highlighted by most councils during the previous submission process the CPI does not reflect movements in costs of the delivery of council services and that wages, construction costs and utility costs have all been typically rising above the CPI.

It has been well documented that CPI is not a true measure of the annual increase on council's operations and it is critical that all other options are explored.

One option available is a "Local Government Cost Index" which takes into account impacts, such as Enterprise Agreements and cost shifting from other levels of Government, have on the ability of councils to keep rate increases at CPI.

The ESC is also strongly encouraged to consider other options. These could include:

- (a) In the 2014 Federal Budget, the Commonwealth Government announced that indexation of the national pool of financial assistance grants would be paused for a period of three years.

It is recommended that the ESC consider the addition of an additional factor to account for the lost revenue to Local Government as a result of the pause.

The information on the amounts lost for each municipality would be readily available through the Victoria Grants Commission and would assist Local Government while the grants are paused.

- (a) The ESC should consider having a transitional year in 2016-2017. As pointed out in a number of submissions the 2016-2017 financial year will be the first year of a revaluation across Local Government. This will mean that there will be no consistency across properties as to the increase in rates and charges and may result in confusion for ratepayers.

It should also be noted that in 2016-2017 Local Government will incur significant costs in undertaking the next Local Government Elections. For Colac Otway the costs could be in the vicinity of \$150,000. This equates to an approximate 0.6% increase required in rates and charges.

Having a transitional year will also provide further time to refine the most appropriate model and review and amend existing legislation and regulations.

Colac Otway also does not agree with the additional burden of an efficiency factor. Rate capping is itself an efficiency measure. Adding a further factor has the effect of a "double efficiency" factor.

Council has limited capacity to raise funds through traditional means, i.e. rates. This results in a tension in finding a balance between the financial burden faced by the community and the ability to meet future needs and aspirations. The introduction of rate capping will increase the pressure on our capacity to provide services.

An estimate of the effects of rate capping shows that council will be placed in an unsustainable financial position if it continues to rely on rate revenue to fund its operations to the extent that it currently does. The only options to ameliorate this situation are to:

- cut expenditure and, as an inevitable result, reduce service levels; or
- increase funding from alternative sources.

In Colac Otway rate capping will very likely limit the ability for council to continue to provide any services other than those required by legislation thus impacting on some of the most disadvantaged members of our community.

It is therefore recommended that there be no efficiency factor added on an annual basis commencing from 2017-18.

#### **Rate Capping - Draft Recommendation 5**

The Commission recommends that the 2015-16 rates (general rates and municipal charges) levied on an average property should be adopted as the starting base for 2016-17.

*The ESC have indicated that "Most councils, two peak bodies, a council group and a ratepayers association suggested that the starting revenue base for 2016-17 should be the 2015-16 budgeted rates and charges revenue. They argued that 2015-16 budgets include commitments and projects already underway and the consultation they had undertaken on their four year strategic resource plans."*

#### **Colac Otway Response:**

Colac Otway agrees with the recommendation providing the guidelines are clear on the way supplementary rates are accounted for. Supplementary rates should be excluded from the cap. Supplementary rates would become part of the base for the following year.

**Variation Process - Draft recommendation 6**

The Commission recommends that the framework should not specify individual events that would qualify for a variation. The discretion to apply for a variation should remain with councils.

The ESC Report advises:

*A well-designed variation process will play an important role in ensuring the framework is able to deliver on the policy objectives of the Government. ... In chapter 2 we describe how it is not practical to design a rate cap that takes into account the diversity, different needs and different legacies faced by individual councils. Nevertheless, the increase permitted by the rate cap represents the annual additional revenue requirement typically expected for councils on a state-wide basis. Some councils may consider this additional revenue insufficient in light of their particular circumstances. A variation process provides a mechanism for individual councils to seek a rate increase in excess of the cap.*

*The budget pressures facing councils are many. Priorities change over time. New services are introduced, while other services are expanded or discontinued. New infrastructure is built and existing infrastructure needs to be maintained. Revenues fluctuate either because of economic circumstances or following policy decisions by other levels of government. And, on occasion, natural disasters happen.*

*Sometimes budget pressures will arise due to a specific or one-off expenditure requirement. At other times, budgets will struggle with more generalised cost pressures. The variation process needs to accommodate different sources of cost pressures and it should be able to respond flexibly in different situations. Likewise, councils should be expected to assess all their options before seeking a rate variation. If this were not the case, the rate cap and variation process would be of little benefit. When faced with budget pressures, councils can pursue one or more of the following strategies; and the preferred response is likely to depend on the source of the budget pressure and whether it is momentary or structural. The four broad options facing councils include:*

- scrutinising the full suite of their operations and planned investments for opportunities to deliver outcomes more efficiently*
- ensuring the range of services they are delivering align with their community's highest priorities*
- assessing the possibility and merits of alternative funding or financing options for different activities and investments and*
- increasing their revenues through higher rates and charges.*

*The role of representative councils with delegated responsibilities from, and accountable to their communities, is to assess how best to manage the trade-offs between these four options. This responsibility rests inherently with local government.*

*A well-designed variation process will not shift this responsibility away from councils — rather, by promoting transparency and engagement, a variation framework ensures all options are canvassed before rate increases (above the cap) are pursued. Councils, in demonstrating that there is a justifiable basis to seek a variation, should primarily focus on what positive impacts the above cap increase will have on services, infrastructure and financial outcomes (or what the negative impacts on services, infrastructure and financial outcomes will be if the council is constrained by the cap). Importantly, the major trade-offs between these outcomes should be transparent and councils should have consulted with their communities.*

*A well-designed variation process should:*

- support the autonomy of councils to make decisions in the best interests of their communities*
- increase the transparency of council decisions for the community*
- complement the cap component of the framework by addressing individual council needs if the cap proves to be overly constraining*
- reinforce financial discipline by requiring a council to be transparent in applying for a variation assessed by an independent regulator*
- require from councils good information on impacts of cost changes on services, infrastructure and councils' financial sustainability*
- require information in proportion to the magnitude of proposed variations above the cap and*
- over time, be able to 'reward' those councils that have a proven track record of performance and effective community consultation, with a more 'streamlined' process.*

*...The Commission is cognisant of the capacity required to seek a variation which could prove challenging for some councils. The Commission intends to assist in this capacity building in the 2016-17 transition year.*

*We consider that embedding a list of predetermined triggers (including events) in the rates capping and variation framework would be counterproductive. We propose not to define triggers that would qualify for a variation because:*

- in general terms, we consider councils and ratepayers are best placed to decide whether circumstances warrant applying for a variation*
- there is no self-evident list of triggers, so any attempt to produce such a list is likely to be a distraction*
- disputes are likely to arise about whether particular circumstances conform with the wording of the triggers*
- we expect that very few situations will involve single and easily identifiable events that displace all other options*
- we believe that situations involving sudden and genuine budget emergencies will be self-evident and that all relevant parties will have a strong incentive to cooperate on quickly identifying a solution and we prefer to keep the rules of the framework as simple as possible to make it easy to understand and to avoid a legalistic process.*

*We also consider there are no circumstances under which councils should be prohibited from seeking a rate variation above the cap. In other words, we do not propose to define situations where a council's application for a variation would be automatically accepted or automatically rejected. We consider that councils should always have the opportunity to apply for a variation and that each application should be assessed on its merits.*

*That said, we are likely to have an unfavourable disposition towards applications for higher rates due to unbudgeted increases in controllable costs in the past year (more commonly known as 'cost blow outs').*

*...Population growth and associated service and infrastructure needs is an obvious factor that could lead to a successful variation application. The Commission would look for evidence of, and robust estimates of, future growth when considering a variation application. Also relevant would be estimates of new sources of income derived from an increasing population such as increases in rates revenue and fees for services. The Commission recognises that some councils cover areas of high population growth and that this could be a likely cause of variation applications.*

*Changes in grants from the Commonwealth would be recognised in the framework. The key factor the Commission would examine in a variation application based on a change in grant levels would be the extent of engagement with the community undertaken and the options put to the community in terms of increases in rates (or charges) and reductions in service levels.*

*Additional responsibilities or charges from other levels of government would be recognised by the framework. A variation application based on these responsibilities or charges would require a clear statement of the additional obligations imposed and their costs. If the responsibilities are mandatory then consultation with ratepayers and the community would be necessary on how the burden would be spread between increases in charges or reductions in service. If the responsibilities are voluntary, whether to take them on would first need to be considered.*

*Extraordinary circumstances such as disasters are accommodated under the framework. Councils could seek a rate variation to recover the efficient costs of dealing with unforeseen events. The amount to be applied for a variation should be net of the funds already received by the council from the Department of Treasury and Finance (DTF) Natural Disaster Financial Assistance and the Victoria Grant Commission's (VGC) Natural Disaster Relief. The framework also allows councils to include reasonable and efficient steps to deal with future disasters through insurance and disaster preparedness.*

*Revenue other than rates or charges to ratepayers is considered in the Commission's framework and changes to these other sources of revenue available to councils would be considered as a valid justification for a variation.*

*As a guiding principle, councils should only require an increase in rates above the cap when long run operating revenue is insufficient to offset long run operating expenses. Councils' financial indicator targets will indicate when this is likely. Under this principle there are four main scenarios where a council would seek an increase in rate revenue beyond the set cap.*

*These are to:*

- meet high upfront outlays for major new capital or asset renewal projects, where it is unable to increase borrowings (without a detrimental long run impact on its financial sustainability)*
- meet additional recurrent operational expenditure for a permanent increase in service levels consistent with community demand*
- meet a one-off increase in operational expenditure (e.g. associated with a non-controllable event), where it is appropriate to recover costs from the current ratepayer base or*
- address an existing operating deficit which will mean the council is unable to renew assets and/or maintain services over the long-term.*

#### **Colac Otway Response:**

Colac Otway agrees with the recommendation.

#### **Variation Process - Draft recommendation 7**

The Commission recommends that the following five matters be addressed in each application for a variation:

- The reason a variation from the cap is required*
- The application takes account of ratepayers' and communities' views*

- The variation represents good value-for-money and is an efficient response to the budgeting need
- Service priorities and funding options have been considered
- The proposal is integrated into the council's long-term strategy.

The ESC Report states:

*... providing guidance to councils on the subject matter areas that will need to be considered when an application for a variation above the cap is being assessed. We propose the following five matters (developed after consideration of submissions on our consultation paper) would need to be addressed in each application:*

***The reason for a rate increase greater than the cap.*** The reason for the variation will need to be articulated clearly and the amounts involved will need to be quantified. Reasons could include: changes in costs, a change in asset management, or a change in the services that councils are required to provide. These claims would need to be substantiated.

***The application takes account of ratepayers' and communities' views.*** The application would need to demonstrate that the views of ratepayers and communities have been identified and describe how their concerns have been addressed. This consultation will need to include the presentation of other realistic options for meeting the funding need, and the trade-offs those options would entail. Importantly, applications will need to account for ratepayers' views on specific expenditure items or cost pressures (where relevant) as well as their impact on the council's overall budget position. The Commission will not prescribe how councils ought to engage with their communities. Such decisions naturally sit with councils rather than the Commission. Nevertheless, we have developed a set of four key engagement principles which we expect to be reflected in the engagement undertaken in support of an application for variation.

***The variation represents good value for money and is an efficient response to the need.*** This means that, where additional expenditure is involved, any amount proposed to be recovered through higher rates should represent a good value option for achieving the desired outcome. It would be helpful to submit business cases or cost-benefit analyses where higher rates are being proposed in order to fund the delivery of new or expanded services, or new infrastructure.

***Service priorities and funding options have been considered.*** The application will need to demonstrate that councils have considered reprioritising funding from other areas of expenditure; and the reasons for not proceeding with that reprioritisation (in part or in whole). The application will need to demonstrate whether other suitable funding or financing options have been considered and the decision (and reasoning) reached in relation to those options.

***The proposal is integrated into the council's long-term strategy.*** The matters giving rise to the variation application should be consistently represented and addressed in all of the council's relevant planning instruments — for example: its Council Plan and Asset Management Plan.

#### **Colac Otway Response:**

It is noted that whatever information is required for a variation it will require additional resources which will place additional administrative burdens on Council. It is important that the variation process does not create unnecessary levels of bureaucracy as Council is already financially constrained.

**Level of Debt:**

The variation process should not be impacted by the level of debt each council maintains. Each council is different and the level of debt that is appropriate for Colac Otway Shire Council may not be acceptable for another council.

The following factors are seen as important issues for consideration by Colac Otway Shire:

- level of debt servicing as a proportion of rate revenue;
- ability to raise revenue in addition to rates;
- level of realisable assets to support the indebtedness;
- achieving the right mix of capital works and debt commitments;
- growth rate of municipality;
- community needs; and
- demographics

Council is responsible and accountable for indebtedness and the cost of debt servicing needs to be controlled to manageable levels.

**Proposed Timelines:**

The major issue with variations is the proposed timelines. Council usually commences its budget process in the prior calendar year and then it is an extensive process right through until the budget is adopted by 30 June.

The proposed timelines for variations indicate that Councils notify ESC of intention to seek a variation in January 2016. Part of the matters to be addressed is to take account of ratepayer's and communities' views. What will be required to satisfy this point?

The proposed timelines also indicate that the ESC will notify councils of decisions on variations in May 2016. This is clearly unsatisfactory as Council will not meet its statutory obligations with respect to a consultation process under the Local Government Act.

Councils are required under the Act to give 28 days' public notice of their proposed budgets. Colac Otway requires up to 6 weeks. Therefore Councils commence the preparation of budgets well in advance to enable a draft budget to be advertised in April of each year.

A process to consider applications for increases above the recommended rate cap will need to be completed well before Councils complete their Draft budgets. For the 2015/16 Budget Colac Otway considered its draft budget at the 22 April 2015 Council meeting.

Any decision to apply for application of rate increases above the rate cap will need to be considered well before this time as the Draft Budget will need to reflect any outcomes of applications.

It is recommended that the proposed timelines for variations need to be reviewed in light of the requirements of the Local Government Act and Council policies. It is recommended that the 30 June date for adoption of budgets should remain in the Local Government Act.

As previously noted having a transitional year in 2016-2017 will also provide further time to refine the most appropriate model and review and amend existing legislation and regulations.

**Variation Process - Draft recommendation 8**

The Commission recommends that in 2016-17, variations for only one year be permitted. Thereafter, councils should be permitted to submit and the Commission approve, variations of the length set out below.

| First year of variation | Length of permissible variation                            |
|-------------------------|------------------------------------------------------------|
| 2016-17                 | One year (i.e. 2016-17 only)                               |
| 2017-18                 | Up to two years (i.e. 2017-18 only or 2017-18 and 2018-19) |
| 2018-19                 | Up to three years (i.e. up to 30 June 2021)                |
| 2019-20 and beyond      | Up to four years (i.e. up to 30 June 2023)                 |

The ESC report states:

*In principle we support the idea of multi-year caps, which could provide councils with revenue certainty over longer periods of time and would reduce the costs associated with more regular applications.*

*At this initial stage of operation of the variation framework, we think it would be prudent to ensure that single year caps are functioning smoothly before we introduce multi-year caps. We propose that in the framework's first year of implementation, the Commission should only be authorised to approve variations for one year. Thereafter, councils should be permitted to submit, and the Commission approve, variations of the length shown .... In other words, the length of permissible variations increases as councils and ratepayers become more familiar with the framework. Councils could still apply for shorter variations than the maximum. The Commission could be asked to review this timetable for phasing in the variation process after 2-3 years. We also propose to allow councils to apply for temporary and permanent variations from the cap.*

*A temporary variation would enable a council to increase its rates above the rate cap for one year. After that one year, rates would be reduced to the level they would have been if the council had been granted the default rate cap one year earlier. A temporary rate cap increase would enable councils to address costs that arise once and were not expected to recur. An example of this type of expense might be a one-off levy by a council to pay for recovery from a natural disaster.*

*A permanent variation would enable a council to increase its rates above the cap and retain that increase into the future. This might apply to a new recurring cost. An example of this might be a variation to account for a permanent charge levied on councils by another level of government.*

**Colac Otway Response:**

Colac Otway agrees with the recommendation that variations for only one year be permitted in 2016-2017. It is important that the process with respect to variations is established before multi-year caps are introduced.

Colac Otway recommends that once the process is established after the first year, that the length of permissible variation should be 4 years. This will then be consistent with council's planning processes.

Colac Otway agrees that councils should have the flexibility to be able to apply for temporary and permanent variations from the cap. As noted in the report a temporary variation would enable councils to address costs that arise once and were not expected to recur.



**Variation Process - Draft recommendation 9**

The Commission recommends that it should be the decision-maker under the framework, but only be empowered to accept or reject (and not to vary) an application for variation.

**Colac Otway Response:**

Colac Otway agrees with the recommendation providing it is clear how the ESC will assess applications for any variations.

It should be noted that Colac Otway strongly believes that the State Government should fund the operations of the Essential Services Commission with respect to the Rate Capping and variation processes.

It is also important that the variation process does not create unnecessary levels of bureaucracy as Council is already financially constrained.

**Monitoring Process - Draft recommendation 10**

The Commission recommends that it monitor and publish an annual rates report on councils' adherence to the cap and any approved variation conditions.

**Colac Otway Response:**

Colac Otway agrees with the recommendation. As noted in the Draft Report it is important that only minimal additional reporting obligations are imposed. The information that is required should already be collected by local government.

**Monitoring Process - Draft recommendation 11**

The Commission recommends that it monitor and publish an annual monitoring report on the overall outcomes for ratepayers and communities.

**Colac Otway Response:**

Colac Otway agrees with the recommendation. It is important that there is transparency and accountability through the process. As per recommendation 10 it is important that only minimal additional reporting obligations are imposed. The information that is required should already be collected by local government.

**Matters for further consideration**

(1) The Commission recommends that the Government consider making a formal review of the rates capping and variation framework a statutory obligation. The review should draw on any data and trends identified through the ongoing monitoring regime and all interested parties should have an opportunity for the sector to provide input to that review. The Commission considers a review period of 4 years to be appropriate.

(2) The Commission recommends that the Government consider amending the *Local Government Act 1989* to require that service rates and charges must reflect the efficient costs of providing the underlying service.

(3) The Commission recommends that the Government consider initiating a periodic review to ensure that statutory fees continue to reflect councils' efficient cost of providing statutory services.

**Colac Otway Response:**

- (1) Colac Otway agrees that the Government should consider making a formal review of the rates capping and variation framework a statutory obligation, but the review should be undertaken after a 2 year period not 4 years in the first instance.

Colac Otway also supports the current inquiry into Rate Capping being undertaken by the Environment and Planning Committee:

*"That pursuant to Sessional Order 6 this House requires: the Environment and Planning Committee as part of its oversight of Local Government Victoria, to inquire into and report every six months on the outcome of the State Government policy of local government rate capping on councils' viability, service impacts on local communities and impacts on the provision of local infrastructure."*

- (2) Colac Otway agrees that the Government should consider amending the *Local Government Act 1989* to require that service rates and charges must reflect the efficient costs of providing the underlying service, but noting the points in recommendation 2 with respect to the increases in the Landfill Levy and contractual obligations.
- (3) Colac Otway agrees that the Government should consider initiating a periodic review to ensure that statutory fees continue to reflect councils' efficient cost of providing statutory services. The first review should be undertaken as soon as possible as a review of some fees e.g. Statutory Planning Fees is well overdue and needs to be urgently addressed.

Many fees that Council collects which contribute to services are set by State agencies. It is critical that the level of fees reflect the real costs of delivering the service and are paid for by the applicant or recipient of the service. At the present time this gap must be recovered from rates and charges.

It is also important that once the fee has been set at the correct level that there is a regular escalation to the fees similar to many State Government fees and charges.

**Submission**

A copy of the draft submission proposed to be provided to the ESC on the Review is attached. The submission incorporates information included in council's previous submission to the ESC in May 2015 on Rate Capping.

**Proposal**

That council forwards the responses to the recommendations in the Local Government Rates Capping and Variation Framework Review and additional information to the Essential Services Commission.

**Financial and Other Resource Implications**

The introduction of a Rate Cap will have significant implications on Council's finances. A review will need to be undertaken of Council's Strategic Resource Plan as part of the development of the 2016-17 budget.

The Strategic Resource Plan (SRP) 2014-15 to 2017-18 included rate rises of 5.1% for the four year period. This was to achieve the following objectives:

- Maintain the existing range and level of service provision and develop the capacity to grow and add new services;
- Maintain a strong cash position, ensuring Council remains financially sustainable in the long-term;
- Achieve underlying surpluses from operations;
- Maintain debt levels below prudential guidelines;
- Continue to pursue ongoing grant funding for strategic capital funds from the state and federal governments;
- Provide for rate increases that establish a funding level for a sustainability index of 100 percent, including increasing funding for capital works (asset renewal, expansion, upgrade) and asset maintenance; and
- Ensure critical renewal is funded annually over the timeframe of the SRP.

With rate capping the forecast revenue over the 4 year period will decrease significantly.

Some basic modelling has been prepared showing the current Strategic Resource Plan (SRP) and Long Term Financial Plan (LTFP) model results for rate rises at 5.1% for the first four years (to 30 June 2019) and 6.1% for the remaining six years (to 30 June 2025), and comparing this to an estimate of rate rises at the announced model cap of 3.05% for 2016-17, 2.85% for 2017-18 and 2.80% for 2018-19 and then decreasing with the 0.05% 'efficiency gain' reduction each year thereafter.

The parameters for this were:

- Capping only applies to rates (including municipal charge)
- Capping is applied using the total rate revenue methodology
- Waste Management and Recycling charges indexed at 5.0% per annum
- Financial Assistance Grants frozen
- Other grants indexed at 3.0% per annum
- Only guaranteed secure capital grants included (Roads to Recovery)
- Assumption that all other capital expenditure will be funded internally
- No additional borrowings
- The \$1 million bond taken out through the Local Government Funding Vehicle will be rolled over and continued.
- Assumes underlying CPI and WPI stay constant over the period.
- Assumes 'efficiency gain' of 0.05% reduction in rate cap per annum from 2017-18.

The analysis shows that Council will lose a significant amount of cash over the 10 year period, moving from a cash balance of approximately \$9.6 million at the end of 2015/16 to a negative cash balance by the end of 2024/25.

This clearly puts Council in an unsustainable position. Council estimates that a cash 'floor' level of approximately \$4.5 million must be maintained to cover employee entitlement requirements.

The estimated cash and operating position of Council will under each model be as follows:

|                                  | Current Forecast | Projected        |
|----------------------------------|------------------|------------------|
| Cash position at 30 June 2025    | \$5.56 million   | - \$0.06 million |
| Operating Result at 30 June 2025 | -\$0.002 million | -\$0.195 million |

As can be seen by the current forecast column, Council was anticipating that even with 5.1% to 6.1% rate rises; we would incur a significant decline in cash over the next ten years (barring any grant increases). With the move to rate capping this will be greatly exacerbated. This highlights Council's dependency upon rate revenue as a funding source.

Council could experience a \$9 million impact to its cash reserves in 2025-26 as a direct result of rate capping. It is important to realise what this means: in 2025-26 Council will be at least \$9 million worse off **in that year**. In the previous year Council would be approximately \$7.9 million worse off **in that year**, and so on back to the first year of rate capping where Council would be approximately \$0.5 million worse off.

In fact the cumulative effect of rate capping over the ten years is that Council could lose up to \$35 million in revenue (i.e the additions of each year's losses).

#### Risk Management & Compliance Issues

Council's budget processes are set out in the *Local Government Act 1989 (the Act)*.

- Section 127 - "Council must prepare a budget"
- Section 129 - "Public notice"
- Section 130 - "Adoption of budget or revised budget"
- Section 223 - "Right to make submission"

Under the Act, councils are required to have adopted their budget by 30 June.

#### Environmental and Climate Change Considerations

Not applicable.

#### Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected is to inform that a submission has been made to the Essential Services Commission (ESC) on the Local Government Rates Capping & Variation Framework Review.

Any member of the community is able to make a submission to the ESC on the Review. For the first consultation paper released in April 2015 the ESC received 287 submissions from various councils, groups and individuals.

It should be noted that there is only a 4 week period to respond to the Draft Paper on Rate Capping even though it is of major significance to Local Government.

### **Implementation**

The responses to the Local Government Rates Capping & Variation Framework Review will be forwarded to the ESC by the 28 August 2015.

### **Conclusion**

In January 2015, the State Government asked the ESC to design a framework that meets the Government's commitment to cap annual council rate increases as well as to develop a workable process to assess any proposals by councils for rate increases above the cap. The specific requirements were contained in a Terms of Reference issued by the Minister for Finance and Minister for Local Government.

The Draft Reports on the Local Government Rates Capping & Variation Framework Review have been received. The closing date for submissions is 28 August 2015.

### **Attachments**

1. LG Rates Capping and Variation Framework - Questions & Answers July 2015
2. LG Rates Capping and Variation Framework - Summary of Submissions to Consultation Paper
3. LG Rates Capping and Variation Framework - A Blueprint for Change
4. LG Rates Capping and Variation Framework - Response to A Blueprint for Change

### **Recommendation(s)**

***That Council endorses the submission incorporating responses to the recommendations from the Local Government Rates Capping & Variation Framework Review being forwarded to the Essential Services Commission.***

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OM152608-3 MATCHING FUNDING OPPORTUNITIES

| | | | |
|-------------|--------------------|-----------|---------------|
| AUTHOR: | Colin Hayman | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Corporate Services | FILE REF: | F15/5785 |

Purpose

The purpose of the report is for Council to endorse using funds provided in the budget to apply for grants where matching contributions are required.

Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Background

The 2015-16 Budget includes funds for the Colac CBD Streetscape Project. The budget allows for matching funding for an application to the National Stronger Regions Fund. A total of \$400,000 is in the budget which is made up of a grant of \$200,000 and a matching Council contribution also of \$200,000.

With other Government grants available under other funding programs it is opportune to also use the \$200,000 Council contribution to seek other funding to assist Council in achieving other priorities.

Council Plan / Other Strategies / Policy

Good Governance

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

A Planned Future

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

Our Goal:

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

Issues / Options

Funding Opportunities

In addition to the National Stronger Regions Fund there are a number of State and Federal Grant Funding Programs that Council can apply for. The various programs require matching funding.

The following is a sample of possible funding opportunities.

Regional Development Victoria

Council has recently received information concerning the Regional Jobs and Infrastructure Fund (RJIF).

The Regional Jobs and Infrastructure Fund (RJIF) is the Victorian Government's overarching regional development package. It will invest in growing jobs, building infrastructure and strengthening communities in regional Victoria.

Regional Development Victoria (RDV) manages the RJIF's three programs:

- the Regional Infrastructure Fund (RIF)
- the Regional Jobs Fund (RJF)
- the Stronger Regional Communities Plan (SRCP).

There are ten program streams with public grant programs under the fund.

Sports and Recreation Victoria

The Community Sports Infrastructure Fund provides grants for planning, building new, and improving existing facilities where communities conduct, organise and participate in sport and recreation.

The Community Sports Infrastructure Fund is a Victorian Government funding program that helps provide high-quality, accessible community sport and recreation facilities across Victoria by encouraging:

- Increased sport and recreation participation for all Victorians
- Increased female and junior participation
- Increased access to sport and recreation opportunities
- Better planning of sport and recreation facilities
- Innovative sport and recreation facilities
- Environmentally sustainable facilities
- Universally designed facilities

The Community Sports Infrastructure Fund provides grants for planning, building new, and improving existing facilities where communities conduct, organise and participate in sport and recreation. Some of the possible funding programs include:

- **Major Facilities** - Grants of up to \$650,000 to develop or upgrade major sport and recreation facilities;
- **Minor Facilities** - Grants of up to \$100,000 to develop or upgrade local sport and recreation facilities;
- **Female Friendly Facilities** - Grants of up to \$100,000 to build new or upgrade existing change rooms to prioritise female participation;
- **Cricket Facilities** - Grants of up to \$100,000 to develop or upgrade cricket facilities;
- **Planning** - Grants of up to \$30,000 to fund initiatives that assess the future sport and recreation needs of local communities, and up to \$50,000 for regional planning initiatives.

Council continues to investigate possible funding opportunities to assist in the development of the Central Reserve in Colac.

Proposal

That council continues to apply for funding under the various Government programs using the \$200,000 matching funding under the NSRF as a funding option for other programs.

If Council is successful with both the NSRF and other programs a report will be provided to Council as part of the quarterly finance reports to indicate how the funds have been allocated.

Financial and Other Resource Implications

The 2015/16 budget includes an amount of \$400,000 as "Colac CBD Streetscapes NSRF". This is made up of \$200,000 Grant funding with a matching Council contribution.

If Council is successful with other grant applications using the \$200,000 as matching funding, the additional funds will be funded utilising the significant savings in Workcover Premiums for 2015/16 of \$134,770 with the balance from surplus funds from the 2014/15 financial year.

Any adjustments to the 2015/16 budget will be accounted for in the quarterly financial reports which will provide details of the funding adjustments.

Risk Management & Compliance Issues

Not applicable.

Environmental and Climate Change Considerations

Not applicable.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

No community engagement is required.

Implementation

Council will use the matching funding to seek additional funding through various Government programs.

Conclusion

With a number of Government funding programs requiring matching funding it is opportune to utilise funds in the budget to increase the scope of projects.

Two examples of funding opportunities are:

- the Regional Jobs and Infrastructure Fund (RJIF). The fund will invest in growing jobs, building infrastructure and strengthening communities in regional Victoria.
- The Community Sports Infrastructure Fund provides grants for planning, building new, and improving existing facilities where communities conduct, organise and participate in sport and recreation.

Attachments

Nil

Recommendation(s)

That Council:

- 1. Endorses the use of \$200,000 in the budget as a matching contribution against other Government funding programs.***
- 2. Notes that if Council is successful with receiving funding that the additional matching contribution will be funded from savings in the Workcover premium and the balance from surplus funds from 2014/15.***
- 3. Notes that the quarterly financial reports to Council will provide details of the reallocation of the funds.***

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**OM152608-4      AUTHORISATION OF OFFICER (PLANNING AND ENVIRONMENT ACT)**

|             |                    |           |               |
|-------------|--------------------|-----------|---------------|
| AUTHOR:     | Colin Hayman       | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Corporate Services | FILE REF: | 11/96474      |

**Purpose**

The purpose of the report is for Council to appoint Brydon King, General Manager Development and Community Services as an authorised officer under the *Planning and Environment Act 1987*.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

Council recently appointed Brydon King as General Manager Development and Community Services following a recruitment process for this vacancy.

- (a) The *Planning and Environment Act 1987* regulates enforcement and is reliant on authorised officers acting on behalf of the Responsible Authority.
- (b) Currently Council's authorised officers are acting under a broader Appointment and Authorisation by the Chief Executive Officer pursuant to section 224 of the *Local Government Act 1989*.
- (c) Legal advice has recommended that authorised officers be appointed by Council using an instrument to address specific authorisation provisions of section 147(4) of the *Planning and Environment Act 1987* versus the broader authorisations of section 224 of the *Local Government Act 1989*.
- (d) The broader Instrument of Appointment and Authorisation by the Chief Executive Officer pursuant to section 224 of the *Local Government Act 1989* must also be retained as it appoints the officers as authorised officers for the administration and enforcement of other acts.

**Council Plan / Other Strategies / Policy**

**Good Governance**

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

*Our Goal:*

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

**Issues / Options**

The Instrument of Authorisation relates only to the powers arising from the *Planning and Environment Act 1987*. Currently the power to commence proceedings in Council's name is also delegated under the Instrument of Delegation from the CEO to Council Staff. Staff

members authorised under other legislation, such as the *Local Government Act 1989* are appointed under delegation by the CEO.

### **Proposal**

The proposal is to appoint Brydon King as an authorised officer pursuant to section 147(4) of the *Planning and Environment Act 1987* and the regulations made under that Act.

### **Financial and Other Resource Implications**

Nil.

### **Risk Management & Compliance Issues**

The *Planning and Environment Act 1987* regulates enforcement and is reliant on authorised officers acting on behalf of the responsible authority. The authorisation of officers under this Instrument is consistent with legal advice received.

### **Environmental and Climate Change Considerations**

Nil.

### **Community Engagement**

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The appropriate method is to inform.

### **Implementation**

The attached Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) comes into force immediately upon its execution.

### **Conclusion**

Council received legal advice recommending that Council appoint authorised officers pursuant to section 147(4) of the *Planning and Environment Act 1987* for matters relating to planning compliance and enforcement.

### **Attachments**

1. Planning and Environment Act authorisation to Brydon King

### **Recommendation(s)**

#### ***That Council:***

- 1. Appoints Brydon King General Manager Development and Community Services as an authorised officer pursuant to the Planning and Environment Act 1987.***
- 2. Notes that the Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it.***
- 3. Delegates to the Chief Executive Officer authority to sign and place under Council Seal the Instrument of Appointment and Authorisation.***

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OM152608-5**UPDATE S6 INSTRUMENT OF DELEGATION - COUNCIL TO MEMBERS OF STAFF**

| | | | |
|-------------|--------------------|-----------|---------------|
| AUTHOR: | Colin Hayman | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Corporate Services | FILE REF: | 11/96474 |

Purpose

The purpose of this report is to update Council's Instrument of Delegation to Members of Council Staff.

Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Background

Council must regularly update its Instrument of Delegations to enable enforcement of the statutory powers and responsibilities required within changing legislation and confer these duties to the relevant staff. Council last updated the delegation in April 2015 to reflect legislative changes and is now required to make further amendments.

Council Plan / Other Strategies / Policy**Good Governance**

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Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

Issues / Options

Council is required to have an updated Instrument of Delegation to staff as per legislation.

The Maddocks delegation package provides Council with legislative amendments required to the Instrument of Delegation since changes made by Council in April 2015.

Recent minor amendments include:

- The *Rail Safety Act 2006* has been renamed the *Rail Safety (Local Operations) Act 2006* – all relevant powers, duties and functions remain unchanged;
- The *Cemeteries and Crematoria Regulations 2005* expired on 28 June 2015.
- The *Planning and Environment Act 1987* have one new provision added - s.97Z.
- The *Planning and Environment Regulations 2005* have been replaced by the *Planning and Environment Regulations 2015*. Two new provisions have been added – r.25(a) and r.25(b).
- The *Planning and Environment (Fees) Further Interim Regulations 2013* have been replaced with the *Planning and Environment (Fees) Interim Regulations 2014* – all relevant powers and duties and functions remain unchanged.

- The *Road Management (General) Regulations 2005* have been extended to 20 March 2016.
- The *Road Management (Works and Infrastructure) Regulations 2005* expired on 21 June 2015.

Council's organisational restructure has required that reference to staff duties and powers be revised to reflect new titles within the organisation. Column 3 of the Instrument of Delegation has been amended accordingly.

Financial and Other Resource Implications

Not applicable.

Risk Management & Compliance Issues

Council is required to review all delegations and the Instrument of Delegation to Members of Council Staff to reflect changing legislation.

Environmental and Climate Change Considerations

Not applicable.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The level of community engagement to date has been to consult internally with the Executive and appropriate Managers as to the delegate responsible for each part.

The adopted Instrument of Delegation will be placed on the Intranet for staff reference.

Implementation

The Instrument of Delegation comes into force after adoption by Council and fixing of the Council seal and a signed copy is placed on the register.

Conclusion

The update provides the latest amendments to legislation ensuring all relevant provisions are covered.

Attachments

1. Council to Council Staff Delegation August 2015

Recommendation(s)

That Council, in the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (the Act) and the other legislation referred to in the tabled Instrument of Delegation, resolves that:

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the tabled Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.***
- 2. The Chief Executive Officer is authorised to affix the Common Seal to the Instrument. The Instrument comes into force immediately the Common Seal of Council is affixed.***
- 3. On the coming into force of the Instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.***
- 4. The duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that may from time to time be adopted.***

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**OM152608-6**

**CONTRACT 1527 - PROVISION OF A WEBSITE CONTENT MANAGEMENT SYSTEM**

|             |                    |           |              |
|-------------|--------------------|-----------|--------------|
| AUTHOR:     | Andrew Kavanagh    | ENDORSED: | Colin Hayman |
| DEPARTMENT: | Corporate Services | FILE REF: | F11/3291     |

**Purpose**

Council approval is required for the awarding of Contract 1527 – Provision of a Website Content Management System for which tenders have been received.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

Tenders closed on 8 July 2015 for the supply, delivery and commissioning of a website content management system solution and associated services to support and enable Council's Digital Strategy 2016-18. Vendors were given the option of tendering a system for purchase or subscription/lease on externally hosted IT infrastructure.

The contract shall operate for a period of three (3) years with options to extend the contract annually. The contract will be subject to annual price adjustment in accordance with the Australian Bureau of Statistics Consumer Price Index for 'All Groups – Melbourne'.

Council disclosed to prospective tenderers a budget of \$100,000 (excluding GST) for implementation of the solution plus ongoing fees for hosting and support.

Tenders were received from the following four (4) vendors:

**DCODE Group Pty Ltd**  
**Elcom Technology Pty Ltd**  
**NBS Digital Pty Ltd**  
**Seamless CMS Pty Ltd**

Each tender submission was checked for completeness and accuracy.

In evaluating tenders the tender evaluation panel considered all the schedules, written statements and information lodged by the tenderers.

Tenders were evaluated and scored in accordance with Council's *Procurement Policy and Tenders/Quotations and Purchasing Procedure* using selection criteria specified which includes:

|                                 |     |
|---------------------------------|-----|
| Tendered price                  | 30% |
| Technical and functional fit    | 30% |
| Alignment with Digital Strategy | 15% |

|                                                                                                     |     |
|-----------------------------------------------------------------------------------------------------|-----|
| Tenderer's relevant experience and experience of key personnel, track record and proven performance | 10% |
| Implementation plan including capacity and resources                                                | 5%  |
| Technical support availability/arrangements                                                         | 5%  |
| Local Content                                                                                       | 5%  |

The Tender Evaluation Panel consisted of the following members:

Acting Manager, Information Services  
External Consultant  
Contracts Officer  
Public Relations Officer  
Public Relations Coordinator

The solution tendered by **Seamless CMS Pty Ltd**, branded 'Open Cities', at **\$209,970.00 (excluding GST)** for the initial three year contract period based on an annual subscription fee of \$69,990.00 (ex GST) was assessed by the tender evaluation panel as offering best value to Council.

The following advantages are available to Council in awarding the proposed contract to Seamless CMS Pty Ltd for its 'Open Cities' solution.

- Open Cities is an 'out-of-the-box' solution tailored specifically for local government, meaning it is ready made for use without requiring a special development effort. Conversely, the other vendors tendered custom design-build-test solutions which place a high demand on Council's internal resources.
- Open Cities is 'Software as a Solution' (SaaS). SaaS is a model for the distribution of software where customers access software over the Internet. In SaaS, a service provider hosts the application at its data centre and a customer accesses it via a standard web browser. Benefits of a SaaS solution include the automatic application of updates without customer intervention and no requirement for the installation of hardware or software by the customer.
- The vendor has provided websites specifically for the Australian local government sector for more than 10 years, with particular strength in Victorian councils and is an accredited government supplier. Its Open Cities clients include Nillumbik Shire Council, Glen Eira City Council, Gannawarra Council, Great Lakes Council, Baw Baw Shire Council, and Devonport Council.
- The solution achieved the highest score of the four vendors in meeting the functional requirements of Council.
- The vendor indicated a strong understanding of Council's Digital Strategy and directly responded to each of the strategic action areas, highlighting how the proposed solution would assist Council in achieving its objectives.
- The solution includes integration bridges with existing core Council systems.
- Open Cities is compliant with the Australian Government's Web Content Accessibility Guidelines 2.0 (WCAG) (detailed further below).

- A standard plug-in for sub-sites is currently under development. This provides an opportunity for a stronger web presence for Council business units such as Bluewater and COPACC.
- Seamless convenes regular meetings with a panel of Victorian local government clients to drive improvements to the system based on the industry's needs.

**Council Plan / Other Strategies / Policy****Good Governance**

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

*Our Goal:*

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

**Issues / Options**

Option 1 is to award the contract to the nominated preferred tenderer.

Option 2 is to not award the contract and continue using Council's current website content management system, Emerg. If Council chooses this option, it will be very difficult to implement new-generation web technologies that our community expects, such as online bill paying, online form and application submissions and sub-sites for Bluewater and COPACC.

**Proposal**

It is proposed to accept the tender of **Seamless CMS Pty Ltd** at the lump sum tender price of \$69,990 (excluding GST) per annum, subject to CPI adjustment, for a period of three years and with further option to extend the contract annually.

**Financial and Other Resource Implications**

Council's budget for implementation of the website content management system is \$100,000 (excluding GST). The Year One cost of the solution tendered by Seamless CMS Pty Ltd is \$69,990 (ex GST), which is within budget. The ongoing annual subscription cost is \$69,990 (ex GST) which was supported in the 2015/16 budget.

**Risk Management & Compliance Issues**

The risks that Council needs to mitigate include financial, implementation, maintenance and technology risk.

Seamless's Open Cities solution presents the least risk to Council on a number of fronts.

Open Cities is an 'out-of-the-box' solution built around common local government authority functions. This negates the need for detailed requirements analysis, customisation and user acceptance testing typically associated with custom built websites. Implementing and maintaining a custom built website places a significant burden on Council's internal resources and financial resources.

The Seamless SaaS solution includes ongoing technological upgrades, whereas a custom-built website places the onus on the customer for keeping the technology up to date. Examples to illustrate this include ensuring the website remains compatible with the latest mobile devices and government requirements for accessibility.

Seamless Open Cities is compliant with the Australian Government's Web Content Accessibility Guidelines (WCAG) 2.0. WCAG is a requirement imposed on all government sectors in Australia and ensures that websites are accessible to people with visual impairments. Seamless was the only vendor that offers ongoing compliance with new-generation WCAG requirements as part of the contracted price. Council's current website is not WCAG 2.0 compliant.

#### **Environmental and Climate Change Considerations**

Not applicable.

#### **Community Engagement**

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be inform. The tender was advertised in the Colac Herald on 5 June 2015, on the Colac Otway Shire website and via Tenderlink.

#### **Implementation**

Implementation will commence immediately after the contract is awarded. The project team hopes to be in a position to launch the new website early in 2016, although this is dependent on the bill paying modules. The bridges for Civica Authority (online bill payments) and the sub-site builder (for Bluewater and COPACC) are due for release pre-Christmas. We expect there might be some initial challenges with the implementation of online bill paying, and it is our preference not to launch the website until those are fully tested and operational.

#### **Conclusion**

A recommendation is made to award the contract to Seamless CMS Pty Ltd for the provision of a website content management system.

The tender by Seamless CMS Pty Ltd is recommended by the Tender Evaluation Panel and offers the best value to Council.

#### **Attachments**

Nil

#### **Recommendation(s)**

##### ***That Council:***

- 1. Awards Contract 1527 for Provision of a Website Content Management System to Seamless CMS Pty Ltd at the lump sum tender price of \$69,990 (excluding GST) per annum, subject to CPI adjustment, for a period of three years and with further option to extend the contract annually.***
- 2. Delegates to the Chief Executive Officer authority to sign and place under Council seal the contract documents following award of Contract 1527.***

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**OM152608-7 LAVERS HILL COMMUNITY FIRE REFUGE - TRANSFER OF
LAND TO CFA**

| | | | |
|-------------|-----------------------------------|-----------|---------------|
| AUTHOR: | Clive Brooker | ENDORSED: | Ingrid Bishop |
| DEPARTMENT: | Infrastructure & Leisure Services | FILE REF: | 11/96302 |

Purpose

To update Council on progress in relation to the construction of a Community Fire Refuge in Lavers Hill and to consider a transfer of Council owned land without payment to the State Government for the construction of a refuge.

Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Background

Lavers Hill was identified as one of the highest fire risk towns in Victoria in the State Government report, “*A State of Preparation – Actions being taken to be ready for the 2009/10 fire season*”, released in August 2009. Due to the high fire risk, the town has been carefully considered by Council and fire agencies to determine what measures can be taken to help reduce the risk to the people in the town from bushfire.

In 2009, Lavers Hill was assessed for a Neighbourhood Safer Place (NSP). However, due to the fact that the town sits on a ridge line in the Otways and is surrounded by dense vegetation it was not possible to identify any site in the town that would be suitable for a NSP. As a result of this Lavers Hill was targeted for an Evacuation Exercise to help understand whether people could be evacuated quickly in the event of a major bushfire.

The Lavers Hill Evacuation Exercise was held in November 2011 during “Fire Action Week”. The exercise was coordinated by Victoria Police and attracted a significant amount of media attention. While the exercise demonstrated that evacuating the town quickly in the face of a bushfire would be very difficult, it did significantly raise the level of fire awareness in the local community and led to the formation of the Lavers Hill and District Emergency Response Planning Committee.

In 2012, the Lavers Hill and District Emergency Response Planning Committee requested Council’s support to advocate for the construction of a Community Fire Refuge in Lavers Hill. At this time Emergency Management Victoria (EMV) was commencing a pilot project to determine whether refuges were a viable alternative for the State Government to implement in certain areas. Accordingly, the Lavers Hill and District Emergency Response Planning Committee was notified by Council and EMV that the request for a refuge would be revisited once the pilot project was completed.

The Refuge Pilot was completed in 2014. The key finding from the pilot was that while refuges are costly, they could save many lives and are more economically viable where they can be joined with another emergency service facility.

Council officers have worked closely with EMV since its formation in 2013 and have had a number of meetings with the Emergency Management Commissioner, Craig Lapsley

advocating for them to invest in a Community Fire Refuge for Lavers Hill. These discussions have been very productive and have led to EMV confirming support for a Community Fire Refuge for Lavers Hill.

At a meeting held on 5 August 2015, the site of the current Lavers Hill CFA shed was confirmed as the location for the construction of the proposed Community Fire Refuge. Council has since received written confirmation of this decision together with a request for Council to consider transferring ownership of the parcel of land currently occupied by and leased to the CFA.

Council Plan / Other Strategies / Policy

A Healthy Community and Environment

Actively connects and includes people of all ages and backgrounds and promotes a healthy and vibrant community life in a clean, safe and sustainable environment.

Our Goal:

Respect cultural differences, support a diverse range of healthy and creative activities, foster community safety and promote environmental sustainability.

Council does not have a policy on Community Fire Refuges. However, the Municipal Fire Management and Municipal NSP Plans both support the position that Lavers Hill is one of the highest risk towns in Victoria. The availability of a last resort shelter option in the event of a fire will contribute significantly to a reduction in the likelihood of loss of life.

Issues / Options

On 18 June 2015, Council's CEO and Acting General Manager Development and Community Services Doug McNeill, again met with Craig Lapsley and senior officers from the CFA, SES and EMV. At this meeting EMV indicated their commitment to commence planning for a refuge on the site in Lavers Hill where the CFA station is currently situated. Whilst other sites were considered, the site of the current CFA shed was considered to be the most cost effective site and also the site with the least complexities that will enable construction to be undertaken in a timelier manner. This is a fantastic outcome resulting from Council's and the Lavers Hill community's consistent advocacy on this issue.

EMV will resource the CFA to undertake the construction of a refuge that will also perform the function of a CFA station and possibly also other emergency management functions. It is proposed that the facility would also have a meeting space that could be used for other community needs. This multipurpose arrangement will ensure the facility provides ongoing value to the community and that it is effectively maintained by emergency management organisations to ensure it performs its function as a refuge when needed.

Whilst not the lead agency for the project, Council is providing support through the establishment of a key stakeholder working group which includes a representative from the Lavers Hill community and which is aimed at ensuring that the project progresses in a timely manner. This group met for the first time on 5 August 2015 and will meet again in Lavers Hill in September.

Subsequent to the working group meeting in September, other key stakeholders from the Lavers Hill community will be invited to come and learn more about the proposal, to ask any questions they have and to get a better understanding of how the project will proceed.

The land on which the CFA shed is currently situated is leased from Council (see attached map). The land at 10 Lavers Hill Cobden Road is more fully described as Lot 12, LP 6159 on Title Volume 7112 Folio 221. This parcel was donated to Council by the Pitt family in 2011. The offer to Council was on the understanding that it, "...be held in trust for the benefit

of the Lavers Hill community and especially for the use of the CFA for as long as they require it.”

The land is currently leased to the CFA for a term of fifty years, ending on 31 July 2061, at a nominal rental of \$1 per year. Due to the considerable investment involved in the proposed project CFA is seeking a more secure tenure over the leased parcel should the refuge proceed on that site and has enquired about the potential acquisition of the property.

If Council supports the disposal of the land the following process options are available:

- Disposal without consideration (Gift the land)

Under the *Local Government Act 1989* section 191, Council may dispose of land without consideration to any public body. The CFA is considered a public body as defined by the Act. If disposing of land under the provisions of this section of the Act, Council is not required to comply with section 189 which requires it to undertake public consultation under the process defined in section 223. This means that Council may by resolution agree to transfer the land to the CFA without public consultation.

- Disposal at market value (sell the land)

Council would first be required to engage a person with the qualifications specified under section 13DA (2) of the *Valuation of Land Act 1960* to provide a current market valuation of the property. If the CFA was to agree to the purchase at that price then Council would commence the public consultation process described above. Any submissions received would be considered at a Special Council meeting called for the purpose. Anyone who had made a submission would be given the opportunity to speak in support of their submission at that meeting. A subsequent report to Council would address any submissions made and make a recommendation to Council on the proposed sale.

- Disposal at less than market value (sell the land)

A market valuation would need to be sought as described above. Council would then determine the reduction in the offer price considered appropriate and subsequently undertake the consultation process described above.

Disposal without consideration is recommended. In addition to being the most straightforward process, it also provides an opportunity for Council to gift the land to the CFA as Council's contribution to the Community Fire Refuge project. Council Officers have consulted with the original donor of the land and has obtained their support for the transfer of the title to the CFA. This was expected given that the land was donated to Council on the understanding that it be held in trust for the benefit of the Lavers Hill community and especially for the use of the CFA.

Proposal

It is proposed that Council transfer title to the land, without consideration, to the CFA (with all costs associated with affecting the transfer of the land be borne by the CFA).

Financial and Other Resource Implications

The land proposed to be transferred to the CFA was gifted to Council by the Pitt family in 2011 and has therefore been in Council ownership for only four years. The intention of the gift was to enable Council to hold the land for the benefit of the community and the use of the CFA.

To enable Council to give proper consideration to the transfer, without consideration, an independent valuation of the land has been conducted to determine its current value. The current land valuation is considered to be \$90,000.

Council's financial liability in relation to this project will be limited to its contribution of this parcel of land. All costs related to the transfer of the land, the construction of the Community Fire Refuge and its ongoing maintenance are to be borne by the State Government and its agencies.

Risk Management & Compliance Issues

Council's Municipal Fire Management and Municipal NSP Plans both recognise Lavers Hill as a high fire risk location. The Community Fire Refuge will provide a last resort option for residents or tourists who have left it too late or have been unable to evacuate to a safer location in the event of a fire.

Council's ability to transfer land to a government body without consideration and without public consultation is conferred by sections 189 and 191 of the *Local Government Act, 1989*.

Environmental and Climate Change Considerations

There are no environmental or climate change issues related to the proposed transfer of land.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected for the land transfer would be to inform the community after engaging the original donor of the land.

Implementation

Council will work with the key agencies to develop a communications plan that will stipulate which agency will take responsibility to communicate on specific issues.

Given the complexity and cost of a refuge it is critical that the right agency is responding to complex questions and making any major announcements on progress.

In addition, a set of 'Frequently asked Questions' will be developed by EMV to respond to enquiries.

A meeting with key stakeholders from the community is being arranged in Lavers Hill to provide an opportunity to learn more about the proposal, to ask questions and to get a better understanding of how the project will proceed. As the project proceeds there will be more community engagement undertaken by the relevant agencies to ensure local residents are able to ask questions and be kept informed on progress.

It is noted that a Planning Permit is required for the proposal which will be lodged by EMV in due course.

Conclusion

The construction of a Community Fire Refuge is considered to be a positive outcome for Lavers Hill. The unique characteristics of Lavers Hill make it one of the highest fire risk towns in Victoria. When this risk is coupled with the fact that the town attracts many tourists during summer the investment in a refuge is warranted.

The land occupied by the existing CFA shed forms part of the recommended site for the construction of the Community Fire Refuge. This parcel was donated to Council in 2011 for

the purpose of ensuring it provided a continuing community benefit to the residents of Lavers Hill through its ongoing occupation and use by the CFA.

In order to make the significant investment required to deliver the Community Fire Refuge, CFA require a more secure tenure over the land than the current lease agreement provides. The transfer of the land to the CFA, without consideration, for the purpose of providing a Community Fire Refuge will meet the original intention of the Pitt family in gifting the land to Council. The transfer of the land to the CFA also provides a means for Council to make a significant contribution to the project.

Attachments

1. Community Fire Refuge - Locality Plan - 10 Lavers Hill Cobden Road
2. Ltr - Community Fire Refuge - 10 Lavers Hill Cobden Road - CFA
3. Title - Vol 7112 Fol 221 - 10 Lavers Hill Cobden Road - Community Fire Refuge

Recommendation(s)

That Council:

- 1. Endorses the transfer of that parcel of land described as Lot 12, LP 6159 on Title Volume 7112 Folio 221 to the CFA for no consideration.***
- 2. Undertakes the formal process of transferring ownership of the above parcel only after the successful completion of the planning approval for the construction of the Fire Refuge.***
- 3. Requests the Chief Executive Officer write to the CFA expressing Council's satisfaction with the outcome of the site selection process for the Community Fire Refuge and formally offering to gift the parcel of the land described as Lot 12, LP 6159 on Title Volume 7112 Folio 221 to the CFA for that purpose.***
- 4. Authorises its seal be affixed to any transfer or transfers of freehold land and to any other documents to which Council's seal is required to be affixed in connection with the transfer of land.***
- 5. Requests the Chief Executive Officer to write to the Pitt family to advise them of Council's decision to transfer title to the land donated by them in 1991 to the CFA, for the purpose of providing a Community Fire Refuge in Lavers Hill and thanking them for their generous support.***

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**OM152608-8**

**BLUEWATER FITNESS CENTRE REDEVELOPMENT  
PROJECT - PROGRESS REPORT**

|             |                                   |           |               |
|-------------|-----------------------------------|-----------|---------------|
| AUTHOR:     | Adam Lehmann                      | ENDORSED: | Ingrid Bishop |
| DEPARTMENT: | Infrastructure & Leisure Services | FILE REF: | F13/7721      |

**Purpose**

The purpose of this report is to provide Council with an update on the progress of the delivery of the Bluewater Fitness Centre Redevelopment Project.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

The transformation of the Bluewater Fitness Centre is one of the most significant projects undertaken by Council. The Centre is a focus for sport and leisure within the Shire, and an enhanced facility will allow quality recreational activities to be delivered to the community for many years to come.

**Council Plan / Other Strategies / Policy**

**A Planned Future**

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

*Our Goal:*

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

**A Place to Live and Grow**

Is a community where people feel cared for and supported; where buildings and spaces facilitate creativity, social activity and enrichment of life, and people have access to gain the skills and education needed to reach their potential.

*Our Goal:*

Improve access to buildings, spaces, services and education to support and enable quality of life.

**A Healthy Community and Environment**

Actively connects and includes people of all ages and backgrounds and promotes a healthy and vibrant community life in a clean, safe and sustainable environment.

*Our Goal:*

Respect cultural differences, support a diverse range of healthy and creative activities, foster community safety and promote environmental sustainability.

### **Issues / Options**

This report is prepared to provide timely and accurate information specific to the delivery of the Bluewater Fitness Centre Redevelopment Project.

Whilst this report relates to project progress for July, it is noted that Stage One of the development opened to the public on 17 August 2015. Stage One includes the new gym, fitness program rooms and associated amenities. Council staff ensured that the transition from the temporary Youth Club location to the new facility went smoothly with no impact on users.

The Stage one opening has been well received by the community and attendance numbers over the first few days have been significant.

### **Proposal**

This report is for Council to note the progress of this project and provides details relating to performance and variance against schedule, budget, and quality parameters. The report also gives an indication of the key issues and risks which have the potential to affect project delivery outcomes.

### **Financial and Other Resource Implications**

The project budget is \$11.86M. The project is presently being managed within budget tolerances.

### **Risk Management & Compliance Issues**

All aspects of the project are being managed through an established risk register. There are a number of key risks which have the potential to deviate the project from schedule, budget, and quality objectives. The major known issues relate to latent conditions associated with the condition of the existing building structure.

### **Environmental and Climate Change Considerations**

Environmental risks posed by construction activities on site are being managed in accordance with the Contractor's Environmental Management Plan.

### **Community Engagement**

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method used is to inform including ongoing community and stakeholder engagement activities which will be implemented throughout the course of the project. Information about the project will be disseminated to the community through traditional and social media outlets.

### **Implementation**

This report is provided as information for the benefit of Council and the community and gives a status update on the delivery of the Blue Water Fitness Centre Redevelopment Project.

### **Conclusion**

The intention of this report is to inform the community about the progress of the Blue Water Fitness Centre Redevelopment project. These ongoing reports focus on monitoring of budget and expenditure, progress of works and issues or variances which have the potential to impact on project delivery outcomes.

**Attachments**

Nil

**Recommendation(s)**

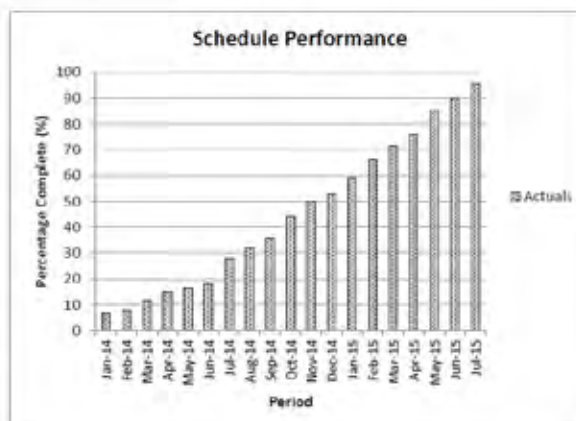
***That Council notes the monthly status report for the Bluewater Fitness Centre Redevelopment Project covering the period to 1 July 2015 to 31 July 2015.***

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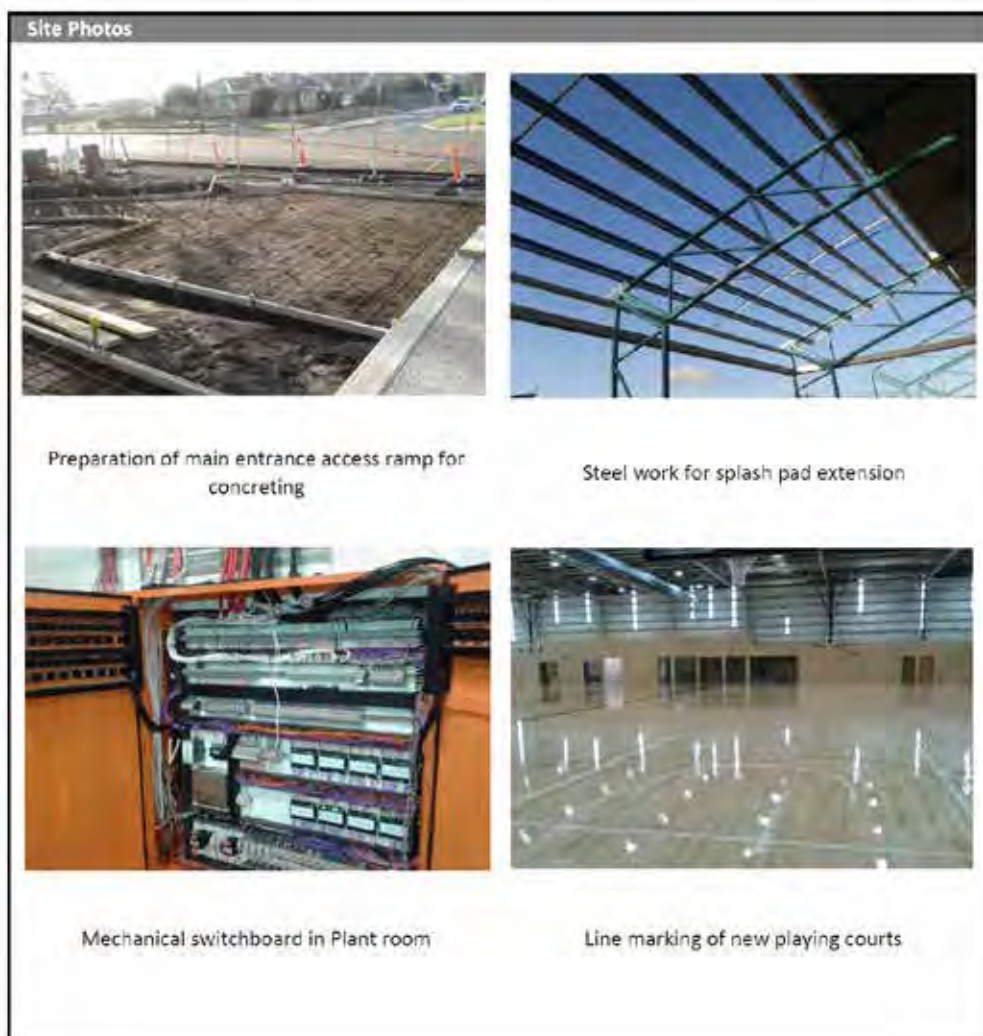
| Monthly Project Status Report - BWFC Redevelopment | | | |
|--|---|---|--|
| For Period | 1 July - 31 July 2015 | | |
| Prepared By | Graeme Collins and Adam Lehmann | | |
| Date Prepared | 04-Aug-15 | | |
| Project Description | Redevelopment of aquatic and sports facility to incorporate warm water pool, additional basketball court and compliant run off areas and general facility upgrades and renewal. | | |
| Project Status | | | |
| Status Item | Current Status | Prior Status | Reason for Deviation |
| Overall Project Status | Caution | Caution | Stage one will be open to public 17 August 2015 |
| Schedule | Caution | Caution | |
| Scope | Controlled | Controlled | |
| Budget | Caution | Caution | Project presently within budget tolerances |
| Project Risk | Controlled | Caution | Major risks have been identified and are being managed |
| Overall Summary/Comments | | | |
| Significant progress has been made by the builder to make ready the gym, programme areas, and associated amenities for handover to Council by 6 August 2015. Structural steel for the splash pad area extension has been erected and site measures have been completed for associated windows. Installation of pool plant and equipment continues. | | | |
| Budget Performance | | | |
| Building Contract Expenditure Summary | | | |
| Contract Sum | \$10,955,860 | | |
| Contract Works Complete | \$10,323,286 | | |
| Approved Variations Completed | \$770,675 | | |
| Total Approved Works Completed | \$11,093,960 | | |
| Contract Contingencies | \$850,000 | | |
| Credits and Contract Contingencies Remaining | \$79,325 | | |
| | | Project Expenditure Summary
Total Project Budget
\$11,855,860

Total YTD Project Expenditure
\$11,343,287

Percentage Budget Spent
95.7% | |
| Comments | | | |
| The amount shown for the total approved works completed comprises the original contract sum (\$10.955M) and the approved variations completed to the end of July 2015 (\$770K). | | | |



| Schedule Performance | | | | | |
|---|------------------------------|---|--|------------------------|--------------------|
| Project Element | Relocation of Dry Programmes | Construction | Equipment Purchases for Redeveloped Facility | Landscaping | Project Management |
| Design (including Contract Administration) | | | | | |
| Percentage Complete | | | | | |
| 104.4% | 100.0% | 87.3% | 38.1% | 0.0% | 135.3% |
| Construction Correspondence | | | | | |
| No. of Requests For Information (RFI) to Date | 387 | | No. Variation Quotations (VQ) Submitted | 228 | |
| No. Unresolved RFIs | 3 | | | | |
| No. Site Instructions Issued (SI) | 898 | | No. VQs Approved | 185 | |
| Accomplishments Since Last Report | | | | | |
| Erection of structural steel for splash pad extension completed | | | | | |
| Stairs and access ramp to main entrance completed | | | | | |
| Laying of floor finishes across multiple areas completed | | | | | |
| Line marking of playing courts on stadium floor completed | | | | | |
| Upcoming / Next Steps | | | | | |
| Application of final polish coat to new timber sports floor | | | | | |
| Continuation of hard landscaping works external to the building | | | | | |
| Installation of roof cladding to splash pad area | | | | | |
| Installation of thresholds and skirtings in stadium | | | | | |
| Key Risks that May Affect the Project | | | | | |
| Shared site management and interaction between construction activities and general public | | | | Current Status | |
| Possible delays due to seasonal change and extent of works exposed to weather | | | | Controlled | |
| Impacts to schedule due to additional works across aspects of the site | | | | Controlled | |
| | | | | Controlled | |
| Key Issues that Currently Affect the Project: | | | | | |
| Progress of construction of splash pad area | | | | Current Status | |
| Project schedule impacted by redesign and documentation delivery | | | | Controlled | |
| Delivery of stage one in time for opening to the public on 17 August 2015 | | | | Controlled | |
| | | | | Controlled | |
| Key Upcoming Milestones | | | | Target Completion Date | |
| Handover of gym, programme rooms and associated amenities | | | | 06-Aug-15 | |
| Commencement of roof cladding over splash pad area | | | | 28-Aug-15 | |
| Installation of thresholds and skirtings in stadium | | | | 14-Aug-15 | |
| Key | | | | | |
| Controlled | | - Project or issue is within established milestones, scope, budget and is on schedule | | | |
| Caution | | - Project has slightly deviated from the plan. | | | |
| | | - Issue/risk has the potential to deviate project from defined time, cost, quality objectives. | | | |
| | | - Project not tracking to established milestones, or has taken on tasks out of scope or budget. | | | |
| Critical | | - Issue or risk likely to significantly impact on schedule and project costs. | | | |



OM152608-9

SALEYARDS LOCAL LAW

| | | | |
|-------------|----------------------------------|-----------|-------------|
| AUTHOR: | Tony White | ENDORSED: | Brydon King |
| DEPARTMENT: | Development & Community Services | FILE REF: | F11/3291 |

Purpose

To seek Council's support for the sunseting Colac Livestock Selling Centre Local Law no.5 in favour of a more flexible and contemporary management regime for Council's Livestock Selling Centre.

Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Background

The Colac Livestock Selling Centre Local Law No.5 is due to sunset on 23 September 2015, ten years after being introduced in 2005. This local law was not reviewed at the same time as other local laws in 2013/14. A decision needs to be reached as a matter of urgency about whether this be allowed to sunset and not be replaced, or whether further work should occur in the development of a replacement local law.

The Local Law No.5 is attached and goes into significant detail such as proscribing the number of dogs that a person may use to move livestock and that a person must not loiter in an entrance. This level of proscription, with the penalty of a criminal infringement notice, is perhaps not suited to modern public administration.

The context for making Local Laws has changed somewhat since Local law No.5 was originally adopted by Council. New Ministerial Guidelines issued under Part 5 of the Local Government Act 1989, provide that Local Laws should not be unnecessarily made when the objective could be achieved by use of existing legislation. Specifically the guidelines state at Schedule 8(2)(i) that a Local Law must not: *"Duplicate, overlap or conflict with other statutory rules or legislation."*

For example in the case of those elements of the Local Law that allow the Superintendent to exclude persons from the saleyards, such a remedy exists under the laws of trespass and as such much of the content of the existing Local Law No.5 would not be replicable in a new Local Law. Similarly those elements of Local law No.5 that deal with animal welfare could be said to be dealt with more adequately and comprehensively under the State governments animal welfare legislation.

While many councils have local laws that regulate the operation of their saleyards, quite a few including Euroa, Echuca, Corryong, Casterton, Camperdown, Bendigo and Bairnsdale do not. Sufficient powers exist under common law and Council's other Local Laws are available to effectively manage the saleyards and there should be no effect on the operation of the yards without the Local Law, provided sensible precautions are taken such as notifying users to the yards of their responsibilities.

Notably there is a context to these issues in reference to a period of time when Melbourne City Council did not have a Local Law covering the operation of the Victoria Market and a number of stall holders sought to avoid fees that had been set by resolution of Council rather than under a Local Law. The Supreme Court ruled that the Council had more than enough power as a property owner and as a Council to set those fees and the action was unsuccessful.

Council Plan / Other Strategies / Policy

A Planned Future

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

Our Goal:

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

Issues / Options

Local Laws proscribe behaviours as criminal offences. It could be said that in the modern era it is not in keeping with community standards for something like a failure to notify a saleyards superintendent of yarding numbers to attract a criminal penalty. The sun setting of the Local Law will not be a threat to the operation of the saleyards given other controls that exist. Indeed, the requirement to make users of the saleyards aware of the behaviours expected of them under the alternate arrangements, could be said to more positively moderate or affect behaviours, than the simple adoption of a local law. There are steps that could be taken to develop alternative management outcomes at the saleyards and it is proposed that a plan to implement these steps be provided to Council's September 2015 meeting should Council support the sunsetting of the Local Law No.5 at its August 2015 meeting.

Proposal

That Council allow the Colac Livestock Selling Centre Local Law no.5 to sunset in favour of arrangements available to Council in the exercise of, and reliance on, its powers as a landowner.

Financial and Other Resource Implications

The required policy development and communication activity can be achieved with existing operational budgets.

Risk Management & Compliance Issues

There are no significant risks associated with the proposal.

Environmental and Climate Change Considerations

There are no environmental or climate change considerations associated with the proposal.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be inform and include: presentations to the Saleyards Advisory Committee, improved signage at the entrance to the saleyards and amendments to the leasing arrangements for tenants at the saleyards.

Implementation

Should Council support the sunsetting of Local Law no.5 an implementation plan will be presented to the September 2015 meeting of Council.

Conclusion

The Colac Livestock Selling Centre Local Law No.5 is due to sunset on 23 September. It should be allowed to do so in favour of more contemporary management methods.

Attachments

1. Colac Livestock Selling Centre - Local law No. 5 2005

Recommendation(s)

That Council:

1. ***That Council allows the Colac Livestock Selling Centre Local Law No.5 to sunset on 23 September 2015.***
2. ***Requests a report to the 23 September 2015 Council meeting detailing alternative management policies for the Colac Regional Saleyards.***

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**OM152608-10 LAKE BEEAC FORESHORE WALKING TRACK**

|             |                                  |           |             |
|-------------|----------------------------------|-----------|-------------|
| AUTHOR:     | Katrina Kehoe                    | ENDORSED: | Brydon King |
| DEPARTMENT: | Development & Community Services | FILE REF: | F15/101     |

**Purpose**

To outline the details of the proposed pathway project at Lake Beeac foreshore and to release the draft plans for public consultation.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

A walking track has been proposed to be constructed along the Lake Beeac foreshore as part of the Small Town Improvement Program (STIP).

The original scope of the proposal was for the path to be established between Burnett/Wallace (to the north) and Bevan Street to the south. The attached map (Attachment 2) shows the extent of this area. The northern section of the foreshore land between Burnett/Wallace Streets and Buchanan Street is the former Beeac landfill site, which Council currently manages on behalf of the State Government.

In 2014/2015, \$5,000 of STIP funding was allocated by Council to undertake environmental and cultural heritage feasibility studies and the preparation of draft plans.

A key issue relating to construction of a pathway alongside the lake is the question of who manages the land upon which the path would be located.

It is not recommended that Council increases its responsibility in the area or that Council becomes the Committee of Management (CoM) over a larger area of the lake foreshore than it already manages. This is due to financial and non-financial implications for Council of taking on responsibility for management of further public land. Council and the land manager are currently investigating alternative management options.

**Council Plan / Other Strategies / Policy**

**A Place to Live and Grow**

Is a community where people feel cared for and supported; where buildings and spaces facilitate creativity, social activity and enrichment of life, and people have access to gain the skills and education needed to reach their potential.

*Our Goal:*

Improve access to buildings, spaces, services and education to support and enable quality of life.

**Issues / Options**

STIP funds of \$25,000 have recently been allocated by Council under the 2015/2016 program for the construction of a path, subject to all regulatory approvals being completed.

The pathway could be constructed in stages – the first stage would enable the path to be constructed along the Lake Beeac foreshore between Burnett/Wallace Street and Buchanan Street (picnic area). The proposal before Council currently relates only to Stage one.

A stage two between Buchanan and Beal Street could possibly be constructed in the future if additional funding was made available and land management issues are finalised. A final stage three could link the foreshore pathway along Beal Street to Main Street.

Draft plans have been prepared relating to the proposed Stage one (around the former landfill area) and it is proposed that these go on public exhibition for the community to review and provide comment on.

### **Proposal**

That Council reviews and endorses the draft plans for a pathway along the foreshore at Lake Beeac for public consultation for a period of 6 weeks. This will be an opportunity for the community to comment and provide feedback on the draft plans.

It is proposed that the construction of the pathway will be on land which Council currently manages between Burnett/Wallace Streets to Buchanan Street. A minor adjustment to the area of foreshore land managed by Council in this location would need to be negotiated. This is an area of land which Council currently maintains.

Further stages of the path (ie: stage two between Buchanan Street and Beal Street, or an extended length of path to Bevan Street) would need to occur on DELWP managed land. It has been raised that Council could become Committee of Management for the Stage 2 area. Given the implications of increased cost to Council, and liability of threatened flora species on the southern section noted above, it is recommended that Council does not agree to management of this land. Instead, it is proposed that Council supports the Beeac Progress Association in an advocacy role for the State Government to provide a path over that section, with the land retained under state management, whether by DELWP or Parks Victoria.

### **Financial and Other Resource Implications**

A critical consideration in this issue is the capacity within the Shire's Assets and Property Services, Services and Operations, and Environment Department to maintain additional public land, and the financial implications for Council.

With the high likelihood of State Government rate capping legislation being introduced there will be significant pressure on Council to reduce its expenditure over the coming years. This would weigh against Council taking on responsibility for the management of additional public land (eg; the Stage 2 pathway area) particularly if it were to involve the management of threatened plant species. As such, it is proposed that Council do not extend the walking track south of Buchanan Street (ie beyond the area of land currently managed by Council).

### **Risk Management & Compliance Issues**

Investigations by Council officers have found that a minimum 4 metre distance from the lake edge is required to:

- Provide greater public safety from the steep drop-off of the water line;
- allow machinery to access and mow the area between the path and drop-off; and
- keep a grassed buffer between the path and the lake to protect the RAMSAR values of the lake from herbicide run off.

## **Environmental and Climate Change Considerations**

### **Environmental Constraints**

The initial CoM request has been reviewed in light of the findings of the feasibility assessments undertaken by Council officers.

Environmental considerations, particularly the presence of the nationally threatened Spiny Peppercreep plant, indicate that the pathway might not be feasible between Beal Street and Bevan Street, which is the southern most section. These species are the subject of protection under the *Environment Protection and Biodiversity Conservation (EPBC) Act*, and are being actively managed by DELWP.

Council would need to avoid impacting on these species, and on balance, it is considered best to avoid those sections altogether, reducing the length of the path from its original scope.

### **Community Engagement**

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be consult and include public exhibition of the draft plans for a 6 week period for the community to make comment on.

Advertisements will be placed in the local media on 4 September 2015 inviting the public to comment on the draft plans. The public review period will be six (6) weeks, beginning on 4 September 2015 and concluding on 16 October 2015.

The draft plans will be placed on Council's website, with hard copies in the Colac and Apollo Bay Customer Service Centres and the Colac Community Library and Learning Centre.

Submissions received by Council during this review period will be assessed by Council officers and incorporated into the plans where considered appropriate.

### **Implementation**

It is proposed to negotiate with DELWP to have minor extensions to the current managed area at the former landfill site to extend to Burnett/Wallace Street and Buchanan Street.

It is proposed to put the draft plans on public exhibition for a 6 week period for the public to make comment on.

### **Conclusion**

It is recommended that Council negotiates with DELWP for a minor extension to the existing area that is managed by Council in the section of the proposed path between Burnett/Wallace Streets and Buchanan Street (stage one) and place the draft plans on public exhibition for a 6 week period.

By endorsing the draft Stage one plans for public exhibition and comment, Council will provide the opportunity for community input to further refine the proposed pathway proposal.

It is not recommended that Council become the CoM for the foreshore land between Buchanan Street to Beal Street (ie the area not currently managed by Council). The Beeac Progress Association may wish to advocate to the State Government for an extension of the path as a later stage if further funding becomes available and land management can be

resolved without Council taking on CoM responsibility. Council can assist the Association in an advocacy role.

**Attachments**

1. Draft Plans - STIP 2015 -2016 - Lake Beeac Foreshore pathway - 20150722
2. Aerial Map for proposed pathway - STIP 2015 - 2016 - Lake Beeac Foreshore Pathway

**Recommendation(s)**

***That Council:***

1. ***Endorses the draft Stage One pathway plans for public consultation.***
2. ***Places the draft Stage One pathway plans on exhibition for a period of six (6) weeks commencing 4 September 2015 and concluding 6 October 2015.***
3. ***Supports extending the area of land managed by Council beyond the current over the former landfill area to link to Burnett/Wallace Street and Buchanan Street. Note that Council currently maintains this land.***
4. ***Advises DELWP and the Beeac community that Council does not intend to extend the pathway from Buchanan Street to Beal Street (Stage two) or to take on Committee of Management over this area of land.***
5. ***Assists the Beeac Progress Association in an advocacy role should they wish to pursue the pathway from Buchanan Street to Beal Street (Stage Two) in the future.***

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OM152608-11 AUSTRALIA DAY AWARD GUIDELINES

| | | | |
|-------------|----------------------------------|-----------|-------------|
| AUTHOR: | Hege Eier | ENDORSED: | Brydon King |
| DEPARTMENT: | Development & Community Services | FILE REF: | F15/4287 |

Purpose

The purpose of this report is to present for Council's consideration a revised set of Australia Day Award Guidelines.

Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

Background

The National Australia Day Council, together with the state and territory Australia Day committees, administer Australia Day Awards on a state and national level.

Councils work in close partnership with the state and territory Australia Day committees to deliver Australia Day Awards on a local level.

The Colac Otway Shire supports Australia Day celebrations at a local level by committing funds to conduct an official Australia Day ceremony, incorporating a citizenship ceremony and the presentation of the Colac Otway Shire Australia Day Awards.

The Colac Otway Shire Australia Day Awards celebrate the achievements and contributions by outstanding members and groups in our community that inspire us through their efforts and make us proud to be Australian.

Awards are available in the following categories:

- Citizen of the Year.
- Young Citizen of the Year.
- Community Service of the Year Award.
- Sporting Service of the Year Award.
- Arts Service of the Year Award.

The Colac Otway Shire Australia Day Award Program is coordinated by Council and decisions relating to the Awards are made by the Australia Day Advisory Committee, consisting of all seven Colac Otway Shire Councillors.

There have been issues identified about the current award guidelines providing clear eligibility and selection criteria that has generated this review and report.

Council Plan / Other Strategies / Policy

Good Governance

Means we care about and are responsive to the community, encourage democratic participation and involve people in decisions that affect them. We strive for excellence in financial management and council services, and always look for better ways to do things.

Our Goal:

Ensure transparency of governance practices, the capability of our organisation and effective resource management.

Issues / Options

Issues identified with the current Australia Day Award Guidelines:

- The current Australia Day Award Guidelines fall short of listing a clearly identifiable set of eligibility and selection criteria against which nominations will be assessed.

Reviewing and further developing the Australia Day Award guidelines will:

- Provide transparency to the public about the Australia Day selection and eligibility criteria and the selection process.
- Provide stronger guidance to Council in the Australia Day Award selection process.

Aligning the Colac Otway Shire's Australia Day Awards program with the selection and eligibility criteria for the State and National Australia Day Award Program will ensure that:

- The selection and eligibility criteria for our local awards fit within the overarching national vision for Australia Day and the Australia Day Awards.

Eligibility and Selection Criteria

Selection Criteria

In line with the National and State Australia Day Award Guidelines, it is recommended that the following selection criteria and list of considerations against the nominated criteria are adopted:

The Selection Criteria are:

- Demonstrated excellence in their field.
- Significant contribution to the Colac Otway Shire community.
- Inspirational role model for the Colac Otway Shire community.

Council will give consideration to the following in assessing and comparing nominations against the above criteria:

- Community contribution – how has the nominee contributed to the betterment of the Colac Otway Shire Community
- Long term and short time benefit for the community.
- Personal academic and professional achievements will be recognised as long as the nominee has used his or her achievements to "put back" into the community to benefit others or the community as a whole.
- Contributions must have been made on a voluntary basis and beyond paid work.
- Nature and length of activity or service.
- Degree of difficulty and/or sacrifices made.
- Previous awards and recognition.
- Demonstrated leadership, innovation and creativity.
- Future goals and likely impact.

Eligibility Criteria

In line with the National and State Australia Day Award Guidelines, it is recommended that the following eligibility criteria are adopted:

- All nominees must be at least 16 years of age on 26 January in the year of the award.
- Sitting state and federal politicians and vice regal officers are not eligible. Retired politicians and vice regal officers will only be considered for work undertaken in addition to their official duties.
- Self-nominations will not be accepted.
- Awards will not be granted posthumously.
- Unsuccessful nominees may be re-nominated in subsequent years.
- No weight is given to the number of times a person is nominated.
- A nominee that has previously received an award in one category cannot receive another award in the same category.

The following exception has been made to the national and state criteria:

- The Colac Otway Shire Australia Day Awards Program does not require award recipients to hold Australian Citizenship. The Colac Otway Shire Australia Day Awards is an inclusive program, it celebrates everyone who has contributed to our community, including Australian Citizens, refugees and those on permanent and temporary visas.
- The Colac Otway Shire Australia Day Awards Program recognises that there are a number of groups and clubs as well as individuals that contribute to community and as such encourage group and club nominations as well as individual nominations in the Community, Sports and Art Service Award Categories.

The following additional criteria have been added to the national and state criteria:

- The current eligibility criteria of residing and/or attending an educational institution within the Colac Otway Shire have been included in the new guidelines. Under the new guidelines the selection panel reserves the right to consider community contributions made by those that reside and study outside the Shire if their volunteer contributions have been made within the Shire.
- The age requirement for the Young Citizen (25 years or younger on the day of the award) and the Citizen of the Year (25 years or older on the day of the award) will remain the same in the new guidelines as in the previous guidelines.

Conditions of Entry:

A set of conditions of entry have been added to the guidelines:

- Nominations must be attached to the Colac Otway Shire's Australia Day Award Nomination Form.
- Nominations must be received by the closing date.
- In the event that no nominations are received in any of the categories, Council reserves the right to grant the award to a citizen or group of its choice.
- No awards will be made if it is considered that nominations are not of a sufficiently high standard.
- Council's decision on the Australia Day Awards is final and no correspondence will be entered into in regards to that decision.

The conditions of entry provide:

Important information relating to nomination forms and deadlines.

- Information relating to the number of awards that will be awarded.

- Procedures that will be followed in the case:
 - Nominations are of a low standard.
 - No nominations are received.

Proposal

It is proposed that Council adopts the revised Australia Day Award Guidelines.

Financial and Other Resource Implications

There are no direct financial implications in relation to the adoption of the revised Australia Day Award Guidelines.

Risk Management & Compliance Issues

The Australia Day Award Guidelines have been reviewed based on the National and State Australia Day Award Guidelines.

Environmental and Climate Change Considerations

Not applicable.

Community Engagement

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected will be “*inform*” where the Colac Otway Shire will inform the community of Council’s Revised Australia Day Award Guidelines.

Implementation

Should the revised Guidelines be adopted, implementation would occur for the 2016 Australia Day Awards.

The nomination form and guidelines will be updated and the community will be informed about the new guidelines via the media, COS web site and by direct mailout.

Conclusion

The Australia Day Advisory Committee recommends that Council endorse its recommendation to adopt the revised Australia Day Award Guidelines and Nomination Form.

Attachments

1. Revised Australia Day Award Nomination Form
2. Revised Australia Day Award Guidelines

Recommendation(s)

That Council adopts the revised Australia Day Award Guidelines and Nomination Form.

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**OM152608-12 ASSEMBLY OF COUNCILLORS**

|             |               |           |               |
|-------------|---------------|-----------|---------------|
| AUTHOR:     | Rhonda Deigan | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Executive     | FILE REF: | F15/5960      |

**Introduction**

The *Local Government Act 1989* (the Act) requires that records of meetings, which constitute an Assembly of Councillors, be tabled at the next practicable meeting of Council and incorporated in the minutes of the Council meeting.

**Definition**

An “assembly of Councillors” is a defined term under section 3(1) of the *Local Government Act 1989*.

It is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or the exercise of a delegated authority and which is either of the following:

- A meeting of an advisory committee where at least one Councillor is present or
- A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

If a meeting fits either of these types, the procedures applying to an assembly of Councillors must be complied with, irrespective of any name or description given to the committee or meeting.

**Advisory Committees**

Section 3(1) of the Act defines an advisory committee to be any committee established by the Council, other than a special committee, that provides advice to:

- *the Council or*
- *a special committee or*
- *a member of Council staff who has been delegated a power, duty or function of the Council under section 98.*

**Councillor briefings**

One type of meeting that is clearly an assembly of Councillors is the type of regular meeting, commonly referred to as a “Councillor Briefing” or similar name where Councillors and staff meet to discuss issues that are likely to come before Council for decision.

As part of decision making processes at Colac Otway, it is essential that Councillors are briefed on a range of issues which come before Council for consideration. As a means of providing this information, Assembly of Councillor briefings are conducted.

Assemblies are also attended by Council Officers, and sometimes other specific advisors, to provide Councillors with a detailed knowledge and understanding of issues under consideration to a level of detail that would inhibit timely decision-making, that would not be possible in an open council meeting or where decision-making related debate is governed by strict meeting procedures.

While these meetings have no authority to make Council decisions, they are generally assemblies of Councillors and subject to conflict of interest disclosures.

### **What records are to be kept**

Section 80A of the Act requires that a record must be kept of an Assembly of Councillors which lists:

- the names of all Councillors and members of Council staff attending;
- the matters considered;
- conflict of interest disclosures made by a Councillor (if any are made); and
- whether a Councillor who has disclosed a conflict of interest leaves the assembly.

It is a requirement that the record of an assembly is to be reported to the next practicable ordinary meeting of Council and be incorporated in the minutes of that Council meeting.

### **Assemblies of Councillors**

The following Assemblies of Councillors have been held:

- |                                        |                |
|----------------------------------------|----------------|
| · Councillor Briefing                  | 15 July 2015   |
| · Great South Coast Food & Fibre Forum | 21 July 2015   |
| · Councillor Briefing                  | 22 July 2015   |
| · Councillor Briefing                  | 29 July 2015   |
| · Councillor Briefing                  | 5 August 2015  |
| · Councillor Briefing                  | 12 August 2015 |

### **Attachments**

1. Assembly - Councillor Briefing - 20150715
2. Great South Coast Food & Fibre Forum - 21 July 2015
3. Assembly - Councillor Briefing - 20150722
4. Assembly - Councillor Briefing - 20150729
5. Assembly - Councillor Briefing - 20150805
6. Councillor Briefing - 12 August 2015

### **Recommendation(s)**

***That Council notes the Assembly of Councillors reports for:***

- |                                                          |                              |
|----------------------------------------------------------|------------------------------|
| · <b><i>Councillor Briefing</i></b>                      | <b><i>15 July 2015</i></b>   |
| · <b><i>Great South Coast Food &amp; Fibre Forum</i></b> | <b><i>21 July 2015</i></b>   |
| · <b><i>Councillor Briefing</i></b>                      | <b><i>22 July 2015</i></b>   |
| · <b><i>Councillor Briefing</i></b>                      | <b><i>29 July 2015</i></b>   |
| · <b><i>Councillor Briefing</i></b>                      | <b><i>5 August 2015</i></b>  |
| · <b><i>Councillor Briefing</i></b>                      | <b><i>12 August 2015</i></b> |

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OM152608-13**MINUTES OF THE OLD BEECHY RAIL TRAIL COMMITTEE**

| | | | |
|-------------|-----------------------------------|-----------|---------------|
| AUTHOR: | Lucy Vesey | ENDORSED: | Ingrid Bishop |
| DEPARTMENT: | Infrastructure & Leisure Services | FILE REF: | 11/96660 |

It has been previously agreed to by Council that the minutes of the Old Beechy Rail Trail Committee should be included in the Council agenda once any confidential items have been identified and the minutes have been confirmed by the Committee.

Attached are the Minutes from the meeting held 1 June 2015.

Meetings are held every two months, commencing in February of each year.

Attachments

1. Meeting Minutes - Old Beechy Rail Trail - 1 June 2015

Recommendation(s)

That Council notes the Minutes of the Old Beechy Rail Trail Committee for 1 June 2015.

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**OM152608-14 LICENCE AGREEMENTS OLD BEECHY RAIL TRAIL 2015**

|             |                                   |           |               |
|-------------|-----------------------------------|-----------|---------------|
| AUTHOR:     | Lucy Vesey                        | ENDORSED: | Ingrid Bishop |
| DEPARTMENT: | Infrastructure & Leisure Services | FILE REF: | 11/96660      |

**Purpose**

To present to Council Licence Agreements for signing and sealing between Council and landowners for the Old Beechy Rail Trail to pass over private property between Colac and Ferguson.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Background**

The Old Beechy Rail Trail (OBRT) is a 50km walking/cycling trail between Colac and Ferguson that follows much of the original path of the narrow gauge railway "The Beechy" which operated from 1902 until 1962. The OBRT has been developed over many years following the establishment of the OBRT Committee which was formed in 1998. The existing trail transcends both public and private land.

Council at its February 2004 meeting approved a standard Licence Agreement between Council and landowners for the OBRT to pass over private property between Colac and Beech Forest. There are a number of Licence Agreements in place along the length of the OBRT which are for a period of five years. Renewal of Licence Agreements are generally considered towards the end of the term. Six individual licences are now up for renewal and are presented to Council for signing and sealing.

**Council Plan / Other Strategies / Policy**

**A Planned Future**

Creates an attractive shire with quality buildings and spaces, accessible travel and transport, and a community that has the services and facilities it needs now and in the future; supports a prosperous economy where trade, manufacturing and business activity flourishes.

*Our Goal:*

Facilitate the growth, liveability and development of the shire and encourage innovation and efficiency in the local economy.

The development of Licence Agreements between private landowners and Council play an important role in working together with our community.

**Issues / Options**

The OBRT currently runs over private property owned by the following:

1. S Gardiner & M Gardiner
2. R J Maxwell
3. C J & M J Smith
4. Midway Plantations Pty Ltd
5. D & P Jukes
6. D Colless

Licence Agreements for public access over this land are set to expire and require Council's approval to sign and seal the renewed agreements. The standard Licence Agreement used is that which was approved by Council in 2004.

The process for seeking private landowners consent follows that stated in the Old Beech Rail Trail Licence Agreement Fact Sheet, developed to make clear the process of developing and/or renewing Licence Agreements.

Landowners were contacted by Council in writing regarding the request to renew the existing Licence Agreements. A copy of the Licence Agreement was provided and presented for the private landowner's consideration and/or to seek advice as deemed appropriate.

Land owner approval and agreement to renew the Licence Agreements was obtained through the approved process set out in the fact sheet. No concerns or queries were raised by the private landowners regarding the renewal of the Licence Agreements.

### **Option 1**

For Council to sign and seal the Agreements as presented.

The renewal of Licence Agreements would continue to provide community access to the OBRT. The Licence Agreement indemnifies the private landowner against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee.

### **Option 2**

Not to sign and seal the Licence Agreements put forward.

It is an important process that Licence Agreements are signed and sealed to maximise long term access to the Old Beechy Rail Trail and provide adequate coverage for the private landowner.

### **Proposal**

It is proposed that Council resolve to sign and seal the attached Licence Agreements to allow public access to the OBRT over land owned by:

1. S Gardiner & M Gardiner
2. R J Maxwell
3. C J & M J Smith
4. Midway Plantations Pty Ltd
5. D & P Jukes
6. D Colless

### **Financial and Other Resource Implications**

The licence fee payable by Council to each private landowner for use of their land is one dollar.

### **Risk Management & Compliance Issues**

Risk management issues have been addressed in clauses contained in the Licence Agreement.

### **Environmental and Climate Change Considerations**

Not applicable to this report.

### **Community Engagement**

The community engagement strategy follows the recommendations of the Colac Otway Shire Council Community Engagement Policy of January 2010, which details five levels of engagement – inform, consult, involve, collaborate and empower.

The method selected would be inform and consult.

Council has been kept informed through the tabling of the Old Beechy Rail Trail Committee of Management minutes.

### **Implementation**

Correspondence was provided to all relevant landowners subject to renewed Licence Agreements. Licence Agreements were presented for consideration and landowners were encouraged to seek advice as deemed appropriate, prior to returning to Council for signing and sealing. All parties have agreed to sign the agreements. A letter containing a copy of the signed and sealed Licence Agreement will be forwarded to all affected landowners following approval by Council.

### **Conclusion**

Licence Agreements exist between Council and private landowners which allow public access to the Old Beechy Rail Trail. Six Licence Agreements are due for renewal which require Council's approval to sign and seal agreements. The process for seeking landowners consent to renew the Licence Agreements follows the agreed process stated in the Old Beech Rail Trail Licence Agreement Fact Sheet.

### **Attachments**

1. Licence Agreement - BLANK - Old Beechy Rail Trail - 2015
2. Licence for Council Signing - Licence to Pass Over Private Property - 1805 Colac Laver Hill Road KAWARREN - Gardiner S & M
3. Licence for Council Signing - Licence to Pass Over Private Property - 1485 Colac Lavers Hill Road KAWARREN - Maxwell RJ
4. Licence for Council Signing - Licence to Pass Over Private Property - 960 Old Beech Forest Road BEECH FOREST - Smith CJ
5. Licence for Council Signing - Licence to Pass Over Private Property - Midway Limited
6. Licence for Council Signing - Licence to Pass Over Private Property - 1845 Colac Lavers Hill Road KAWARREN - Jukes D & P
7. Licence for Council Signing - Licence to Pass Over Private Property - 1170 Old Beech Forest Road GELLIBRAND - Colless D

### **Recommendation(s)**

1. ***That Council signs and seals the licence agreements between S Gardiner & M Gardiner, R J Maxwell, C J & M J Smith, Midway Plantations Pty Ltd, D & P Jukes, D Colless and Colac Otway Shire Council for licence of Land Occupancy (Beechy Line Rail Trail.)***

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OM152608-15 MINUTES FROM YOUTH COUNCIL MEETINGS

| | | | |
|-------------|---------------|-----------|---------------|
| AUTHOR: | Maree Redmond | ENDORSED: | Sue Wilkinson |
| DEPARTMENT: | Executive | FILE REF: | F15/7377 |

Attached are the minutes of Youth Council meetings held on:

- 15 June 2015
- 22 June 2015
- 20 July 2015
- 3 August 2015

Attachments

1. Minutes - Youth Council Meeting - 20150615
2. Minutes - Youth Council Meeting - 20150622
3. Minutes - Youth Council Meeting - 20150720
4. Minutes - Youth Council Meeting - 20150803

Recommendation(s)

That Council notes the minutes arising from Youth Council meetings held on:

- ***15 June 2015***
- ***22 June 2015***
- ***20 July 2015***
- ***3 August 2015.***

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**OM152608-16 MINUTES OF COLAC COMMUNITY LIBRARY AND  
LEARNING CENTRE JOINT COMMITTEE**

|             |                    |           |              |
|-------------|--------------------|-----------|--------------|
| AUTHOR:     | Colin Hayman       | ENDORSED: | Colin Hayman |
| DEPARTMENT: | Corporate Services | FILE REF: | 11/96218     |

**Colac Community Library and Learning Centre (CCLLC) Joint Committee**

The minutes of the 13 May 2015 meeting of the Joint Committee are attached.

**Attachments**

1. CCL&LC Joint Committee Minutes - 13 May 2015

**Recommendation(s)**

***That Council notes the minutes of the Colac Community Library and Learning Centre (CCLLC) Joint Committee for 13 May 2015.***

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IN COMMITTEE

Recommendation

That pursuant to the provisions of Section 89(2) of the Local Government Act, the meeting be closed to the public and Council move “In-Committee” in order to deal with:

| <i>SUBJECT</i> | <i>REASON</i> | <i>SECTION OF ACT</i> |
|--|---|------------------------------|
| Minutes of the 22 July 2015 In-Committee Meeting | this matter deals with contractual matters; AND this matter deals with legal advice | Section 89 (2) (d) (f) |
| Contract 1527 - Provision of a Website Content Management System | this matter deals with contractual matters | Section 89 (2) (d) |
| Colac Regional Saleyards Kattle Gear Report | this matter deals with contractual matters; AND this matter may prejudice the Council or any person | Section 89 (2) (d) (h) |



ORDINARY COUNCIL MEETING

WEDNESDAY, 26 AUGUST 2015

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**OM152608-16 Minutes of Colac Community Library and Learning Centre
Joint Committee**

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**THE DRAFT LOCAL GOVERNMENT RATES CAPPING AND VARIATION FRAMEWORK
QUESTIONS AND ANSWERS - JULY 2015**

What has the Commission been asked to do?

In January 2015, the State Government asked the Commission to design a framework that meets the Government's commitment to cap annual council rate increases as well as to develop a workable process to assess any proposals by councils for rate increases above the cap. The specific requirements were contained in a Terms of Reference issued by the Minister for Finance and Minister for Local Government.

What will the new framework do?

The framework will promote a transparent and independently verifiable decision-making process in relation to the trade-offs involved in determining council rates.

The framework will be overseen by an independent authority (the ESC) for the benefit of the community and ratepayers who, individually, have limited capacity to engage with these decision-making processes.

In doing so, it seeks to give ratepayers and the broader community confidence that disciplined decision-making is being exercised by their individual councils, and by the sector as a whole.

What is a rates capping and variation framework?

The three elements of the proposed framework are:

- 1. The rate cap** — the maximum annual rate of increase that councils can apply to their rates revenue.
- 2. The variation process** — a mechanism for councils to apply for increases in rates above the rate cap.
- 3. Monitoring and reporting** — a means for verifying and reporting on compliance with the cap or variation conditions and providing accurate and reliable information about overall outcomes for ratepayers and communities under the framework. Monitoring and reporting will also facilitate a process for identifying and addressing unusual or unexplained outcomes.



THE DRAFT LOCAL GOVERNMENT RATES CAPPING AND VARIATION FRAMEWORK QUESTIONS AND ANSWERS - JULY 2015

THE RATE CAP

How will the rate cap be set?

We are proposing that the rate cap be based on a combination of three items:

- **Consumer Price Index (CPI)** — forecasts published each year by the Victorian Department of Treasury and Finance (DTF)
- **Wage Price Index (WPI)** — forecasts also published each year by DTF
- **An efficiency factor** — that recognises expected productivity gains.

Research suggests that labour costs represent around 40 per cent of the local government sector's overall costs.

The suggested formula for setting the cap is as follows:

$$\begin{aligned}\text{Annual Rate Cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor})\end{aligned}$$

The Commission is recommending that the efficiency factor be set at zero in the first year to allow for transition to the new framework, 0.05 in the second year, and 0.10 in the third year. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long term rate for the efficiency factor.

Table 1 shows indicative forecasts for the annual rate cap (as at July 2015)

**TABLE 1 INDICATIVE FORECASTS FOR THE ANNUAL RATE CAP
(AS AT JULY 2015)**
Per cent

| | 2016-17 | 2017-18 | 2018-19 |
|--|-------------|-------------|-------------|
| Underlying CPI forecast
(60 per cent weighting) | 2.75 | 2.5 | 2.5 |
| Plus WPI forecast
(40 per cent weighting) | 3.5 | 3.5 | 3.5 |
| Less Efficiency factor | 0 | 0.05 | 0.10 |
| FORECAST ANNUAL RATE CAP | 3.05 | 2.85 | 2.80 |



**THE DRAFT LOCAL GOVERNMENT RATES CAPPING AND VARIATION FRAMEWORK
QUESTIONS AND ANSWERS - JULY 2015**

When will the rate cap come into effect?

The rate cap and variation framework will be introduced for the 2016-17 rate year. Increases will be measured against rates in 2015-16.

What is being capped?

The Commission is proposing that the rate cap applies to general rates (levied against each property's valuation) and municipal charges (covering some of councils' administrative costs) only.

It does not include:

- service rates and charges — for services to properties such as waste management and water provision
- special rates and charges — paid by a particular group of property owners for services of special benefit to them
- revenue in lieu of rates — payments received on certain lands
- the fire service levy
- the landfill levy

The general rates and municipal charges to which the cap will apply represent about 88 per cent of the total rate revenue raised by councils in Victoria.

How will the rate cap affect ratepayers?

The cap is focussed on the 'average' or 'typical' ratepayer. Individual rates could still increase by more or less than the capped amount, whether or not a council applies for a variation to the cap.

The average rate is calculated by dividing a council's total rate revenue by the number of rateable properties in the area. This approach is straightforward and maintains council's ability to determine its rates mix within the broader framework.



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The cap is the maximum amount the average rate can be increased. It is a matter for individual councils to decide whether to increase the rate by a lesser amount, or apply for a variation to increase rates by more than the cap.

THE VARIATION PROCESS

What does a council need to do to apply for a variation to the cap?

The draft framework does not specify the reasons for which a council may or may not apply for a variation. This will be determined by individual councils.

If a council proceeds to apply for a variation, it will need to address in its application:

- the reason a variation from the cap is required
- how the views of ratepayers' and communities' have been taken into account
- whether the variation represents good value-for-money and is an efficient response to the budgetary need
- service priorities and funding options have been considered
- the proposal is integrated into the council's long term strategy.

The approach we are proposing is not overly burdensome, but it does require councils to present a solid case, engage with communities and consider other options beforehand.

Can the Commission recommend or approve a different increase than the one sought by a council?

When the Commission determines that an application satisfactorily supports the need for the proposed variation, it would approve the variation.

In circumstances where a council's application does not adequately support the rate increase it is seeking, the Commission would only have the power to reject the application. If an application were rejected, the Council's rates would only increase by the rate cap.

Will the results of the Commission's decision on a variation application be public?

Yes — at the conclusion of the rates variation period, the Commission will issue a statement summarising the details of each variation application, its decisions and the basis for those decisions.



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MONITORING AND REPORTING

Why is monitoring important?

A well-designed monitoring and reporting regime can inform ratepayers' assessment of the value-for-money delivered by their councils, as well as how this might change over time.

What will the Commission monitor?

The Commission is proposing to monitor that:

- the relevant council rates and charges are set in accordance with the rate cap or an approved variation above the cap, for the corresponding financial year
- performance outcomes in relation to services, infrastructure and financial sustainability following the implementation of the rates capping framework.

What will the Commission report on?

We are proposing to publish a number of reports in relation to the operation of the framework. These include:

- reports on the annual rate cap, variation applications received and the outcomes of variation applications, including the rationale for the Commission's decision
- an annual rates report detailing council adherence with the rate cap or approved variations above the cap
- an annual monitoring report detailing the findings of the ongoing monitoring regime in relation to performance outcomes under the framework

Public reporting of these outcomes allows ratepayers to verify the linkages between the rates they pay and the outcomes they observe.

Will the framework be reviewed?

We are recommending that there be a formal review of the framework every four years drawing on information collected under the monitoring regime and this review should seek input from all interested parties.



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Summary of Submissions to the Consultation Paper released in April 2015

Our consultation paper asked interested parties to make submissions in response to a number of questions and any other matters they believed important for us to consider in designing and implementing a rates capping and variation framework. We received 287 submissions from ratepayers, ratepayer associations, councils, council service providers, sector peak bodies, other council groups, unions and community organisations. The submissions have provided us with insights into how the sector and the broader community think the local government rates capping and variation framework should work.

The following section outlines some of the key issues identified in submissions. (A commentary on the submissions can be found in Appendix E of Volume II).

Ratepayers' Views

We received a large number of submissions from ratepayers and ratepayer associations. The majority of these supported the introduction of a rates capping and variation framework. Those who were opposed were concerned with the potential for deterioration in council service provision and asset management and maintenance under the framework.

It was commonly viewed that while a Consumer Price Index (CPI) cap may not accurately reflect council costs, it reflects the community's ability to pay. Some ratepayers suggested a cap be based on the Local Government Cost Index (LGCI).

Some ratepayers commented that the rate cap should apply differently to councils to account for cost pressures specific to them; for example, interface councils facing high infrastructure and service demand, or rural councils with smaller rate bases and large road networks. Other ratepayers suggested that if this were the case, ratepayers across Victoria would be inequitably treated based on the council area in which they live.

A number of ratepayers suggested that it is important for the Commission to include a productivity factor into the cap to ensure councils continuously strive to achieve efficiencies in their operations. It was suggested that rate increases above the cap should be once-off and not become part of council rate bases (that is, rates and charges in the long term should grow in line with inflation). Some ratepayers also argued that councils should not be able to unnecessarily increase borrowings in lieu of rates increases.

Regarding the variation process, ratepayers generally emphasised the need for a robust and systematic approach. Suggestions to ensure variations were justified included:

- incorporating variations into long term plans
- sufficient community engagement
- sunset clauses for variations, and
- different approaches for controllable and non-controllable costs.



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Most ratepayer submissions supported greater transparency and more meaningful engagement between councils and ratepayers.

Some ratepayers also suggested that indicative forecasts be given to councils for planning purposes, that there be a review of the framework in two years' time and that the Commission be given a determinative role under the rate capping and variation framework.

Councils, Council Groups, Council Service Providers and Community Based Organisation Views

Submissions from most local councils raised concerns about the appropriateness of using the CPI to cap rates. They argued that the CPI does not reflect movements in costs of the delivery of council services and that the wages, construction costs and utility costs have all been typically growing above the CPI. It was suggested that capping rates at the CPI would result in perverse outcomes for service provision and asset renewal. They advocated for a different basis for the cap, mainly referring to adoption of a LGCI.

These stakeholders also supported indicative cap forecasts and the ability of councils to apply for multiple years of above-rate cap increases. Most councils also supported the use of forecast rather than a historical index in setting the rate cap. Eight councils disagreed with this and preferred the use of a historical index.

A near universal message in council and council affiliated groups' submissions was that the variation process should be simple, clear, inexpensive and not administratively difficult. Many submissions suggested the variation process should run in line with councils' four year council plan and strategic resources process. It was noted that an onerous variation process would discourage some councils from applying even when their case may otherwise be justified.

Most councils and council affiliated groups were concerned that if a cap were set too low, there would be incentives for councils to let infrastructure deteriorate and service levels fall. Many not for profit community groups and council service providers were concerned that if this were the case, job losses could also occur, especially in council services, such as health and family care.

Most councils and other council affiliated groups suggested that the framework should align with current community engagement processes used by councils. It was suggested that there was ample community consultation at present, and that any additional community engagement on top of the existing requirements could diminish the clarity and usefulness of information being delivered to the community.

A number of councils commented that the Commission should have a monitoring and advisory role in the framework. Some councils indicated that they should have the final say in the level at which rates are set. On the other hand, there were a few councils and service



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providers who supported the Commission having a determinative role, commonly citing the independence of the Commission and the need to avoid political interference in the process.

The submissions from councils, council groups, service providers and community organisations also identified a number of the unique features of councils, which are discussed below.

Rural councils

Rural councils stated that they face various challenges in service delivery and asset management compared to larger and metropolitan councils. Rural councils have less capacity to increase rates revenue due to their smaller populations, and are the most reliant on State and Federal Government grant funding¹. They have larger road networks to manage, more dispersed and older communities to support, fewer staff and resources to manage their operations, and are most susceptible to natural disasters such as bush fires and floods.

Regional cities

Like rural councils, regional cities have commented that they typically have large road networks to manage with more dispersed communities relative to metropolitan councils. Regional cities also act as a hub for surrounding councils' areas, which place greater demand on their infrastructure and services.

Peri-urban councils²

Peri-urban councils stated that they face a rapidly increasing population and the challenge for them is to fund growth-related infrastructure and services while maintaining basic and improved levels of services and infrastructure to their smaller towns. They also need to manage important agricultural and natural environment resources. Like rural councils and regional cities, peri-urban councils have generally dispersed communities, large road networks, fewer council staff and resources and with greater susceptibility to natural disasters.

¹ Rural councils are reliant on the Financial Assistance Grant (FAG) from the Federal Government. The FAG is indexed annually in line with population growth and inflation forecasts but the indexation has been "paused" for three years (from 2014-15 to 2016-17). Rural councils reported that they have been affected significantly by this development.

² These include the shires of Bass Coast, Baw Baw, Golden Plains, Macedon Ranges, Moorabool, Murrindindi and Surf Coast. These councils are located on Melbourne's growth corridors and the regional cities of Geelong, Ballarat and Bendigo.



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Interface councils³

Interface councils, like peri-urban councils, have commented that they face challenges with population growth and high demand for services and community assets. They have high expenditure costs due to maintaining Melbourne's green wedges, including services such as pest and weed management and native vegetation management.

Metropolitan councils

Metropolitan councils have commented that they have high population and very diverse communities. They also have to manage some of Victoria's green wedges and maintain assets which are mature and of very high value.

Peak Bodies

Like councils and council affiliated groups, the submissions from the peak bodies argued that CPI would be an impractical and potentially detrimental cap for local government. It does not account for the true costs of councils; mainly comprised of wages, materials and services and construction, and in rural and regional areas, transportation costs and a lack of competition mean increases in costs can be much higher than CPI. There was strong support for the use of a LGCI or for a mechanism that accounted for structural differences in councils.

The peak bodies favoured a rate cap based on a forecast rather than a historical index. They also preferred multiple year forecasts of the cap. Most peak bodies suggested a single cap approach would be the best solution, given the potential inequities to ratepayers across the state depending upon their location, that a single cap would be clear and simple, and that the variation process may be better suited to handle council diversity.

In general, most peak bodies identified rate revenue or rate revenue plus municipal charges as the base to which the cap should apply, citing the difficulties of capping user charges such as waste. There were differing opinions on whether total rates revenue should be capped or if there should be a rates-per-assessment cap. One body mentioned that a rates-per-assessment approach would be unfair to growth councils. Another mentioned a per-head of population would be more reflective of costs than a per-property assessment.

For the variation process, peak bodies supported a clear process with variation thresholds. Most peak bodies thought the variation should be open to all councils for a variety of reasons including renewal gap problems, new capital projects, cost shifting, financial sustainability, grant funding cuts and many more. They wanted the variation process to have as little

³ The Interface Councils lie at the interface of metropolitan Melbourne and rural Victoria, sharing aspects of both urban and rural communities. Characteristically, the population dispersion across the municipalities is concentrated around urban areas, with significant numbers of people living in rural townships. In all of the municipalities, approximately 70 percent of the population live in about 30 percent of the area. The interface councils are Cardinia Shire Council, City of Casey, Hume City Council, Melton City Council, Mitchell Shire Council, Mornington Peninsula Shire Council, Nillumbik Shire Council, City of Whittlesea, Wyndham City Council and Yarra Ranges Council.



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administrative burden on councils as possible and for there to be a tiered approach to the scrutiny of applications.

It was suggested that community engagement for rates capping should align with councils' current processes and existing examples of appropriate engagement. It was mentioned that sometimes there is not a great level of interest from the community for some councils' engagement activities, such as annual budget setting. Most peak bodies supported a review of the rates capping and variation framework at some stage, or on a regular basis in the future, and for the costs of the regime to be borne by the State Government.

Unions

Unions did not consider CPI to be a reasonable cap on local government. It was mentioned that the average enterprise bargaining agreements has been for wage increases of 4 per cent each year, which is far greater than average annual CPI increases of 2.8 per cent. The cap should be set as an index which better reflects council wages, and infrastructure and asset renewal. There was fear that a low cap will cause job losses and the outsourcing of council services, and that if the variation process was too onerous it may act as a disincentive for applications.

In terms of community engagement, it was suggested that local governments already consult considerably with communities and that the new framework would add needless administrative burden to councils' budgeting processes. It was recommended that the Commission should consider ways to ensure that the process is fast and economical for councils.



A BLUEPRINT FOR CHANGE

Local Government Rates Capping & Variation
Framework Review

Draft Report — Volume I

July 2015

An appropriate citation for this paper is:

Essential Services Commission 2015, *A Blueprint for Change, Local Government Rates Capping & Variation Framework Review — Draft Report Volume I*, July.

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MESSAGE FROM THE CHAIRPERSON

Over the last few months, the local government team and I have met with hundreds of people with an interest in local government. Our discussions have involved ratepayers, council staff, councillors, their representative bodies and other peak organisations. Without fail, our discussions have been informative and positive. We are very grateful that so many people were willing to spend so much time with us. Thank you.

During those discussions, I repeatedly committed that the local government rates capping and variation framework would not be an edifice to bureaucratic elegance. I also emphasised that we had no interest in injecting ourselves into those matters best decided by councils and their communities. The framework we are proposing in this draft report remains true to those commitments.

In many ways, the proposed framework largely relies on the transparent, deliberative and consultative processes that councils advised us they already adopt when setting their budgets and their rates. In this sense, the framework can be viewed as a quality assurance mechanism seeking to give ratepayers confidence that disciplined decision-making is being exercised by their councils, and by the sector as a whole.

This is not to say that the proposed framework does not impose any obligations on local government. Of course it does. The rate cap will limit future rate increases and councils will have some reporting obligations. However, we are very mindful to design a framework that, to the extent possible, uses information that is already collected by councils and relies on councils' own planning processes and consultation practices. Throughout our review, we have attempted to remain focussed on the needs of councils and their communities.

Have we succeeded in our ambitions? Well, that will become clearer as we embark on another round of discussions around the state. We are also inviting anyone with an interest in local government to provide us with a written submission outlining their observations and suggestions. Submissions are due by 28 August.

In order to facilitate the framework's implementation in time for the 2016-17 rating year, we have brought forward the completion date for this review by one month. Our final report will now be submitted to the Ministers for Local Government and Finance by the end of September. It will be made publicly available shortly afterwards.

Dr Ron Ben-David
Chairperson

ESSENTIAL SERVICES COMMISSION
VICTORIA

A BLUEPRINT FOR CHANGE
LOCAL GOVERNMENT RATES CAPPING & VARIATION
FRAMEWORK REVIEW — DRAFT REPORT VOLUME I
MESSAGE FROM THE CHAIRPERSON

IV

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1 INTRODUCTION

In January 2015, the Essential Services Commission (the Commission) received terms of reference (see Appendix A) from the Minister for Finance (in consultation with the Minister for Local Government) to conduct a review and report on a local government rates capping and variation framework. In conducting the review we have had regard to the matters set out in the terms of reference.

We have been asked to design a framework that meets the Government's commitment to cap annual council rate increases as well as to develop a workable process to assess any proposals by councils for above cap increases ('variation process').

This draft report outlines the details of the framework that we are proposing and on which we now will consult with interested parties. It is presented in two volumes. This first volume sets out the key design features of the framework. Volume II (*Supporting Material and Analysis*) outlines the analysis we have undertaken to develop our proposed framework and includes draft guidance material. Both volumes can be found on our website.

1.1 WHAT IS A RATES CAPPING AND VARIATION FRAMEWORK?

A rates capping and variation framework should promote a transparent and independently verifiable decision-making process with regards to the trade-offs involved in determining council rates. Independent verification requires that the framework is overseen by an independent authority for the benefit of the community and ratepayers who, individually, have limited capacity to engage with these decision-making processes.

In many ways, the rates capping and variation framework largely relies on the transparent, deliberative and consultative processes that councils advised us they already adopt when setting their budgets and their rates. In this sense, the framework

can be viewed as simply seeking to give ratepayers and the broader community confidence that disciplined decision-making is being exercised by their individual councils, and by the sector as a whole.

The three elements of the proposed framework are:

Rate cap — the maximum annual rate of increase that councils can apply to their rate revenue.

Variation process — a mechanism for councils to seek (and have considered) increases in rate revenue that are above the rate cap.

Monitoring and reporting — a means for verifying and reporting on compliance with the cap or variation conditions and providing accurate and reliable information about overall outcomes for ratepayers and communities under the framework. Monitoring and reporting also facilitates a process for identifying and addressing unusual or unexplained outcomes.

Chapters 2 to 4 outline our proposed approach for implementing each of these elements.

1.2 WHAT CONSULTATION HAVE WE UNDERTAKEN SO FAR?

In April 2015, we released a consultation paper which identified some key challenges in designing a rates capping and variation framework. That document outlined the eight principles that would guide us in developing the framework (box 1.1). Our subsequent consultations indicated widespread support for these principles. We are confident that the framework proposed in this draft report is consistent with them.

BOX 1.1 PRINCIPLES GUIDING THE FRAMEWORK'S DESIGN

Principle 1 — Local communities differ in their needs, priorities and resources.

Principle 2 — Local communities and ratepayers are entitled to hold their councils to the highest standards of accountability and transparency when setting rates.

Principle 3 — The framework should support the autonomy of councils to make decisions in the long-term interests of their community and ratepayers.

Principle 4 — Councils will need to satisfy the burden of proof outlined in the framework when seeking a variation above the cap.

Principle 5 — Rate increases should be considered only after all other viable options have been explored.

Principle 6 — The framework should support best practice planning, management systems and information sharing to uphold council decision-making.

Principle 7 — The framework should be flexible and adaptable.

Principle 8 — There should be few surprises for ratepayers and councils in the implementation of the framework.

Since releasing the consultation paper, we have consulted widely, including with:

- councils through one-on-one meetings and various broader sector forums
- ratepayer associations and individual ratepayers, including a forum with ratepayer associations
- peak bodies in the local government sector such as MAV, VLGA, LGPro and FinPro
- unions, private sector representatives and other peak bodies with an interest in local government, and
- with our colleagues in New South Wales at the Office of Local Government, the Independent Pricing and Regulatory Tribunal; and a few NSW councils.

We have also presented to the Fair Go Rates Reference Group established by the Minister for Local Government, as well as the Minister's Local Government Mayoral Advisory Panel.

We received 287 submissions from ratepayers, ratepayer associations, councils, council service providers, sector peak bodies, unions and community organisations in response to our consultation paper. Volume II provides a detailed analysis of the matters raised in submissions.

1.3 WHAT IS THE STRUCTURE OF THIS REPORT?

As noted above, chapters 2 to 4 outline our proposed approach for implementing each of the elements of the framework — namely, the design of the rate cap; the variation process if councils wish to raise rates above the cap; and the monitoring and public reporting to be undertaken by the Commission.

Chapter 5 considers other implementation details not covered in the earlier chapters and chapter 6 discusses some longer term opportunities afforded by the framework.

Our draft recommendations appear in chapter 7. The next steps in our consultation process are outlined in chapter 8, which also invites interested parties to make their views known about the draft framework.

2 THE RATE CAP

The terms of reference ask us to provide advice on how to implement the Government's commitment to cap annual council rate increases. This includes advice on such matters as: whether any refinements are warranted to a cap based solely on the Consumer Price Index (CPI); as well as the base to which the cap should apply.

This chapter outlines the key elements of the proposed approach to setting the cap.

Chapter 2 of Volume II provides more detailed discussion of how we arrived at our approach to setting the cap.

2.1 ONE CAP OR MANY?

There can be no doubt that there is very significant diversity of circumstances across the 79 councils operating in Victoria. Among other things, councils differ with regard to the services required by their communities, the state of the infrastructure under their management, the cost of delivering services, their reliance on different sources of revenue, their demographics and the economic circumstances of their communities, and the natural environment in which they operate.

Councils, peak bodies and other council groups have identified a number of factors which they suggest should be considered when setting the cap. Conversely, ratepayers and other organisations suggested that applying multiple rate caps across Victoria would lead to ratepayers being treated inequitably depending on the council area in which they live.

We have considered whether and how such matters might be taken into account when setting the rate cap. One option we considered was whether separate groupings of councils could be subject to different caps. We also examined the merits of an even more tailored approach whereby each council's rate cap would include adjustments accounting for that council's resource capacity, its rating history and the extent to which it controlled its costs and revenues.

On balance, we have decided against these approaches for a number of reasons. Our primary concern was the arbitrariness of such arrangements. The adjustments that might be made under either of these approaches are not self-evident and would involve a large degree of judgement. We expect neither the community nor councils would be well served with a capping regime that relied extensively on such subjective assessments. We were also concerned that any effort to tailor the rate cap would suggest a false degree of precision in setting the cap and may lead to confusion in the community.

For these reasons, we are recommending that there should be only one rate cap that applies equally to all councils in Victoria. We have concluded that the variation process described in chapter 3 provides a more efficient, transparent and participative mechanism to deal with individual council's circumstances when the capped increase in rate revenue is considered to be insufficient.

2.2 WHICH REVENUES COME UNDER THE RATE CAP?

The terms of reference require us to provide advice on what would be the composition of the revenue base to be capped. Currently, councils are allowed under the legislation to levy general rates, municipal charges, service rates and charges (also referred to as garbage rates and charges), special rates and charges, and 'revenue in lieu of rates'. These are defined in box 2.1.¹

¹ More detailed information can be found in Volume II of this draft report.

BOX 2.1 THE DIFFERENT TYPES OF RATES LEVIED BY COUNCILS

General rates — These are applied as a percentage of each property's valuation; can be a uniform rate or a number of different rates for different classes of ratepayers.

Municipal charges — These are to cover some of the administrative costs of the council and are required by the *Local Government Act 1989* to be no more than 20 per cent of the total revenue raised from the combination of municipal charges and general rates.^a

Service rates and charges — These are to cover services to properties such as waste management and water provision. The only service rates and charges currently in practice are those collected for the collection and disposal of refuse.

Special rates and charges — These are paid by a particular group of property owners for any council service or activity that will be of special benefit to them, such as footpaths, kerbs and channels.

Revenue in lieu of rates — These are payments received on unrateable lands such as railway land, State and Federal Government buildings, mining lands, power stations, airports and wind farms.

^a Administrative costs are not defined in the *Local Government Act 1989*.

We are recommending that the rate cap should apply to general rates and municipal charges only — noting that these two rate bases account for about 88 per cent of the total rate revenue raised by councils.² The cap need not apply to special rates and charges and revenue in lieu of rates because there are adequate checks and balances already in place in the current legislation for these rates and charges. For example, the legislation specifies that special rates and charges should only be used for the purposes of defraying any expenses in relation to the performance of a function which will be of special benefit to the persons required to pay the special rate or special charge.

² Based on 2013-14 rates and charges data collected by the VGC from councils.

For now, we are recommending that service rates and charges (garbage rates and charges) be excluded from the rate cap.³ In our survey of council rates and charges, councils reported that their garbage rates and charges are cost reflective and market tested.⁴ Therefore, for now, we are not suggesting that these charges be made subject to the rate cap. Nonetheless, we will monitor and benchmark garbage rates and charges.⁵ If we find unexplained differences across councils, or if we find that councils are disproportionately allocating their overhead costs to their service rates and charges, then we will make appropriate recommendations to the Government at that time.

The fire service levy should be excluded from the cap on the grounds that it is not within the control of the councils, who are acting only as collection agencies for this state levy. In contrast, the landfill levy is a levy imposed directly on councils. For now, we are proposing to exclude the landfill levy from the cap as many councils include it in their garbage rates and charges (which we are excluding from the cap).

Supplementary rates are additional rates collected during the course of the year if the value of a property is altered after rate notices have been issued. Supplementary valuations may be a result of either changes in valuation of existing properties or entry of new properties — for example, due to renovations or subdivisions, respectively.⁶

At the end of each financial year, a council will adjust its valuation base and the base for its general rate revenue to include the actual supplementary valuation and supplementary rate revenue received. The adjusted amounts become the basis for determining the next year's rate base. That is, valuations are only treated as 'supplementary' in the year they occur. Thereafter, they are included in the valuation and rates of the properties in question. We are proposing that supplementary rates be excluded from the rate cap in the year they occur.

³ There are different practices among councils in covering the cost of garbage services with 72 councils levying a specific garbage charge, while seven councils cover these costs through their general rate revenue.

⁴ 38 out of 62 councils reported that they fully outsource their garbage services through competitive bidding, 19 councils partly outsource this service and 4 councils provide the services in-house (one council did not respond to the question).

⁵ Councils' garbage related costs will be monitored separately from landfill levy related costs.

⁶ Some of the examples cited by councils on their websites for undertaking supplementary valuations are when properties are physically changed (e.g. when buildings are altered, erected or demolished), amalgamated, subdivided, portions sold off, rezoned or are affected by road construction. Supplementary valuations bring the value of the affected property into line with the general valuation of other properties within the municipality. Values are assessed at the same date of the general valuation currently in use.

2.3 SHOULD THE CAP BE APPLIED TO TOTAL RATE REVENUE OR RATE REVENUE PER ASSESSMENT?

In our consultation paper, we asked stakeholders whether the cap should apply to each council's total rate revenue or to average rate revenue per assessment. We raised the same question during many of our meetings with interested parties. Not surprisingly, views were mixed.

Many councils preferred a revenue cap for its simplicity. Other councils opposed the revenue cap on the assumption that supplementary rates would not be added into the base. Some councils and peak organisations clearly preferred capping average rate revenue per assessment. Interestingly, we encountered differing views on why one option might be preferred over another. For example, we encountered quite opposite views about which form of capping was preferable for growth councils.

From a technical perspective, both options are viable and relatively straightforward to administer (particularly with the exclusion of supplementary rates). Both options maintain councils' flexibility to adopt or change their rating policies — that is, both options allow councils to rebalance their revenue raising efforts between general rates and municipal charges and between different types of ratepayers (differential rating).⁷

We consider that the Government's objective in establishing a rate cap is to give ratepayers confidence in councils' rate setting process. We believe it is reasonable to assume that most ratepayers will not be directly involved in the councils' budget and rate setting processes. The only observation on which these ratepayers can rely will be the observed change in the 'amount owing' on their rate notice each year. As such, we are proposing that the framework cap rate revenue per assessment rather than total rate revenue as this most closely reflects most ratepayers' experience with the council rating.

⁷ Differential rates are where councils set different rates in the dollar for different categories of rateable land. The council may for example, have differential rates for farm land, various categories of residential property or commercial/industrial properties – each paying a higher or lower rate in the dollar.

However, even under a binding rate cap, individual ratepayers will experience rate changes that differ from the capped rate of increase. There are numerous reasons for these differences that are beyond the control of a rates capping and variation framework, including:

- market forces altering the relative value of properties within an individual municipality
- owner actions altering the value of properties, for example, through renovation or subdivision or
- council policies such as altering the differential rates at which different classes of properties are rated.

In light of these uncontrollable factors, we consider that the best option for the rate cap involves applying the rate cap to a 'typical' or 'average' ratepayer — although we recognise that there will be some or many ratepayers who experience higher and lower rate changes than this notional ratepayer.

In other words, we are recommending that that cap should be applied to the rates and charges paid by the average ratepayer and that this is calculated by dividing a council's total required rate revenue in a given year by the number of rateable properties in that council area. The relationship between these variables is shown in box 2.2. We expect that both these quantities should be readily available to councils and should be readily verifiable.

BOX 2.2 RELATIONSHIP BETWEEN THE RATES BY THE AVERAGE RATEPAYER AND A COUNCIL'S RATE IN THE DOLLAR

The notional 'average ratepayer' is most simply defined as the ratepayer who owns an average valued property in each local government area. The total rates paid by this ratepayer will be the, so called, 'rate in the dollar' applied by the local council multiplied by value of the average ratepayer's property. The simplest possible approach to calculating the value of this average ratepayer's property is to divide the total value of rateable properties by the total number of rateable properties in each council area.

$$\text{Average property value} = \frac{\text{Total Value of rateable properties}}{\text{Number of rateable properties}}$$

When determining the 'rate in the dollar' to apply in a particular year, a council will divide the total revenue it requires from rates by the total value of rateable properties in its municipality.⁸

$$\text{Rate in the dollar} = \frac{\text{Total revenue required from rates}}{\text{Total value of rateable properties}}$$

The rates paid by the average ratepayer will be the product of these two factors.

$$\text{Rates paid by average ratepayer} = (\text{Rate in the dollar}) * (\text{Average property value})$$

Substituting the two earlier equations into this relationship and simplifying gives:

$$\text{Rates paid by average ratepayer} = \frac{\text{Total revenue required from rates}}{\text{Number of rateable properties}}$$

which is the measure to which the rate cap will be applied each year.

⁸ For the purpose of simplifying this discussion, 'rates' refers to general and municipal rates. But in practice, some councils levy municipal charges on a property basis.

The rate cap would apply to the year-by-year increase in the rates paid by this average rate payer. Even so, it will be important for councils (and the Commission) to communicate that this is an 'average' outcome and some ratepayers can expect higher increases, while others will experience lower increases for the reasons stated above.

We have also considered whether 'rebalancing constraints' should be applied. These constraints would limit how far above (or below) the cap an individual ratepayer's rates could be increased (or decreased) in a particular year. For now, we are not proceeding with this idea on the basis that we expect the cost of implementing the required changes to councils' billing systems would outweigh any benefits produced by doing so.

We will create a working group composed of council representatives to develop the specific information we will collect from councils annually to support the proposed rates capping framework.

2.4 HOW SHOULD THE RATE CAP BE CALCULATED?

The terms of reference for this review indicate that the annual rate of change in the CPI should be the Commission's starting point when considering the allowable increase in council rates. We are also required to provide advice on 'any refinements to the nature and application of the cap that could better meet the Government's objectives.'

Importantly, the terms of reference require us to have regard to the pressures applying on ratepayers and on councils — for example, through references such as: 'contain[ing] the cost of living' and 'sustainability of councils' financial capacity', respectively.

In considering how best to balance these requirements, we have considered which measure of CPI to adopt and which refinements are best placed to address the pressures faced by ratepayers and councils.

There are numerous available measures of CPI and these can be backward looking (that is, telling us what inflation was in a past period) or forward looking (that is, based on a forecast of what inflation will be in a future period). Each option has its merits and each has its flaws.

Based on our consultations to date, we are recommending that the framework should adopt a cap based on the forecast rate of increase in the CPI for the year in question. This approach appears to align with councils' current practices of estimating their annual budget using their forward assumptions of CPI or some other relevant indices.

The CPI forecast we are proposing to adopt is produced by the Victorian Department of Treasury and Finance (DTF), which is published in May as part of the State Budget and is updated in December. On each occasion, DTF releases its four year forecast of inflation. Importantly, the CPI forecasts released by DTF are adjusted for volatile items, making them more stable than the 'headline' rate of inflation typically reported in the media.

Table 2.1 shows the indicative increases in CPI based on DTF's forecasts in May 2015.

TABLE 2.1 DTF'S FORECASTS OF RATE OF INCREASE IN CPI (UNDERLYING)
Per cent

| | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|-------------------------|---------|---------|---------|---------|
| Underlying CPI forecast | 2.75 | 2.75 | 2.50 | 2.50 |

Councils and their representative bodies have made repeated representation to the Commission that a cap based solely on changes in the CPI may unduly constrain their operations. The relatively high proportion of employee costs,⁹ and the relatively high rate of increase in those costs in recent years across the local government sector, appears to be the primary cause for this concern.

Elsewhere in the economy, where prices are regulated, the price regulator will generally not concern itself with an individual service provider's costs of procuring services. Rather, benchmarks for the cost of acquiring those services will be used to inform price decisions. We accept that there are merits for adopting a similar approach within the rates capping and variation framework. On the basis of the evidence before us, we consider that any such refinements to the rate cap should be limited to councils' main source of concern, namely, labour costs.

⁹ These claims are supported by the Victorian Grants Commission's data.

Councils vary considerably in terms of the composition of their costs and the proportion comprising labour costs. The average proportion that labour costs represent across the Victorian local government sector is around 40 per cent. We therefore propose that this proportion be assigned to labour costs when constructing each year's rate cap. In other words, a 60 per cent (i.e. 100 - 40 per cent) weighting would be applied to the rate of increase in the CPI and a weighting of 40 per cent would be applied to the benchmark rate of increase in labour costs.

As with CPI, we propose adopting the Wage Price Index (WPI) increases reported by DTF as the benchmark rate of increase for labour costs in the rates capping framework.

Table 2.2 shows the indicative increases in the WPI based on DTF's forecasts in May 2015.

TABLE 2.2 DTF'S FORECASTS OF RATE OF INCREASE IN WPI
Per cent

| | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|--------------|---------|---------|---------|---------|
| WPI forecast | 3.25 | 3.5 | 3.5 | 3.5 |

While this proposed adjustment for labour accounts for the cost pressures facing local government, it does not address the 'cost of living' pressures faced by ratepayers. The standard approach to creating incentives for service providers to pursue efficiencies in their operations, and then share the benefits of those efficiencies with 'customers', is to impose an efficiency factor on those service providers. Known as the 'efficiency factor', this imposed efficiency requirement can vary significantly from sector to sector. For example, in our water pricing function we impose an efficiency factor of between 1-2 per cent and for tow trucks the efficiency factor has been as low as 0.5 per cent. The NSW rates capping regime adopts an efficiency factor of 0.04 per cent.

We believe there is merit in adopting an efficiency factor in the proposed rates capping and variation framework. However, given that at the outset of the new framework councils will have locked in costs under contracts, we propose that the efficiency factor initially be set at zero, increasing by 0.05 percentage points each year. We propose to undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.

On the basis of these refinements, the annual rate cap would be given by:

$$\begin{aligned} \text{Annual Rate Cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor}) \end{aligned}$$

Table 2.3 shows some indicative forecasts for the annual rate cap (as at July 2015)

**TABLE 2.3 INDICATIVE FORECASTS FOR THE ANNUAL RATE CAP
(AS AT JULY 2015)**
Per cent

| | 2016-17 | 2017-18 | 2018-19 |
|--|-------------|-------------|-------------|
| Underlying CPI forecast
(60 per cent weighting) | 2.75 | 2.5 | 2.5 |
| Plus WPI forecast
(40 per cent weighting) | 3.5 | 3.5 | 3.5 |
| Less Efficiency factor | 0 | 0.05 | 0.10 |
| FORECAST ANNUAL RATE CAP | 3.05 | 2.85 | 2.80 |

As already noted, we are not proposing to adjust the cap to reflect other cost pressures faced by local councils, such as the costs of materials of construction. Similarly, in order to keep the cap as simple as possible, we have not attempted to adjust the cap to account for structural differences between councils, for cost pressures beyond councils control and infrastructure renewal. We consider these matters will be more appropriately dealt with through the variation process described in chapter 6.

2.5 WHAT IS THE BASE YEAR FOR SETTING THE CAP?

Our preliminary view is that we will adopt the 2015-16 revenue from general rates and municipal charges as the starting base for 2016-17. Similarly, we will require councils to advise us of the number of rateable properties as at 1 July 2016.

2.6 WHAT INFORMATION WILL BE REQUIRED EACH YEAR?

As noted in the section 2.4 above, in May and December each year the Commission will publish updated forecasts for the annual rate cap as shown in table 2.3. The December forecast, would be the binding cap for the following financial year, irrespective of any updated figures published by DTF the following May.

In order to support the rates capping framework, the Commission will collect information from councils each year. We will create a working group composed of council representatives to develop the specific information we will collect from councils annually to support the proposed rates capping framework. Our initial considerations of this information are set out in table 2.4.

TABLE 2.4 INDICATIVE INFORMATION TO BE MONITORED FOR COMPLIANCE WITH THE CAP AND APPROVED VARIATIONS
(\$ million)

| | Actual
(2015-16) | Forecast
(2016-17) | Forecast
(2017-18) |
|--|---------------------|-----------------------|-----------------------|
| Total council revenue requirement (all sources) | | | |
| General rates | | | |
| Municipal charges | | | |
| Service rates & charges | | | |
| Special rates & charges | | | |
| Supplementary rates | | | |
| Statutory fees & fines | | | |
| User fees & charges | | | |
| Net gain(loss) on disposal of property, infrastructure, plant and property | | | |
| Other income | | | |
| Grants (all sources) | | | |
| Contributions – monetary | | | |
| Contributions – non monetary | | | |
| Miscellaneous | | | |
| Total value of rateable properties^a | | | |
| Total number of rateable properties as at 1 July^a (no.) | | | |
| Breakdown of garbage related costs: | | | |
| Council cost | | | |
| Landfill levy | | | |

^a At the commencement of the financial year.

3 THE VARIATION PROCESS

The terms of reference ask the Commission to ensure that the variation framework:

- provides a mechanism through which councils can justify any proposed increase above the cap
- takes into account factors that impact on local governments' short and long-term financial outlooks
- specifies any technical requirements (including information requirements) on councils that request exemptions from the cap.

This chapter outlines the variation process by which we propose councils will be able to seek an increase in their rates above the rate cap.

3.1 WHY IS A VARIATION PROCESS NEEDED?

In chapter 2 we describe how it is not practical to design a rate cap that takes into account the diversity, different needs and different legacies faced by individual councils. Nevertheless, the increase permitted by the rate cap represents the annual additional revenue requirement typically expected for councils on a state-wide basis. Some councils may consider this additional revenue insufficient in light of their particular circumstances. A variation process provides a mechanism for individual councils to seek a rates increase in excess of the cap.

The budget pressures facing councils are many. Priorities change over time. New services are introduced, while other services are expanded or discontinued. New infrastructure is built and existing infrastructure needs to be maintained. Revenues fluctuate either because of economic circumstances or following policy decisions by other levels of government. And, on occasion, natural disasters happen.

Sometimes budget pressures will arise due to a specific or one-off expenditure requirement. At other times, budgets will struggle with more generalised cost pressures.

The variation process needs to accommodate different sources of cost pressures and it should be able to respond flexibly in different situations. Likewise, councils should be expected to assess all their options before seeking a rate variation. If this were not the case, the rate cap and variation process would be of little benefit.

When faced with budget pressures, councils can pursue one or more of the following strategies; and the preferred response is likely to depend on the source of the budget pressure and whether it is momentary or structural. The four broad options facing councils include:

- scrutinising the full suite of their operations and planned investments for opportunities to deliver outcomes more efficiently
- ensuring the range of services they are delivering align with their community's highest priorities
- assessing the possibility and merits of alternative funding or financing options for different activities and investments and
- increasing their revenues through higher rates and charges.

The role of representative councils with delegated responsibilities from and accountable to their communities, is to assess how best to manage the trade-offs between these four options. This responsibility rests inherently with local government. A well-designed variation process will not shift this responsibility away from councils — rather, by promoting transparency and engagement, a variation framework ensures all options are canvassed before rate increases (above the cap) are pursued.

3.2 WHEN CAN COUNCILS SEEK A VARIATION?

Councils have generally argued that the variation process should include a broad list of events after which a variation should be permitted (subject to community consultation). The submissions that listed specific reasons for possible variations focused on factors outside of councils' control such as the loss of a revenue source, natural disasters, demographic changes, and superannuation requirements. Conversely, ratepayer

groups emphasised that councils should be required to justify fully any variation and they should not be permitted to circumvent the rate cap by unnecessarily increasing their borrowings. Submissions from a variety of parties were concerned that the variation process should not be so onerous as to prevent otherwise justifiable rate increases above the cap.

We consider that embedding a list of predetermined triggers (including events) in the rates capping and variation framework would be counterproductive. We propose not to define triggers that would qualify for a variation because:

- in general terms, we consider councils and ratepayers are best placed to decide whether circumstances warrant applying for a variation
- there is no self-evident list of triggers, so any attempt to produce such a list is likely to be a distraction
- disputes are likely to arise about whether particular circumstances conform with the wording of the triggers
- we expect that very few situations will involve single and easily identifiable events that displace all other options before councils
- we believe that situations involving sudden and genuine budget emergencies will be self-evident and that all relevant parties will have a strong incentive to cooperate on quickly identifying a solution
- we prefer to keep the rules of the framework as simple as possible to make it easy to understand and to avoid a legalistic process.

We also consider that there are no circumstances under which councils should be prohibited from seeking a rate variation above the cap. In other words, we do not propose to define situations where a council's application for a variation would be automatically accepted or automatically rejected. We consider that councils should always have the opportunity to apply for a variation and that each application should be assessed on its merits.

That said, we are likely to have an unfavourable disposition towards applications for higher rates due to unbudgeted increases in controllable costs in the past year (more commonly known as 'cost blow outs').

How we would propose to assess applications is discussed in the following section.

3.3 HOW WOULD A COUNCIL DEMONSTRATE THE NEED FOR A VARIATION ABOVE THE RATE CAP?

There are many reasons a council might consider applying for a variation. Even when we face two applications for seemingly similar reasons, we expect they will differ on the facts when scrutinised more closely. This suggests that different information will probably be required for the purposes of assessing each application. This makes it impossible to establish a single set of information requirements that would be required to accompany each application for a variation. This also suggests that if we attempted to establish a single list of requirements it would probably impose irrelevant (and costly) obligations on most councils seeking a variation.

A more accommodating and flexible approach involves providing guidance to councils on the subject matter areas that will need to be considered when an application for a variation above the cap is being assessed. We propose the following five matters would need to be addressed in each application.

- The reason for a rate increase greater than the cap. The reason for the variation will need to be articulated clearly and the amounts involved will need to be quantified. Reasons could include: change in costs, a change in asset management, or a change in the services that councils are required to provide. These claims would need to be substantiated.
- The application takes account of ratepayers' and communities' views. The application would need to demonstrate that the views of ratepayers and communities have been identified and describe how their concerns have been addressed. This consultation will need to include the presentation of other realistic options for meeting the funding need, and the trade-offs those options would entail. Importantly, applications will need to account for ratepayers' views on specific expenditure items or cost pressures (where relevant) as well as their impact on the council's overall budget position.

The Commission will not prescribe how councils ought to engage with their communities. Such decisions naturally sit with councils rather than the Commission. Nevertheless, we have developed a set of four key engagement principles which we expect to be reflected in the engagement undertaken in support of an application for variation (see table 3.1).

- The variation represents good value-for-money and is an efficient response to the need. This means that, where additional expenditure is involved, any amount proposed to be recovered through higher rates should represent a good value option for achieving the desired outcome. It would be helpful to submit business cases or cost-benefit analyses where higher rates are being proposed in order to fund the delivery of new or expanded services, or new infrastructure.
- Service priorities and funding options have been considered. The application will need to demonstrate that councils have considered reprioritising funding from other areas of expenditure; and the reasons for not proceeding with that reprioritisation (in part or in whole). The application will need to demonstrate that councils have whether other suitable funding or financing options have been considered and the decision (and reasoning) reached in relation to those options.
- The proposal is integrated into the council's long-term strategy. The matters giving rise to the variation application should be consistently represented and addressed in all of the council's relevant planning instruments — for example: its Council Plan and Asset Management Plan.

TABLE 3.1 RATEPAYER AND COMMUNITY ENGAGEMENT PRINCIPLES

| Principles | |
|-------------------|---|
| Principle 1 | The engagement program must contain clear, accessible and comprehensive information and follow a timely process to engender feedback from the community |
| Principle 2 | The engagement program should be ongoing and tailored to community needs |
| Principle 3 | The engagement program should prioritise matters of significance and impact |
| Principle 4 | The engagement program should lead to communities becoming more informed about council decision-making |

In table 3.2 (at the end of this chapter), we provide guidance on how we would expect councils to address these five subject matter areas in their applications for a variation. Under each heading, the table sets out:

- questions that councils should ask about whether they require a variation, and if so, what form the proposed variation might take
- actions councils should take when they develop a variation application and
- evidence that councils should provide in their variation applications.

This table is for guidance only and the ultimate information requirements will depend on the type of variation sought by councils. Councils will be responsible for providing sufficient information to justify a variation application.

3.4 WHO DECIDES WHETHER A VARIATION IS APPROVED?

Some submitters suggested the Commission should only have a role in advising councils on whether their proposed variation is appropriate (leaving councils to decide whether to proceed with the increase). Such a light-handed approach does not appear to be consistent with the regime envisaged in the terms of reference or in public statements made by the Government.

We consider there are three viable options for who administers the rate variation process. Of course, there are variations on each option.

The first option would involve the Minister for Local Government being responsible for considering each application and deciding whether to approve the application. Under this option, the Minister could seek the advice of her department in relation to each application. The second option is similar to the first but the Commission would be responsible for independently advising the Minister on the appropriate response to each application. Under the third option, the Commission, as an independent and standalone authority, would be responsible for assessing and determining the response to all applications. The Commission could be given this authority directly or under delegation from the Minister.

Public statements from the Government suggest that the third option is preferred.

3.5 WHAT DECISIONS SHOULD BE MADE IN RESPONSE TO AN APPLICATION FOR A VARIATION?

Councils will need to be very precise about the rate outcome they are seeking through the variation process. It cannot be left to the Commission to second-guess a council's true intentions in making an application.

Where the Commission determines that an application satisfactorily justifies the need for the proposed rate variation, it would simply approve the proposal. However, we expect that some applications will not justify adequately the rate increase they seek. In such situations, we recommend that the Commission only be given the power to reject the application (in which case, the council would be bound by the rate cap).

We do not recommend the Commission be given the power to substitute an alternative rate increase to the one proposed. Nor do we suggest the Commission be given the power to negotiate with the council on an alternative rate increase. Such powers are occasionally given to bodies such as the Commission. In those instances, the regulator collects detailed information about the costs and revenues of the businesses being regulated (and develops detailed financial models of those businesses). We have not considered such an intrusive and resource intensive approach when designing the rates capping and variation framework outlined in this draft report. These more intrusive options could be considered at a later date if required.

3.6 HOW DIFFICULT WILL IT BE TO HAVE A VARIATION APPROVED?

As already noted, we consider each application should be assessed on its merits. In conducting that assessment, it is incumbent upon the Commission to outline its expectations in advance (table 3.2 begins this process). Nonetheless, some degree of judgement will unavoidably need to be exercised by the Commission when assessing how well an application meets those expectations.

In exercising that judgement, we must strike a balance between being too lenient and being too restrictive. Ratepayers would soon lose confidence in the framework's capacity to promote discipline and transparency in the rate setting process if the Commission systematically erred in favour of councils. Conversely, an approach that consistently erred against councils could lead to perverse outcomes and communities could become disillusioned if their councils were prevented from providing sought after services.

All things being equal, we do not expect a large number of applications each year. We will expect however, that when we receive an application, it will reflect a situation of genuine need and it will demonstrate that need rigorously. If these expectations are not met, and if through the variation processes the Commission finds itself routinely becoming involved in councils' rating decisions, we risk becoming a de facto regulator of the local government sector. Such an outcome would be contrary to the autonomy of councils — which is something we have endeavoured to preserve in designing the proposed framework.

TABLE 3.2 QUESTIONS, ACTIONS AND EVIDENCE FOR A VARIATION APPLICATION

| Why the Commission needs this information | Questions | Actions | Evidence |
|--|--|---|---|
| The reason a variation from the cap is required | | | |
| We need to establish whether there is a need for a rate increase greater than the cap. | <ul style="list-style-type: none"> What is the underlying driver of the need for an increase in rates above the prescribed cap? | <ul style="list-style-type: none"> Identify the need for additional revenue. (Is it necessary to meet short-run cash flow needs and/or long-run operating capability?) Estimate the additional revenue that is required, above the rate cap. Determine whether the additional revenue requirements are ongoing or temporary. | <ul style="list-style-type: none"> Documents identifying the cause of the variation. Documents justifying the costs associated with the cause of the variation. Financial statements showing the council's financial performance and position for previous period.^a Budgeted financial statements for current period.^a A strategic resource plan and asset management and long-term financial plans. |
| | <ul style="list-style-type: none"> Is the proposed rate increase consistent with the council's revenue strategy and policy on funding and financing? Has the council taken into account the effects of price shock, and whether a staggered increase in rates would be more appropriate? Has the council considered spreading the funding needs over time by raising the additional expenditure through borrowings and/or by using existing financial assets; or through user charges, rather than general rates? | <ul style="list-style-type: none"> Review the council's policies and practices: revenue raising mix (e.g. taxes and user charges); revenue target; and role and use of debt. | <ul style="list-style-type: none"> Documented policies and strategies regarding: mix of own-source revenue-raising; and funding and financing (role of debt). |

^a This may be demonstrated through the baseline information (see Appendix D in Volume II).

Continued next page

TABLE 3.2 (CONTINUED)

| Why the Commission needs this information | Questions | Actions | Evidence |
|---|--|---|---|
| The application takes account of ratepayers' and communities' views | | | |
| We want to be sure that ratepayers and communities are aware of the variation and that their views have been considered. The Commission provides detailed guidance on community engagement in Volume 3. | All variation applications: | | |
| | <ul style="list-style-type: none"> How has the council engaged with its ratepayers and communities on the requested rate increase? What information was provided to ratepayers and community members during the engagement? How has the engagement impacted the council's decision to seek a rate increase? Is a rate increase the preferred option of the community? Have the Commission's four key engagement principles been incorporated into the engagement? | <ul style="list-style-type: none"> Assess extent of engagement with ratepayers and the community on the options available and justification for the council's proposed option. Review modelling of financial impacts on asset management need projections with various options in service level specifications from assets. | <ul style="list-style-type: none"> A document setting out the council's consultation/engagement processes with ratepayers and communities including how the council gathers, records and incorporates the views gathered. This should include the council's rating strategy. Information on results of past consultation/engagement relevant to the variation application. Information on the engagement consultation on the current variation application. Documented evidence of engagement/ consultation with the community and community satisfaction with the proposed variation. Evidence of modelling of the financial impacts of asset management needs, including options for varying service level specifications. |
| | Major new projects/material increases in service levels: | | |
| | <ul style="list-style-type: none"> Has the community been consulted on the proposal including the implications for the council's overall costs and revenue needs? | | |
| | Asset management: | | |
| | <ul style="list-style-type: none"> Are asset management activities within community expectations and willingness/capacity to pay? Are asset management expenditure projections based on reasonable and affordable service levels? | | |

Continued next page

TABLE 3.2 (CONTINUED)

| Why the Commission needs this information | Questions | Actions | Evidence |
|---|---|--|---|
| The variation represents good value-for-money and is an efficient response to the need | | | |
| We want to ensure that the change in costs or services proposed by a council represents good value for ratepayers. | <ul style="list-style-type: none"> Have sound processes to cost the expenditure been undertaken? Are there benchmarks from the past or outside the council that demonstrate that costs are appropriate? | <ul style="list-style-type: none"> Examine processes to ensure optimal cost/service outcomes when costing capital and operational work. Gather material that can demonstrate that the variation application is funding items that are fit for purpose and the lowest cost for the selected level of service. | <ul style="list-style-type: none"> Information on how the costs that led to the variation were incurred including tender documents if relevant. |
| Service priorities and funding options have been considered | | | |
| We want to know that councils have considered the prioritisation of services and different funding options before seeking a variation. ^a | <ul style="list-style-type: none"> Why are the existing cost bases increasing? What other funding options have been considered in addition to a rates increase? What steps have been pursued to meet preferred expenditure through productivity and efficiency improvements? Is it appropriate to raise rate revenue rather than reduce other service levels to meet priority needs? Is the council satisfied the asset management expenditure projections are based on soundly based (cost-effective and timely) treatments for specified service levels? | <ul style="list-style-type: none"> Identify drivers of the need for additional revenue. Are they controllable or non-controllable? Identify all funding options to deal with the new spending priority. Identify results from productivity and efficiency improvement programs. | <ul style="list-style-type: none"> Information showing how the council has considered the possible reprorisation of services. Information showing consideration of differing funding options. Information on councils' processes for seeking efficiencies and information on efficiencies used to offset increases in costs that have led to the variation. Information showing drivers of cost increases and the extent to which they are non-controllable. Community survey results showing preference for rate increases relative to service level reductions. Evidence in asset management plan of rationale for timing and extent of projected asset management outlays (e.g. to minimise whole of lifecycle costs). |
| The proposal is integrated in the council's long-term strategy. | | | |
| We want to ensure a proposed variation has been incorporated into a council's plans. | <ul style="list-style-type: none"> Does the council have an up-to-date Strategic Resource Plan, Asset Management Plan and financial plan? Is the proposed rate increase consistent with those documents? | <ul style="list-style-type: none"> Review the council's Strategic Resource Plan. Confirm whether the need for additional revenue is identified in the Strategic Resource Plan. | <ul style="list-style-type: none"> Demonstrate the variation application is consistent with the council's Strategic Resource Plan and long-term asset management and financial plans. |

4 MONITORING AND REPORTING

Monitoring outcomes is the necessary third element (in addition to the rate cap and variation process) of the framework the Commission has been asked to develop. The terms of reference ask the Commission to consider the monitoring of council performance so that deteriorations in service delivery, infrastructure or financial position can be identified and addressed promptly. The Commission is also requested to consider any benchmarking or assessment of the effectiveness of the regime.

This chapter outlines the monitoring and reporting element of the proposed rates capping and variation framework.

4.1 WHY IS A MONITORING REGIME SO IMPORTANT?

Without a monitoring regime the procedural arrangements of the rates capping and variation processes can remain disconnected from the 'real world' outcomes experienced by ratepayers and communities in their daily lives. Public reporting of these outcomes allows ratepayers to verify the linkages between the rates they pay and the outcomes they observe. In other words, a well-designed monitoring and reporting regime can inform ratepayers' assessment of the value-for-money delivered by their councils, as well as how this might change over time. As the framework matures, it should also support comparisons with other councils.

A good monitoring and reporting regime can also assist councils to demonstrate the value-for-money they deliver with the resources they have available. Not only can this support how councils communicate with their communities, but it can also assist them to communicate with other levels of government about the trade-offs faced by local government. The monitoring and reporting regime will also provide opportunities for additional benchmarking of performance, as the data set becomes more consistent and robust over time.

One of the key concerns identified during our recent consultations, particularly by councils and peak bodies, was the risk that in order to avoid the variation process, councils may reduce their expenditures on services and critical infrastructure following the introduction of the framework. Many submissions cited the current financial and infrastructure challenges facing the local government sector in NSW as evidence of the potential impacts and unintended consequences of capping council rate revenue. We have heeded these warnings. We are confident that our proposed monitoring and reporting arrangements will promote transparency of, and accountability for, rate and service outcomes in Victoria by highlighting unexplained reduced performance.

4.2 WHAT MAKES A GOOD MONITORING REGIME?

In order to promote transparency of, and accountability for, outcomes under the rates capping and variation framework, the monitoring and reporting regime should:

- provide accurate and reliable information on outcomes
- make findings known publicly and on a regular basis
- present information in a consistent, clear and meaningful manner
- demonstrate whether councils have adhered to the cap or the conditions of an approved variation above the cap
- describe the relationship between rates and council performance in the areas of service and infrastructure delivery, and financial performance
- provide councils with the opportunity to explain unexpected or unusual outcomes
- facilitate a process for addressing unusual or unexplained outcomes where such responses are warranted.

We are conscious that the requirements of the monitoring regime should not impose an unnecessary reporting burden on councils. We therefore intend to rely as much as possible on the information already reported publicly by councils and other relevant authorities (including the Auditor-General and Local Government Victoria). In the months ahead, we will continue to work with councils on these information requirements.

Importantly, the monitoring regime should also allow the Commission (and anyone else with an interest) to assess whether the design and implementation of the framework might be responsible for any unintended outcomes following its introduction. Were such shortcomings identified, we would review and consult on options for how the framework could be improved. These reviews could be part of, or in addition to, the regular framework reviews discussed in chapter 6.

4.3 HOW WILL WE MONITOR ADHERENCE WITH THE CAP OR VARIATION CONDITIONS?

To maintain the integrity of the framework, we consider it necessary to establish a mechanism to oversee and verify that, in setting rates and charges, councils adhere to the rate cap or any approved variation above the rate cap.

Accordingly, the Commission is proposing to monitor that:

- the relevant council rates and charges are set in accordance with the rate cap for the corresponding financial year
- councils with an approval to vary rates above the cap, have set their rates and charges in accordance with the conditions of the approval.

We would report our findings publicly and on an annual basis. Amongst other things, these reports would address: year-on-year changes in rates, discrepancies between forecast and actual outcomes, and broader trends within and across the local government sector. Councils would be invited to provide comments explaining any unexpected or unusual findings.

While we consider that the indicative information requirements listed in table 2.4 will be largely sufficient for the purpose of this report, we will continue to consult with councils before finalising our information requirements. Most of this information should already be available to councils as part of their budgetary and planning processes so we do not consider completion of this table to be a significant reporting burden.

We have also considered how we should respond to situations where we identify significant or sustained instances of non-compliance with the rate cap or an approved variation. We have considered three options including: (i) developing a mechanism where excess funds are returned to ratepayers, (ii) making downward adjustments to allowable revenues in the following year, and (iii) further investigation and referral.

For now, we consider the first two options too interventionist (particularly while the framework is still in its infancy). We therefore propose that the third option be adopted. We will engage with relevant councils to better understand the reasons for any apparent non-compliance identified in their setting of rates and we will prepare a report to the Minister for Local Government on our findings.

4.4 HOW WILL WE MONITOR OVERALL OUTCOMES FOR RATEPAYERS AND COMMUNITIES?

Perhaps the single most important benefit of an effective rates capping and variation framework is the quality assurance mechanism it provides ratepayers and communities by informing their assessment of the value-for-money delivered by their councils. We have found in other sectors that independent scrutiny, analysis and reporting of these outcomes is essential for providing users and providers of services with confidence in the integrity of the overall framework.

Importantly, we consider that this scrutiny over outcomes should be applied to all councils — not just those seeking a variation above the rate cap. Indeed, the problematic consequences attributed to the NSW rate pegging arrangements arose in those councils which did not seek approval for higher rates.

To minimise the reporting burden on councils and to ensure the regime complements the existing accountability and oversight provisions, the Commission proposes to use and consolidate the existing performance data. To the greatest extent possible, we intend to draw data from:

- councils' existing reporting instruments — including: annual reports, budgets, council plans and strategic resource plans
- the annual Local Government Performance Reporting Framework (LGPRF) to be compiled by Local Government Victoria and the Community Satisfaction Survey
- data collected by the Victorian Grants Commission and financial sustainability indicators compiled by the Auditor-General
- and possibly the asset management data reported by the Municipal Association of Victoria through its STEP program.¹⁰

And, of course, we will use:

- the information that we collect through the rates capping and variation processes described in earlier chapters.

Only if we find gaps or weaknesses in these existing data sets will we seek to develop additional measures of performance with respect to services, infrastructure or financial performance. Before doing so, we would work with councils to determine the best approach for defining and collecting the required information.

As a first step, we are developing a 'baseline information' data template that all councils would complete and submit each year that provides additional asset and financial information in relation to councils' services, in consultation with a small number of councils and will soon commence broader consultation.¹¹ This information will be used to assist councils and the Commission during the variation process and to monitor changes in services, asset and financial outcomes.

¹⁰ The package of asset management tools developed by the MAV known as the STEP program was created to assist councils to improve their planning and asset management. The STEP program utilises a renewal gap calculation based on an assessment of the condition of the asset, in contrast to the accounting approach based on straight-line asset depreciation. The usefulness of the MAV STEP data as a consistent measure of asset management performance will need to be further evaluated.

¹¹ For more specific detail about the design and content of the 'baseline information' datasheet, see Appendix D of Volume II.

In analysing this information, we will examine: year-on-year changes in the services and service levels delivered by councils, discrepancies between expected and actual outcomes, and the emergence of trends within or across the local government sector. We would publicly report our findings each year. As with our reports on adherence with the rate cap, councils would be invited to provide comments explaining significant unexpected or unusual findings.

We propose to undertake more detailed analysis where we identify a trend or possible trend indicating a significant deterioration in services, infrastructure management or financial sustainability. This further analysis could address findings about an individual council, a group of councils or across the sector. In these instances, our intention would be to develop a better understanding of the reasons for these anomalous findings, how affected councils consulted with their communities about these outcomes and how they are reflected in councils' strategic planning instruments. We would report our findings to the Minister for Local Government as needed.

To assist directing this more detailed analysis to where it is most appropriate, we are considering adopting a risk-based approach that utilises the risk thresholds applied by the Auditor-General and target bands in the LGPRF. If we consider other triggers for more detailed analysis are warranted, we will consult with councils and other government agencies on their design and application.

The terms of reference also request that the rates capping and variation framework include measures that assess and promote councils' efficiency in delivering services and infrastructure. We consider such measures to be particularly important in assisting councils to deliver the best possible value-for-money to their communities; and conversely, allowing communities to hold their councils to account for the outcomes they deliver. We expect that as the data set becomes more robust and consistent, increasingly sophisticated measures of efficiency will become possible. This includes benchmarking opportunities.

4.5 WHAT PUBLIC REPORTS WILL WE RELEASE EACH YEAR?

Regular public reporting is crucial to maintaining transparency and accountability around the impact of the framework, the role of the Commission as the administrator and councils' performance under the framework. Table 4.1 outlines the key reports that the Commission will produce with regard to the rates capping and variation framework. The publication date for most of these reports will depend on the final timelines adopted for the framework (see section 5.1).

TABLE 4.1 FRAMEWORK REPORTING
Key Reports

| Report | Description |
|--|--|
| Setting the rate cap
(chapter 2) | In May, following the state budget, the Commission will issue a statement with its forecast for the rate cap for the next financial year and the following two years.

In December, following release of the state budget update, the next year's rate cap will be finalised and published along with the forecast for the two following years. |
| Variation Applications
(chapter 3) | At the conclusion of the application period for rate cap variations, the Commission will issue a statement summarising details of each application received for a rate variation above the cap. |
| Variation Decision(s)
(chapter 3) | The Commission will publish reports detailing the outcome of each application for a variation above the rate cap (approval or refusal). Each report will detail the basis for the Commission's decision. |
| Annual Rates Report
(chapter 4) | Each year the Commission will publish a report into councils' adherence with the rate cap or relevant variation conditions in the financial year just completed. |
| Annual Monitoring Report
(chapter 4) | The Commission will release a report on the performance of the framework. The report will bring together information about the cap and variations, with key findings from the monitoring regime. We initially expect this report will be available in February each year but will endeavour to bring forward its publication as the framework matures. |
| One-off reports | From time to time, the Commission may issue one-off reports into matters pertaining to the operation of the framework. |

5 IMPLEMENTING THE FRAMEWORK

Previous chapters have described the structural design features of the three elements of the rates capping and variation framework — namely: the rate setting arrangements, the variation process, and the monitoring and reporting of outcomes. This chapter addresses the framework’s implementation requirements.

5.1 WHAT WILL BE THE TIMELINES FOR THE CAPPING AND VARIATION PROCESS?

In developing a timetable for the framework we have sought to:

- provide sufficient time for councils to prepare for a variation following the announcement of the cap
- provide time for the Commission to properly consider the applications from councils for variations
- fit into the existing timelines for councils’ budgetary and planning processes.

Table 5.1 sets out a proposed timeline for next year’s capping and variation process.

TABLE 5.1 PROPOSED TIMELINES FOR 2016-17 RATING YEAR

| | 2015-16 |
|---|----------------|
| ESC announces cap | December 2015 |
| All councils submit baseline data (budget) | January 2016 |
| Councils notify ESC of intention to seek a variation | January 2016 |
| Council applies for variation, submits baseline data (budget) | March 2016 |
| ESC assesses council variation applications | March-May 2016 |
| ESC notifies councils of decisions | May 2016 |
| Councils consult on draft budget | May 2016 |
| Councils formally adopt budget | June 2016 |

Another option could involve shifting the beginning and end of the variation process two months later to provide councils with more time for their planning and consultation. This would, however, require a later adoption of budgets (say, in August).

5.2 ARE SPECIAL TRANSITIONAL ARRANGEMENTS REQUIRED?

The terms of reference for this review indicate the rates capping and variation framework is to be implemented from the 2016-17 financial year — that is, within 18 months from the time the review was commissioned. Some submissions to our consultation paper urged transitional arrangements in the implementation of the framework. Councils, in particular, were concerned that implementation in 2016-17 would not provide councils with sufficient time to prepare a variation application and to consult with their communities.

A number of councils argued for the full introduction of the framework in 2017-18 to align with new Council Plans and Strategic Resource Plans following council elections (in October 2016). Many council submissions expressed concern that the property revaluation scheduled for 2016 would mean that ratepayers' rates notices were unlikely to increase in line with the rate cap and that this would cause widespread confusion. Ratepayers generally rejected the idea of a phased or transitional introduction of the framework.

We recognise that there is only a short time between completion of our report and commencement of the framework (and submission of applications for variations). In response, we are proposing to submit our final report to Ministers one month earlier than requested; that is, we will submit by the end of September (rather than the end of October). We also note the following:

- The rate cap we are proposing (chapter 2) provides councils leeway by: (i) including a provision for councils' labour costs; and (ii) setting the initial efficiency factor at zero and having it increase only very slowly in subsequent years.
- The requirements we proposed for the variation process (chapter 3) have been informed by our discussions with councils. We are confident that councils with well-established processes for strategic planning and community consultation will not find these requirements unduly onerous.
- The timelines proposed in the previous section have sought to delay lodgement of applications for variations to the latest date possible in order to provide councils with as much time as possible to prepare their submissions. Further delays might be possible if adoption of council budgets was postponed.
- The Government has made its intentions known since late-2014 and our preliminary thoughts about the framework's design were released in April. While the framework's precise details await conclusion of this review, we consider that councils already have enough information to undertake the necessary contingency planning to allow them to respond quickly once arrangements are finalised.

In addition, we are proposing that in the framework's first year of implementation, the Commission should only be authorised to approve variations for one year. Thereafter, councils should be permitted to submit, and the Commission approve variations of the length shown in table 5.2. In other words, the length of permissible variations increases as councils and ratepayers become more familiar with the framework. Councils could still apply for shorter variations than the maximums shown in table 5.2. The Commission could be asked to review this timetable for phasing in the variation process after 2-3 years.

Importantly, if councils seek longer variations in future years, they would be expected to manage budgetary fluctuations within their approved multi-year variation. That is, once approved a variation would not be revisited (or re-opened) other than in the event of material and extenuating circumstances outside the council's control.

TABLE 5.2 MAXIMUM LENGTHS OF VARIATION
Years

| First year of variation | Length of permissible variation |
|---------------------------|--|
| 2016-17 | One year (i.e. 2016-17 only) |
| 2017-18 | Up to two years (i.e. 2017-18 only or 2017-18 and 2018-19) |
| 2018-19 | Up to three years (i.e. up to 30 June 2021) |
| 2019-20 and beyond | Up to four years (i.e. up to 30 June 2023) |

The Commission will exercise its professional judgement when assessing variations in the first year. Its expectations of the rigour of applications for variations in the first year will be different from the expectations it will hold after a few years of experience with the framework. For the avoidance of doubt, this statement should not be interpreted as suggesting a 'green light' to poor quality applications.

5.3 WHAT ABOUT THE COSTS OF ADMINISTERING THE FRAMEWORK?

ADMINISTRATION COSTS

The terms of reference request advice on options for funding the Commission's administration of the rates capping framework, including cost recovery. In broad terms, the Commission's costs will comprise of: (i) a base level of funding to administer the rates capping arrangements and its monitoring and reporting responsibilities; and (ii) a variable funding requirement dependent on the number of applications for variations received each year.

A majority of submissions that responded to the issue of cost recovery did not support these costs being recovered from local government. In contrast, some submissions suggested that the Commission could either set licence fees to recover costs from councils or could apply an application fee for considering variations above the cap. It was also suggested that fines could be applied to councils that failed to comply with the framework. In NSW, the State Government funds the costs of its scheme.

If some or all of the Commission's costs are to be recovered from local government, some options for cost recovery include:

- A fixed charge — applied to each council regardless of whether they apply for a variation. The same charge could be levied on each council or it could be apportioned depending on a factor that takes into account councils' ability to pay such as relative size of revenue.
- A variable charge — charges could vary depending on whether councils seek a variation to the rate cap. Costs could be structured equally or apportioned depending on a factor that takes into account of councils' ability to pay.
- A combination — charges to councils could include fixed and variable components.

COMPLIANCE COSTS

Although we have been mindful of not imposing unnecessarily burdensome requirements on local government, councils will still incur compliance costs following introduction of the framework. While we consider most of these costs will just become the 'cost of doing business' for a council, we expect that there might be some need for an initial investment in capacity building in the sector. The Government may wish to consider providing or coordinating assistance for councils (particularly in smaller councils) as they transition to working under the framework. Local Government Victoria could partner with peak bodies in delivering this assistance.

5.4 GUIDANCE AND SUPPORT

While this document outlines the structural features of the proposed rates capping and variation framework, we appreciate that 'the devil will be in the detail'. For this reason, the provision of detailed guidance and support, particularly in preparing a variation application, will be a central focus of the Commission over coming months. Guidance material will cover areas such as:

- the questions, actions and evidence required for a variation application
- suggestions on how the proposed community engagement principles can be operationalised
- the baseline information required from councils.

In some cases, the guidance material will be detailed and prescriptive; elsewhere it will be principles-based and provide councils with discretion regarding how they comply. Our 'baseline information' requirement is an example of the former, while our guidance on community consultation adopts the latter approach.

Over the coming months we will develop draft guidelines in relation to the areas that will be needed most immediately at the commencement of the framework.¹² We will commence consultation on this guidance and we will establish technical working groups where required. We expect the most immediately required guidance will be finalised before the end of the year.

¹² For further information see Volume II of this draft report tables 3.1 and 3.2, and Appendix D.

6 OVER THE LONGER TERM

Our experience in establishing related frameworks in other sectors suggest that the rates capping and variation framework proposed in this draft report will evolve as experience with the framework matures. As councils, ratepayers and the Commission begin operating under the framework, gaps and ambiguities may become evident. We will work closely with all interested parties to identify and address these concerns.

We also know from experience that with the passage of time, opportunities will emerge to raise the framework's level of ambition. As the parties become more familiar with the framework, they will seek to use it for increasingly sophisticated purposes. Sometimes this will necessitate significant changes to the design of the framework, but often even small minor modifications will enable significant new opportunities.

It will be important for the long-term success of the framework that it is capable of maturing and evolving to meet changing needs and circumstances.

6.1 WHEN SHOULD A COMPREHENSIVE REVIEW OF THE ENTIRE FRAMEWORK BE UNDERTAKEN?

As with any regulatory arrangements, the rates capping and variation framework should be subjected to periodic review. The ongoing monitoring regime detailed in chapter 4 will provide some assurance that the key elements of the framework are being adhered to. It will also help identify whether features of the framework are responsible for any deterioration or unintended consequences in council performance.

However, there is a need to conduct a more comprehensive review of the framework on a periodic basis in order to assess how effectively it is achieving its intended objectives. Such a review should seek to identify any necessary refinements to the legislative or regulatory architecture so that the framework is capable of meeting relevant policy objectives at that time.

Strong and broad support for a review of the framework was evidenced in submissions. Including a formal review mechanism into the design of the framework is consistent with best practice policy and program delivery principles.

The Commission recommends that the Government consider making a formal review of the rates capping and variation framework a statutory obligation. The review should draw on all relevant information including the data and trends identified through the ongoing monitoring regime. All interested parties should have an opportunity to provide input to that review. Elsewhere, similar reviews are programmed into legislation for periods of varying length ranging from 3 to 10 years. We consider a review period of 4 years to be appropriate in this case.

6.2 WHAT IS STILL REQUIRED TO REALLY DRIVE EFFICIENCY?

The terms of reference emphasise in various places that efficiency is a primary objective of the rates capping and variation framework. Despite some common misconceptions, efficiency is not synonymous with cost cutting. For the purposes of this report, efficiency may be defined as:

Delivering the mix, quality and quantity of services wanted by ratepayers, in the way and at the time they want, and at a price they are willing to pay; and doing so at the lowest possible cost. Moreover, it involves adopting new technologies as they become available for producing and delivering these services; and it includes being able to adapt to ratepayers' changing preference in a timely manner.

Alternatively defined, efficiency is about producing the required mix of outputs using the fewest and best mix of inputs.

Significant sector initiatives (internal and externally driven) have been progressed over the past 5 years to promote better resource management and decision-making. These initiatives include:

- improvements in asset management and its integration within broader council planning
- introduction of the Local Government Performance Reporting Framework as a tool to gather data on a selection of common service areas
- clearer and more expansive guidance from Local Government Victoria on rate setting policies, collaborative procurement and service sharing, budget and financial templates and the LGPRF
- increased used of collaborative tendering and shared services
- more sophisticated approaches to risk management and reporting
- continuous efforts and the use of new media to consult with ratepayers and communities.

These initiatives are welcomed and they should continue, but they are often being pursued on inadequate foundations — meaning that while they may be helpful for management from an administrative perspective, some councils' information management systems remain poorly placed for supporting an assessment of how efficiently they are operating. Increasingly, over time council systems should be able to:

- reflect uniform definitions and standard measures for the inputs used and the outputs produced
- identify or measure the resources utilised to produce different outputs
- generate unit costs for the outputs they produce.

Until this information is available, councils' information management systems will limit the capacity of the rates capping and variation framework, including the monitoring and reporting arrangements, to highlight and drive opportunities for improved efficiency. We consider that a concerted effort is required to standardise the recording of council inputs and outputs across the sector.

We would welcome the opportunity to work with councils and relevant government agencies to develop, and progressively implement, standardised definitions and measures of councils' inputs and outputs. Specific sectoral accounts could be developed that contain financial and resource-use information relevant to assessing

how efficiently councils' produce and deliver services to their communities. Sectoral accounts would sit alongside the statutory accounts already produced by local government but they would focus on providing information on costs, revenues, and asset values related to the delivery of relevant services.

6.3 SHOULD COUNCILS BE GIVEN ANY GUIDANCE ON THEIR FINANCING OPTIONS?

Based on publicly available data, we have observed that councils have generally been averse to debt financing and many have established quite substantial capital reserves. While we note that this is purely within councils' prerogative, we question whether there would be a benefit in the State Government providing councils with guidance on the responsible use of debt — particularly with respect to funding long-lived infrastructure, and green field and intergenerational assets. In any event, councils may need to strengthen their policies regarding debt utilisation in light of our proposed approach to the trade-offs councils need to consider before applying for a variation (chapter 3).

6.4 SHOULD THERE BE GREATER COST REFLECTIVITY IN SOME COUNCIL RATES AND CHARGES?

In section 2.2, we propose that service rates and charges be excluded from the rate cap on the basis of councils' claims that these charges are set on a cost reflective basis. We have not tested these claims. However, we note that, whereas the *Local Government Act 1989* (the Act) requires that special rates and charges must be cost reflective, there is no corresponding obligation on service rates and charges. The relevant legislation in NSW requires that waste related charges are not to exceed the reasonable cost of providing the services and that general rates must not be used to fund the cost of providing waste management services.

If service rates and charges are to be excluded from the cap, we believe there is merit in the Government reviewing the Act provisions regarding service rates and charges to require that these charges must reflect the efficient costs of providing the underlying service.

In some cases, fees associated with statutory services provided by councils (for example, planning fees) are regulated by the Government. It is not necessarily clear how these fees are determined and some have remained unchanged for a number of years. These fees would not be covered by the rate cap.

Following introduction of the rates capping framework, we consider that councils should be able to recover the efficient costs of providing these statutory services. There is merit in periodically reviewing fees for statutory services to ensure they reflect the efficient cost of providing those services.

7 DRAFT RECOMMENDATIONS

This chapter outlines our 11 draft recommendations regarding the design and implementation of a local government rates capping and variation framework. Table 7.1 at the end of the chapter guides the reader to the section in each volume relevant to our draft recommendations.

THE CAP

Draft recommendation 1

The Commission recommends that there should be one rate cap that applies equally to all councils in Victoria.

Draft recommendation 2

The Commission recommends that:

- revenue from general rates and municipal charges should be subject to the rate cap
- revenue from special rates and charges, 'revenue in lieu of rates' and the fire services levy should not be included in the rate cap and
- service rates and charges should not be included in the rate cap, but be monitored and benchmarked.

Draft recommendation 3

The Commission recommends that the cap should be applied to the rates and charges paid by the average ratepayer. This is calculated by dividing a council's total revenue required from rates in a given year by the number of rateable properties in that council area at the start of the rate year.

Draft recommendation 4

The Commission recommends that the annual rate cap should be calculated as:

$$\begin{aligned}\text{Annual Rate Cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor})\end{aligned}$$

With: CPI = DTF's forecast published in December each year

WPI = DTF's forecast published in December each year

The efficiency factor will initially be set at zero in 2016-17 but increasing by 0.05 percentage points each year from 2017-18. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.

Draft recommendation 5

The Commission recommends that the 2015-16 rates (general rates and municipal charges) levied on an average property should be adopted as the starting base for 2016-17.

VARIATION

Draft recommendation 6

The Commission recommends that the framework should not specify individual events that would qualify for a variation. The discretion to apply for a variation should remain with councils.

Draft recommendation 7

The Commission recommends that the following five matters be addressed in each application for a variation:

- The reason a variation from the cap is required
- The application takes account of ratepayers' and communities' views
- The variation represents good value-for-money and is an efficient response to the budgeting need
- Service priorities and funding options have been considered
- The proposal is integrated into the council's long-term strategy.

Draft recommendation 8

The Commission recommends that in 2016-17, variations for only one year be permitted. Thereafter, councils should be permitted to submit and the Commission approve, variations of the length set out below.

| First year of variation | Length of permissible variation |
|--------------------------------|--|
| 2016-17 | One year (i.e. 2016-17 only) |
| 2017-18 | Up to two years (i.e. 2017-18 only or 2017-18 and 2018-19) |
| 2018-19 | Up to three years (i.e. up to 30 June 2021) |
| 2019-20 and beyond | Up to four years (i.e. up to 30 June 2023) |

Draft recommendation 9

The Commission recommends that it should be the decision-maker under the framework, but only be empowered to accept or reject (and not to vary) an application for variation.

MONITORING

Draft recommendation 10

The Commission recommends that it monitor and publish an annual rates report on councils' adherence to the cap and any approved variation conditions.

Draft recommendation 11

The Commission recommends that it monitor and publish an annual monitoring report on the overall outcomes for ratepayers and communities.

MATTERS FOR FURTHER CONSIDERATION

The Commission recommends that the Government consider making a formal review of the rates capping and variation framework a statutory obligation. The review should draw on any data and trends identified through the ongoing monitoring regime and all interested parties should have an opportunity for the sector to provide input to that review. The Commission considers a review period of 4 years to be appropriate.

The Commission recommends that the Government consider amending the *Local Government Act 1989* to require that service rates and charges must reflect the efficient costs of providing the underlying service.

The Commission recommends that the Government consider initiating a periodic review to ensure that statutory fees continue to reflect councils' efficient cost of providing statutory services.

TABLE 7.1 WHERE IS EACH DRAFT RECOMMENDATION DISCUSSED?

| Draft Recommendation No. | Volume I | Volume II |
|---------------------------------|-----------------|------------------|
| 1. | Section 2.1 | Section 2.1 |
| 2. | Section 2.2 | Section 2.2 |
| 3. | Section 2.3 | Section 2.3 |
| 4. | Section 2.4 | Section 2.4 |
| 5. | Section 2.5 | Section 2.5 |
| 6. | Section 3.2 | Section 3.2 |
| 7. | Section 3.3 | Section 3.3 |
| 8. | Section 5.2 | Section 3.5 |
| 9. | Section 3.4,3.5 | Section 3.6 |
| 10. | Section 4.3 | Section 4.4 |
| 11. | Section 4.4 | Section 4.5 |

8 WHAT COMES NEXT

We will now commence an extensive round of consultation across the state to test the rates capping and variation framework that we have proposed in this draft report.

Those consultations will include:

- discussions with councillors, council staff and ratepayers, and their representative bodies (MAV, VLGA, LGPro, FinPro, unions)
- public information sessions in Melbourne and regional Victoria (see table 8.1 for schedule). Further details will also be placed on our website and you can register to attend by emailing localgovernment@esc.vic.gov.au
- convening deliberative discussions with groups of randomly selected ratepayers and community members.

We will also establish a working group drawn from the sector, to refine some of the detailed design and implementation requirements of the framework.

Interested parties are invited to comment on this paper by providing a written submission by 28 August 2015 (see details below).

In the meantime, we will continue to publish a newsletter periodically providing updates on how we are progressing with the review and consultations.

Our final report setting out the recommended rates capping and variation framework will be provided to the Minister for Local Government and the Minister for Finance by the end of September — following which, the final report will be released publicly.

For further updates please go to our website: www.esc.vic.gov.au/Local-government or contact us on 03 9032 1300 or localgovernment@esc.vic.gov.au

TABLE 8.1 PUBLIC INFORMATION SESSIONS

| Region | Day | Date | Time | Venue |
|------------|-----------|----------------|--------------|--|
| Traralgon | Monday | 10 August 2015 | 5:00-6:30pm | Premier Function Centre, 29 Grey Street, Traralgon |
| Melbourne | Monday | 17 August 2015 | 5:00-6:30pm | Telstra Business Centre, 242 Exhibition Street, Melbourne |
| Wangaratta | Thursday | 20 August 2015 | 5:00-6:30pm | Quality Hotel Wangaratta Gateway, 29-37 Ryley Street, Wangaratta |
| Bendigo | Wednesday | 26 August 2015 | 12:00-1:30pm | La Trobe University Visual Arts Centre (VAC), 121 View Street, Bendigo |
| Horsham | Wednesday | 26 August 2015 | 6:00-7:30pm | Horsham Golf Club 304 Golf Course Road Horsham |

HOW TO MAKE A SUBMISSION

Submissions are due by 28 August 2015. Where relevant, submissions should contain supporting evidence for any claims made.

To promote an open and transparent review process, our normal practice is to make all submissions publicly available on our website. If there is information that you do not wish to be disclosed publicly on the basis that it is confidential or commercially sensitive, this information should be clearly identified in the submission.

Any questions about this draft report can be directed to Angelina Garces on (03) 9032 1300. Submissions should be emailed to: localgovernment@esc.vic.gov.au

You can also send comments by fax to 03 9032 1303 or by mail marked:

Local Government Rates Capping and Variation Framework Review
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

APPENDIX A — TERMS OF REFERENCE

ESSENTIAL SERVICES COMMISSION
VICTORIA

A BLUEPRINT FOR CHANGE
LOCAL GOVERNMENT RATES CAPPING & VARIATION
FRAMEWORK REVIEW — DRAFT REPORT VOLUME I
APPENDIX A — TERMS OF REFERENCE

53

Local Government Rates Capping Framework

Terms of Reference

I, Robin Scott MP, Minister for Finance, under section 41 of the *Essential Services Commission Act 2001* (the 'ESC Act'), refer to the Essential Services Commission (ESC) the development of a rates capping framework for local government.

As provided for by section 185b of the *Local Government Act 1989*, the Minister for Local Government can cap council general income. The Government has announced a commitment to cap annual council rate increases¹ and has also provided additional guidance on factors to be considered during the implementation of the cap².

The State Government's objective is to contain the cost of living in Victoria while supporting council autonomy and ensuring greater accountability and transparency in local government budgeting and service delivery. The Government intends to promote rates and charges that are efficient, stable and reflective of services that the community needs and demands, and set at a level that ensures the sustainability of the councils' financial capacity and council infrastructure, thereby promoting the best outcomes for all Victorians.

The ESC is asked to inquire into and advise the Ministers for Finance and Local Government on options and a recommended approach for a rates capping framework for implementation from the 2016-17 financial year. Advice should include and/or take into account the following matters:

- 1) Available evidence on the magnitude and impact of successive above-CPI rate increases by Victorian councils on ratepayers.
- 2) Implementation of the Government's commitment to cap annual council rate increases at the Consumer Price Index (CPI) with councils to justify any proposed increases beyond the cap, including advice on the base to which the cap should apply (e.g. whether to rates or to general income).
- 3) Any refinements to the nature and application of the cap that could better meet the Government's objectives.
- 4) Options for the rate capping framework should be simple to understand and administer, and be tailored to the needs of the highly diverse local government sector. The framework should take into account factors that may impact on local governments' short and longer term financial outlook, such as:
 - a) actual and projected population growth and any particular service and infrastructure needs;
 - b) any relevant Commonwealth Government cuts to Local Government grants;
 - c) any additional taxes, levies or increased statutory responsibilities of local governments as required by the State or Commonwealth Governments;

¹ Media release by Daniel Andrews, *Andrew Announces Fair Go for Ratepayers*, 5 May 2014.

² ALP's response to MAV's *Local Government Call to Political Parties*, p.1, November 2014.

- d) any extraordinary circumstances (such as natural disasters); and
 - e) other sources of income available to councils (for example, ability to raise user fees and charges from non-residents).
- 5) Consider how local governments should continue to manage their overall finances on a sustainable basis, including any additional ongoing monitoring of council service and financial performance to ensure that any deterioration in the level, quality or sustainability of services and infrastructure and councils' financial position is identified and addressed promptly.
- 6) The processes and guidance to best give effect to the recommended approach for the rates capping framework and a practical timetable for implementation, including:
- a) the role of councils, the ESC and the Victorian Government and the expected time taken by local governments and by the Victorian Government or its agencies, for each step in the rate capping process;
 - b) any technical requirements including the information requirements on councils that request exemptions from the cap;
 - c) any guidance required to give effect to the rate capping options (including in relation to consultation with ratepayers) and to improve accountability and transparency; and
 - d) any benchmarking or assessment of the effectiveness of the regime, including options to continuously refine the regime and improve council incentives for efficiency.
- 7) Options for ongoing funding to administer the rate capping framework, including the potential for cost recovery.

In conducting the inquiry and providing its advice, the ESC will have regard to:

- the role of local government in the provision of infrastructure and services to the community and the general efficacy with which they currently perform this task;
- the differences between rural, regional and metropolitan local councils in terms of costs, revenue sources and assets maintained;
- the Revenue and Rating Strategy guide and Local Government Performance Reporting Framework to be administered by the Department of Environment, Land, Water and Planning;
- matters regarding rating practices and asset renewal gap raised by the Victorian Auditor-General's Office (VAGO);
- Department of Treasury and Finance's Victorian Guide to Regulation and Victorian Cost Recovery Guidelines; and

- any relevant insights from the experience of rate pegging in New South Wales, including any reviews or evaluations that can suggest ways to minimise any unintended consequences.

In conducting this independent inquiry, the ESC will be informed by wide consultation. This will include, but is not limited to: councillors and officials from local government; representative bodies such as Municipal Association of Victoria, Victorian Local Government Association and LGPro; unions; VAGO; and relevant government agencies and departments. In addition, the ESC will consult regularly throughout the course of the inquiry with a sector consultative panel established by the Minister for Local Government. The ESC's consultation will be guided by its Charter of Consultation and Regulatory Practice.

The ESC will publish a draft report on the rates capping framework no later than six months after receipt of these terms of reference. The draft report must be made publicly available and invite comments from local governments and other interested parties. A final framework report along with draft guidance material will be provided to the Minister for Finance and Minister for Local Government no later than 31 October 2015.

ROBIN SCOTT
Minister for Finance
Dated: 19 January 2015



RESPONSE TO "A Blueprint for Change – Local Government Rates Capping & Variation Framework Review"

ESSENTIAL SERVICES COMMISSION VICTORIA (ESC)

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Response to Local Government Rates Capping & Variation Framework Review – August 2015

EXECUTIVE SUMMARY

This is Colac Otway's response to the draft recommendations in the Draft Report from the Essential Services Commission Victoria (ESC) "A Blueprint for Change – Local Government Rates Capping & Variation Framework Review" and information which is relevant from Council's initial submission on Rate Capping.

Colac Otway appreciates the opportunity to respond to the questions in the Draft Report and further provide information which is relevant to the significant issue of Rate Capping which will impact Local Government.

It should be noted from the outset that only providing a 4 week period to respond to what will be one of the most important issues that confronts Local Government in Rate Capping is fundamentally unfair.

Colac Otway like many other Victorian councils has significant concerns regarding the impacts of rate capping on the municipality and does not believe that rate capping represents strong public policy outcomes.

As noted in our previous submission it is important that the ESC investigated all possible options. The ESC is encouraged to explore other alternatives to Rate Capping taking into account the significant pressures that Rate Capping will place on Councils.

It is important that Local Government in Victoria continues to have the capacity to raise the appropriate level of rates to levy. The level of rates that Colac Otway charges is based on the services that Council delivers and the funding required to maintain the community's assets to the level required.

It is also important that not only financial considerations are taken into account when Rate Capping is being proposed. Councils play a critical role in community development and delivery of social policy outcomes for the community which cannot be ignored.

Colac Otway Shire currently delivers approximately 90 services, many of which impact various sectors in the community. Rate capping will mean that smaller Councils like Colac Otway will need to further review services that are delivered, placing further burdens on the community.

The impacts of rate capping will have a significant impact on Colac Otway Shires sustainability and directly affect our community. The implementation of rate capping for Victorian Councils has the potential to threaten the delivery of vital services and works to local communities.

It is unclear as to what is the purpose of rate capping:

- What is to be achieved?
- What are the issues that exist in the Local Government sector that need to be addressed?
- Were other methods to address these issues explored/considered?

It should also be noted that there is an inherent contradiction that the current process highlights that the ESC have been requested by the State Government to design a system to introduce rate capping as well as a system to work around rate capping.

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Draft recommendations in the Draft Report from the Essential Services Commission Victoria (ESC) “A Blueprint for Change – Local Government Rates Capping & Variation Framework Review”.

The following is a response to each of the 11 recommendations and matters for further consideration.

THE CAP

Draft recommendation 1

The Commission recommends that there should be one rate cap that applies equally to all councils in Victoria.

Colac Otway Response:

It is recognised that by having one cap creates an illusion of equality across all councils, but it also needs to be recognised that each grouping of Councils and each Council has different needs and pressures.

It is important to note that a number of councils in rural areas have limited other income streams. It has been well documented the financial pressures that smaller sized councils (in terms of population) are under in maintaining financial sustainability in the current environment. Further pressures on rating which is Council's main revenue stream will place added pressure on Council's already tight budgets and financial situation.

The impact for Councils in regional and rural areas will be significantly bigger as the opportunity to raise revenue from other income sources like fees and charges is harder than in Metropolitan areas.

It is also important to note that rural municipalities have significant infrastructure to maintain. For example Colac Otway maintains 1,632 kms of local roads and 134 bridges and culverts.

It is suggested that there is further consideration given to having a different level of rate cap for the various Council groupings.

Draft recommendation 2

The Commission recommends that:

- revenue from general rates and municipal charges should be subject to the rate cap
- revenue from special rates and charges, 'revenue in lieu of rates' and the fire services levy should not be included in the rate cap and
- service rates and charges should not be included in the rate cap, but be monitored and benchmarked.

Colac Otway Response:

Colac Otway agrees with the recommendation.

With respect to service rates and charges, Colac Otway reviews its Waste Management Charge on an annual basis to ensure that the charge covers the cost of providing the service to those receiving it.

It needs to be noted that with respect to Waste Management charges they have been impacted by the higher standards required by State Government. The trend indicates that the waste disposal gate fee has been increasing at a rate of approximately 15% per year. This not only affects the kerbside budget but also Council waste and litter disposal costs. These costs are unavoidable and will still need to be paid when rate capping is implemented.

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The Landfill Levy implemented by the State Government has increased from \$7 per tonne in 2009 to \$29.30 per tonne for the rural landfill sites. This has had a significant impact on Council rates and the annual waste charge. This will not only affect the kerbside budget but also Council waste and litter disposal costs. These costs are unavoidable and will still need to be paid when rate capping is implemented.

Many of the contracts including the waste contract involve transportation which is affected by fuel costs. These costs are highly variable and impacted by international factors as well as the rise and fall of the Australian Dollar which are outside Council's control. Council's rate has to be responsive to the variable fuel price on a year to year forecast basis.

Fire Services Levy:

It is also important to note that while Local Government is being asked to keep rates and charges increases to a minimum the State Government has significantly increased the Fire Services Property Levy (FSPL) for 2015-16.

Whilst this is not a Council charge, Council is forced to collect the FSPL on behalf of the Victorian Government through the rate collection process. The fixed portion of the FSPL will increase in 2015-16 by \$2 per property (from \$102 to \$104) for residential properties, and by \$5 (from \$205 to \$210) for other properties.

The large increase however, will be in the variable rate, which sees a 32% increase for residential properties; with a 13% increase for commercial and primary production and a 12% increase for industrial properties. Whilst the proportion of the variable charge is significantly less than the fixed charge as a whole of the charge, the overall rise in the FSPL payable by ratepayers per category is as follows:

| | |
|--------------------------------------|----|
| Residential | 9% |
| Commercial | 8% |
| Industrial | 9% |
| Primary Production | 5% |
| Public Benefit | 7% |
| Vacant Land (other than residential) | 7% |

The FSPL is collected by Council on behalf of the Victorian Government via the rate collection process – i.e the FSPL actually appears on each ratepayer's rate notice. Council needs to be very vigilant in identifying the different charges to ratepayers so as to make it clear that the increase in the FSPL is not a result of a Council decision.

Draft recommendation 3:

The Commission recommends that the cap should be applied to the rates and charges paid by the average ratepayer. This is calculated by dividing a council's total revenue required from rates in a given year by the number of rateable properties in that council area at the start of the rate year.

Colac Otway Response:

Colac Otway agrees with the recommendation providing the guidelines are very clear on the way supplementary rates are accounted for. Councils cannot be disadvantaged by the method of calculating the average rates and charges. Supplementary rates should be excluded from the cap. Supplementary rates would become part of the base for the following year.

Draft recommendation 4

The Commission recommends that the annual rate cap should be calculated as:

$$\begin{aligned}\text{Annual Rate Cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor})\end{aligned}$$

With: CPI = DTF's forecast published in December each year

WPI = DTF's forecast published in December each year

The efficiency factor will initially be set at zero in 2016-17 but increasing by 0.05 percentage points each year from 2017-18. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.

Colac Otway Response:

Colac Otway disagrees with the methodology in setting the rate cap. It is recommended that the CPI represents 60% of the proposed Annual Rate Cap. As highlighted by most councils during the previous submission process the CPI does not reflect movements in costs of the delivery of council services and that the wages, construction costs and utility costs have all been typically rising above the CPI.

It has been well documented that CPI is not a true measure of the annual increase on Council's operations and it is critical that all other options are explored.

One option available is a "Local Government Cost Index" which takes into account the impacts such as Local Enterprise Agreements and Cost Shifting from other levels of Government have on the ability of Councils to keep rate increases at CPI.

The ESC is strongly encouraged to consider other options. These could include:

- (a) In the 2014 Federal Budget, the Commonwealth Government announced that indexation of the national pool of financial assistance grants would be paused for a period of three years.

It is recommended that the ESC consider the addition of an additional factor to account for the lost revenue to Local Government as a result of the pause.

The information on the amounts lost for each municipality would be readily available through the Victoria Grants Commission and would assist Local Government while the grants are paused.

- (b) The ESC should consider having a transitional year in 2016-2017. As pointed out in a number of submissions the 2016-2017 financial year will be the first year of a revaluation across Local Government. This will mean that there will be no consistency across properties as to the increase in rates and charges and may result in confusion for ratepayers.

It should also be noted that in 2016-2017 Local Government will incur significant costs in undertaking the next Local Government Elections. For Colac Otway the costs could be in the vicinity of \$150,000. This equates to an approximate 0.6% increase required in rates and charges.

Having a transitional year will also provide further time to refine the most appropriate model and review and amend existing legislation and regulations.

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Colac Otway also does not agree with the additional burden of an efficiency factor. Rate Capping is itself an efficiency measure. By adding a further factor has the effect of a “double efficiency” factor.

Council has limited capacity to raise funds through traditional means i.e. rates. This results in a tension in finding a balance between the financial burden faced by the community and the ability to meet future needs and aspirations. The introduction of rate capping will increase the pressure on our capacity to provide services.

An estimate of the effects of rate capping shows that Council will be placed in an unsustainable financial position if it continues to rely on rate revenue to fund its operations to the extent that it currently does. The only options to ameliorate this situation are to:

- cut expenditure, and as an inevitable result, reduce service levels; or
- increase funding from alternative sources.

In Colac Otway rate capping will very likely limit the ability for Council to continue to provide any services other than those required by legislation thus impacting on some of the most disadvantaged members of our community.

It is therefore recommended that there be no efficiency factor added on an annual basis commencing from 2017-18.

Draft recommendation 5

The Commission recommends that the 2015-16 rates (general rates and municipal charges) levied on an average property should be adopted as the starting base for 2016-17.

Colac Otway Response:

Colac Otway agrees with the recommendation providing the guidelines are clear on the way supplementary rates are accounted for. Supplementary rates should be excluded from the cap. Supplementary rates would become part of the base for the following year.

VARIATION

Draft recommendation 6

The Commission recommends that the framework should not specify individual events that would qualify for a variation. The discretion to apply for a variation should remain with councils.

Colac Otway Response:

Colac Otway agrees with the recommendation.

Draft recommendation 7

The Commission recommends that the following five matters be addressed in each application for a variation:

- The reason a variation from the cap is required
- The application takes account of ratepayers' and communities' views
- The variation represents good value-for-money and is an efficient response to the budgeting need
- Service priorities and funding options have been considered
- The proposal is integrated into the council's long-term strategy.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

Colac Otway Response:

It is noted that whatever information is required for a variation it will require additional resources which will place additional administrative burdens on Council. It is important that the variation process does not create unnecessary levels of bureaucracy as Council is already financially constrained.

Level of Debt:

The variation process should not be impacted by the level of debt each council maintains.

Each council is different and the level of debt that is appropriate for Colac Otway Shire Council may not be acceptable for another council.

The following factors are seen as important issues for consideration by Colac Otway Shire Council:

- level of debt servicing as a proportion of rate revenue;
- ability to raise revenue in addition to rates;
- level of realisable assets to support the indebtedness;
- achieving the right mix of capital works and debt commitments;
- growth rate of municipality;
- community needs; and
- demographics

Council is responsible and accountable for indebtedness and the cost of debt servicing needs to be controlled to manageable levels.

Proposed Timelines:

The major issue with variations is the proposed timelines. Council usually commences its budget process in the prior calendar year and then it is an extensive process right through until the budget is adopted by 30 June.

The proposed timelines for variations indicate that Councils notify ESC of intention to seek a variation in January 2016. Part of the matters to be addressed is to take account of ratepayer's and communities' views. What will be required to satisfy this point?

The proposed timelines also indicate that the ESC will notify councils of decisions on variations in May 2016. This is clearly unsatisfactory as Council will not meet its statutory obligations with respect to a consultation process under the Local Government Act.

Councils are required under the Act to give 28 days' public notice of their proposed budgets. Colac Otway requires up to 6 weeks. Therefore Councils commence the preparation of budgets well in advance to enable a draft budget to be advertised in April of each year.

A process to consider applications for increases above the recommended rate cap will need to be completed well before Councils complete their Draft budgets. For the 2015/16 Budget Colac Otway considered its draft budget at the 22 April 2015 Council meeting.

Any decision to apply for application of rate increases above the rate cap will need to be considered well before this time as the Draft Budget will need to reflect any outcomes of applications.

It is recommended that the proposed timelines for variations need to be reviewed in light of the requirements of the Local Government Act and Council policies. It is recommended that the 30 June date for adoption of budgets should remain in the Local Government Act.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

As previously noted having a transitional year in 2016-2017 will also provide further time to refine the most appropriate model and review and amend existing legislation and regulations.

Draft recommendation 8:

The Commission recommends that in 2016-17, variations for only one year be permitted. Thereafter, councils should be permitted to submit and the Commission approve variations of the length set out below.

| First year of variation | Length of permissible variation |
|-------------------------|--|
| 2016-17 | One year (i.e. 2016-17 only) |
| 2017-18 | Up to two years (i.e. 2017-18 only or 2017-18 and 2018-19) |
| 2018-19 | Up to three years (i.e. up to 30 June 2021) |
| 2019-20 and beyond | Up to four years (i.e. up to 30 June 2023) |

Colac Otway Response:

Colac Otway agrees with the recommendation that variations for only one year be permitted in 2016-2017. It is important that the process with respect to variations is established before multi-year caps are introduced.

Colac Otway recommends that once the process is established after the first year, that the length of permissible variation should be 4 years. This will then be consistent with Council's planning processes.

Colac Otway agrees that Councils should have the flexibility to be able to apply for temporary and permanent variations from the cap. As noted in the report a temporary variation would enable councils to address costs that arise once and were not expected to recur.

Draft recommendation 9:

The Commission recommends that it should be the decision-maker under the framework, but only be empowered to accept or reject (and not to vary) an application for variation.

Colac Otway Response:

Colac Otway agrees with the recommendation providing it is clear how the ESC will assess applications for any variations.

It should be noted that Colac Otway strongly believes that the State Government should fund the operations of the Essential Services Commission with respect to the Rate Capping and variation processes.

It is also important that the variation process does not create unnecessary levels of bureaucracy as Council is already financially constrained.

MONITORING

Draft recommendation 10:

The Commission recommends that it monitor and publish an annual rates report on councils' adherence to the cap and any approved variation conditions.

Colac Otway Response:

Colac Otway agrees with the recommendation.

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As noted in the Draft Report it is important that only minimal additional reporting obligations are imposed. The information that is required should already be collected by Local Government.

Draft recommendation 11

The Commission recommends that it monitor and publish an annual monitoring report on the overall outcomes for ratepayers and communities.

Colac Otway Response:

Colac Otway agrees with the recommendation.

It is important that there is transparency and accountability through the process.

As per recommendation 10 it is important that only minimal additional reporting obligations are imposed. The information that is required should already be collected by Local Government.

MATTERS FOR FURTHER CONSIDERATION

The Commission recommends that the Government consider making a formal review of the rates capping and variation framework a statutory obligation. The review should draw on any data and trends identified through the ongoing monitoring regime and all interested parties should have an opportunity for the sector to provide input to that review. The Commission considers a review period of 4 years to be appropriate.

Colac Otway Response:

Colac Otway agrees that the Government should consider making a formal review of the rates capping and variation framework a statutory obligation, but the review should be undertaken after a 2 year period not 4 years in the first instance.

Colac Otway also supports the current inquiry into Rate Capping being undertaken by the Environment and Planning Committee:

"That pursuant to Sessional Order 6 this House requires the Environment and Planning Committee as part of its oversight of Local Government Victoria, to inquire into and report every six months on the outcome of the State Government policy of local government rate capping on councils' viability, service impacts on local communities and impacts on the provision of local infrastructure."

The Commission recommends that the Government consider amending the *Local Government Act 1989* to require that service rates and charges must reflect the efficient costs of providing the underlying service.

Colac Otway Response:

Colac Otway agrees that the Government should consider amending the Local Government Act 1989 to require that service rates and charges must reflect the efficient costs of providing the underlying service, but noting the points in recommendation 2 with respect to the increases in the Landfill Levy and contractual obligations.

The Commission recommends that the Government consider initiating a periodic review to ensure that statutory fees continue to reflect councils' efficient cost of providing statutory services.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

Colac Otway Response:

Colac Otway agrees that the Government should consider initiating a periodic review to ensure that statutory fees continue to reflect councils' efficient cost of providing statutory services. The first review should be undertaken as soon as possible as a review of some fees e.g. Statutory Planning Fees is well overdue and needs to be urgently addressed.

Many fees that Council collects which contribute to services are set by State agencies. It is critical that the level of fees reflect the real costs of delivering the service and are paid for by the applicant or recipient of the service. At the present time this gap must be recovered from rates and charges.

It is also important that once the fee has been set at the correct level that there is a regular escalation to the fees similar to many State Government fees and charges.

COLAC OTWAY SHIRE ADDITIONAL INFORMATION

The following information is taken from Colac Otway's initial submission to highlight the key issues that Colac Otway faces if Rate Capping is implemented.

The Shire at a Glance

- Area: 3,427 sq kilometres.
- Length of Local Roads: 1,632 kilometres.
- 134 Bridges and Culverts.
- Coastline: 95 kilometres.
- Forest and National Park: 110,000 hectares.
- Estimated population: 20,973
- Population born overseas: 7.5%
- Population growth rate: 1.2%
- Employment rate: 97% (full time, 57%)
- Rateable properties: 14,768

Challenges Facing Council

The challenges we face can be clustered into two broad areas, these are:

1. Council specific challenges.

These challenges are directly under the control or responsibility of Council and Council will need to decide if the challenge requires a strategic response and resource allocation.

2. Broad Shire community challenges.

These liveability issues are faced by the whole Shire, not just the Council as a Local Government Authority, and therefore require multi-agency collaboration if they are to be addressed.

Financial Constraints

Council has limited capacity to raise funds through traditional means i.e. rates. This results in a tension in finding a balance between the financial burden faced by the community and the ability to meet future needs and aspirations. The introduction of rate capping by the State Government, to take effect from July 2016, will increase the pressure on our capacity to provide services.

Complex Regulatory Environment

Colac Otway Shire operates in a highly regulated environment, with complex planning and building control systems administered by the State Government.

Given the topography and location of the Shire, properties along the southern extent of the Shire are burdened by an array of zones and overlay controls that apply to ensure that important land use and development issues are addressed.

Ageing Population

Colac Otway Shire has a growing ageing population, which presents challenges to future planning for:

- community care services
- arts, culture and open space facilities and events
- infrastructure to ensure accessibility.

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An ageing population also has workforce implications, with a potential mass exodus of 'baby boomers' related to retirement and consequent loss of talent and experience.

Significant Levels of Disadvantage.

Colac Otway Shire has pockets of high socio-economic disadvantage characterised by lower incomes, education and skill levels, alongside higher levels of unskilled occupations, family and health issues.

The median net income of couple families is comparatively low, the proportion of sole parent families is higher than that for the rest of Victoria and education attainment for parents is lower.

Transport Network

There is increasing pressure and growing need to increase public transport services (bus, rail etc), including:

- Connection with Geelong
- Connection within the Shire e.g. Apollo Bay – Colac
- Within the city of Colac

The potential for significant increases in road freight volumes will impact on liveability and tourism values across the shire. Responses to this may need to include:

- Supporting VicRoads to develop an alternate truck route for Colac
- Improved pedestrian and cycling infrastructure.

Assets – Renewal, Maintenance and New

The challenge of addressing infrastructure assets is multi-faceted dealing with assets that are at the end of their useful life and the need to construct new infrastructure that meets modern service requirements and future demand as population grows. Other issues include:

- Major drainage issues across the Shire.
- Asset renewal, maintenance and provision of new infrastructure. Assets include roads, footpaths, drainage, bridges, public spaces, buildings and recreation facilities.
- The current standards do not meet community expectations.
- There is an unfunded community infrastructure renewal gap.

Impacts

Rate capping will have a significant impact on Council policies and procedures. The implementation of rate capping for Victorian Councils has the potential to fundamentally change the way in which local government approaches service delivery for our communities. Through a significantly reduced revenue stream Council will need to reassess all service level policies and priorities, with an aim to reduce expenditure where possible.

The challenges facing Colac Otway which are noted above are more than likely to increase as a result of the significant pressures on Council's finances and resources.

CONTEXT/PURPOSE OF RATE CAPPING

An estimate of the effects of rate capping shows that Council will be placed in an unsustainable financial position if it continues to rely on rate revenue to fund its operations to the extent that it currently does. The only options to ameliorate this situation are to:

- cut expenditure, and as an inevitable result, reduce service levels; or
- increase funding from alternative sources.

The impacts would be scalable depending on the rationale applied to rate capping. There is the obvious impact which will be the ability for Council to continue business as usual in line with the currently adopted SRP (being an approximate 6% rate rise per annum). The budget for 2015/16 indicates an increase in rates and charges of 4.9%.

In Colac Otway rate capping will very likely limit the ability for Council to continue to provide any services other than those required by legislation thus impacting on some of the most disadvantaged members of our community.

It should be noted that each of the 79 councils in Victoria are different.

The differences include:

- size
- population
- isolation
- road lengths
- services provided

As well as these obvious differences each council also has established a level of rates and charges over time to provide services to their communities.

Applying a standard percentage rate cap to all councils may not be equitable or sustainable for the assessment of future rates and charges.

Potential Impacts for Colac Otway

Colac Otway's Reliance on Rates and Charges

The following table provides details of the breakdown of Council's Income over the period 2004-05 to 2015-16.

As can be seen by the income figures for the 12 year period Council's reliance on rates and charges (waste) has continued to increase over the period: from 39.4% in 2004-05 to 57% in 2015-16 (budget).

With a reduction in other forms of revenue Council has relied more and more on rate revenue.

Rate capping will place significant pressures on Council's main source of revenue.

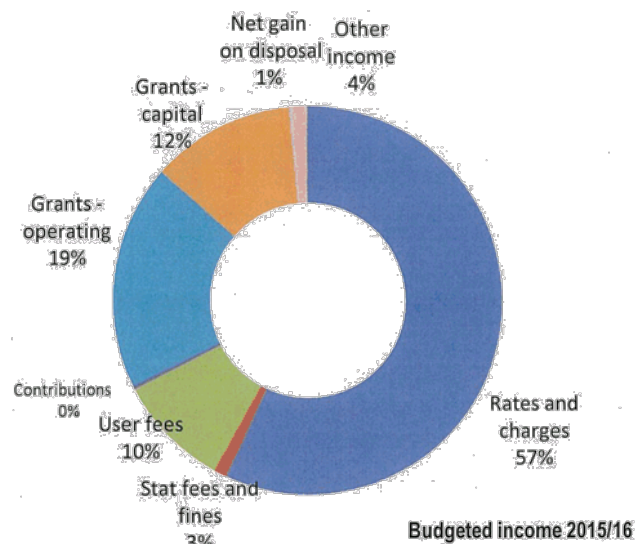
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| BREAKDOWN OF INCOME % 2004-05 to 2015-16 | | | | | | |
|--|-------------------|----------|------------------|----------------------------|------------|---------|
| | Rates & Charges % | Grants % | Fees & Charges % | Reimb. & Contrib. (cash) % | Interest % | Other % |
| 2004-2005 | 39.4 | 30.1 | 13.1 | 5.3 | 1.2 | 10.9 |
| 2005-2006 | 42.5 | 37.2 | 11.9 | 3.5 | 1.5 | 3.4 |
| 2006-2007 | 46.4 | 30.3 | 11.5 | 2.4 | 1.5 | 7.9 |
| 2007-2008 | 49.7 | 32.8 | 10.9 | 3.5 | 1.8 | 1.3 |
| 2008-2009 | 46.6 | 34.6 | 10.2 | 1.6 | 1.1 | 5.9 |
| 2009-2010 | 46.8 | 30.9 | 10.8 | 6.3 | 1.2 | 4.0 |
| 2010-2011 | 50.0 | 35.0 | 9.1 | 1.6 | 1.4 | 2.9 |
| 2011-2012 | 50.0 | 36.3 | 9.3 | 1.6 | 1.4 | 1.4 |
| 2012-2013 | 52.4 | 34.2 | 9.8 | 1.4 | 1.1 | 1.1 |
| 2013-2014 | 57.0 | 31.1 | 9.1 | 1.0 | 1.3 | 0.5 |
| 2014-2015* | 49.0 | 39.6 | 7.6 | 1.7 | 0.9 | 1.2 |
| 2015-2016 (budget) | 57.0 | 30.7 | 10.5 | 0.3 | 0.9 | 0.6 |

* The figures for 2014-15 reflect Federal Government Grants in advance and grants for Bluewater.

The following pie diagram is taken from Council Draft Budget for 2015-16 which highlights in a diagrammatic form council's reliance on rates and charges.

For 2015-16 the estimated percentage of total income from rates and charges is 57%.



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STRATEGIC RESOURCE PLAN (SRP) 2014-2015 to 2017-18

A Strategic Resource Plan is a requirement under the Local Government Act 1989 for Council's to prepare and include in their Council Plan.

The Strategic Resource Plan is prepared in conjunction with the Council Plan to reflect the financial and non-financial resources required to achieve the strategic objectives included in the Council Plan.

The purpose of the Strategic Resource Plan is to:

- Establish a framework to manage the resources required to achieve the strategic objectives as expressed in the Council Plan;
- Provide an assessment of the resources required to achieve the strategic objectives of the Council Plan;
- Plan for the long-term financial sustainability of the Council;
- Establish a basis to measure Council's adherence to the principles of the Strategic Resource Plan; and
- Assist the Council to comply with sound financial management principles in accordance with the Act.

In preparing the SRP key questions are considered.

- Is sufficient revenue being generated to provide the services and level of service required by its community?
- Is the condition of existing assets providing an acceptable level of service to the community?
- What level of funding is required to upgrade existing assets or construct new assets?
- When should debt be used to fund capital projects?
- What is an acceptable rate and charge increase?

Colac Otway's Strategic Resource Plan 2014-15 to 2017-18

The Strategic Resource Plan (SRP) 2014-15 to 2017-18 included rate rises of 5.1% for the four year period. This was to achieve the following objectives:

- Maintain the existing range and level of service provision and develop the capacity to grow and add new services;
- Maintain a strong cash position, ensuring Council remains financially sustainable in the long-term;
- Achieve underlying surpluses from operations;
- Maintain debt levels below prudential guidelines;
- Continue to pursue ongoing grant funding for strategic capital funds from the state and federal government;
- Provide for rate increases that establish a funding level for a sustainability index of 100 percent, including increasing funding for capital works (asset renewal, expansion, upgrade) and asset maintenance; and
- Ensure critical renewal is funded annually over the timeframe of the SRP.

With rate capping the forecast revenue over the 4 year period will decrease significantly.

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Some basic modelling which has been prepared showing the current Strategic Resource Plan (SRP) and Long Term Financial Plan (LTFP) model results for rate rises at 5.1% for the first four years (to 30 June 2019) and 6.1% for the remaining six years (to 30 June 2025), and comparing this to an estimate of rate rises at the announced model cap of 3.05% for 2016-17, 2.85% for 2017-18 and 2.80% for 2018-19 and then decreasing with the 0.05% 'efficiency gain' reduction each year thereafter.

The parameters for this were:

- Capping only applies to rates (including municipal charge)
- Capping is applied using the total rate revenue methodology
- Waste Management and Recycling charges indexed at 5.0% per annum
- Financial Assistance Grants frozen
- Other grants indexed at 3.0% per annum
- Only guaranteed secure capital grants included (Roads to Recovery)
- Assumption that all other capital expenditure will be funded internally
- No additional borrowings
- The \$1 million bond taken out through the Local Government Funding Vehicle will be rolled over and continued.
- Assumes underlying CPI and WPI stay constant over the period.
- Assumes 'efficiency gain' of 0.05% reduction in rate cap per annum from 2017-18

The analysis shows that Council will lose a significant amount of cash over the 10 year period, moving from a cash balance of approximately \$9.6 million at the end of 2015/16 to a negative cash balance by the end of 2024/25.

This clearly puts Council in an unsustainable position. Council estimates that a cash 'floor' level of approximately \$4.5 million must be maintained to cover employee entitlement requirements.

The estimated cash and operating position of Council will under each model be as follows:

| | Current Forecast | Projected |
|----------------------------------|------------------|------------------|
| Cash position at 30 June 2025 | \$5.56 million | - \$0.06 million |
| Operating Result at 30 June 2025 | -\$0.002 million | -\$0.195 million |

As can be seen by the current forecast column, Council was anticipating that even with 5.1% to 6.1% rate rises, we would incur a significant decline in cash over the next ten years (barring any grant increases). With the move to rate capping this will be greatly exacerbated. This highlights Council's dependency upon rate revenue as a funding source.

Council could experience a \$9 million impact to its cash reserves in 2025-26 as a direct result of rate capping. It is important to realise what this means: in 2025-26 Council will be at least \$9 million worse off in that year. In the previous year Council would be approximately \$7.9 million worse off in that year, and so on back to the first year of rate capping where Council would be approximately \$0.5 million worse off.

In fact the cumulative effect of rate capping over the ten years is that Council could lose up to \$35 million in revenue (i.e. the additions of each year's losses).

EXTERNAL IMPACTS ON COUNCIL FUNCTIONS

Council's original submission provided details on a number of Council's functions. The following provides details on key points:

- Federal Government Grants
- State Government Grants
 - o Library Services
 - o Roads and Bridges
 - o Other Services
- Fees and Charges

Federal Government Grants

Grants from Federal and State Governments have varied over the period 2004-2005 to 2014-2015. This is impacted by projects that have received grants in a particular year.

The federal budget for 2014-15 announced that Financial Assistance Grants to Local Government will be frozen for the next three years.

Colac Otway's loss of revenue amounted to \$112,000 in 2014-15. (this equates to approximately 0.5% of rate value).

The reduction in this first year meant a number of planned projects were either reduced or deferred. The flow on effects into future years will be greater as cost increases place greater pressure upon Council's financial resources. This reduction must be considered in light of Council's balancing of service provision with its capacity to raise funds from other sources.

In February 2015, the Victorian Auditor General tabled a Report to Parliament on Local Government: Results of the 2013-14 Audits.

The report notes on page 17:

"While the re-phasing of financial assistance grants has impacted the current year's results for some local councils, the Commonwealth's decision to pause indexation of financial assistance grants will have a greater impact on small and large shire councils that rely on Commonwealth grant funding to support their operations. These shires will need to monitor, control and constrain expenditure growth if grant revenue is unlikely to increase in the foreseeable future."

It should be noted that core financial assistance has declined from 1.2 per cent of Commonwealth revenue in 1993-94 to 0.59 per cent in 2013-14. Government grants are usually indexed to CPI or less, meaning that grants are lower than actual cost movements to deliver the service, leaving councils to fund the gap from rates revenue. In a number of services that Council delivers, Government grants are increased by CPI or less each year.

State Government Grants

The following provides examples of where there is pressure on Council's budget both from the community's expectation as well as less funds from State Government.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

Library Services

The level of state funding as a proportion of total revenue for 2015/16 is forecast to be at approximately 26%. This is an example of where State Funding has not kept pace with what is required to deliver improved services.

Over a number of years the % has continued to reduce. In 2000/01 the % was 40.7%. In 2005/06 the % was 34.4%.

As indicated above this is now forecast to be 26% in 2015/16. This is a significant reduction and has placed significant pressures on Local Government to continue to fund what is seen as a vital service not only for Local Government but for all Victorians.

This is an example of where State Funding has not kept pace with what is required to deliver improved services.

Any reductions impact on the level of service currently provided even though Library services are seen as a vital service.

"Today's public library brings people together; it removes isolation; it fosters social inclusion; and it creates strong and connected communities. It plays a pivotal role in lifelong learning, literacy and knowledge creation and, through this, will contribute to the development of self-reliant communities."

Review of Victorian Public Libraries: Stage 1 Report – December 2012

Roads and Bridges

Over a four year period 2011/12 to 2014/15 Council's in rural Victoria received a \$1m a year for roads and bridges. This enabled Colac Otway to put significant funding into its bridges. It had been identified that many of Council's bridges needed to be replaced or have significant maintenance undertaken.

This funding is now no longer available under the Labour State Government. This will place additional pressure on Council's resources.

Other Services

Other significant services where Council subsidises service delivery for the State Government include:

- Maternal and child health
- Home and Community Care including Meals on Wheels
- School Crossings
- Surf Lifesaving Clubs
- State Emergency Services

In each of the services the level of funding has not kept pace with the increasing demands on the service. In some cases the services provided by Council are not a responsibility of Local Government.

It is important to note that these services are delivered in partnership with the State Government with the main beneficiary being the community. With the pressure of rate capping it is inevitable that Councils will need to look at the way it delivers the services. This may mean a reduction in service and/or increased fees and charges.

This may then have a flow on effect on the community and possible negative social outcomes.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

Fees and Charges

While Rates & Charges has continued to increase steadily over the period, the fees and charges % has gradually decreased from 13.1% in 2004-05 to a forecast % of 8.6% in 2014-15.

These figures highlight further the significant effects that Rate Capping on Council's main income stream.

Council is limited on the options to increase fees and charge, but will need to further review the level of them in light of rate capping and service reviews that will need to be undertaken.

It is also noted that many of the fees applied for planning permit applications and subdivisions are set by State regulations and have not increased for many years.

Summary

The impacts of additional costs and reporting being imposed on councils puts upward pressure on local rates.

Council will need to review the current arrangements and in some cases consider either reducing the current level of service or hand the responsibilities back to the State Government.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

ASSET RENEWAL GAP

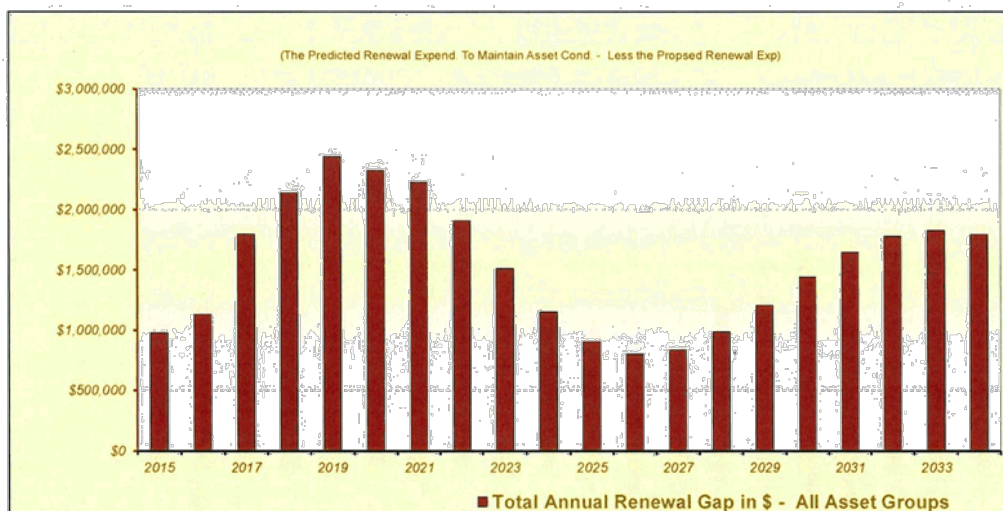
In a report on Asset Management on 19 February 2014 the Auditor General reported to the Parliament:

"Victorian councils manage around \$73 billion of infrastructure assets. Council spending on renewing or replacing existing assets is not keeping pace with their rate of deterioration, resulting in cumulative renewal gaps that grow each year".

Colac Otway Shire Council recognises the challenge known as the Asset Renewal Gap. The gap exists due to the inability to fund infrastructure asset replacement when asset condition degrades and the associated services are unable to be delivered. In order to address this, Council has had an ongoing commitment to recognising asset renewal expenditure as 'non-discretionary' and providing responsible levels of funding for the renewal of community assets over a number of years.

Total Annual Renewal Gap

The following graph presents the projections of Council's annual renewal gap over the next twenty (20) years. This is based on the projections of funding dedicated to asset renewal included in Council's Long Term Financial Plan. The majority of Council's renewal funding is drawn from Council's own source funds which are predominantly raised through rates.

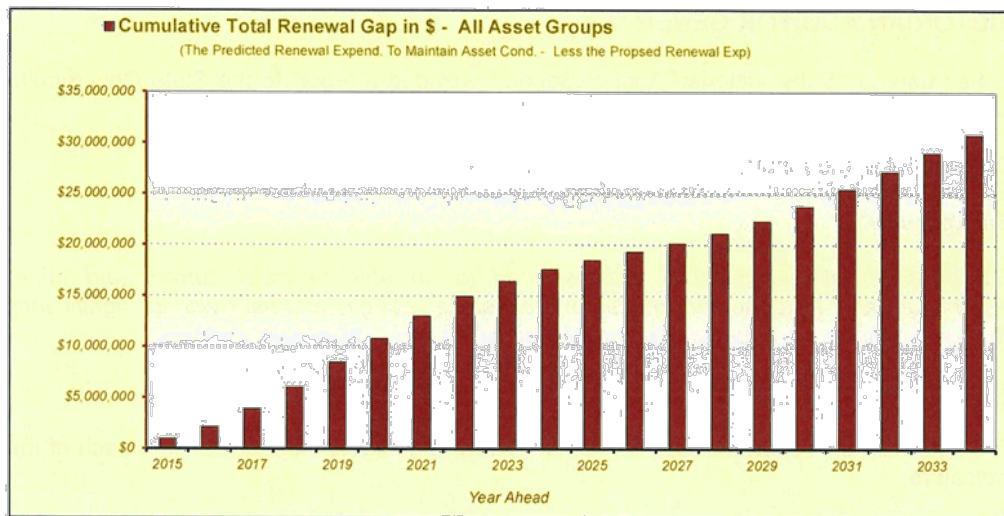


The graph indicates that, based on the assumed renewal expenditure profile, Council faces a renewal gap of approximately \$980K in 2015/16. The gap then trends upwards to a maximum of approximately \$2.44M in 2019/20.

Cumulative Total Renewal Gap

The following graph shows the cumulative impact of Council's annual asset renewal gap. At the end of the twenty (20) year forecast period, the cumulative renewal gap is \$30.8M (or approximate average of \$1.5M per annum).

Response to Local Government Rates Capping & Variation Framework Review – August 2015



The implementation of rate capping will erode Council's ability to adequately fund the maintenance, replacement, and rehabilitation of assets which the community relies on for basic services. This will lead to significant disrepair in assets increasing the risk of catastrophic failure and declining customer satisfaction.

With limitations on Council's ability to raise capital funds from rates revenue and the declining financial support from other levels of government as evidenced by the cessation of the Country Roads & Bridges Program and freezing of Federal Assistance Grants, the community will notice a progressive deterioration in the quality and condition of assets such as roads, bridges, footpaths, and buildings. The only means that Council will have to manage this will be to reduce levels of service and to decommission assets which are deemed to be aligned with discretionary services.

As councils have a limited capacity to raise additional revenue, they often use a range of funding options such as rate rises, lower service levels, asset rationalisation and borrowings.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

VICTORIAN AUDITOR GENERAL

In February 2015 the Victorian Auditor-General provided a report to the State Government "Local Government: Results of the 2013/2014 Audits".

On page 27 of the report:

Background

"To be financially sustainable, entities need to be able to meet current and future expenditure as it falls due and to absorb foreseeable changes and risks without significantly changing their revenue and expenditure policies."

Financial Sustainability Risk Assessment Results 2013/2014

The figures in the report indicate that Colac Otway is categorized as low risk in each of the indicators.

It should be noted that in 2006-07 which is less than 10 years ago the Victorian Auditor-General report to the State Government "Local Government: Results of the 2006-07 Audits" indicated the following:

Within the large shire group, only Colac Otway exhibited immediate liquidity concerns.

Colac Otway has reported mixed results over the past 5 financial years making it difficult to identify a pattern of performance. Colac Otway has, on average over 5 years, underspent on asset renewal, as well as reporting an average negative underlying result for the same period.

Colac Otway has been rated as high risk both because of the combination of its relatively high operating deficits and its underspending on infrastructure renewals over the past 5 years, and because its forecasts for the next 3 years for these items remain negative.

RESPONSE provided by the Chief Executive Officer of the Colac Otway Shire Council

Colac Otway Shire has been rated as high risk based on trend data over the past 5 years. However, trend data over the past 2 years and forecasts for the next 3 years clearly indicates that Colac Otway has met and will meet all targets related to the 5 viability measures as a result of strong financial decisions Council has made over the past 3 years.

Council's underlying result over the past 5 years has been significantly influenced by one off extraordinary factors such as recognition of landfill rehabilitation costs.

Our Strategic Resource Plan indicates that Council will achieve ongoing operational surpluses, achieve asset renewal expenditure targets and continuing reduction in loan liability which ensures the Shire's long term financial viability.

Council acknowledges that over the past five years it has operated with a constrained ability to meet the required level of infrastructure spending. With significant growth occurring within urban areas of the Shire, there has been a need to develop new and upgraded community infrastructure whilst trying to maintain existing infrastructure.

Response to Local Government Rates Capping & Variation Framework Review – August 2015

Council has continued to make strong financial decisions. As a result Colac Otway is now categorised as low risk in each of the indicators.

Large Shire Councils – Financial sustainability risk assessment results 2013-14.

The following information is taken from Appendix E of the report.

| | |
|------------------------------|--------|
| <u>Underlying Result (%)</u> | |
| Colac Otway | 4.41% |
| Category Average | 3.51% |
| Category Risk Assessment | Low |
| <u>Liquidity</u> | |
| Colac Otway | 1.93 |
| Category Average | 1.76 |
| Category Risk Assessment | Low |
| <u>Indebtedness (%)</u> | |
| Colac Otway | 26.49% |
| Category Average | 27.92% |
| Category Risk Assessment | Low |
| <u>Self-Financing (%)</u> | |
| Colac Otway | 34.25% |
| Category Average | 20.19% |
| Category Risk Assessment | Low |
| <u>Capital Replacement</u> | |
| Colac Otway | 1.54 |
| Category Average | 1.46 |
| Category Risk Assessment | Medium |
| <u>Renewal Gap</u> | |
| Colac Otway | 1.16 |
| Category Average | 1.04 |
| Category Risk Assessment | Low |

It is important to note again the statement from the Victorian Auditor General.

"To be financially sustainable, entities need to be able to meet current and future expenditure as it falls due and to absorb foreseeable changes and risks without significantly changing their revenue and expenditure policies."

The impacts of rate capping particularly on small and large shire councils will have significant impacts on Council's ability to maintain the services and infrastructure that they currently provide.

The improvement in Colac Otway Shire's financial position has come about as a strong commitment by Council over a number of years. It will be critical that the improvements are not diminished as a result of the impacts of rate capping.



INSTRUMENT OF APPOINTMENT AND AUTHORISATION

(Planning and Environment Act 1987)

In this Instrument "officer" means –

BRYDON KING

By this Instrument of Appointment and Authorisation Colac Otway Shire Council –

1. Under section 147(4) of the *Planning and Environment Act 1987* appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. Under section 232 of the *Local Government Act 1989* authorises the officer generally to institute proceedings for offences against the Acts and Regulations prescribed in this Instrument.

It is declared that this Instrument –

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked

This Instrument is authorised by a resolution of the Colac Otway Shire Council on 26 August 2015.

THE COMMON SEAL of Colac Otway Shire
Council was hereunto affixed in accordance
with Local Law No 4

.....
Chief Executive Officer

Dated:

Maddocks Delegations and Authorisations

S6. Instrument of Delegation – Members of Staff

Colac Otway Shire Council

Instrument of Delegation

to

Members of Council Staff

26 August 2015

S6. Instrument of Delegation – Members of Staff

Instrument of Delegation

In exercise of the power conferred by section 98(1) of the *Local Government Act 1989* and the other legislation referred to in the attached Schedule, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;
2. records that a reference in the Schedule to:

| | |
|---------|--|
| "BA" | means Building Administrator |
| "CC" | means Contracts Co-ordinator |
| "CO" | means Compliance Officer |
| "CUC" | means Compliance Unit Co-ordinator |
| "EO" | means Environment Officer |
| "EP" | means Environment Planner |
| "GMCS" | means General Manager Corporate Services |
| "GMDCS" | means General Manager Development and Community Services |
| "GMILS" | means General Manager Infrastructure and Leisure Services |
| "HPC" | means Health Protection Co-ordinator |
| "HPO" | means Health Protection Officer (FSO) |
| "HPT" | means Health Protection Technical Officer |
| "MAPS" | means Manager Assets and Property Services |
| "MBS" | means Municipal Building Surveyor |
| "MCMP" | means Manager Capital and Major Projects |
| "MCS" | means Manager Community Services |
| "MECS" | means Manager Environment & Community Safety |
| "MFPO" | means Municipal Fire Prevention Officer |
| "MFS" | means Manager Financial Services |
| "MPBH" | means Manager Planning, Building and Health |
| "MSO" | means Manager Services and Operations |
| "PA" | means Planning Assistant |
| "PC" | means Planning Co-ordinator |
| "PCofC" | means Planning Committee of Council |
| "PLO" | means Planning Officer (inc. Planning Enforcement Officer) |
| "RSC" | means Revenue Services Co-ordinator |

3. declares that:
 - 3.1 this Instrument of Delegation is authorised by resolution of Council passed on 26 August 2015.
 - 3.2 the delegation:
 - 3.1.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 3.1.2 remains in force until varied or revoked;
 - 3.1.3 is subject to any conditions and limitations set out in the Schedule; and
 - 3.1.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

This Delegation was amended by Resolution of the Colac Otway Shire Council on

THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL was)
hereunto affixed in the presence of:)

.....
Chief Executive Officer

.....
Date

S6. Instrument of Delegation – Members of Staff

26 August 2015

SCHEDULE

S6. Instrument of Delegation – Members of Staff

26 August 2015

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1

| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.8(1)(a)(ii) | power to manage one or more public cemeteries | RSC
GMCS
MFS | <ul style="list-style-type: none"> where appointed to manage cemetery by Governor in Council |
| s.12(1) | function to properly and efficiently manage and maintain each public cemetery for which responsible and carry out any other function conferred under this Act. | RSC
GMCS
MFS | where Council is a Class B cemetery trust |
| s.12(2) | duty to have regard to the matters set out in paragraphs (a)-(c) in exercising its functions | RSC
GMCS
MFS | where Council is a Class B cemetery trust |
| s.13 | duty to do anything necessary or convenient to enable it to carry out its functions | RSC
GMCS
MFS | |
| s.14 | power to manage multiple public cemeteries as if they are one cemetery | RSC
GMCS
MFS | |
| s.15(1) and (2) | power to delegate powers or functions other than those listed | RSC
GMCS
MFS | |
| s.15(4) | duty to keep records of delegations | RSC
GMCS
MFS | |
| s.17(1) | power to employ any persons necessary | RSC
GMCS
MFS | |

[MAR: 2264237v1] S6. Instrument of Delegation -- Members of Staff

26 August 2015

2

| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|--|--|--------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.17(2) | power to engage any professional, technical or other assistance considered necessary | RSC
GMCS
MFS | |
| s.17(3) | power to determine the terms and conditions of employment or engagement | RSC
GMCS
MFS | subject to any guidelines or directions of the Secretary |
| s.18(3) | duty to comply with a direction from the Secretary | RSC
GMCS
MFS | |
| s.19 | power to carry out or permit the carrying out of works | RSC
GMCS
MFS | |
| s.20(1) | duty to set aside areas for the interment of human remains | RSC
GMCS
MFS | |
| s.20(2) | power to set aside areas for the purposes of managing a public cemetery | RSC
GMCS
MFS | |
| s.20(3) | power to set aside areas for those things in paragraphs (a) – (e) | RSC
GMCS
MFS | |
| s.21(1) | power to establish and operate a crematorium in a public cemetery | RSC
GMCS
MFS | Council must not establish or operate a crematorium set aside for particular religious or community groups. |
| s.22 | power to establish mausoleum facilities | RSC
GMCS
MFS | subject to the prior written approval of the secretary |

26 August 2015

S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.24(2) | power to apply to the Secretary for approval to alter the existing distribution of land | RSC
GMCS
MFS | |
| s.26(1) | power to make rules for or with respect to the general care, protection and management of a public cemetery | RSC
GMCS
MFS | |
| s.36 | power to grant licences to enter and use part of the land or building in a public cemetery in accordance with this section | RSC
GMCS
MFS | subject to the approval of the Minister |
| s.37 | power to grant leases over land in a public cemetery in accordance with this section | RSC
GMCS
MFS | subject to the Minister approving the purpose |
| s.39(1) | power to fix fees and charges or a scale of fees and charges for its services in accordance with this section | RSC
GMCS
MFS | Subject to the Minister approving the purpose |
| s.39(3) | power to fix different fees and charges for different cases or classes of cases | RSC
GMCS
MFS | |
| s.40 | duty to notify Secretary of fees and charges fixed under section 39 | RSC
GMCS
MFS | |

26 August 2015

S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.45 | power to invest money | RSC
GMCS
MFS | subject to any direction of the Minister.
This provision does not apply if the management of the public cemetery is a municipal council, not a cemetery trust. In this case the borrowing and investment powers are governed by the <i>Local Government Act 1989</i> . |
| s.46 | power to borrow money to enable it to perform its functions and exercise its powers | RSC
GMCS
MFS | subject to the approval and conditions of the Treasurer.
This provision does not apply if the management of the public cemetery is a municipal council, not a cemetery trust. In this case the borrowing and investment powers are governed by the <i>Local Government Act 1989</i> . |
| s.47 | power to pay a contribution toward the cost of the construction and maintenance of any private street adjoining or abutting a cemetery | RSC
GMCS
MFS | provided the street was constructed pursuant to the <i>Local Government Act 1989</i> |
| s.57(1) | duty to submit a report to the Secretary every financial year in respect of powers and functions under the Act | RSC
GMCS
MFS | applies only to municipal councils, not cemetery trusts.
Report must contain the particulars listed in s.57(2) |
| s.59 | duty to keep records for each public cemetery | RSC
GMCS
MFS | |

26 August 2015

S6. Instrument of Delegation – Members of Staff

5

| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|---|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.60(1) | duty to make information in records available to the public for historical or research purposes | RSC
GMCS
MFS | |
| s.60(2) | power to charge fees for providing information | RSC
GMCS
MFS | |
| s.64(4) | duty to comply with a direction from the Secretary under section 64(3) | RSC
GMCS
MFS | |
| s.64B(d) | power to permit interments at a reopened cemetery | RSC
GMCS
MFS | |
| s.66(1) | power to apply to the Minister for approval to convert the cemetery, or part of it, to a historic cemetery park | RSC
GMCS
MFS | the application must include the requirements listed in s.66(2)(a)-(d) |
| s.69 | duty to take reasonable steps to notify of conversion to historic cemetery park | RSC
GMCS
MFS | |
| s.70(1) | duty to prepare plan of existing places of interment and make a record of any inscriptions on memorials which are to be removed | RSC
GMCS
MFS | |
| s.70(2) | duty to make plans of existing place of interment available to the public | RSC
GMCS
MFS | |

S6. Instrument of Delegation – Members of Staff

26 August 2015

6

| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|--|--|--------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.71(1) | power to remove any memorials or other structures in an area to which an approval to convert applies | RSC
GMCS
MFS | |
| s.71(2) | power to dispose of any memorial or other structure removed | RSC
GMCS
MFS | |
| s.72(2) | duty to comply with request received under section 72 | RSC
GMCS
MFS | |
| s.73(1) | power to grant a right of interment | RSC
GMCS
MFS | |
| s.73(2) | power to impose conditions on the right of interment | RSC
GMCS
MFS | |
| s.75 | power to grant the rights of interment set out in subsections (a) and (b) | RSC
GMCS
MFS | |
| s.76(3) | duty to allocate a piece of interment if an unallocated right is granted | RSC
GMCS
MFS | |
| s.77(4) | power to authorise and impose terms and conditions on the removal of cremated human remains or body parts from the place of interment on application | RSC
GMCS
MFS | |

26 August 2015

S6. Instrument of Delegation – Members of Staff

7

| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.80(1) | function of receiving notification and payment of transfer of right of interment | RSC
GMCS
MFS | |
| s.80(2) | function of recording transfer of right of interment | RSC
GMCS
MFS | |
| s.82(2) | duty to pay refund on the surrender of an unexercised right of interment | RSC
GMCS
MFS | |
| s.83(2) | duty to pay refund on the surrender of an unexercised right of interment (sold holder) | RSC
GMCS
MFS | |
| s.83(3) | power to remove any memorial and grant another right of interment for a surrendered right of interment | RSC
GMCS
MFS | |
| s.84(1) | function of receiving notice of surrendering an entitlement to a right of interment | RSC
GMCS
MFS | |
| s.85(1) | duty to notify holder of 25 year right of interment of expiration at least 12 months before expiry | RSC
GMCS
MFS | the notice must be in writing and contain the requirements listed in s.85(2) |
| s.86 | power to remove and dispose of cremated human remains and remove any memorial if no action taken by right holder within time specified | RSC
GMCS
MFS | |

S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|---|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.87(3) | duty, if requested, to extend the right for a further 25 years or convert the right to a perpetual right of interment | RSC
GMCS
MFS | |
| s.88 | function to receive applications to carry out a life and reposition procedure at a place of interment | RSC
GMCS
MFS | |
| s.89(1) | power to approve or refuse an application for a lift and re-position procedure in accordance with sub-section (2) & (3) | RSC
GMCS
MFS | <ul style="list-style-type: none"> Can only be delegated to members of a committee established under section 86 of the <i>Local Government Act 1989</i> |
| s.90 | power to authorise a person without an exhumation licence to carry out a lift and re-position procedure as set out in section 90(1)(a)-(d) | RSC
GMCS
MFS | <ul style="list-style-type: none"> Can only be delegated to members of a committee established under section 86 of the <i>Local Government Act 1989</i> |
| s.91(1) | power to cancel a right of interment in accordance with this section | RSC
GMCS
MFS | |
| s.91(3) | duty to publish notice of intention to cancel right of interment | RSC
GMCS
MFS | |
| s.92 | power to pay refund or grant a right of interment in respect of another place of interment to the previous holder of the cancelled right of interment | RSC
GMCS
MFS | |

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S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|---|--------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.98(1) | function of receiving application to establish or alter a memorial or a place of interment | RSC
GMCS
MFS | |
| s.99 | power to approve or refuse an application made under section 98 or to cancel an approval | RSC
GMCS
MFS | |
| s.99(4) | duty to make a decision on an application under section 98 within 45 days after receipt of the application or within 45 days of receiving further information where requested | RSC
GMCS
MFS | |
| s.100(1) | power to require a person to remove memorials or places of interment | RSC
GMCS
MFS | |
| s.100(2) | power to remove and dispose a memorial or place of interment or remedy a person's failure to comply with section 100(1) | RSC
GMCS
MFS | |
| s.100(3) | power to recover costs of taking action under section 100(2) | RSC
GMCS
MFS | |
| s.101 | function of receiving applications to establish or alter a building for ceremonies in the cemetery | RSC
GMCS
MFS | |
| s.102(1) | power to approve or refuse (if satisfied of the matters in (b) and (c)) an application under section 101 | RSC
GMCS
MFS | |

S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(iii) as though it were a cemetery trust (see section 53) | | | |
|--|--|--------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| S.102(2)&(3) | power to set terms and conditions in respect of, or to cancel, an approval granted under section 102(1) | RSC
GMCS
MFS | |
| s.103(1) | power to require a person to remove a building for ceremonies | RSC
GMCS
MFS | |
| s.103(2) | power to remove and dispose of a building for ceremonies or remedy the failure to comply with section 103(1) | RSC
GMCS
MFS | |
| s.103(3) | power to recover costs of taking action under section 103(2) | RSC
GMCS
MFS | |
| s.106(1) | power to require the holder of the right of interment of the requirement to make the memorial or place of interment safe and proper or carry out specified repairs | RSC
GMCS
MFS | |
| s.106(2) | power to require the holder of the right of interment to provide for an examination | RSC
GMCS
MFS | |
| s.106(3) | power to open and examine the place of interment if section 106(2) not complied with | RSC
GMCS
MFS | |
| s.106(4) | power to repair or – with the approval of the Secretary - take down, remove and dispose any memorial or place of interment if notice under section 106(1) is not complied with | RSC
GMCS
MFS | |

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S6. Instrument of Delegation – Members of Staff

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.107(1) | power to require person responsible to make the building for ceremonies safe and proper or carry out specified repairs | RSC
GMCS
MFS | |
| s.107(2) | power to repair or take down, remove and dispose any building for ceremonies if notice under section 107(1) is not complied with | RSC
GMCS
MFS | |
| s.108 | power to recover costs and expenses | RSC
GMCS
MFS | |
| s.109(1)(a) | power to open, examine and repair a place of interment | RSC
GMCS
MFS | where the holder of right of interment or responsible person cannot be found |
| s.109(1)(b) | power to repaid a memorial or, with the Secretary's consent, take down, remove and dispose of a memorial | RSC
GMCS
MFS | where the holder of right of interment or responsible person cannot be found |
| s.109(2) | power to repair the building for ceremonies or, with the consent of the Secretary, take down, remove and dispose of a building for ceremonies | RSC
GMCS
MFS | where the holder of right of interment or responsible person cannot be found |
| s.110(1) | power to maintain, repair or restore a memorial or place of interment from other funds if unable to find right of interment holder with consent of the Secretary | RSC
GMCS
MFS | |

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.110(2) | power to maintain, repair or restore any building for ceremonies from other funds if unable to find responsible person and with consent of the Secretary | RSC
GMCS
MFS | |
| s.111 | power to enter into agreement with a holder of the right of interment to maintain a memorial or place of interment | RSC
GMCS
MFS | |
| s.112 | power to sell and supply memorials | RSC
GMCS
MFS | |
| s.116(4) | duty to notify the Secretary of an interment authorisation granted | RSC
GMCS
MFS | |
| s.116(5) | power to require an applicant to produce evidence of the right of interment holder's consent to application | RSC
GMCS
MFS | |
| s.118 | power to grant an interment authorisation if satisfied that the requirements of Division 2 of Part 8 have been met | RSC
GMCS
MFS | |
| s.119 | power to set terms and conditions for interment authorisations | RSC
GMCS
MFS | |
| s.131 | function of receiving an application for cremation authorisation | RSC
GMCS
MFS | |

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|---|--------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.133(1) | duty not to grant a cremation authorisation unless satisfied that requirements of section 133 have been complied with | RSC
GMCS
MFS | |
| s.145 | duty to comply with an order made by the Magistrates' Court or a coroner | RSC
GMCS
MFS | |
| s.146 | power to dispose of bodily remains by a method other than interment or cremation with the approval of the Secretary | RSC
GMCS
MFS | subject to the approval of the Secretary |
| s.147 | power to apply to the Secretary for approval to dispose of bodily remains by a method other than interment or cremation | RSC
GMCS
MFS | |
| s.149 | duty to cease using method of disposal if approval revoked by the Secretary | RSC
GMCS
MFS | |
| s.150 & 152(1) | power to authorise the interment or cremation of body parts if the requirements of Division 1 of Part 11 are met | RSC
GMCS
MFS | |
| s.151 | function of receiving an application to inter or cremate body parts | RSC
GMCS
MFS | |

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| CEMETERIES AND CREMATORIA ACT 2003
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53) | | | |
|---|--|--------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.152(2) | power to impose terms and conditions on authorisation granted under section 150 | RSC
GMCS
MFS | |
| Schedule 1A
Clause 8(3) | power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication | RSC
GMCS
MFS | where Council is a Class B cemetery trust |
| Schedule 1
Clause 8(8) | power to regulate own proceedings | RSC
GMCS
MFS | where Council is a Class B cemetery trust subject to clause 8 |

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S6. Instrument of Delegation – Members of Staff

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| DOMESTIC ANIMALS ACT 1994 | | | |
|---------------------------|---|-----------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS AND LIMITATIONS |
| s.41A(1) | power to declare a dog to be a menacing dog | CUC
CO | Council may delegate this power to an authorised officer |

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S6. Instrument of Delegation – Members of Staff

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| ENVIRONMENT PROTECTION ACT 1970 | | | |
|---------------------------------|---|--|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.53M(3) | power to require further information | HPC
HPO
HPT
MECS
CUC
CO | |
| s.53M(4) | duty to advise applicant that application is not to be dealt with | HPC
HPO
HPT
MECS
CUC
CO | |
| s.53M(5) | duty to approve plans, issue permit or refuse permit | HPC
HPO | refusal must be ratified by Council or it is of no effect |
| s.53M(6) | power to refuse to issue septic tank permit | HPC
HPO | refusal must be ratified by Council or it is of no effect |
| s.53M(7) | duty to refuse to issue a permit in circumstances in (a)-(c) | HPC
HPO | refusal must be ratified by Council or it is of no effect |

S6. Instrument of Delegation – Members of Staff

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| FOOD ACT 1984 | | | |
|---------------|---|------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.19(2)(a) | power to direct by written order that the food premises be put into a clean and sanitary condition | HPC
HPO | If section 19(1) applies |
| s.19(2)(b) | power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable | HPC
HPO | If section 19(1) applies |
| s.19(4)(a) | power to direct that an order made under section 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises and (ii) inform the public by notice in a published newspaper or otherwise | HPC
HPO | If section 19(1) applies |
| s.19(6)(a) | duty to revoke any order under s.19 where the subject of the order has been attended to | HPC
HPO | |
| s.19(6)(b) | duty to give written notice of revocation under s.19(6)(a) | HPC
HPO | If section 19(1) applies |
| s.19AA(2) | power to direct, by written order, that a person must take any of the actions described in (a) – (c) | HPC
HPO | Where Council is the registration authority |
| s.19AA(4)(c) | power to direct, in an order under s.19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises | HPC
HPO | Note. The power to direct the matters under s.19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution |

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S6. Instrument of Delegation – Members of Staff

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| FOOD ACT 1984 | | | |
|-----------------|---|-------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.19AA(7) | duty to revoke order issued under s.19AA and give written notice of revocation, if satisfied that that order has been complied with | HPC
HPO | Where Council is the registration authority |
| s.19CB(4)(b) | power to request copy of records | HPC
HPO
HPT | Where Council is the registration authority |
| s.19E(1)(d) | power to request a copy of the food safety program | HPC
HPO
HPT | Where Council is the "registration authority" |
| s.19GB | power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor | HPC
HPO
HPT | Where Council is the registration authority |
| s.19M(4)(a)&(5) | power to conduct a food safety audit and take actions where deficiencies are identified | HPC
HPO | Where Council is the registration authority |
| s.19NA(1) | power to request food safety audit reports | HPC
HPO
HPT | Where Council is the registration authority |
| s.19U(3) | power to waive and vary the costs of a food safety audit if there are special circumstances | HPC
HPO | |
| s.19UA | power to charge fees for conducting a food safety assessment or inspection | HPC
HPO | Except for an assessment required by a declaration under section 19C or an inspection under sections 38B(1)(c) or 39 |
| s.19W | power to direct a proprietor of a food premises to comply with any requirement under Part IIIB | HPC
HPO | power of registration authority |

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S6. Instrument of Delegation – Members of Staff

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| FOOD ACT 1984 | | | |
|---------------|--|-------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.19W(3)(a) | power to direct a proprietor of a food premises to have staff at the premises undertake training or induction | HPC
HPO
HPT | power of registration authority |
| s.19W(3)(b) | power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises | HPC
HPO
HPT | power of registration authority |
| --- | power to register, renew or transfer registration | HPC
HPO | Where Council is the registration authority refusal to grant/renew/transfer registration must be ratified by Council or the CEO (see sec.58A(2)) |
| s.35A | function of registering food premises | HPC
HPO
HPT | |
| s.38AA(5) | power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt | HPC
HPO
HPT | Where Council is the registration authority |
| s.38AB(4) | power to fix a fee for the receipt of a notification under section 38AA in accordance with a declaration under subsection (1) | HPC
HPO
HPT | Where Council is the registration authority |
| s.38A(4) | power to request a copy of a completed food safety program template | HPC
HPO | Where Council is the registration authority |
| s.38B(1)(a) | duty to assess the application and determine which class of food premises under section 19C the food premises belongs | HPC
HPO
HPT | Where Council is the registration authority |

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| FOOD ACT 1984 | | | |
|---------------|--|-------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.38B(1)(b) | duty to ensure proprietor has complied with requirements of section 38A | HPC
HPO
HPT | Where Council is the registration authority |
| s.38B(2) | duty to be satisfied of the matters in section 38B(2)(a)-(b) | HPC
HPO
HPT | Where Council is the registration authority |
| s.38D(1) | duty to ensure compliance with the applicable provisions of section 38C and inspect the premises if required by section 39 | HPC
HPO
HPT | Where Council is the registration authority |
| s.38D(2) | duty to be satisfied of the matters in section 38D(2)(a)-(d) | HPC
HPO
HPT | Where Council is the registration authority |
| s.38D(3) | power to request copies of any audit reports | HPC
HPO
HPT | Where Council is the registration authority |
| s.38E(2) | power to register the food premises on a conditional basis | HPC
HPO | Where Council is the registration authority
Not exceeding the prescribed time limit defined under subsection (5) |
| s.38E(4) | duty to register the food premises when conditions are satisfied | HPC
HPO | Where Council is the registration authority |
| s.38F(3)(b) | power to require proprietor to comply with requirements of this Act | HPC
HPO
HPT | Where Council is the registration authority |
| s.39A | power to register, renew or transfer food premises despite minor defects | HPC
HPO | Where Council is the registration authority
Only if satisfied of matters in subsections (2)(a)-(c) |

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S6. Instrument of Delegation – Members of Staff

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| FOOD ACT 1984 | | | |
|---------------|--|-------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.40(2) | power to incorporate the certificate of registration in one document with any certificate of registration under the <i>Public Health and Wellbeing Act 2008</i> | HPC
HPO | |
| s.40C(2) | power to grant or renew the registration of food premises for a period less than 1 year | HPC
HPO | Where Council is the registration authority |
| s.40D(1) | power to suspend or revoke the registration of food premises | HPC | Where Council is the registration authority |
| s.43F(6) | duty to be satisfied that registration requirements under Division 3 have been met prior to registering, transferring or renewing registration of a component of a food business | HPC
HPO
HPT | Where Council is the registration authority |
| s.43F(7) | power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements | HPC
HPO | Where Council is the registration authority |
| s.46(5) | power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution without proceedings first being instituted against the person first charged | HPC
HPO | Where Council is the registration authority |

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S6. Instrument of Delegation – Members of Staff

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| HERITAGE ACT 1995 | | | |
|-------------------|--|----------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.84(2) | power to sub-delegate Executive Director's functions | GMDCS | must obtain Executive Director's written consent first. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | | |
|-----------------------------------|---|----------------------------------|-------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 | |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS | |
| s.4B | power to prepare an amendment to the Victoria Planning Provisions | PCofC
GMDCS
PC
MPBH | if authorised by the Minister | |
| s.4G | function of receiving prescribed documents and a copy of the Victoria Planning Provisions from the Minister | GMDCS
PC
MPBH | | |
| s.4H | duty to make amendment to Victorian Planning Provisions available | GMDCS
PC
MPBH
PLO
PA | | |
| s.4I | duty to keep Victoria Planning Provisions and other documents available | GMDCS
PC
MPBH
PLO
PA | | |
| s.8A(2) | power to prepare amendment to the planning scheme where the Minister has given consent under s.8A | MPBH
PC | | |
| s.8A(3) | power to apply to Minister to prepare an amendment to the planning scheme | PCofC
GMDCS
PC
MPBH | | |
| s.8A(5) | function of receiving notice of the Minister's decision | GMDCS
PC
MPBH | | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|--|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.8A(7) | power to prepare the amendment specified in the application without the Minister's authorisation if no response received after 10 business days | PCofC
GMDCS
PC
MPBH | |
| s.8B(2) | power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district | PCofC
GMDCS
PC
MPBH | |
| s.12(3) | power to carry out studies and do things to ensure proper use of land and consult with other persons to ensure co-ordination of planning scheme with these person | PCofC
GMDCS
PC
MPBH | |
| s 12A(1) | duty to prepare a municipal strategic statement (including power to prepare a municipal strategic statement under s 19 of the Planning and Environment (Planning Schemes) Act 1996) | PCofC
GMDCS
PC
MPBH | |
| s.12B(1) | duty to review planning scheme | PCofC
GMDCS
PC
MPBH
EP
MECS | |
| s.12B(2) | Duty to review planning scheme at direction of Minister | PCofC
GMDCS
PC
MPBH
EP
MECS | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | | |
|-----------------------------------|--|---|--------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 | |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS | |
| s.12B(5) | duty to report findings of review of planning scheme to Minister without delay | PCofC
GMDCS
PC
MPBH
EP
MECS | | |
| s.14 | Duties of a Responsible Authority as set out in subsections (a) to (d) | PCofC
GMDCS
PC
PLO
EP
MPBH
MECS | | |
| s.17(1) | duty of giving copy amendment to the planning scheme | GMDCS
PC
MPBH
PLO
PA | | |
| s.17(2) | duty of giving copy s.173 agreement | GMDCS
PC
PLO
MPBH
PA
EP
MECS | | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.17(3) | duty of giving copy amendment, explanatory report and relevant documents to the Minister within 10 business days | GMDCS
PC
MPBH
PLO
PA | |
| s.18 | duty to make amendment etc. available | GMDCS
PC
MPBH
PLO
PA | |
| s.19 | power to give notice, to decide not to give notice, to publish notice of amendment to a planning scheme and to exercise any other power under section 19 to a planning scheme | GMDCS
PC
MPBH
PLO
PA | |
| s.19 | function of receiving notice of preparation of an amendment to a planning scheme | GMDCS
PC
MPBH
PLO
PA | Where Council is not the planning authority and the amendment affects land within Council's municipal district; or
Where the amendment will amend the planning scheme to designate Council as an acquiring authority |
| s.20(1) | power to apply to Minister for exemption from the requirements of s 19 | PCofC
GMDCS
PC
MPBH | |

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S6. Instrument of Delegation – Members of Staff

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|--|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.21 (2) | duty to make submissions available | GMDCS
PC
MPBH
PLO
PA
EP
MECS | |
| s.21A(4) | duty to publish notice in accordance with section | GMDCS
PC
MPBH
PLO
PA
EP
MECS | |
| s.22 | duty to consider all submissions | PCofC
GMDCS
PC
MPBH | |
| s.23(1)(b) | duty to refer submissions which request a change to the amendment to a panel | PCofC
GMDCS
PC
MPBH | |
| s.23(2) | power to refer to a panel submissions which do not require a change to the amendment | PCofC
GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.24 | function to represent Council and present a submission at a panel hearing (including a hearing referred to in s 96D) | GMDCS
PC
PLO
MPBH | |
| s.26(1) | power to make report available for inspection | GMDCS
PC
MPBH
PLO
PA | |
| s.26(2) | duty to keep report of panel available for inspection | GMDCS
PC
MPBH
PLO
PA | |
| s.27(2) | power to apply for exemption if panel's report not received | PCofC
GMDCS
PC
MPBH | |
| s.28 | duty to notify the Minister if abandoning an amendment | GMDCS
PC
MPBH | Note: the power to make a decision to abandon an amendment cannot be delegated |
| s.30(4)(a) | duty to say if amendment has lapsed | GMDCS
PC
MPBH | |
| s.30(4)(b) | duty to provide information in writing upon request | GMDCS
PC
MPBH | |

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S6. Instrument of Delegation – Members of Staff

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.32(2) | duty to give more notice if required | GMDCS
PC
MPBH | |
| s.33(1) | duty to give more notice of changes to an amendment | GMDCS
PC
MPBH | |
| s.36(2) | duty to give notice of approval of amendment | GMDCS
PC
MPBH | |
| s.38(5) | duty to give notice of revocation of an amendment | GMDCS
PC
MPBH | |
| s.39 | function of being a party to a proceeding commenced under s.39 and duty to comply with determination by VCAT | GMDCS
PC
MPBH | |
| s.40(1) | function of lodging copy of approved amendment | GMDCS
PC
MPBH | |
| s.41 | duty to make approved amendment available | GMDCS
PC
MPBH
PLO
PA | |
| s.42 | duty to make copy of planning scheme available | GMDCS
PC
PLO
MPBH
PA | |

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S6. Instrument of Delegation – Members of Staff

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.46AS(ac) | power to request the Growth Areas Authority to provide advice on any matter relating to land in Victoria or an objective of planning in Victoria | GMDCS
MPBH
PC | |
| s.46N(1) | duty to include condition in permit regarding payment of development infrastructure levy | PCofC
GMDCS
PC
MPBH | |
| s.46N(2)(c) | function of determining time and manner for receipt of development contributions levy | PCofC
GMDCS
PC
MPBH | |
| s.46N(2)(d) | power to enter into an agreement with the applicant regarding payment of development infrastructure levy | GMDCS
PC
MPBH | |
| s.46O(1)(a) & (2)(a) | power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit | GMDCS
PC
MPBH
MBS | |
| s.46O(1)(d) & (2)(d) | power to enter into agreement with the applicant regarding payment of community infrastructure levy | GMDCS
PC
MPBH
MBS | |
| s.46P(1) | power to require payment of amount of levy under s.46N or s.46O to be satisfactorily secured | GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|------------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.46P(2) | power to accept provision of land, works, services or facilities in part or full payment of levy payable | GMDCS
CEO
PC
MPBH | |
| s.46Q(1) | duty to keep proper accounts of levies paid | GMDCS
GMCS
MFS
PC
MPBH | |
| s.46Q(1A) | duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency | GMDCS
GMCS
MFS
PC
MPBH | |
| s.46Q(2) | duty to apply levy only for a purpose relating to the provision of the works, services and facilities in respect of which the levy was paid etc. | GMDCS
CEO
PC
MPBH | |
| s.46Q(3) | power to refund any amount of levy paid if it is satisfied the development is not to proceed | GMDCS
PC
MPBH | |
| s.46Q(4)(c) | duty to pay amount to current owners of land in the area | GMDCS
CEO
PC
MPBH | <ul style="list-style-type: none"> must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|---|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.46Q(4)(d) | duty to submit to the Minister an amendment to the approved development contributions plan | GMDCS
CEO
PC
MPBH | <ul style="list-style-type: none"> must be done in accordance with Part 3 |
| s46Q(4)(e) | duty to expend that amount on other works etc. | GMDCS
CEO
PC
MPBH | <ul style="list-style-type: none"> with the consent of, and in the manner approved by, the Minister |
| s.46QC | power to recover any amount of levy payable under Part 3B | GMDCS
MFS
PC
MPBH | |
| s.46V(3) | duty to make a copy of the approved strategy plan (being the Melbourne Airport Environs Strategy Plan) and any documents lodged with it available | GMDCS
PC
MPBH | |
| s.46Y | duty to carry out works in conformity with the approved strategy plan | PCofC
GMDCS
GMILS
PC
MPBH
EP
MECS | |
| s.47 | power to decide that an application for a planning permit does not comply with that Act. | GMDCS
PC
MPBH
EP
MECS | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|--|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.49(1) | duty to keep a register of all applications for permits and determinations relating to permits | GMDCS
PC
MPBH
PLO
PA
EP
MECS | |
| s.49(2) | duty to make register available for inspection | GMDCS
PA
PC
PLO
MPBH | |
| s.50(4) | duty to amend application | GMDCS
PC
PLO
MPBH | |
| s.50(5) | power to refuse to amend application | GMDCS
PC
PLO
MPBH | |
| s.50(6) | duty to make note of amendment to application in register | GMDCS
PC
PLO
MPBH
PA | |
| s.50A(1) | power to make amendment to application | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.50A(3) | power to require applicant to notify owner and make a declaration that notice has been given | GMDCS
PC
PLO
MPBH | |
| s.50A(4) | duty to note amendment to application in register | GMDCS
PC
PLO
MPBH
PA | |
| s.51 | duty to make copy of application available for inspection | GMDCS
PC
PLO
MPBH
PA | |
| s.52(1)(a) | duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person | GMDCS
PC
PLO
MPBH | |
| s.52(1)(b) | duty to give notice of the application to other municipal councils where appropriate | GMDCS
PC
PLO
MPBH | |
| s.52(1)(c) | duty to give notice of the application to all persons required by the planning scheme | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.52(1)(ca) | duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant | GMDCS
PC
PLO
MPBH | |
| s.52(1)(cb) | duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant | GMDCS
PC
PLO
MPBH | |
| s.52(1)(d) | duty to give notice of the application to other persons who may be detrimentally effected | GMDCS
PC
PLO
MPBH | |
| 52(1AA) | duty to give notice of an application to remove or vary a registered restrictive covenant | PCofC
GMDCS
PC
MPBH | |
| s.52(3) | power to give any further notice of an application where appropriate | GMDCS
PC
PLO
MPBH | |
| s.53(1) | power to require the applicant to give notice under section 52(1) to persons specified by it | GMDCS
PC
PLO
MPBH | |
| s.53(1A) | power to require the applicant to give the notice under section 52(1AA) | PCofC
GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.54(1) | power to require the applicant to provide more information | GMDCS
PC
MPBH
PLO | |
| s.54(1A) | duty to give notice in writing of information required under s.54(1) | GMDCS
PC
PLO
MPBH | |
| s.54(1B) | duty to specify the lapse date for an application | GMDCS
PC
PLO
MPBH | |
| s.54A(3) | power to decide to extend time or refuse to extend time to give required information | GMDCS
PC
PLO
MPBH | |
| s.54A(4) | duty to give written notice of decision to extend or refuse to extend time und s.54A(3) | GMDCS
PC
PLO
MPBH | |
| s.55(1) | duty to give copy application to every referral authority specified in the planning scheme | GMDCS
PC
PLO
MPBH | |
| s.57(2A) | power to reject objections considered made primarily for commercial advantage for the objector | GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.57(3) | function of receiving name and address of persons to whom notice of decision is to go | GMDCS
PC
PLO
PA
MPBH | |
| s.57(5) | duty to make available for inspection copy of all objections | GMDCS
PC
PLO
PA
MPBH | |
| s.57A(4) | duty to amend application in accordance with applicant's request, subject to s.57A(5) | GMDCS
PC
PLO
MPBH | |
| s.57A(5) | power to refuse to amend application | GMDCS
PC
CEO
MPBH | |
| s.57A(6) | duty to note amendments to application in register | GMDCS
PC
PLO
PA
MPBH | |
| s.57B(1) | duty to determine whether and to whom notice should be given | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.57B(2) | duty to consider certain matters in determining whether notice should be given | GMDCS
PC
PLO
MPBH | |
| s.57C(1) | duty to give copy of amended application to referral authority | GMDCS
PC
PLO
PA
MPBH | |
| s.58 | duty to consider every application for a permit | PCoFC
GMDCS
PC
PLO
MPBH | |
| s.60 | duty to consider certain matters | PCoFC
GMDCS
PLO
PA
MPBH
PC | <p>Save where the proposed use and/or development.</p> <ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). Is a new or extended telecommunications tower, |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|-----------------|----------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <p>mast or pole, where the total height of the structure exceeds 20m above natural ground level.</p> <ul style="list-style-type: none"> • Or four (4) or more objections have been lodged against the grant of a permit. • Or where the application may have an affect on the broader community. • Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> o the works had not been completed prior to the expiry of the permit; and o the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s60(1A) | power to consider certain matters before deciding on application | PCofC
GMDCS
PC
PLO
MPBH | |
| s.61(1) | power to determine permit application, either to decide to grant a permit, to decide to grant a permit with conditions or to refuse a permit application. | PCofC

GMDCS
PC
PLO
MPBH | <p>Save where the proposed use and/or development:</p> <ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|-----------------|----------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> • Or four (4) or more objections have been lodged against the grant of a permit. Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> o the works had not been completed prior to the expiry of the permit; and o the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act <p>Save where the application may have an affect on the broader community.</p> <p>The permit must not be inconsistent with a cultural heritage management plan under the <i>Aboriginal Heritage Act 2006</i>.</p> |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|-------------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.61(2) | duty to decide to refuse to grant a permit if determining referral authority objects to grant of permit | PCofC
GMDCS
PC
MPBH | |
| s.61(3)(a) | duty not to decide to grant a permit to use coastal Crown land without Minister's consent | PCofC
GMDCS
PC
MPBH | |
| s.61(3)(b) | duty to refuse to grant the permit without the Minister's consent | PCofC
GMDCS
PC
MPBH | |
| s.61(4) | duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant | PCofC
GMDCS
PC
MPBH | |
| s.62(1) | duty to include certain conditions in deciding to grant a permit | PCofC
GMDCS
PC
PLO
MPBH | Save where the proposed use and/or development.
<ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|-----------------|----------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. Or four (4) or more objections have been lodged against the grant of a permit. Or where the application may have an affect on the broader community. Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> the works had not been completed prior to the expiry of the permit; and the officer recommendation is for refusal, unless that recommendation is made due to the |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|-----------------------------------|-------------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.62(2) | power to include other conditions | PCofC
GMDCS
PC
PLO
MPBH | <p>response of a referral authority under Section 55 of the Act</p> <p>Save where the proposed use and/or development.</p> <ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. Or four (4) or more objections have been lodged against the grant of a permit. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> • Or where the application may have an affect on the broader community. • Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> o the works had not been completed prior to the expiry of the permit; and o the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act |
| s.62(4) | duty to ensure conditions are consistent with subsections (a), (b) and (c) | PCofC
GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.62(5)(a) | power to include a permit condition to implement an approved development contributions plan | PCofC
GMDCS
PC
PLO
MPBH | |
| s.62(5)(b) | power to include a permit condition that specified works be provided on or to the land or paid for in accordance with section 173 agreement | PCofC

GMDCS
PC
PLO
MPBH | <p>Save where the proposed use and/or development.</p> <ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. Or four (4) or more objections have been lodged against the grant of a permit. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|-------------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> • Or where the application may have an affect on the broader community. • Or if the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> o the works had not been completed prior to the expiry of the permit; and o the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act |
| s.62(5)(c) | power to include a permit condition that specified works be provided or paid for by the applicant | PCofC
GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.62(6)(a) | duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with s.46N | PCofC
GMDCS
PC
PLO
MPBH | |
| s.62(6)(b) | duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a planning scheme requires to be included as referred to in s.62(1)(a) | PCofC
GMDCS
PC
PLO
MPBH | |
| s.63 | duty to issue the permit where made a decision in favour of the application (if no one has objected) | GMDCS
PC
PLO
MPBH | |
| s.64(1) | duty to give notice of decision to grant a permit to applicant and objectors | GMDCS
PC
PLO
PA
MPBH | |
| s.64(3) | duty not to issue a permit until after the specified period | GMDCS
PC
PLO
PA
MPBH | |
| s.64(5) | duty to give each objector a copy of an exempt decision | GMDCS
PC
PLO
PA
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | | |
|-----------------------------------|---|----------------------------------|---|--|
| Column 1 | Column 2 | Column 3 | Column 4 | |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS | |
| s.64A | duty not to issue permit until the end of a period when an application for review may be lodged with VCAT or until VCAT has determined the application, if a relevant recommending referral authority has objected to the grant of a permit | GMDCS
PC
PLO
PA
MPBH | this provision applies also to a decision to grant an amendment to a permit - see section 75A | |
| s.65(1) | duty to give notice of refusal to grant permit to applicant and objector | GMDCS
PC
PLO
PA
MPBH | | |
| s.66(1) | duty to give notice under s.64 or s.65 and copy permit to referral authorities | GMDCS
PC
PLO
PA
MPBH | | |
| s.66(2) | duty to give a recommending referral authority notice of its decision to grant a permit | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority objected to the grant of the permit or the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority | |
| s.66(4) | duty to give a recommending referral authority notice of its decision to refuse a permit | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority objected to the grant of the permit or the recommending referral authority recommended that a permit condition be included on the permit | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.66(6) | duty to give a recommending referral authority a copy of any permit which Council decides to grant and a copy of any notice given under section 64 or 65 | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority did not object to the grant of the permit or the recommending referral authority did not recommend a condition be included on the permit |
| s.69(1) | function of receiving application for extension of time of permit | GMDCS
PC
PLO
PA
MPBH | |
| s.69(2) | power to extend time | PCofC
GMDCS
PC
PLO
MPBH | Save where the development has commenced lawfully under the planning permit and:
<ul style="list-style-type: none"> the application seeks approval for an extension of time to complete the works; and the officer recommendation is for refusal, unless that recommendation is made due to the recommendation of a referral authority under Section 55 of the Act. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.70 | duty to make copy permit available for inspection | GMDCS
PC
PLO
PA
MPBH | |
| s.71(1) | power to correct certain mistakes | GMDCS
PC
PLO
MPBH | |
| s.71(2) | duty to note corrections in register | GMDCS
PC
PLO
PA
MPBH | |
| s.73 | power to decide to grant amendment subject to conditions | PCofC
GMDCS
PC
PLO
MPBH | |
| s.74 | duty to issue amended permit to applicant if no objectors | GMDCS
PC
PLO
MPBH | |
| s.76 | duty to give applicant and objectors notice of decision to refuse to grant amendment to permit | GMDCS
PC
PLO
PA
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | | |
|-----------------------------------|--|----------------------------------|---|--|
| Column 1 | Column 2 | Column 3 | Column 4 | |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS | |
| s.76A(1) | duty to give relevant determining referral authorities copy of amended permit and copy of notice | GMDCS
PC
PLO
PA
MPBH | | |
| s.76A(2) | duty to give a recommending referral authority notice of its decision to grant an amendment to a permit | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority objected to the amendment of the permit or the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority | |
| s.76A(4) | duty to give a recommending referral authority notice of its decision to refuse a permit | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be included on the amended permit | |
| s.76A(6) | duty to give a recommending referral authority a copy of any amended permit which Council decides to grant and a copy of any notice given under section 64 or 76 | GMDCS
PC
PLO
PA
MPBH | If the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did not recommend a condition be included on the amended permit | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.76D | duty to comply with direction of Minister to issue amended permit | GMDCS
PC
PLO
MPBH | |
| s.83 | function of being respondent to an appeal | GMDCS
PC
PLO
MPBH | |
| s.83B | duty to give or publish notice of application for review | GMDCS
PC
PLO
MPBH | |
| s.84(1) | power to decide on an application at any time after an appeal is lodged against failure to grant a permit | PCofC

GMDCS
PC
MPBH | Save where the proposed use and/or development.
<ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|-----------------|----------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. Or four (4) or more objections have been lodged against the grant of a permit. Or the application seeks approval for works which had commenced under a lawful planning permit, where: <ul style="list-style-type: none"> the works had not been completed prior to the expiry of the permit; and the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | Save where the application may have an affect on the broader community. |
| s.84(2) | duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit | GMDCS
PC
MPBH | |
| s.84(3) | duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit | GMDCS
PC
MPBH | |
| s.84(6) | duty to issue permit on receipt of advice within 3 working days | GMDCS
PC
PLO
MPBH | |
| s.86 | duty to issue a permit at order of Tribunal within 3 working days | GMDCS
PC
PLO
MPBH | |
| s.87(3) | power to apply to VCAT for the cancellation or amendment of a permit | GMDCS
PC
MPBH | |
| s.90(1) | function of being heard at hearing of request for cancellation or amendment of a permit | GMDCS
PC
PLO
MPBH | |
| s.91(2) | duty to comply with the directions of VCAT | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.91(2A) | Duty to issue amended permit to owner if Tribunal so directs | GMDCS
PC
PLO
MPBH | |
| s.92 | duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s.90 | GMDCS
PC
PLO
MPBH | |
| s.93(2) | duty to give notice of VCAT order to stop development | GMDCS
PC
PLO
MPBH | |
| s.95(3) | function of referring certain applications to the Minister | GMDCS
PC
MPBH | |
| s.95(4) | duty to comply with an order or direction | GMDCS
PC
PLO
MPBH | |
| s.96(1) | duty to obtain a permit from the Minister to use and develop its land | GMDCS
PC
MPBH | |
| s.96(2) | function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land | GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.96A(2) | power to agree to consider an application for permit concurrently with preparation of proposed amendment | GMDCS
PC
PLO
MPBH | |
| s.96C | power to give notice, to decide not to give notice, to publish notice and to exercise any other power under s.96C | GMDCS
PC
MPBH | |
| s.96F | duty to consider the panel's report under section 96E | GMDCS
PC
MPBH | |
| s.96G(1) | power to determine to recommend that a permit be granted or to refuse to recommend that a permit be granted and power to notify applicant of the determination (including power to give notice under s 23 of the <i>Planning and Environment (Planning Schemes) Act 1996</i>) | PCoFC

GMDCS
PC
MPBH | <p>Save, where the proposed use and/or development.</p> <ul style="list-style-type: none"> Does not provide the required amount of car parking spaces pursuant to Clause 52.06, Colac Otway Planning Scheme, where the number of spaces being waived/reduced exceeds three (3). Is a new or extended telecommunications tower, mast or pole, where the total height of the structure exceeds 20m above natural ground level. |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|---------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | | <ul style="list-style-type: none"> • Or four (4) or more objections have been lodged against the grant of a permit. • Or the application seeks approval for works which had commenced under a lawful planning permit where: <ul style="list-style-type: none"> ○ the works had not been completed prior to the expiry of the permit; and ○ the officer recommendation is for refusal, unless that recommendation is made due to the response of a referral authority under Section 55 of the Act • Or where the application may have an effect on the broader community. |
| s.96H(3) | power to give notice in compliance with Minister's direction | GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.96J | power to issue permit as directed by the Minister | GMDCS
PC
PLO
MPBH | |
| s.96K | duty to comply with direction of the Minister to give notice of refusal | GMDCS
PC
PLO
MPBH | |
| s.96Z | duty to keep levy certificates given to it under s.47 or 96A for no less than 5 years from receipt of the certificate | GMDCS
PC
PLO
MPBH | |
| s.97C | power to request Minister to decide the application | GMDCS
PC
MPBH | |
| s.97D(1) | duty to comply with directions of Minister to supply any document or assistance relating to application | GMDCS
PC
PLO
MPBH | |
| s.97G(3) | function of receiving from Minister copy of notice of refusal to grant permit or copy of any permit granted by the Minister | GMDCS
PC
PLO
MPBH | |
| s.97G(6) | duty to make a copy of permits issued under s.97F available for inspection | GMDCS
PC
PLO
PA
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | | |
|-----------------------------------|---|--|--------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 | |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS | |
| s.97L | duty to include Ministerial decisions in a register kept under s.49 | GMDCS
PC
PLO
PA
MPBH | | |
| s.97MH | duty to provide assistance to the development assessment committee | GMDCS
PLO
PA
PC
MPBH | | |
| s.97Q | duty to consider application and issue or refuse to issue certificate of compliance | GMDCS
PC
PLO
MP | | |
| s.97P(3) | duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate | GMDCS
PC
PLO
MPBH | | |
| s.97Q(2) | function of being heard by VCAT at hearing of request for amendment or cancellation of certificate | GMDCS
PC
PLO
EP
MPBH
MECS | | |
| s.97Q(4) | duty to comply with directions of VCAT | GMDCS
PC
PLO
MPBH | | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.97R | duty to keep register of all applications for certificate of compliance and related decisions | GMDCS
PC
PLO
PA
MPBH | |
| s.98(1)&(2) | function of receiving claim for compensation in certain circumstances. | GMDCS
MPBH | |
| s.98(4) | duty to inform any person of the name of the person from whom compensation can be claimed | GMDCS
MPBH | |
| s.101 | function of receiving claim for expenses in conjunction with claim | GMDCS
MPBH | |
| s.103 | power to reject a claim for compensation in certain circumstances | PCofC
GMDCS
MPBH | |
| s.107(1) | function of receiving claim for compensation | GMDCS
MPBH | |
| s.107(3) | power to agree to extending time for making claim | GMDCS
MPBH | |
| s.114(1) | power to apply to the VCAT for an enforcement order | GMDCS
PC
MPBH | |
| s.117(1)(a) | function of making a submission to the VCAT where objections are received | GMDCS
PC
PLO
EP
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| | | MECS | |
| s.120(1) | power to apply for an interim enforcement order where s.114 application has been made | GMDCS
PC
MPBH | |
| s.123(1) | power to carry out work required by enforcement order and recover costs | GMDCS
PC
MPBH | |
| s.123(2) | power to sell buildings, materials, etc salvaged in carrying out work under s.123(1) | GMDCS
MPBH | Except Crown Land |
| s.129 | function of recovering penalties | GMDCS
MFS
MPBH | |
| s.130(5) | power to allow person served with an infringement notice further time | GMDCS
PC
PLO
MPBH | |
| s.149A(1) | power to refer a matter to the VCAT for determination | GMDCS
PC
MPBH | |
| s.149A(1A) | power to apply to VCAT for the determination of a matter relating to the interpretation of a s.173 agreement | GMDCS
PC
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.156 | duty to pay fees and allowances (including a payment to the Crown under subsection (2A) and payment or reimbursement for reasonable costs and expenses incurred by the panel in carrying out its functions unless the Minister directs otherwise under subsection (2B)), power to ask for contribution under subsection (3) and power to abandon amendment or part of it under subsection (4) | GMDCS
PC
MPBH | Where Council is the relevant planning authority. |
| s.171(2)(f) | power to carry out studies and commission reports | GMDCS
PC
MPBH | |
| s.171(2)(g) | power to grant and reserve easements | PCofC
GMDCS
PC
MPBH | |
| s.173 | power to enter into agreement covering matters set out in s.174 | GMDCS
PC
MPBH | |
| | power to decide whether something is to the satisfaction of Council, where an agreement made under section 173 of the <i>Planning and Environment Act 1987</i> requires something to be to the satisfaction of Council or Responsible Authority | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| --- | power to give consent on behalf of Council, where an agreement made under section 173 of the <i>Planning and Environment Act 1987</i> requires that something may not be done without the consent of Council or Responsible Authority | GMDCS
PC
MPBH | |
| s.177(2) | power to end a section 173 agreement with agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9 | GMDCS
PC
MPBH | |
| s.178 | power to amend a s.173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9 | PCofC
GMDCS
PC
MPBH | |
| s.178A(1) | function of receiving application to amend or end an agreement | GMDCS
PC
PLO
MPBH | |
| s.178A(3) | function of notifying the owner as to whether it agrees in principle to the proposal under s.178A(1) | GMDCS
PC
PLO
MPBH | |
| s.178A(4) | function of notifying the applicant and the owner as to whether it agrees in principle to the proposal | GMDCS
PC
PLO
MPBH | |
| s.178A(5) | power to propose to amend or end an agreement | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.178B(1) | duty to consider certain matters when considering proposal to amend an agreement | GMDCS
PC
PLO
MPBH | |
| s.178B(2) | duty to consider certain matters when considering proposal to end an agreement | GMDCS
PC
MPBH | |
| s.178C(2) | duty to give notice of the proposal to all parties to the agreement and other person who may be detrimentally affected by decision to amend or end | GMDCS
PC
PLO
MPBH | |
| s.178C(4) | function of determining how to give notice under s.178C(2) | GMDCS
PC
PLO
MPBH | |
| s.178E(1) | duty not to make decision until after 14 days after notice has been given | GMDCS
PC
PLO
MPBH | |
| s.178E(2)(a) | power to amend or end the agreement in accordance with the proposal | GMDCS
PC
PLO
MPBH | If no objections are made under s.178D must consider matters in s.178B |
| s.178E(2)(b) | Power to amend or end the agreement in a manner that is not substantively different from the proposal | GMDCS
PC
PLO
MPBH | If no objections are made under s.178D must consider matters in s.178B |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.178E(2)(c) | power to refuse to amend or end the agreement | GMDCS
PC
PLO
MPBH | |
| s.178E(3)(a) | power to amend or end the agreement in accordance with the proposal | GMDCS
PC
PLO
MPBH | After considering objections, submissions and matters in s.178B |
| s.178E(3)(b) | power to amend or end the agreement in a manner that is not substantively different from the proposal | GMDCS
PC
PLO
MPBH | After considering objections, submissions and matters in s.178B |
| s.178E(3)(c) | power to amend or end the agreement in a manner that is substantively different from the proposal | GMDCS
PC
PLO
MPBH | After considering objections, submissions and matters in s.178B |
| s.178E(3)(d) | power to refuse to amend or end the agreement | GMDCS
PC
PLO
MPBH | After considering objections, submissions and matters in s.178B |
| s.178F(1) | duty to give notice of its decision under s.178E(3)(a) or (b) | GMDCS
PC
PLO
MPBH | |
| s.178F(2) | duty to give notice of its decision under s.178E(2)(c) or (3)(d) | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.178F(4) | duty not to proceed to amend or end an agreement under s.178E until at least 21 days after notice has been given or until an application for review to the Tribunal has been determined or withdrawn | GMDCS
PC
PLO
MPBH | |
| s.178G | duty to sign amended agreement and give copy to each other party to the agreement | GMDCS
PC
PLO
MPBH | |
| s.178H | power to require a person who applies to amend or end an agreement to pay the costs of giving notices and preparing the amended agreement | GMDCS
PC
PLO
MPBH | |
| s.178(3) | duty to notify, in writing, each party to the agreement of the ending of the agreement relating to Crown land | GMDCS
PC
PLO
MPBH | |
| s.179(2) | duty to make available for inspection copy agreement | GMDCS
PC
PLO
MPBH | |
| s.181 | power to apply to the Registrar of Titles for registration of the agreement and to deliver a memorial to Registrar-General | GMDCS
PC
PLO
MPBH | |
| s.181(1A)(a) | power to apply to the Registrar of Titles to record the agreement | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|----------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.181(1A)(b) | duty to apply to the Registrar of Titles without delay, to record the agreement | GMDCS
PC
PLO
MPBH | |
| s.182 | power to enforce an agreement | GMDCS
PC
PLO
MPBH | |
| s.183 | duty to tell Registrar of Titles of ending/amendment of agreement | GMDCS
PC
PLO
MPBH | |
| s.184F(1) | power to decide to amend or end an agreement at any time after an application for review of the failure of Council to make a decision | GMDCS
PC
PLO
MPBH | |
| s.184F(2) | duty not to amend or end the agreement or give notice of the decision after an application is made to VCAT for review of a failure to amend or end an agreement | GMDCS
PC
PLO
MPBH | |
| s.184F(2) | duty not to amend or end the agreement or give notice of the decision after an application is made to VCAT for review of a failure to amend or end an agreement | GMDCS
PC
PLO
MPBH | |
| s.184F(3) | duty to inform the principal register if the responsible authority decides to amend or end an agreement after an application is made for the review of its failure to end or amend the agreement | GMDCS
PC
PLO
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|---|----------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.184F(5) | function of receiving advice from the principal register that the agreement may be amended or ended in accordance with Council's decision | GMDCS
PC
PLO
MPBH | |
| s.184G(2) | duty to comply with a direction of the Tribunal | GMDCS
PC
PLO
MPBH | |
| s.184G(3) | duty to give notice as directed by the Tribunal | GMDCS
PC
PLO
MPBH | |
| s.198(1) | function to receive application for planning certificate | GMDCS
PC
PLO
PA
MPBH | |
| s.199(1) | duty to give planning certificate to applicant | GMDCS
PC
PLO
MPBH | |
| s.201(1) | function of receiving application for declaration of underlying zoning | GMDCS
PC
PLO
PA
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|-------------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.201(3) | duty to make declaration | GMDCS
PC
PLO
MPBH | |
| - | power to decide, in relation to any planning scheme or permit, that a specified thing has or has not been done to the satisfaction of Council | PCoFC
GMDCS
PC
PLO
MPBH | |
| - | power, in relation to any planning scheme or permit, to consent or refuse to consent to any matter which requires the consent or approval of Council. | PCoFC
GMDCS
PC
PLO
MPBH | |
| | power to approve any plan or any amendment to a plan or other document in accordance with a provision of a planning scheme or a condition in a permit. | PCoFC
GMDCS
PC
PLO
MPBH | |
| | power to give written authorisation in accordance with a provision of a planning scheme | PCoFC
GMDCS
PC
PLO
MPBH | |
| s.201UAB(1) | function of providing the Growth Areas Authority with information relating to any land within municipal district | GMDCS
MPBH | |

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| PLANNING AND ENVIRONMENT ACT 1987 | | | |
|-----------------------------------|--|---------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.201UAB(2) | duty to provide the Growth Areas Authority with information requested under subsection (1) as soon as possible | GMDCS
MPBH | |

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| RAIL SAFETY (LOCAL OPERATIONS) ACT 2006 | | | |
|---|--|---------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.33 | duty to comply with a direction of the Safety Director under this section | GMILS
MCMP | duty of Council as a utility under s.3 |
| s.33A | duty to comply with a direction of the Safety Director to give effect to arrangements under this section. | GMILS
MCMP | duty of Council as a utility under s.3 |
| s.34 | duty to comply with a direction of the Safety Director to alter, demolish or take away works carried out contrary to a direction under s.33(1) | GMILS
MCMP | duty of Council as a utility under s.3 |
| s.34C(2) | function of entering into safety interface agreements with rail infrastructure manager | GMILS
MCMP | where Council is the registration authority |
| s.34D(1) | function of working in conjunction with rail infrastructure manager in determining whether risks to safety need to be managed | GMILS
MCMP | where Council is the registration authority |
| s.34D(2) | function of receiving written notice of opinion | GMILS
MCMP | where Council is the registration authority |
| s.34D(4) | function entering into safety interface agreement with infrastructure manager | GMILS
MCMP | where Council is the registration authority |
| s.34E(1)(a) | duty to identify and assess risks to safety | GMILS
MCMP | where Council is the registration authority |
| s.34E(1)(b) | duty to determine measures to manage any risks identified and assessed having regard to items set out in section 34E(2)(a)-(c) | GMILS
MCMP | where Council is the registration authority |

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| RAIL SAFETY (LOCAL OPERATIONS) ACT 2006 | | | |
|---|--|---------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.34E(3) | duty to seek to enter into a safety interface agreement with rail infrastructure manager | GMILS
MCMP | where Council is the registration authority |
| s.34F(1)(a) | duty to identify and assess risks to safety if written notice has been received under section 34D(2)(a) | GMILS
MCMP | where Council is the registration authority |
| s.34F(1)(b) | duty to determine measures to manage any risks identified and assessed if written notice has been received under section 34D(2)(a) | GMILS
MCMP | where Council is the registration authority |
| s.34F(2) | duty to seek to enter into a safety interface agreement with rail infrastructure manager | GMILS
MCMP | where Council is the registration authority |
| s.34H | power to identify and assess risks to safety as required under sections 34B, 34C, 34D, 34E or 34F in accordance with subsections (a)-(c) | GMILS
MCMP | where Council is the registration authority |
| s.34I | function of entering into safety interface agreements | GMILS
MCMP | where Council is the registration authority |
| s.34J(2) | function of receiving notice from Safety Director | GMILS
MCMP | where Council is the registration authority |
| s.34J(7) | duty to comply with a direction of the Safety Director given under section 34J(5) | GMILS
MCMP | where Council is the registration authority |
| s.34K(2) | duty to maintain a register of items set out in subsections (a)-(b) | GMILS
MCMP | where Council is the registration authority |

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| RESIDENTIAL TENANCIES ACT 1997 | | | |
|--------------------------------|---|------------------|-------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.142D | function of receiving notice regarding an unregistered rooming house | HPC | |
| s.252 | power to give tenant a notice to vacate rented premises if subsection(1) applies | GMCS
RSC | where Council is the landlord |
| s.262(1) | power to give tenant a notice to vacate rented premises | GMCS
RSC | where Council is the landlord |
| s.262(3) | power to publish its criteria for eligibility for the provision of housing by Council | GMCS
RSC | |
| s.518F | power to issue notice to caravan park regarding emergency management plan if determined that the plan does not comply with the requirements | HPC | |
| s.522(1) | give a compliance notice to a person | RSC
CUC
CO | |
| s.525(2) | power to authorise an officer to exercise powers in s.526 (either generally or in a particular case) | GMCS | |
| s.525(4) | duty to issue identity card to authorised officers | GMCS | |
| s.526(5) | duty to keep record of entry by authorised officer under section 526 | RSC
CUC | |
| s.526A(3) | function of receiving report of inspection | RSC
CUC | |
| s.527 | power to authorise a person to institute proceedings (either generally or in a particular case) | CUC | |

S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|--|------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s 11(1) | power to declare a road by publishing a notice in the Government Gazette | GMILS
MAPS | obtain consent in circumstances specified in s 11(2) |
| s 11(8) | power to name a road or change the name of a road by publishing notice in Government Gazette | GMCS
RSC | |
| s 11(9)(b) | duty to advise Registrar | GMCS
RSC | |
| s 11(10) | duty to inform Secretary to Department of Sustainability and Environment of declaration etc. | MAPS
RSC | clause subject to s. 11(10A) |
| s 11(10A) | duty to inform Secretary to Dept of Sustainability and Environment or nominated person | GMILS
MAPS
MSO
MCMP | duty of co-ordinating road authority |
| s 12(2) | power to discontinue road or part of a road | GMILS
MAPS | power of co-ordinating road authority |
| s 12(4) | power to publish, and provide copy, notice of proposed discontinuance | GMILS
MAPS | power of coordinating road authority where it is the discontinuing body - unless subsection (11) applies |
| s 12(5) | duty to consider written submissions received within 28 days of notice | GMILS
MAPS | duty of co-ordinating road authority where it is the discontinuing body - unless subsection (11) applies |
| s 12(6) | function of hearing a person in support of their written submission | GMILS
MAPS | function of co-ordinating road authority where it is the discontinuing body - unless subsection (11) applies |
| s 12(7) | duty to fix day, time and place of meeting under subsection (6) and to give notice | GMILS
MAPS | duty of co-ordinating road authority where it is the discontinuing body - unless subsection (11) applies |

S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|---|---------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s12(10) | duty to notify of decision made | GMILS
MAPS | duty of coordinating road authority where it is the discontinuing body does not apply where an exemption is specified by the regulations or given by the Minister |
| s13(1) | power to fix a boundary of a road by publishing notice in Government Gazette | GMILS
MAPS | power of coordinating road authority and obtain consent under s13(3) and s13(4) as appropriate |
| s14(4) | function of receiving notice from VicRoads | GMILS
MAPS | |
| s14(7) | power to appeal against decision of VicRoads | GMILS | |
| s15(1) | power to enter into arrangement with another road authority, utility or a provider of public transport to transfer a road management function of the road authority to the other road authority, utility or provider of public transport. | GMILS | |
| s15(1A) | power to enter into arrangement with a utility to transfer a road management function of the utility to the road authority | GMILS
MAPS | |
| s15(2) | duty to include details of arrangement in public roads register | GMILS
MAPS | |
| s16(7) | power to enter into an arrangement under s15 | GMILS | |
| s16(8) | duty to enter details of determination in public roads register | GMILS
MAPS | |

S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|---|---------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s17(2) | duty to register public road in public roads register | MAPS | power of coordinating road authority |
| s17(3) | power to decide that a road is reasonably required for general public use | GMILS
MAPS | power of coordinating road authority |
| s17(3) | duty to register a road reasonably required for general public use in public roads register | MAPS | power of coordinating road authority |
| s17(4) | power to decide that a road is no longer reasonably required for general public use | GMILS | power of coordinating road authority |
| s17(4) | duty to remove road no longer reasonably required for general public use from public roads register | MAPS | power of coordinating road authority |
| s18(1) | power to designate ancillary area | GMILS | power of coordinating road authority, and obtain consent in circumstances specified in s18(2) |
| s18(3) | duty to record designation in public roads register | GMILS
MAPS | power of coordinating road authority |
| s19(1) | duty to keep register of public roads in respect of which it is the coordinating road authority | GMILS
MAPS | |
| s19(4) | duty to specify details of discontinuance in public roads register | GMILS
MAPS | |
| s19(5) | duty to ensure public roads register is available for public inspection | GMILS
MAPS | |

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|---|-----------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.21 | power to reply to request for information or advice | GMILS
MAPS | obtain consent in circumstances specified in s11(2) |
| s.22(2) | power to comment on proposed direction | GMILS
MAPS | |
| s.22(4) | duty to publish a copy or summary of any direction made under section 22 by the Minister in its annual report | GMILS
MAPS | |
| s.22(5) | duty to give effect to a direction under this section | GMILS
MAPS | |
| s.40(1) | duty to inspect, maintain and repair a public road. | GMILS
MAPS
MSO | |
| s.40(5) | power to inspect, maintain and repair a road which is not a public road | GMILS
MAPS
MCMP | |
| s.41(1) | power to determine the standard of construction, inspection, maintenance and repair | GMILS
MSO
MAPS | |
| s.42(1) | power to declare a public road as a controlled access road | GMILS | power of coordinating road authority and Schedule 2 also applies |
| s.42(2) | power to amend or revoke declaration by notice published in Government Gazette | GMILS | power of coordinating road authority and Schedule 2 also applies |

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|--|-----------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.42A(3) | duty to consult with VicRoads before road is specified | GMILS | duty of co-ordinating road authority
- if road is a municipal road or part thereof |
| s.42A(4) | power to approve Minister's decision to specify a road as a specified freight road | GMILS
MAPS | power of co-ordinating road authority
- if road is a municipal road or part thereof and where road is to be specified a freight road |
| s.48EA | duty to notify the owner or occupier of land and provider of public transport on which rail infrastructure or rolling stock is located (and any relevant provider of public transport) | GMILS
MAPS
MCMP | duty of responsible road authority infrastructure manager or works manager |
| s.48M(3) | function of consulting with the Secretary for purposes of developing guidelines under section 48M | GMILS
MAPS
MCMP | |
| s.48N | duty to notify the Secretary of the location of the bus topping point and the action taken by Council | GMILS
MAPS
MCMP | |
| s.49 | power to develop and publish a road management plan | GMILS
MAPS | |
| s.51 | power to determine standards by incorporating the standards in a road management plan | GMILS
MAPS | |
| s.53(2) | power to cause notice to be published in Government Gazette of amendment etc of document in road management plan | GMILS
MAPS | |
| s.54(2) | duty to give notice of proposal to make a road management plan | GMILS
MAPS | |

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S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|--|------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.54(5) | duty to conduct a review of road management plan at prescribed intervals | GMILS
MAPS | |
| s.54(6) | power to amend road management plan | GMILS
MAPS | |
| s.54(7) | duty to incorporate the amendments into the road management plan | GMILS
MAPS | |
| s.55(1) | duty to cause notice of road management plan to be published in Government Gazette and newspaper | GMILS
MAPS | |
| s.63(1) | power to consent to conduct of works on road | GMILS
MSO
MCMP
MAPS | power of coordinating road authority |
| s.63(2)(e) | power to conduct or to authorise the conduct of works in, on, under or over a road in an emergency | GMILS
MSO
MCMP
MAPS | power of infrastructure manager |
| s.64(1) | duty to comply with clause 13 of Schedule 7 | GMILS
MSO
MCMP
MAPS | duty of infrastructure manager or works manager |
| s.66(1) | power to consent to structure etc | CUC
CO | power of coordinating road authority |
| s.67(2) | function of receiving the name and address of the person responsible for distributing the sign or bill | CUC
CO | where Council is the coordinating road authority |

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| ROAD MANAGEMENT ACT 2004 | | | |
|--------------------------|---|------------------------------|--------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.67(3) | power to request information | CUC
CO | power of coordinating road authority |
| s.68(2) | power to request information | CUC
CO | power of coordinating road authority |
| s71(3) | power to appoint an authorised officer | GMDCS
GMCS
GMILS | |
| s.72 | duty to issue an identity card to each authorised officer | GMCS | |
| s.85 | function of receiving report from authorised officer | GMILS
MSO
MAPS | |
| s86 | duty to keep register re s85 matters | GMILS | |
| s.87(1) | function of receiving complaints | GMILS
MSO
MAPS | |
| s87(2) | duty to investigate complaint and provide report | GMILS | |
| s.112(2) | power to recover damages in court | GMILS
MSO
MCMP | |
| s116 | power to cause or carry out inspection | GMILS
MSO
MCMP
MAPS | |

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S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|---------------------------|--|------------------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| s.119(2) | function of consulting with VicRoads | GMILS
MSO
MCMP
MAPS | |
| s.120(1) | power to exercise road management functions on an arterial road (with the consent of VicRoads) | GMILS
MSO
MAPS | |
| s.120(2) | power to seek consent of VicRoads | GMILS
MCMP | |
| s.121(1) | power to enter into an agreement re works | GMILS
MCMP | |
| s.122(1) | power to charge and recover fees | GMILS
MCMP
MAPS | |
| s.123(1) | power to charge for any service | GMILS
MCMP
MAPS | |
| Schedule 2
Clause 2(1) | power to make a decision re controlled access roads | GMILS | |
| Schedule 2
Clause 3(1) | power to make policy about controlled access roads | GMILS | |
| Schedule 2
Clause 3(2) | power to amend, revoke or substitute policy about controlled access roads | GMILS | |
| Schedule 2
Clause 4 | function of receiving details of proposal from VicRoads | GMILS
MCMP
MAPS | |

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| ROAD MANAGEMENT ACT 2004 | | | |
|-----------------------------|--|------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| Schedule 2
Clause 5 | duty to publish notice of declaration | GMILS | |
| Schedule 7,
Clause 7(1) | duty to give notice to relevant coordinating road authority of proposed installation of non-road infrastructure or related works on a road reserve | GMILS
MCMP
MAPS | duty of infrastructure manager or works manager |
| Schedule 7,
Clause 8(1) | duty to give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area, that could be affected by any proposed installation of infrastructure or related works on a road or road reserve of any road | GMILS
MCMP
MSO
MAPS | duty of infrastructure manager or works manager |
| Schedule 7,
Clause 9(1) | duty to comply with request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed infrastructure in relation to the location of any non-road infrastructure and technical advice or assistance in conduct of works | GMILS
MCMP
MAPS | duty of infrastructure manager or works manager responsible for non-road infrastructure |
| Schedule 7,
Clause 9(2) | duty to give information to another infrastructure manager or works manager where becomes aware any infrastructure or works are not in the location shown on records, appear to be in an unsafe condition or appear to need maintenance | GMILS
MSO
MCMP
MAPS | duty of infrastructure manager or works manager |
| Schedule 7,
Clause 10(2) | where Schedule 7 Clause 10(1) applies, duty to, where possible, conduct appropriate consultation with persons likely to be significantly affected | GMILS
MCMP
MAPS | duty of infrastructure manager or works manager |
| Schedule 7,
Clause 12(2) | power to direct infrastructure manager or works manager to conduct reinstatement works | GMILS | power of coordinating road authority |

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| ROAD MANAGEMENT ACT 2004 | | | |
|-----------------------------|---|------------------------------|--------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| Schedule 7
Clause 12(3) | power to take measures to ensure reinstatement works are completed | GMILS
MCMP
MAPS | power of coordinating road authority |
| Schedule 7
Clause 12(4) | duty to ensure that works are conducted by an appropriately qualified person | GMILS
MCMP
MAPS | power of coordinating road authority |
| Schedule 7
Clause 12(5) | power to recover costs | GMILS
MCMP
MFS
MAPS | power of coordinating road authority |
| Schedule 7,
Clause 13(1) | duty to notify relevant coordinating road authority within 7 days that works have been completed, subject to Schedule 7, Clause 13(2) | GMILS
MSO
MCMP
MAPS | duty of works manager |
| Schedule 7
Clause 13(2) | power to vary notice period | GMILS
MSO
MCMP
MAPS | power of coordinating road authority |
| Schedule 7,
Clause 13(3) | duty to ensure works manager has complied with obligation to give notice under Schedule 7, Clause 13(1) | GMILS
MCMP | duty of infrastructure manager |
| Schedule 7
Clause 16(1) | power to consent to proposed works | GMILS
MSO
MCMP
MAPS | power of coordinating road authority |

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| ROAD MANAGEMENT ACT 2004 | | | |
|------------------------------------|--|------------------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| Schedule 7
Clause 16(4) | duty to consult | GMILS
MSO
MCMP
MAPS | where Council is the co-ordinating road authority responsible authority or infrastructure manager |
| Schedule 7
Clause 16(5) | power to consent to proposed works | GMILS
MCMP
MAPS | where Council is the co-ordinating road authority |
| Schedule 7
Clause 16(6) | power to set reasonable conditions on consent | GMILS
MCMP
MAPS | where Council is the co-ordinating road authority |
| Schedule 7
Clause 16(8) | power to include consents and conditions | GMILS
MCMP
MAPS | where Council is the co-ordinating road authority |
| Schedule 7
Clause 17(2) | power to refuse to give consent and duty to give reasons for refusal | GMILS | power of coordinating road authority |
| Schedule 7
Clause 18(1) | power to enter into an agreement | GMILS
MCMP
MAPS | power of coordinating road authority |
| Schedule 7
Clause 19(1) | power to give notice requiring rectification of works | GMILS
MAPS
MCMP | power of coordinating road authority |
| Schedule 7
Clause 19(2)&
(3) | power to conduct the rectification works or engage a person to conduct the rectification works and power to recover costs incurred | GMILS
MAPS
MCMP | where Council is the co-ordinating road authority |
| Schedule 7 | power to require removal, relocation, replacement or upgrade of | GMILS
MAPS | power of coordinating road authority |

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S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT ACT 2004 | | | |
|---------------------------------|---|-------------------|---|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| Clause 20(1) | existing non-road infrastructure | CUC
MCMP
CO | |
| Schedule 7A
Clause 2 | power to cause street lights to be installed on roads | GMILS
MAPS | power of responsible road authority where it is the coordinating road authority or responsible road authority in respect of the road. |
| Schedule 7A
Clause 3(1)(d) | duty to pay installation and operation costs of street lighting – where road is not an arterial road. | GMILS
MAPS | where Council is the responsible road authority for the road. |
| Schedule 7A
Clause 3(1)(e) | duty to pay installation and operation costs of street lighting – where road is a service road on an arterial road and adjacent areas. | GMILS
MAPS | where Council is the responsible road authority. |
| Schedule 7A
Clause (3)(1)(f) | duty to pay installation and percentage of operation costs of street lighting – for arterial roads in accordance with clauses 3(2) and 4. | GMILS
MAPS | where Council is responsible road authority that installed the light (re. installation costs) and where Council is relevant municipal Council (re operating costs). |

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| PLANNING AND ENVIRONMENT REGULATIONS 2015 | | | |
|---|---|----------------------------------|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r 6 | function of receiving notice, under section 19(1)(c) of the Act from a planning authority of its preparation of an amendment to a planning scheme | GMDCS
MPBH
PC | Where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority |
| r 21 | power of responsible authority to require a permit applicant to verify information (by statutory declaration or other written confirmation satisfactory to the responsible authority) in an application for a permit or to amend a permit or any information provided under section 54 of the Act | GMDCS
PC
PLO
PA
MPBH | |
| r 25(a) | duty to make copy of matter considered under section 60(1A)(g) available for inspection free of charge | GMDCS
PC
PLO
PA
MPBH | Where Council is the responsible authority |
| r 25(b) | function of receiving a copy of any document considered under section 60(1A)(g) by the responsible authority and duty to make the document available for inspection free of charge | GMDCS
PC
PLO
PA
MPBH | Where Council is not the responsible authority but the relevant land is within Council's municipal district |

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S6. Instrument of Delegation – Members of Staff

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| | | | |
|-----|--|----------------------------------|--|
| r42 | function of receiving notice under section 96C(1)(c) of the Act from a planning authority of its preparation of <u>combined application for an amendment to a planning scheme and notice of a permit application</u> . | GMDCS
MPBH
PC | Where Council is not the planning authority and the amendment affects land within Council's municipal district, or where the amendment will amend the planning scheme to designate Council as an acquiring authority |
| r55 | duty of responsible authority to tell Registrar of Titles under r. 183 of the Act of the cancellation or amendment of an agreement | GMDCS
PC
PLO
PA
MPBH | |

S6. Instrument of Delegation – Members of Staff

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| PLANNING AND ENVIRONMENT (FEES) INTERIM REGULATIONS 2014
*These regulations expire on 16 October 2015 | | | |
|--|--|---------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.16 | power to waive or rebate fee other than a fee relating to an amendment to a planning scheme | GMDCS
MPBH
PC | |
| r.17 | power to waive or rebate fee relating to an amendment of a planning scheme | GMDCS
MPBH
PC | |
| r.18 | duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r.16 or 17 | GMDCS
MPBH
PC | |

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S6. Instrument of Delegation – Members of Staff

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| RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS REGISTRATION AND STANDARDS) REGULATIONS 2010 | | | |
|---|---|-------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.7 | function of entering into a written agreement with a caravan park owner | HPC
HPO | |
| r.11 | function of receiving applications for registration | HPC
HPO
HPT | |
| r.13(1) | duty to grant registration if satisfied that the caravan park complies with these regulations | HPC
HPO | |
| r.13(2) | duty or renew the registration if satisfied that the caravan park complies with these regulations | HPC
HPO | |
| r.13(2) | power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations | HPC
HPO | |
| r.13(4) & (5) | duty to issue certificate of registration | HPC
HPO | |
| r.15(1) | function of receiving notice of transfer of ownership | HPC
HPO
HPT | |
| r.15(3) | power to determine where notice of transfer is displayed | HPC
HPO | |
| r.16(1) | duty to transfer registration to new caravan park owner | HPC
HPO | |
| r.16(2) | duty to issue certificate of transfer of registration | HPC
HPO | |
| r.17(1) | power to determine the fee to accompany applications for registration or applications for renewal of registration | HPC
HPO | |

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| RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS REGISTRATION AND STANDARDS) REGULATIONS 2010 | | | |
|---|---|------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.18 | duty to keep register of caravan parks | HPC | |
| r.19(4) | power to determine where the emergency contact person's details are displayed | HPC
HPO | |
| r.19(6) | power to determine where certain information is displayed | HPC
HPO | |
| r.22A(1) | duty to notify a caravan park owner of the relevant emergency services agencies for the caravan park on the request of the caravan park owner | HPC
HPO | |
| r.22A(2) | duty to consult with relevant emergency services agencies | HPC
HPO | |
| r.23 | power to determine places in which caravan park owner must display a copy of emergency procedures | HPC
HPO | |
| r.24 | power to determine places in which caravan park owner must display copy of public emergency warnings | HPC
HPO | |
| r.25(3) | duty to consult with relevant floodplain management authority | HPC
HPO | |
| r.26 | duty to have regard to any report of the relevant fire authority | HPC
HPO | |
| r.28(c) | power to approve system for the collection, removal and disposal of sewage and waste water from a movable dwelling | HPC
HPO | |

S6. Instrument of Delegation – Members of Staff

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| RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS REGISTRATION AND STANDARDS) REGULATIONS 2010 | | | |
|---|---|-------------------|--------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.39 | function of receiving notice of proposed installation of unregistrable movable dwelling or rigid annexe | HPC
HPO
HPT | |
| r.39(b) | power to require notice of proposal to install unregistrable movable dwelling or rigid annexe | HPC
HPO | |
| r.40(4) | function of receiving installation certificate | HPC
HPO
HPT | |
| r.42 | Power to approve use of a non-habitable structure as a dwelling or part of a dwelling | HPC
HPO | |
| Schedule 3
Clause 4(3) | power to approve the removal of wheels and axles from unregistrable movable dwelling | HPC
HPO | |

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S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT (GENERAL) REGULATIONS/2005. | | | |
|---|---|---------------|--------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.301(1) | duty to conduct reviews of road management plan | GMILS
MAPS | |
| r.302(2) | duty to give notice of review of road management plan | GMILS
MAPS | |
| r.302(5) | duty to produce written report of review of road management plan and make report available | GMILS
MAPS | |
| r.303 | duty to give notice of amendment which relates to standard of construction, inspection, maintenance or repair under section 41 of the Act | GMILS
MAPS | |
| r.306(2) | duty to record on road management plan the substance and date of effect of amendment | MAPS | |
| r.501(1) | power to issue permit | GMILS
MAPS | power of coordinating road authority |
| r.501(4) | power to charge fee for issuing permit under r.501(1) | GMILS
MAPS | power of coordinating road authority |
| r.503(1) | power to give written consent to person to drive on road a vehicle which is likely to cause damage to road | GMILS
MAPS | power of coordinating road authority |
| r.508(3) | power to make submission to Tribunal | GMILS | power of coordinating road authority |
| r.509(1) | power to remove objects, refuse, rubbish or other material deposited or left on road | CUC
MSO | power of responsible road authority |

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S6. Instrument of Delegation – Members of Staff

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| ROAD MANAGEMENT (GENERAL) REGULATIONS 2005 | | | |
|--|---|--------------|-------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| PROVISION | THING DELEGATED | DELEGATE | CONDITIONS & LIMITATIONS |
| r.509(2) | power to sell or destroy things removed from road or part of road (after first complying with r.509(3)) | GMILS
CUC | power of responsible road authority |
| r.509(4) | power to recover in the Magistrates' Court, expenses from person responsible | GMILS
CUC | |

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S6. Instrument of Delegation – Members of Staff

Locality Plan - 10 Lavers Hill Cobden Road, Lavers Hill



Land & Building Services
4 Lakeside Drive Burwood East, 3151
T: 9262 8354 F: 9262 8358



11 August 2015

Ms Sue Wilkinson
Chief Executive Officer
Colac Otway Shire Council
PO Box 283
COLAC VIC 3250

Dear Sue

RE: LAVERS HILL PROPOSED FIRE STATION AND REFUGE

CFA are proposing to construct a new fire station and fire refuge on the existing Lavers Hill site including the two adjoining sites. The owners of these two sites are the Department of Treasury and Finance and The Anglican Church who have both agreed to sell to CFA. The purchase of these sites is contingent on CFA acquiring all the sites required. Enclosed are copies of the relevant titles.

The existing Otway RFB fire station site at Lavers Hill is currently leased from Council on a long term arrangement. CFA would request that the Colac Otway Shire agree to the transfer of the existing site to CFA. Once all titles are owned by CFA the titles will be consolidated into one title. This will give a total site area of approx. 4,170 square metres.

Funding for the project has been committed by CFA and Emergency Management Victoria. It is anticipated that construction will be undertaken in 2016.

If you have any queries regarding this matter please contact Brian Robie on (03) 9262 8354 or b.robie@cfa.vic.gov.au. Thank you for your cooperation in this matter.

Yours faithfully

Georgia Fine
Executive Manager
Land & Building Services

Protecting lives and property

cfa.vic.gov.au

Register Search Statement - Volume 10172 Folio 578

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10172 FOLIO 578

Security no : 124041048745B

Produced 06/03/2012 11:45 am

CROWN GRANT

LAND DESCRIPTION

Crown Allotment 4D Parish of Barwongemoong.

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

MINISTER FOR FINANCE of 35 SPRING ST MELBOURNE 3000
T768361Y 12/07/1995

ENCUMBRANCES, CAVEATS AND NOTICES

Any crown grant reservations exceptions conditions limitations and powers
noted on the plan or imaged folio set out under DIAGRAM LOCATION below.
For details of any other encumbrances see the plan or imaged folio set out
under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP068781X FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 12-14 LAVERS HILL-COBDEN ROAD LAVERS HILL VIC 3238

DOCUMENT END

Delivered from the Landata © System by SAI Global Property Division Pty Ltd
Delivered at 06/03/12 11:46, for Order Number 8427331. Your reference: CFO: DTF Lavers Hill.

Delivered by LANDATA® Land Victoria timestamp 06/03/2012 11:46 Page 1 of 2

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| | | | |
|--|---|--|-----------|
| TITLE PLAN | | EDITION 1 | TP 68781X |
| Location of Land
Parish: BARWONGEMOONG
Township:
Section:
Crown Allotment: 4D
Crown Portion:

Last Plan Reference
Derived From: VOL 10172 FOL 578
Depth Limitation: 15 m | | Notations
SUBJECT TO THE RESERVATIONS EXCEPTIONS CONDITIONS AND POWERS CONTAINED IN CROWN GRANT VOL. 10172 FOL. 578 AND NOTED ON SHEET 2 OF THIS PLAN

ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN | |
| Description of Land / Easement Information | | THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT
COMPILED: 12/07/1999
VERIFIED: G.P. | |
| | | | |
| LENGTHS ARE IN METRES | Metres = 0.3046 x Feet
Metres = 0.201169 x Links | Sheet 1 of 2 sheets | |



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VOLUME 07112 FOLIO 221

Security no : 124037647750L
Produced: 05/05/2011 03:57 pm

LAND DESCRIPTION

Lot 12 on Plan of Subdivision 006159.
PARENT TITLE Volume 03661 Folio 192
Created by instrument 2139741 30/04/1948

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
COLAC OTWAY SHIRE COUNCIL of 2-6 RAE STREET COLAC VIC 3250
AH847495M 18/03/2011

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP006159 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

| NUMBER | TRANSFER | STATUS | DATE |
|-----------|----------|------------|------------|
| AH847495M | | Registered | 18/03/2011 |

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

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DOCUMENT END



Department of
Transport, Planning and
Local Infrastructure

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 03869 FOLIO 777

Security no : 124054400470H

Produced 12/03/2015 11:49 am

LAND DESCRIPTION

Lot 11 on Plan of Subdivision 006159.
PARENT TITLE Volume 03661 Folio 192
Created by instrument 0770333 22/03/1915

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor

THE BALLARAT DIOCESAN TRUSTEES of CATHEDRAL BUILDINGS DANA STREET BALLARAT

0770333 22/03/1915

ENCUMBRANCES, CAVEATS AND NOTICES

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plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP006159 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)



The Place To Be

Account: 60100 Order: 18734138

Title 3869/777
Page 1 of 2



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Street Address: 8 LAVERS HILL-COBDEN ROAD LAVERS HILL VIC 3238

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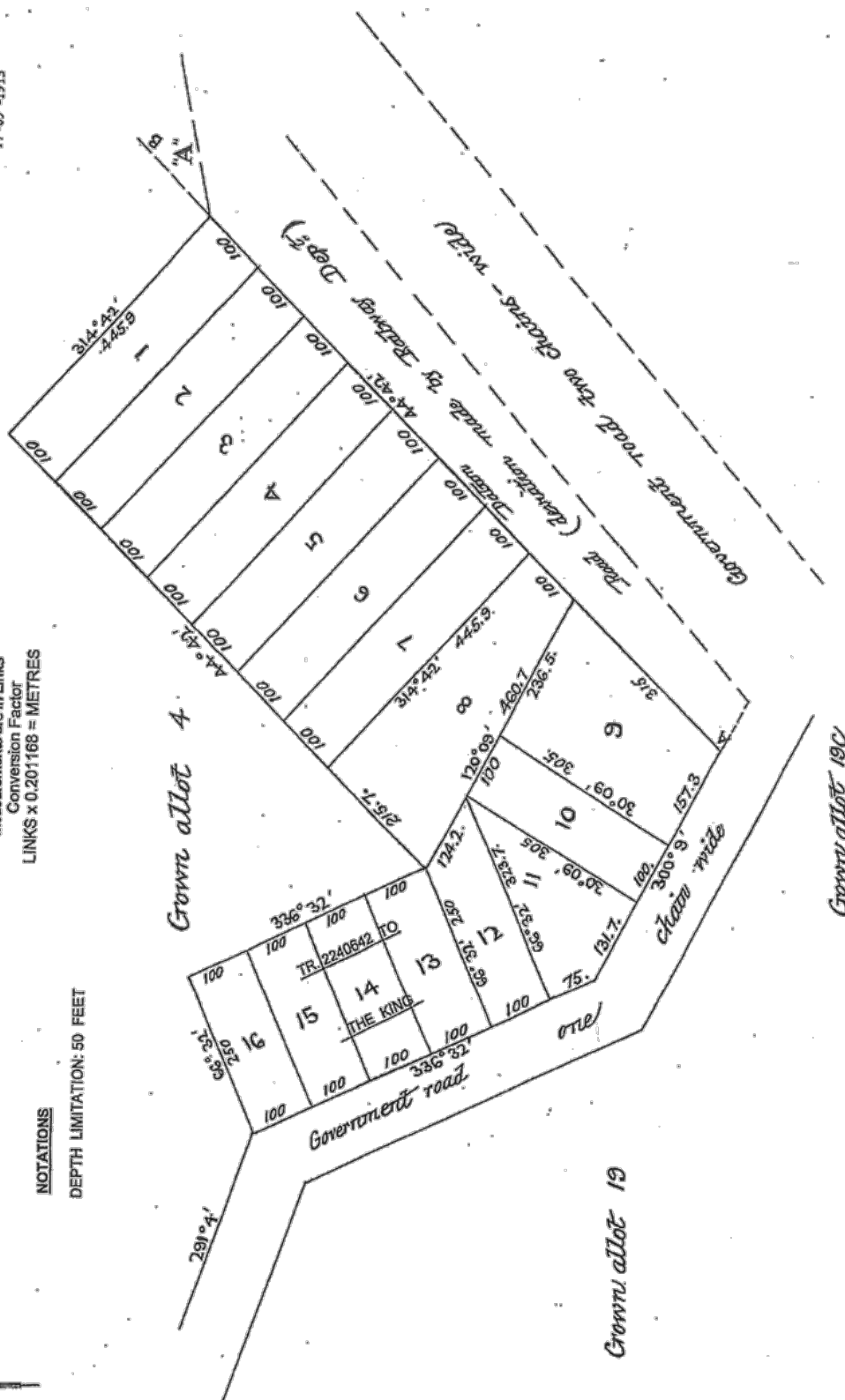
LP 6159
EDITION 1
PLAN MAY BE LODGED
17-09-1913

**PLAN OF SUBDIVISION
OF CROWN ALLOTMENT 4B
PARISH OF BARWONGEMOONG
COUNTY OF POLWARTH**
VOL. 3661 FOL. 192

Measurements are in Links
Conversion Factor
LINKS x 0.201168 = METRES

NOTATIONS

DEPTH LIMITATION: 50 FEET



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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 07112 FOLIO 221

Security no : 124056058186S

Produced 15/07/2015 09:43 am

LAND DESCRIPTION

Lot 12 on Plan of Subdivision 006159.
PARENT TITLE Volume 03661 Folio 192
Created by instrument 2139741 30/04/1948

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

COLAC OTWAY SHIRE COUNCIL of 2-6 RAE STREET COLAC VIC 3256
AH847495M 18/03/2011

ENCUMBRANCES, CAVEATS AND NOTICES

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24 Subdivision Act 1988 and any other encumbrances shown or entered on the
plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP006159 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

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LP 6159

EDITION 1

PLAN MAY BE LODGED

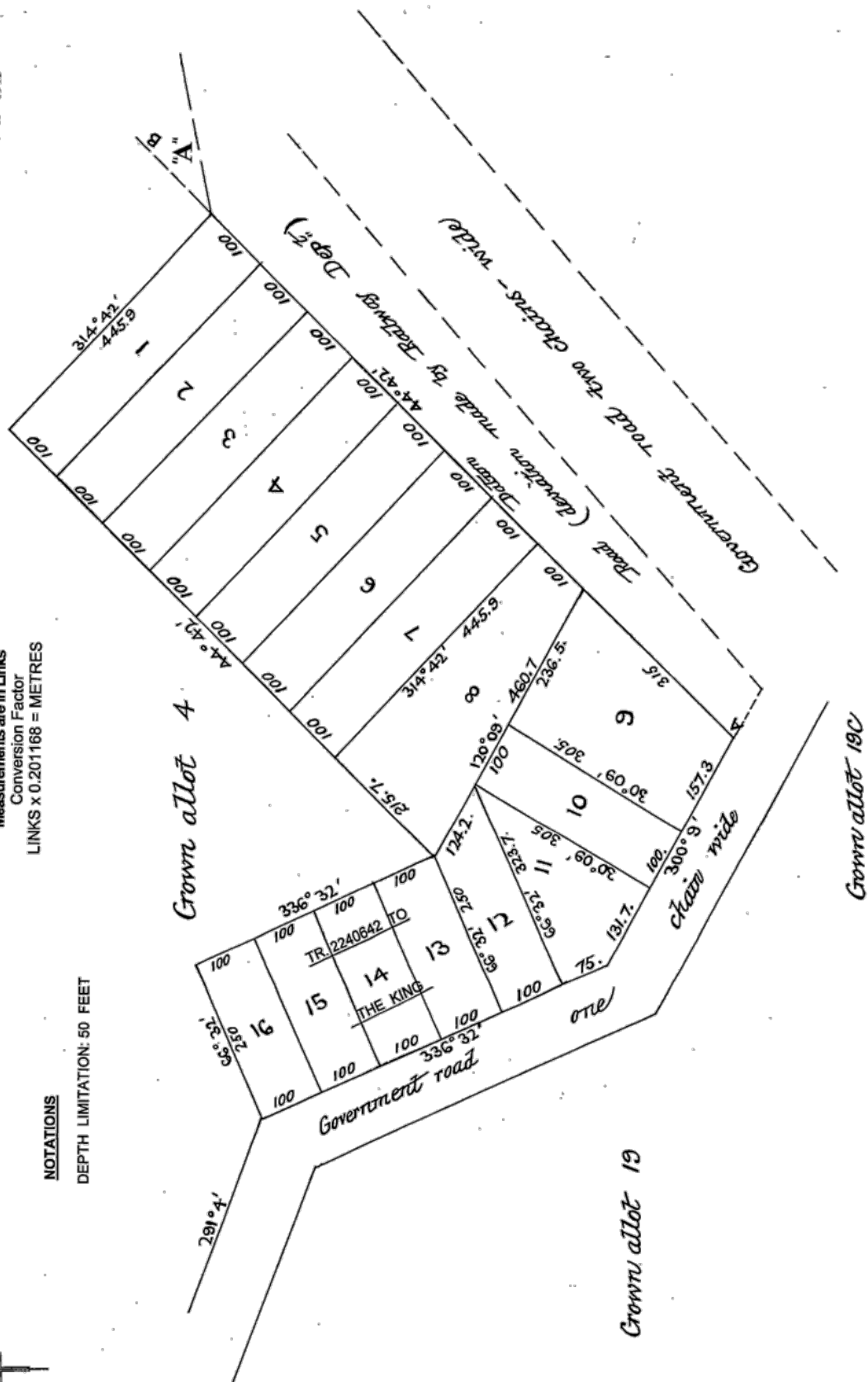
17-09 -1913

PLAN OF SUBDIVISION
OF CROWN ALLOTMENT 4B
PARISH OF BARWONGMOONG
COUNTY OF POLWARTH
VOL. 3661 FOL. 192

Measurements are in Links
Conversion Factor
LINKS x 0.201168 = METRES

NOTATIONS

DEPTH LIMITATION: 50 FEET



[illegible]



COLAC LIVESTOCK SELLING CENTRE

LOCAL LAW NO. 5 - 2005

LOCAL LAW ADOPTED BY COUNCIL 24 AUGUST 2005 OPERATION DATE 24 SEPTEMBER 2005

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Colac Otway Shire Local Law No 5

1

COLAC OTWAY SHIRE COUNCIL
COLAC LIVESTOCK SELLING CENTRE

No. 5 OF 2005

DIVISION 1 - PRELIMINARY PROVISIONS

1 - Title

This Local Law will be known as the "Colac Livestock Selling Centre Local Law".

2 - Purpose

The purpose of this Local Law is to:

- (a) provide for efficient operation and management of the Colac Livestock Selling Centre;
- (b) minimise stress in all livestock by encouraging efficient and considerate treatment and handling; and
- (c) regulate and control the selling of livestock from premises other than the Colac Livestock Selling Centre.

3 - Authorising Provision

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

4 - Commencement and Area of Operation

This Local Law:

- (a) commences on 24 September 2005; and
- (b) operates within the entire Colac Livestock Selling Centre as set out in Schedule 1 being the whole area within the boundaries detailed therein.

5 - Revocation Date

This local Law ceases operation on 23 September 2015.

6 - Definition of Words Used in this Local Law

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

"Agent" means any person selling or offering for sale any livestock and includes a firm, company or principal of a firm or company.

"Authorised Officer" means a person appointed under section 224 of the **Local Government Act 1989**.

"Auctioneer" means any person who sells or attempts to sell or offer for sale or resale any goods by way of auction as herein defined.

"Chief Executive Officer" means the Chief Executive Officer of the Colac Otway Shire Council.

"Council" means the Colac Otway Shire.

"Livestock" includes horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, bobby calves, asses, mules, sheep, ewes, wethers, rams, lambs, goats and swines or any other animal permitted to be sold at the Saleyards.

"Centre" means Colac Livestock Selling Centre located in Ballarat Road, Irrewarra (Schedule 1).

"Equipment" means any unauthorised material taken into the Centre or any material authorised or not which is used in such a way as to interfere with the management or operation of the Centre.

"Saleyards" means the saleyards within Colac Livestock Selling Centre.

"Sale Day" means any day appointed pursuant to this Local Law on which sales are conducted at the Centre.

"Superintendent" means any person appointed by Council to manage the Centre and includes any person acting in accordance with the Superintendent's direction.

"Transport" means any vehicle and or trailer used for the purpose of transporting stock to or from the Centre.

"Vehicle" means a vehicle which is used or intended to be used on a highway or public place and which has its own motor power, but does not include a tram or train or motorised wheel-chair.

DIVISION 2 - REGULATION OF CENTRE

7 - Use of Saleyards

An Agent or other person must not use the Saleyards for selling purposes without first:

- (a) obtaining the written consent of the Chief Executive Officer or his delegate; and
- (b) paying to the Council dues and fees determined by the Council from time to time; and (S7)
- (c) complying with any other conditions which may be imposed.

8 - Agents

- (1) Any Agent or other person permitted to sell Livestock in the Saleyards must not:
 - (a) receive, sell, expose or offer for sale within the Saleyards livestock which are not in a healthy condition;
 - (b) place or cause to be placed any livestock in any yard or pen which has been allocated to him or her for any sale unless the vendor has notified not later than 12 noon on the day before the sale, the number and description of such livestock to the agent to whom the delivery of such livestock is to be made: Additional numbers advised after 12:00 noon may be accepted at the direction of the Superintendent;
 - (c) offer for sale or attempt to offer for sale any livestock listed for late sales or unless such livestock remains the property of the original vendor.
- (2) Any Agent or other person permitted to sell Livestock in the saleyards must:
 - (a) keep a true and correct record of all livestock received by him or her for sale at the Centre and of all sales of such livestock including the number, description and district of origin of the livestock and the vendors name;
 - (b) make such records available for confidential examination by the Council for statistical purposes only;
 - (c) deliver livestock to the Saleyards no later than two (2) hours prior to the commencement of Special Store sales; however late arrivals will be sold at the end of the scheduled sale
 - (d) notify the Superintendent if the requirements in Clause 2(c) are unable to be met;

- (e) immediately after the fall of the Auctioneer's hammer announce and enter in the Auctioneer's Sales Register the name of the successful bidder and the price paid for each lot;
- (f) on completion of the sale day furnish to the Superintendent a statement in the prescribed form, determined by Council from time to time of all livestock offered; and (S1)
- (g) be aware that there is a weekly draw conducted by the Superintendent which determines the Agent's order of priority of selling.
- (h) have regard to the safety of persons within the Saleyards in removing stock from selling pens or from one point of the Centre to another.

9 - Superintendent's Duties

The duties of the Superintendent will be subject to the directions of the Council and will include:

- (a) ensuring that the requirements of this Local Law are observed;
- (b) demanding all stallages, rents, Centre tolls and dues;
- (c) preserving good order and cleanliness within the Centre;
- (d) allotting the selling pens for use by persons bringing livestock to the Centre in such a way that in the opinion of the Superintendent is the most appropriate for the circumstances;
- (e) ensuring that allotted times for selling and controlling the Centre between the hours during which it is open for the receipt and sale of livestock are observed;
- (f) posting a list in some conspicuous part of the Centre immediately at the conclusion of each of the ballots for priority sale of livestock showing the names of the Agents in order of priority and advising each Agent not later than 1 p.m. on the day prior to the sale or (in the case of a sale day occurring on a Monday) not later than a day and a time to be fixed by the Superintendent of the number of pens allocated to him;
- (g) authorising the removal of any livestock from the Centre or from one part of the Centre to another having regard to the safety of persons within the Saleyards;

- (h) excluding or ejecting from or refusing to admit to the Centre any person whose presence would, in the opinion of the Superintendent, be undesirable and prejudicial to the best interests of the Centre; and
- (i) furnishing a report to the Council each year and at such other times as the Council may direct as to:
 - (i) the physical condition of the Centre and any works carried out therein;
 - (ii) numbers and description of livestock passing through the Centre; and
 - (iii) such other matters as the Council may direct.
- (j) any other duties determined by the Council.

10 - Superintendent's Authority

In all matters relating to the conduct of sales and the control of the Centre, the decision of the Superintendent will be final and binding on all parties.

11 - Conduct of Persons

A person in the Centre must not:

- (a) throw, deposit or leave any refuse or rubbish except in bins or containers that are provided for that purpose;
- (b) distribute any poster, notice, handbill or like except with the permission of the Superintendent;
- (c) display or exhibit an advertisement, picture or placard except with the permission of the Superintendent;
- (d) post or affix to any part of the building, fences, pavements, equipment or machinery of the Centre except with the permission of the Superintendent;
- (e) willfully or negligently deface or damage any part of the building, fences, pavements, equipment or machinery of the Centre;
- (f) obstruct any of the entrances to the thoroughfares or passages of the Centre;
- (g) refuse or neglect to carry out the directions of the Superintendent in the parking, standing or moving of vehicles within the Centre, including those areas set aside for parking and vehicle movement;

- (h) use or permit to be used for the loading, unloading or drafting of livestock any whip or goad which in the opinion of the Superintendent will cause bruising or unnecessary cruelty to the livestock
- (i) sit, lie down, loiter, or permit any animal or vehicle to remain stationary in any entrance, thoroughfare or passage; or
- (j) deliver or collect livestock on other than Sale Days without first informing the Superintendent.

12 - Exclusion from Saleyards

- (1) Any person convicted of an offence against the **Health Act 1958**, the **Prevention of Cruelty to Animals Act 1986**, or the **Trade Measurement Act 1995** and or any subsequent legislation dealing with faulty weights in respect of any livestock sold or offered or exposed for sale in Saleyards may be excluded by the Superintendent from the Centre for any period after consultation with the Manager of Cosworks and/or the General Manager Infrastructure.
- (2) Any person who behaves in a manner which, in the opinion of the Superintendent is undesirable, offensive or not in the best interests of the Centre, may be excluded from the Centre for any period after consultation with the Manager of Cosworks and/or the General Manager Infrastructure. This action is to be recorded in writing by the Superintendent in a record kept at the Centre.
- (3) If any person is aggrieved by their exclusion from the Centre, that person may make an application to the Chief Executive Officer whose decision is final.
- (4) This does not in anyway overrule any right of any person who has been excluded from the Centre to have the matter determined by a Magistrates Court.

13 - Removing Stock

Any person without authority to remove livestock from the Saleyards, or move stock from one part to another must first gain permission from a Agent or a member of the Saleyards staff.

14 - Council Not Liable

The Council is not liable for the misappropriation or loss of any livestock by reason of the falsification of a delivery pass or receipt or arising from any other circumstances whatsoever.

15 - Feeding

- (1) A person must not leave livestock in the Saleyards without adequate food and water, to the satisfaction of the Superintendent.
- (2) The Superintendent may at his or her discretion cause to be provided any considered necessary feed and veterinary services at the owners expense.

16 - Impounding

Livestock left in the Saleyards after 12.00 noon on the day following the sale may be impounded if no arrangements have been made with the Superintendent by the Agent or the owner. The provisions of the **Impounding of Livestock Act 1994** will apply to impounding of livestock under this clause.

17 - Injury to or Illness of Stock

The Superintendent, under the provisions of the **Prevention of Cruelty to Animals Act 1986**, has the power to humanely cause to be destroyed an injured or seriously ill animal.

18 - Payments

A person must not take any Livestock out of the Centre until all tolls, dues and charges payable in respect of the Livestock or the use of the Centre have been paid or satisfactory arrangements have been made for payment.

19 - Overcrowding

It is the responsibility of the Superintendent to determine any dispute arising in relation to the overcrowding of pens or the priority of occupancy and the disputants shall be bound by his decision.

20 - Inspection of Transports

- (1) The Superintendent is authorised to inspect transports which enter the Centre for the purpose of delivering or removing livestock and to prevent any further re-entry to the Centre if, in the opinion of the Superintendent the transport contains sharp protruding objects or inadequate siding, that may cause cruelty, bruising or stress to the Livestock in the transport or has insufficient floor surface material to prevent the slipping of livestock, or is in a dirty or unsanitary condition.

- (2) The Superintendent is authorised to report the matter to any appropriate Authority if, in his opinion, the number of livestock in the transport is such that it is likely to cause damage, stress or cruelty to the livestock.

21 - Dogs

- (1) A person must not without the written permission of the Superintendent:
- (a) use more than two dogs at any time to muster, drive or draft livestock; and
 - (b) allow any dog under his or her control which is not muzzled effectively while in the Centre; and
- (2) A person must not allow any dog to roam at large within the Centre or act outside of effective control.

22 - Sale Days

- (1) The days appointed as Sale days may be fixed by the Chief Executive Officer from time to time.
- (2) Notice of the days appointed must be provided at the Centre.

23 - Allotted Time for Selling

- (a) The whole of the pens of livestock will be offered by Auctioneers in order of ballot as determined pursuant to Clause 8(a) of this Local Law and every Auctioneer shall observe the times for selling prescribed by sub-clause (b).
 - (b) The allotted time for selling each class of livestock may be determined by the Superintendent from time to time.
 - (c) Livestock for slaughter only will be identified by the Agent and sold as the last lot sold in the pen under the usual categories.
- (S2)**

24 - Exceeding Allotted Time

If the Auctioneer has not disposed of all the livestock in his or her hands at the expiration of the allotted time, the livestock not disposed of must not be offered for auction until each other Auctioneer selling has completed his allotted time in that category, in order of ballot. Should any dispute arise regarding allotment of time the decision of the Superintendent will be final and binding.

25 - Order of Sale

The order of sale of each class of livestock shall be determined by the Superintendent from time to time having regard to any policies or guidelines determined by Council. (S3)

26 - Method of Drafting Livestock

Every agent permitted by Council to sell livestock in the Centre must draft and pen all livestock within classes in the order as determined by the Superintendent. (S4)

27 - Permitting Private Yards and Premises for the Sale of Livestock

- (1) A person without a permit to do so must not use premises other than that person's residence, shop, place of business or other property owned by them, for the sale of Livestock.
- (2) The Council may grant a permit subject to conditions. (S5)
- (3) In determining whether to grant a permit the Council must have regard to any policies or standards that it has adopted.

28 - Fees and Charges

- (1) The council may from time to time determine fees and charges to apply under this Local Law including fees payable:
 - (a) by agents selling or offering livestock for sale at the Centre;
 - (b) by agents or any other person for the use of the Centre;
 - (c) for permits issued under this Local Law; and
 - (d) any other costs reasonably incurred in the administration of this Local Law.
- (2) Details of fees and charges or any alterations thereto will be detailed in a Register for the purpose and will be retained at Council Offices and Saleyards.

29 - Liveweight Selling

All livestock offered for sale at the Centre by liveweight selling must be in accordance with the Council's policies, guidelines, standards or codes adopted from time to time. (S6)

DIVISION 3 - GENERAL PROVISIONS

30 - Administration of this Local Law

- (1) An Authorised Officer may issue Notices to Comply, Notices of Impounding and Infringement Notices to address any failure to comply with this Local Law.
- (2) In administering this Local Law an Authorised Officer may issue any permits required by this Local Law.

31 - Impounding Equipment

If an Authorised Officer finds a person contravening or failing to comply with any Clause of this Local Law, he or she may arrange for any equipment:

- (a) in the custody or control of that person; and
- (b) designed or intended to facilitate the contravention or failure to comply -

to be removed to a place appointed or approved by Council, and be retained there subject to this Local Law.

32 - Impounded Equipment

Where equipment has been impounded in accordance with Clause 31, Council may serve a notice on the person from whose custody or control it was removed.

Each notice must:

- (a) be served personally or by certified mail;
- (b) be in a form approved by Council; and
- (c) indicate how the equipment can be reclaimed.

33 - Surrender of Equipment

Equipment which has been impounded in accordance with Clause 30 must be surrendered to the owner or person from whose custody or control it was removed, or any person acting on behalf of either of those persons, if:

- (a) in the event of a claim being made by an owner or a person acting on behalf of the person from whose custody or control the equipment was removed, satisfactory evidence is provided of authority for possession of the former's authority from the latter; and

- b) in any event, there is paid to Council a fee fixed by Resolution of Council.

34 - Power to Sell, Destroy or Give Away

- (1) If seven (7) days have elapsed from the removal of the equipment to a place appointed or approved by Council, and the equipment is not surrendered to:
 - (a) the person from whose custody or control it was removed; or
 - (b) a person acting on behalf of the person described in paragraph 34(1)(a).

The Council may:

- (i) destroy the equipment;
 - (ii) deliver the equipment to a municipal tip;
 - (iii) give the equipment away; or
 - (iv) sell the equipment by auction, public tender or private sale.
- (2) Where equipment is sold in accordance with sub-clause (1)(b)(iv) there is no additional power of sale, and the net proceeds from sale exceed the amount expended by Council in exercising its powers under this Local Law, the moneys will be dealt with in accordance with the Unclaimed Monies Act if not claimed within a certain period.
 - (3) Nothing in this Clause shall preclude Council from destroying any equipment at a time earlier than the time described in sub-Clause (1)(b)(i) if, in the opinion of Council, the equipment:
 - (a) has perished; or
 - (b) is prejudicial to health.

35 - Applications for Permits

Unless otherwise provided for in this Local Law, any person applying for a permit under this Local Law must lodge with the Chief Executive Officer:

- (a) an Application in a form approved by Council; and
- (b) any Application fee required by Council.

- 36.** (1) Before considering any such Application, Council may require the Applicant to:
- (a) give notice of the Application to any persons whom Council considers may be detrimentally affected by the grant of the Application; and
 - (b) publish notice of the Application in a newspaper generally circulating in the municipal district.
- (2) Every notice given or published must consist of:
- (a) a true copy or summary of the Application;
 - (b) an indication that Council will consider the Application after the expiry of 14 days following the giving or publication of the notice;
 - (c) an indication that any person detrimentally affected by the grant of an Application may make a written submission to the Council in relation to the Application; and
 - (d) an indication that all written submissions received within 14 days of the date of the notice will be taken into account in the determination of the Application.
- 37.** (1) Where Council has required the giving or publication of a notice it must not further consider the Application until:
- (a) it is satisfied that the Applicant has given and/or published the notice in the required manner; and
 - (b) at least 14 days have elapsed since the giving or publication of the notice.
- (2) All written submissions received within the 14 day period must be considered by Council.
- (3) In determining whether to grant a permit, the matters to which Council may have regard include whether the Application complies with any policies, standards or guidelines adopted by Council.
- 38** Subject to Clauses 35 and 36, Council may in its discretion:
- (a) grant an Application;
 - (b) grant an Application with conditions; or
 - (c) refuse to grant an Application.

39 - Form and Operation of Permit

Unless otherwise provided in this Local Law, any permit granted by Council must:

- (a) be in a form approved by Council; and
- (b) will not be operative until the Applicant pays any permit fee required by Council.

40 - Currency of Permit

- (a) Unless it is sooner revoked or renewed, any permit will continue in force for the period specified in the permit, or, if no period is specified, for a period of 12 months from the date of its issue or renewal.
- (b) A permit-holder must not assign, transfer or encumber his or her permit.

41 - Correction of Permits

- (1) Council may correct any permit issued under this Local Law if the permit contains:
 - (a) a clerical error or an error arising from an accidental slip or omission; or
 - (b) an evident and material miscalculation of figures or a material mistake in the description of a person, thing or property referred to in the permit.
- (2) Council must give notice of the correction to the permit-holder.

42 - Revocation of Permit

If, in the opinion of Council:

- (a) a permit-holder has failed to comply with any conditions of the permit
- (b) there has been a material misstatement or concealment of fact in relation to the grant of the permit; or
- (c) there has been a material change of circumstances since the grant of the permit -

it may revoke the permit.

43 - Register of Permits

- (a) Council must keep a register of all permits issued under this Local Law.
- (b) Council must note the:
 - (i) correction; and
 - (ii) revocation -of any permit in the register.

44 - Saving

- (a) Nothing in this Local Law shall require a person to obtain or comply with a permit described in this Local Law if the thing in respect of which a permit is required is a thing allowed by a permit issued under an Act.
- (b) Council may exempt any person from the operation of this Local Law (or any provision contained in this Local Law) whether in whole or in part.

45 - Notice to Comply

An Authorised Officer may serve a notice on a person advising that, in the opinion of the Authorised Officer, that person may be guilty of an offence against this Local Law.

46 - Discretion Whether to Initiate Proceedings

- (1) In deciding whether to issue a Notice to Comply or Infringement Notice or to initiate a prosecution, the Council or an officer of the Council may have regard to whether a Notice to Comply has previously been issued to a person as well as the nature of any explanation or other response to that notice which has been received by the Council.
- (2) The Council or an officer of the Council is not required to comply with this clause prior to the initiation of proceedings for an offence or issuing a Notice and nothing in this clause affects the validity of any notice or proceedings issued pursuant to or in respect of this Local Law.

47 - Infringement Notices

- (1) As an alternative to prosecution, an Authorised Officer may serve an Infringement Notice (carrying a penalty of one (1) penalty unit) on a person who:

- (a) has contravened; or
 - (b) is reasonably suspected of having contravened this Local Law.
- (2) A person served with an infringement notice may pay the penalty specified in the notice to the cashier of Council within 28 days of service, failing which legal proceedings can be instituted against that person.
- (3) Any person served with an infringement notice is entitled to disregard the notice and defend any subsequent prosecution in Court.
- (4) (a) Council may, following consideration of correspondence from any person served with an infringement notice, waive the notice;
- (b) Any infringement notice may be waived, even if the appropriate penalty has been paid; and
- (c) Once an infringement notice has been waived, any penalty paid before the waiver must be refunded.
- (5) If the penalty shown on the infringement notice is paid in the manner described in sub-clause (2) or before the service of a Charge and Summons in respect of the offence:
- (a) the person served with the infringement notice has expiated the offence by payment of the penalty;
 - (b) no further proceedings may be taken in respect of the offence; and
 - (c) no conviction for the offence may be regarded as having been recorded.

48 - Offences and Penalties

- (1) A person who contravenes this Local Law is guilty of an offence and liable to a penalty not exceeding five (5) penalty units:
- (2) Every effort must be made by Authorised Officers to obtain compliance before action is taken to issue a penalty notice.
- (3) Infringement Notices can only be waived by the General Manager Infrastructure after receiving a written submission from the person whom the infringement notice was issued.

Before the infringement notice can be waived, the General Manager Infrastructure must consult with the issuing officer. If the issuing officer and the General Manager Infrastructure fail to reach an agreement in relation to the waiving of the notice, the matter must be referred to the Chief Executive Officer whose decision shall be final. If any person issued with an infringement notice is aggrieved by the decision of the General Manager Infrastructure not to waive an infringement notice, that person may make a further application to the Chief Executive Officer whose decision is final.

- (4) This does not in any way overrule any right of any person who has been issued with an infringement notice to have the matter determined by a Magistrates Court.

Colac Otway Shire Local Law No 5

17

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on the 24 day of August 2005.

SIGNED SEALED AND DELIVERED

The common seal of the Colac-Otway Shire Council was hereto affixed in accordance with its Local Law No 4

Warren Riches
Councillor

Councillor
Chief Executive Officer



This 24 day of August 2005

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette dated the 30/6/05 and the 8/9/05 respectively.

Public notice of the proposal to make and confirmation of the making of this Local Law were inserted in the Colac Herald on 24/6/05 and 8/9/05 respectively. 30/6/05

A copy of this Local Law was sent to the Minister for Local Government on 8/9/05



Colac Otway
SHIRE
Naturally Progressive

COLAC LIVESTOCK SELLING CENTRE

LOCAL LAW NO. 5 - 2005

STANDARDS

STANDARDS ADOPTED BY COUNCIL 24 AUGUST 2005 OPERATION DATE 24 SEPTEMBER 2005

Colac Otway Shire Local Law No. 5 – Standards**2****STANDARDS****CONTENTS**

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Colac Otway Shire Local Law No. 5 – Standards

3

S1 AGENTS (Cl. 8)

The following is the form prescribed by Council which must be completed by an Agent at the end of the sale day:

| COLAC LIVESTOCK SELLING CENTRE | | | | | |
|--------------------------------|---------|-------|-------|----------|--------|
| CATTLE | | | | DATE | |
| PURCHASER'S | DALGETY | J.G.J | H.F.R | STEWARTS | V.P.C. |
| CASTRICUM | | | | | |
| CHARLTON | | | | | |
| CLASSIC | | | | | |
| COLLINSON | | | | | |
| COOPER | | | | | |
| CORRIGAN | | | | | |
| DALGETY | | | | | |
| DARK | | | | | |
| DOVE | | | | | |
| GATHERCOLE | | | | | |
| HERD, MC | | | | | |
| HURST | | | | | |
| H.F.RICHARDSON | | | | | |
| LYNDON | | | | | |
| MARTIN | | | | | |
| MASON | | | | | |
| MIDFIELD | | | | | |
| MOHRS | | | | | |
| O'CONNOR | | | | | |
| OVERLAND | | | | | |
| OXHILL | | | | | |
| PENNY & LANG | | | | | |
| PERTH | | | | | |
| PRIVATE | | | | | |
| RADFORD | | | | | |
| RALPH, J.H. | | | | | |
| SAFEWAY | | | | | |
| STEWART & CO | | | | | |
| TABRO | | | | | |
| TEYS | | | | | |
| WAGSTAFF | | | | | |
| WESTERN | | | | | |
| WESTSIDE | | | | | |
| TOTAL | | | | | |

S2 ALLOTTED TIME FOR SELLING (Cl. 23)

- (a) The allotted time for selling each of the following class of livestock shall not exceed:
- (i) Cattle (except dairy cattle sold in the sale ring) - 2 minutes per 14 head or otherwise as specified and announced by the Superintendent;
 - (ii) Sheep - 1.5 minutes per 30 head.
 - (iii) Pigs and Calves - 2 minutes per 14 head;
 - (iv) Other livestock as determined by the Superintendent.

S3 ORDER OF SALE (Cl. 25)

The following is the list of the order of sale of cattle as at September 2005. This may change subject to the operations of the Selling Centre.

CATTLE

1. Bullocks (Weighed Cattle)
2. Grown Heifers (Weighed Cattle)
3. Young Cattle (Weighed)
4. Young Cattle (Open Auction)
5. Bulls (Weighed)
6. Bulls (Open Auction)
7. Cows (Weighed)
8. Cows (Open Auction)
9. Late Arrivals (Open Auction)
10. Store Cattle (Open Auction)

S4 METHOD OF DRAFTING LIVESTOCK (Cl. 26)**CATTLE**

| PRODUCT DESCRIPTION | SEX | DENTITION | WEIGHT RANGE (LIVESTOCK) |
|---------------------|-------------------------|--------------------------------|---------------------------|
| Bobby Calves | Male/Female | Without permanent incisors | Not more than 4 weeks old |
| Calves | Male/Female | Without permanent incisors | Less than 75 kg. |
| Young Cattle | Castrate Male
Female | Less than 2 permanent incisors | 76kg. and over |
| Heifers | Female | 2 Permanent incisors | All weight |
| Cows | Female | More than 2 permanent incisors | All weight |
| Steer | Castrated male | 2 or more permanent incisors | 499kg and under |
| Bullocks | Castrated male | 2 or more permanent incisors | 500kg and over |
| Bulls and stags | Male | No dentition definition | All weights |

SHEEP AND LAMBS

| PRODUCT DESCRIPTION | SEX | DENTITION | WEIGHT RANGE (LIVESTOCK) |
|---------------------|--------------------------|---|--------------------------|
| Young Lambs | Castrated male
Female | No permanent incisors
No first molar on upper jaw | All weights |
| Lambs | Castrated male
Female | No permanent incisors
First molar on upper jaw erupted | All weights |
| Hoggets | Castrated male
Female | First pair permanent incisors
erupted | All weights |
| Young Ewes | Female | 4 permanent incisors | All weights |
| Young Weathers | Castrated male | 4 permanent incisors | All weights |
| Ewes | Female | More than 4 permanent incisors | All weights |
| Wethers | Castrated male | More than 4 permanent incisors | All weights |
| Rams and Stags | Male | No dentition definition | All weights |

S5 PERMITTING PRIVATE YARDS AND PREMISES OF THE SALE OF LIVESTOCK (Cl. 27)

1. In determining whether to grant a permit to allow a person to use a premises other than their own dwelling place, shop, place of business or private property for the sale of livestock, the Council must take into account the following conditions:
 - (a) location of property
 - (b) facilities suitable for selling purposes
 - (c) suitable facilities for transport and clients
 - (d) area of land
 - (e) zoning of land
 - (f) service facilities to ensure comfort of stock

S6 LIVELINE SELLING (Cl. 29)**6.01 Introduction**

A Code of Practice for the Liveweight Selling of Cattle has been in operation in Victoria since 1982.

6.02 Implementation

The sale of cattle on a liveweight basis in Victoria must conform to the following.

6.03 Proprietor's Responsibilities

The proprietor of the liveweight selling facility must be responsible for:

- The accuracy, proper maintenance, supervision and efficient operation of the liveweight selling facility.
- Weighing the cattle.

- Making the weight and all other information specified available to the vendor, agent and buyers.
- Determining weighing charges.
- Producing a weighbridge docket.
- Identifying the cattle by affixing the appropriate lot number to each animal or other appropriate identification.
- Ensuring that the procedures set out in the section 6.05.01 are implemented for each sale.

6.04 Operational Procedures – General

6.04.01 Method of Selling

This Code provides for the liveweight selling of cattle by one of the following methods:

- Presale weighing, pen selling
- Presale weighing, ring selling
- Presale weighing, on scale selling
- Post sale weighing

6.04.02 Vendor's Option to Sell per Head or Liveweight

Where liveweight selling facilities are provided, a vendor or his agent will have the option of liveweight or per head auction selling provided that the option to sell any weighed cattle on a per head basis is exercised prior to the commencement of the sale of that lot. Weights displayed for any cattle sold on a per head basis will only be weights determined in accordance with the provisions of this Code.

Cattle proposed to be sold by liveweight must not be placed in the same selling pen as cattle proposed to be sold on a per head basis.

6.04.03 Vendor's Risk Cattle

Should cattle that are lame, maimed, diseased or sick be detected in a lot proposed to be sold by liveweight, the sale of that lot will, at the vendor's option be either –

- i. Sold on a per head auction basis, exclusive of the cattle so affected.
- ii. Sold on a liveweight basis, exclusive of the cattle so affected. With presale weighing the sale will be subject to the lot being reweighed after the sale. In this case the reweigh docket will replace the original weighbridge docket and the cost of the re-weigh shall be borne by the agent.

In either case cattle that are lame, maimed, diseased or sick must be sold separately on a "vendor's risk" basis, private treaty or humanely destroyed.

6.04.04 Agent's Responsibilities

In the auction selling of cattle by liveweight, the agent is responsible for preparing the display of information for each lot of cattle, as well as receiving, drafting and selling the cattle.

6.04.05 Curfew

All cattle whether sold by a pre or post sale weight system must be yarded at the saleyard for a minimum of six hours prior to being weighed.

6.04.06 Access to Water

Water must be available in all pens where cattle are held prior to weighing, whether pre or post sale weighing applies. Cattle must be allowed undisturbed access to water for a minimum of 30 minutes prior to being weighed

6.04.07 Limitation of Lot Size

A weighing or selling lot may consist of one or more head of similar type and description. For presale cattle interlotted after weighing, a selling lot must comprise no more than six weighing lots.

6.04.08 Limitation of Numbers in a Selling Pen

The number of cattle in any selling pen should be limited by the following-

- i. The maximum number of selling lots is five.
- ii. The maximum number of vendors is nine.

6.04.09 Categorisation of Cows

Prior to be weighed, cattle proposed to be sold in the cow sale must be classified into one of the following categories –

Category A Cows which have been certified by a veterinarian to be either spayed, pregnancy tested empty (ie not more than 3 months pregnant) or barren.

Category B Cows which have not been certified to be category A cows.

Category A and Category B cows may be sold by liveweight. For Category A cows sold by liveweight the agent must supply the purchaser with the veterinarian's certificate for that lot.

6.04.10 Operation of Scales

The accuracy of the scales must be verified by appropriate Inspectors at such intervals as prescribed by the Weights and Measures Act 1958. For liveweight selling facilities at saleyards the prescribed interval is a maximum of twelve months.

Between verification by Inspectors and to ensure the confidence of vendors and buyers, the accuracy of the weighing facility must be checked prior to the commencement of each sale day. A record of these checks must be available for inspection on sale days.

Proprietors should ensure that each weighperson is competent to operate that particular weighing facility and is adequately supervised.

It is not necessary for the weighperson to sign every weighbridge docket but the master sheet(s) must be signed to certify the lot(s) he/she has weighed.

6.05 Presale Weighing - Operational Procedures**6.05.01 Commencement and Cessation of Weighing**

Weighing of cattle will only be permitted at times when it does not unduly hinder the general operation of the saleyard. Preference should be given to weighing in the order categories of cattle are to be sold and within time spans determined on appropriate criteria such as agents order of sale.

For each particular category of cattle the weighbridge shall be open to permit continuous weighing. Commencement time for weighing will vary with the size of the yarding but must not be more than 12 hours prior to the advertised commencement time for the sale of that category of cattle. The weighbridge docket will only be valid for the sale of the category for which the cattle were weighed.

6.05.02 Display of Weighing Information**(a) Pen Selling**

Prior to the advertised commencement time for the sale of each category of cattle, agents must prepare a display card or board for each selling lot and affix the card to the appropriate selling pen so that it is clearly visible and able to be read from the buyers positions. If a pen is reused on a sale day for the sale of the same category of cattle, any previous display card must be removed from the pen and the appropriate display card affixed in the required manner at least half an hour before such sale in that pen.

The time of weighing shall be shown in addition to the information required in point b. When cattle are interlotted into a single selling after weighing the range in times of weighing (ie earliest and latest weighing times of cattle in the interlot) must be shown in the space provided for time of weighing.

(b) The information displayed in all systems should include the following–

- i. The number of animal(s) in the lot.
- ii. Average weight (kilograms).
- iii. Total weight (kilograms).
- iv. Time of arrival at the saleyards. When cattle are interlotted into a single selling lot before or after weighing, the range in times of arrival (ie earliest and latest arrival times of cattle in the interlot) must be shown in the space provided for time of arrival.
- v. District of origin. For interlots where the district of origin cannot practically be shown in the space provided the word "interlot" shall be shown.
- vi. Pregnancy status (cows only).
- vii. Lot number(s).

It would be desirable if all saleyards presented the information in the above order on display cards and electronic displays.

With pen selling the agent is responsible for accurately transcribing the information onto the display card from the weighbridge docket(s).

6.05.03 Reweighs

The vendor, agent or prospective purchaser will have the right to request a reweigh prior to the commencement to the sale of the next lot. The Superintendent should ensure that any request for a reweigh does not interrupt the course of the sale.

a. Vendor's Risk Reweighs

The provisions of this clause do not apply to the reweigh of any lot due to part of that lot being sold by "vendor's risk" such reweighs will be dealt with in accordance with the provisions of section 6.04.03.

b. Use of Reweigh Dockets

If any lot is reweighed due to an alleged error in the weighbridge docket (other than an alleged error in weight) then the reweigh dockets shall replace the original docket.

If any lot is reweighed due to an alleged error in the weight, the reweigh docket shall only be substituted for the original docket if the difference in weight exceeds 0.5% of the original weight for each hour which has elapsed between the weighings of that lot.

The weighperson must only issue the reweigh docket in accordance with the above provisions, when he/she is in possession of the original docket (including copies) for that lot.

Notwithstanding the provisions of clause 6.05.01, the proprietor must weigh any cattle properly submitted for a reweigh in preference to other cattle submitted for weighing.

Any other disputes in respect of alleged errors in documentation should be dealt with by the parties involved.

6.05.04 Presale Disputes

Prior to the sale, any disputes that arise in relation to the sale of cattle by liveweight in accordance with this Code, must be referred to the Superintendent and the disputing parties shall be bound by his decision.

6.06 Post Sale Weighing - Operational Procedures

6.06.01 General

Preference shall be given to the weighing of stock in the order that they are sold.

6.06.02 Information Transfer

Prior to the cattle being presented for weighing the agent must provide in duplicate to the weighing clerk a record of each lot showing –

- Pen number
- Identification mark
- Number of cattle
- Price per kilogram
- Vendor's name
- Selling agent's name
- Purchaser's name or code

6.06.03 Selling Procedures to be Observed in Case of Breakdown of Scales

- a. On notification of observance of a breakdown of scales or print out, selling will cease immediately. If the malfunction cannot be rectified within one (1) hour then the remainder of the yarding will be sold by open auction on a per head basis unless withdrawn by the vendors.
- b. Provided that if the scales are certified to be accurate but the print out or computer is not functioning satisfactorily, buyers may with the approval of their principals accept hand written scale dockets if weighing is supervised by a representative or representatives of buyers and vendors, in which case liveweight selling may continue.

Colac Otway Shire Local Law No. 5 – Standards

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- c. Weights prior to breakdown will be accepted by buyers unless they are obviously incorrect as determined by comparison or printed weights and estimates by experienced representatives of buyers and agents. In such a case the price of each lot will be fixed by appraisal and negotiation between the vendor, agent and the buyer. If they are unable to reach agreement that sale will be cancelled and the stock concerned may be offered to another buyer or revert to the vendor without penalty to the original buyer.
- d. Where no breakdown of scales or print out is notified before conclusion of the sale but weights are obviously inaccurate (as determined in c. above) or handwritten dockets are supplied without buyer supervision of weighing, each buyer will have the option of either canceling all his transactions or accepting all of them. In the former case the provisions of clause c. will apply ie the buyer and agent will negotiate an appraisal price for each lot; if they cannot agree the lot may be offered to another buyer or revert to the vendor without penalty to the original buyer.
- e. The right of any buyer to have any lot re-weighed will not be affected by any of the foregoing provisions.
- f. In the event of breakdown of the scales, after the completion of selling, the sale of the stock may be completed by private treaty to the satisfaction of the vendor, agent and buyer.

S7 TABLE OF FEES AND CHARGES (Cl. 7)

The fees and Charges are reviewed on an annual basis as part of Council's Budget process and/or during the year if a review of fees and charges is necessary for the efficient operations of the Selling Centre.

The fees and charges listed below are current as at September 2005. The fees are exclusive of GST.

| | |
|--------------------------|-------|
| Cattle | 7.00 |
| Bulls | 12.00 |
| Bobby Calves | 3.00 |
| Sheep and Lambs | 0.50 |
| Horses | 12.00 |
| Pigs | 1.00 |
| Stud Cattle | 12.00 |
| Private Weigh (per head) | 4.00 |

LIVEWEIGHT SELLING (Additional to Ordinary Yard Dues)**WEIGHBRIDGE CHARGE (According to Lot Size)**

| | |
|------------|------|
| Single | 3.00 |
| 2 - 4 | 2.50 |
| 5 and over | 2.00 |

AGENTS

| | |
|-------------------------|----------|
| Weekly Sale Cattle | 120.00 |
| Special Sale | 120.00 |
| Annual Licence and Rent | 1,000.00 |

Colac Otway Shire Local Law No. 5 – Standards

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Correspondence to: PO Box 283 COLAC VIC 3250

Offices: 2-6 Rae Street COLAC VIC 3250
 PH: (052) 32 9400
 69-71 Nelson Street
 APOLLO BAY
 VIC 3233
 PH: (052) 37 6504

DATE OF NOTICE.....

NO. OF NOTICE.....

☐ Local Laws ☐ Recreation Vehicle ☐ Environmental Protection ☐ Litter ☐ Animals

Other

Family Name (or Company)

Given Names

Address

Code

Post

Date of Birth

Licence No.

Reg. No.

State

Sex

Type

Expiry Date

Type

Expiry Date

M ☐F ☐

YOUR OFFENCE

PENALTY

LOCAL LAW (title):

\$

Time

Street

a.m.
p.m.

Date

Place

Post Code

Information about the offence

BY POST

Within 28 DAYS send this
 notice and a cheque or money
 order for the FULL AMOUNT
 (not part payments) to:
 COLAC OTWAY SHIRE
 PO BOX 283
 COLAC, VIC. 3250

IN PERSON

Within 28 DAYS take this
 notice and payment
 for the FULL AMOUNT
 (not part payments) to:
 COLAC OTWAY SHIRE
 2-6 RAE STREET,
 COLAC OR
 69-71 NELSON STREET
 APOLLO BAY

NOTE

CHEQUE or MONEY
 ORDERS should be
 marked "Not
 Negotiable" and
 made out to:
 COLAC OTWAY
 SHIRE

SEE OVER FOR
 SCHEDULE

**IF YOU DON'T PAY WITHIN 28 DAYS, COSTS WILL BE ADDED AND THE MATTER
 WILL BE TAKEN TO COURT FOR DETAILS READ THE OTHER SIDE OF THIS
 NOTICE**

Signature of Issuing Officer

Name (print)

Title

Colac Otway Shire Local Law No. 5 – Standards

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Correspondence to: PO Box 283 COLAC VIC 3250

Offices: 2-6 Rae Street COLAC VIC 3250
 PH: (052) 32 9400
 69-71 Nelson Street
 APOLLO BAY
 VIC 3233
 PH: (052) 37 6504

NOTICE TO COMPLY NO:

TO: _____
 (Name)

 (Address)

The following constitutes a breach under provision _____
 of the Council's Local Law No. _____ titled _____

Details _____
 of _____
 Breach _____

To remedy the breach you must carry out the following work, within _____
 days from the date of this notice.
 Work to _____
 be listed _____

You should contact _____ (Contact Officer) at the
 Municipal Offices between the hours of _____ and _____ for
 any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for
 payment of the penalty of \$ _____ (penalty) for the *first/second or
 subsequent offence and the Council will proceed to carry out the work, the cost of
 which in addition to the above penalty, you will be liable for.

Date _____
 (Insert Date) (Name of Authorised Officer)

Telephone _____
 (Signature of Authorised Officer)

* Strike out whichever is not applicable.

NOTE: If this Notice relates to contravention of a permit and the Notice is not complied with,
 the permit may be cancelled. If you do not wish to have the permit cancelled you should
 comply with the directions in this Notice or show cause to the Council in writing why the
 permit should not be cancelled.

Colac Otway Shire Local Law No. 5 – Standards

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Correspondence to: PO Box 283 COLAC VIC 3250

Offices: 2-6 Rae Street
COLAC
VIC 3250
PH: (052) 32 9400
69-71 Nelson Street
APOLLO BAY
VIC 3233
PH: (052) 37 6504

PERMIT NO:

Permission is granted to
(insert name)

of ("the premises")
(insert address)

to
(insert activity for which permission is granted)

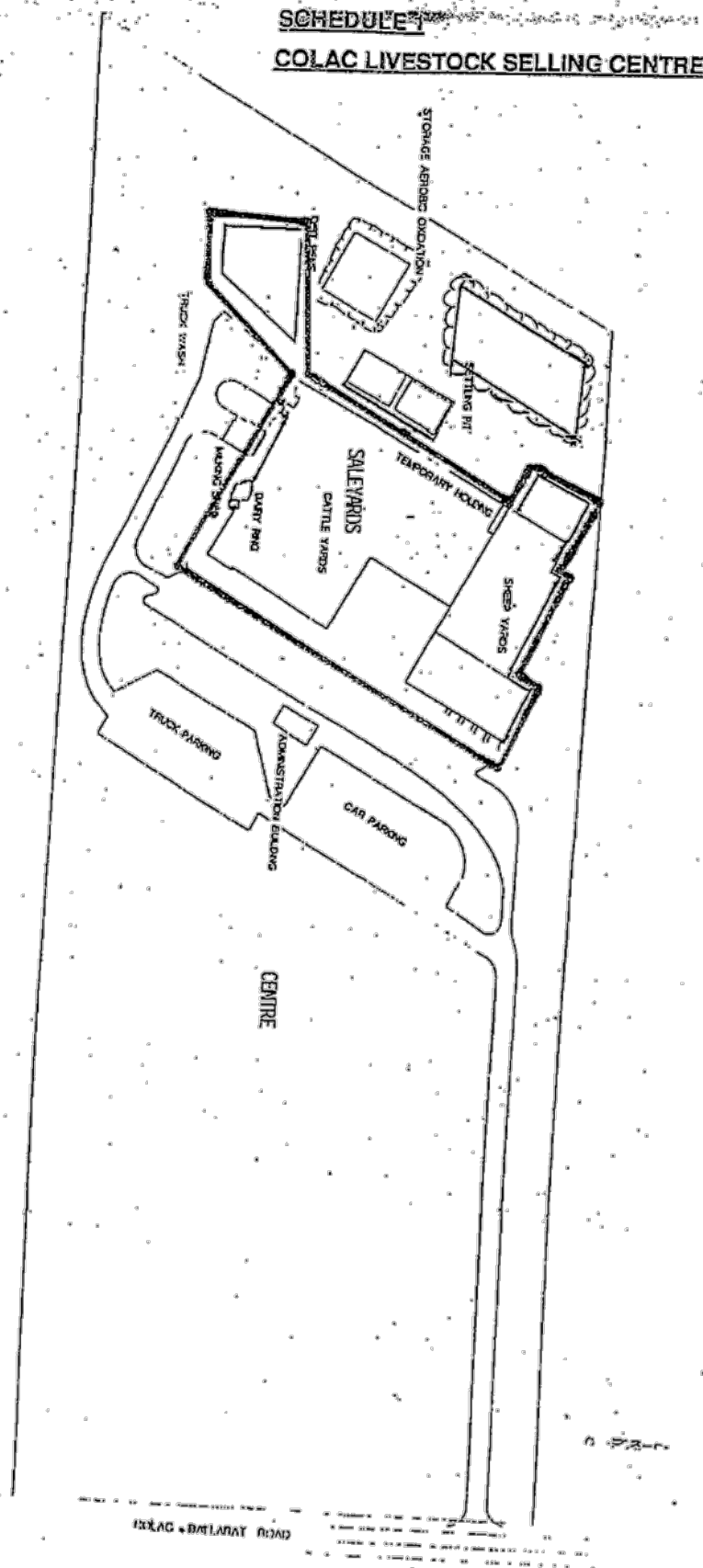
on/at the premises in accordance with clause.....of the Local Law No.....

The Permit is issued subject to the following conditions:

Unless renewed, the Permit expires on
(insert date)

.....
AUTHORISED OFFICER

DATE OF ISSUE:



DESIGN FOR FUNDING PURPOSES ONLY

Full width of path is to be sprayed prior to construction.
Construction to be completed without excavation in accordance with the Cultural Heritage Report
Posts/Pegs etc to be driven by hand tools.
Drainage structures as required (Approx. 3) - Drainage culverts to be constructed without excavation.
Path is to be matched into natural surface level using compacted clean fill to remove trip hazards.




BEWARE OF UNDERGROUND SERVICES
THE LOCATION OF UNDERGROUND SERVICES ARE APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD BE PROVEN ON SITE. NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES ARE SHOWN



MAP - FOOTPATH LOCATION - LAKE BEEAC FORESHORE

DRAFT ONLY

| | | | | | | | | | | | |
|---------------------------------|--|---|--|--|--|--------|--|--|--|---|--|
| CONTRACT NO:
XXX-2015 | | SCALES: FOR A1 PLOT
PLAN: 1/500
LONG SECTION: H: 1/500 V: 1/500
CROSS SECTIONS: H: 1/200 V: 1/1000 | | SCALES: FOR A3 PLOT
PLAN: 1/1000
LONG SECTION: H: 1/1000 V: 1/100
CROSS SECTIONS: H: 1/400 V: 1/200 | | 1 OF 2 | | 2015-16 - Footpath - Stage 1 - Lake Beeac Foreshore - 20150713.dwg | |  | |
|---------------------------------|--|---|--|--|--|--------|--|--|--|---|--|







2016 AUSTRALIA DAY AWARD NOMINATION FORM



Please tick the appropriate box to indicate the category you wish to nominate in; you can nominate an individual for more than one category – providing they are eligible.

- | | |
|--|--|
| <input type="checkbox"/> Citizen of the Year Award | <input type="checkbox"/> Community Service of the Year Award |
| <input type="checkbox"/> Young Citizen of the Year Award | <input type="checkbox"/> Sporting Service of the Year Award |
| | <input type="checkbox"/> Arts Service of the Year Award |

HOW TO COMPILE YOUR NOMINATION

- Please read the attached Australia Day Award Guidelines.
- Fill in the personal details for the nominee and nominator below.
- On a separate page, attach a submission outlining the following:
 - A brief history of the nominee's background.
 - Why do you think the nominee's contribution is worthy of recognition.
 - Include a list of achievements
 - Length of the activity or service provided.
 - How and who in the community has benefitted.
 - How is the nominee an inspirational role model.

You may also attach supporting material such as awards, certificates, newspaper clippings.

Nominee (person you are nominating for this award):

Name: _____ Age: _____

Address: _____

Telephone: (BH) _____ (AH) _____ Mob: _____

Is the Nominee an Australian Citizen: Yes ☐ No ☐

The Colac Otway Shire Australia Day Awards Program is open to all who contribute to our community and as such nominees are not required to be Australian Citizens. The information requested above is for those who wish to transfer into the state and national program where Australian Citizenship is a requirement.

Nominated by: (your name and details):

Name (person or organisation) _____

Title/position _____

Address: _____

Telephone: (BH) _____ (AH) _____ Mob: _____

I declare that the information supplied in regards to the nominee is to my knowledge true and accurate, all nominations are strictly confidential and the information provided will only be used by Council to consider recipients of the 2016 Australia Day Awards

Your Signature:

Privacy Notification:

Council is collecting the personal information on this form to contact Australia Day Award nominators and nominees to make arrangements as necessary for the Colac Otway Shire Australia Day Awards. The information collected on this form will be used solely by Council for that /those primary purposes(s) or directly related purposes. Council will take every reasonable step to ensure your privacy is protected in accordance with legislation. Requests for access and or correction should be made to Council's Privacy Officer.

Australia Day Award Guidelines



The National Australia Day Council together with the state and territory Australia Day Councils and Committees administer Australia Day Awards on a state and national level.

Each year the Colac Otway Shire presents Australia Day Awards to local citizens and groups. The Shire's Australia Day Awards celebrate the achievements and contributions made by outstanding members and groups in our community that inspire us through their efforts and make us proud to be Australian.



AWARD CATEGORIES

Citizen of the Year

The Citizen of the Year Award is awarded to an individual who has made a noteworthy contribution during the current year and/or given outstanding service to the local community over a number of years.

Young Citizen of the Year

The Young Citizen of the Year award is awarded to an individual and has made a noteworthy contribution during the current year and/or given outstanding service to the local community over a number of years.

Community Service of the Year Award

The Community Service of the Year Award is awarded to an individual or group who has performed outstanding community service during the current year and/or given outstanding service to the local community over a number of years.

Sporting Service of the Year Award

The Sporting Service of the Year Award is awarded to an individual or a group that has made a noteworthy contribution during the current year and/or given outstanding service to the local sporting community over a number of years.

The Arts Service of the Year

The Arts Service of the Year Award is awarded to an individual or a group that has made a noteworthy contribution during the current year and/or given outstanding service to the local arts community over a number of years.

CONDITIONS OF ENTRY

Nominations must be attached to the Colac Otway Shire's Australia Day Award Nomination Form.

Nominations must be received by the closing date.

In the event that no nominations are received in any of the categories, Council reserves the right to grant the award to a citizen or group of its choice.

No awards will be made if it is considered that nominations are not of a sufficiently high standard.

Council's decision on the Australia Day Awards is final and no correspondence will be entered into in regards to that decision.

Australia Day Award Guidelines

ELIGIBILITY CRITERIA

Young Citizen and Citizen of the Year

- The Young Citizen of the Year must be 25 years or younger on 26 January in the year of the award.
- The Citizen of the Year must be 25 years or older on 26 January in the year of the award.



Mrs Denise Green
Citizen of the Year 2015

The following eligibility criteria apply to all award categories:

- All nominees must be at least 16 years of age on the day of the award.
- Nominees are required to reside and/or attend an education institution in the Shire. Council reserves the right to acknowledge residents that reside or study outside the Shire, if their volunteer contributions have been made within the Shire.
- Sitting state and federal politicians and current vice regal officers are not eligible.
- Retired politicians and vice-regal officers will only be considered for work undertaken in addition to their official duties.
- Self - nominations will not be accepted.
- Awards will not be granted posthumously.
- Only one award will be awarded in each award category.
- Unsuccessful nominees may be re-nominated in subsequent year.
- No weight is given to the number of times a person is nominated.
- A nominee that has previously received an award in one category cannot receive another award in the same award category.

SELECTION CRITERIA

The Selection Criteria are:

- Demonstrated excellence in their field.
- Significant contribution to the Colac Otway Shire community.
- Inspirational role model for the Colac Otway Shire community.



2015 Australia Day Award Recipients


Council will give consideration to the following in assessing and comparing nominations against the above criteria:

- Community contribution – how has the nominee contributed to the betterment of the Colac Otway Shire Community – long term and short time benefit for the community.
- Personal academic and professional achievements will be recognised as long as the nominee has used his or her achievements to "put back" into the community to benefit others or the community as a whole.
- Contributions must have been made on a voluntary basis and beyond paid work.
- Nature and length of activity or service.
- Degree of difficulty and/or sacrifices made.
- Previous awards and recognition.
- Demonstrated leadership, innovation and creativity.
- Future goals and likely impact.

Contact Us:

Po Box 283
Colac Victoria 3250

Phone: 5232 9400
Email: hege.eier@colacotway.vic.gov.au

| | | |
|--|--|--------------------------------|
| 
Agenda | <h1>Councillor Briefing</h1> <p>Wednesday, 15 July 2015
CEO's Office
10.00am to 11.45am</p> | |
| | <p>ATTENDEES:
Cr Lyn Russell, Cr Stephen Hart, Cr Frank Buchanan, Cr Brian Crook</p> <p>Sue Wilkinson (CEO)
Colin Hayman (GM, Corporate & Community Services)
Doug McNeill (A/GM, Sustainable Planning & Development)
Paula Gardiner (A/GM, Infrastructure & Services)</p> <p>Apology: Cr Terry Woodcroft</p> <p>Absent: Cr Chris Smith, Cr Michael Delahunty</p> | |
| | <h2>Agenda Topics</h2> | |
| 10.00am | Declaration of Interest
Cr Hart:
Lavers Hill Community fire refuge
Domestic Waste Water Management Plan | |
| 10.00am – 10.30am | Lavers Hill Community Fire Refuge
Having declared a conflict of interest in this item, Cr Hart was absent from the meeting from 10.00am to 10.30am | Stewart Anderson/Clive Brooker |
| 10.30am – 11.00am | Review of Memberships/Subscriptions | Colin Hayman |
| 11.00am – 11.20am | Contract Extension – Waste Contract | Paula Gardiner |
| 11.20am – 11.45am | General Business
<input type="checkbox"/> Domestic Waste Water Management Plan

Having declared a conflict of interest in this item, Cr Hart left the meeting from 11.30am to 11.40am. | |



Assembly of Councillors Record

This Form MUST be completed by the attending Council Officer and returned IMMEDIATELY to Document Management Co-ordinator for filing. A copy of the completed form must be provided to the Executive Officer to the CEO, Mayor & Councillors for reporting at the next Ordinary Council Meeting. {See over for Explanation/Guide Notes}

Assembly Details:

Date: 21, 7, 2015

Time: 2pm - 4pm am/pm

Assembly Location: COPACC
(some e.g's. COPACC, Colac Otway Shire Offices, 2 - 6 Rae Street, Colac, Shire Offices - Nelson Street, Apollo Bay)

In Attendance:

Councillors: Cr Buchanan, Cr Russell, Cr Delahunty

Officer/s: Michael Swanson

Matter/s Discussed: Great South Coast Draft Food and Fibre Strategy.
(some e.g's. Discussion s with property owners and/or residents, Planning Permit Application No. xxxx re proposed development at No. xx Pascoe Street, Apollo Bay, Council Plan steering committee with Councillors and officers.)

Conflict of Interest Disclosures: (refer page 5)


Councillors: Nil


Officer/s: Nil


Left meeting at: 3:40pm

Completed by:

| | | |
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| 
Agenda | <h1 style="text-align: center;">Councillor Briefing</h1> <p style="text-align: right;">Wednesday, 22 July 2015
COPACC Meeting Rooms
1.10pm</p> | |
| | <p>ATTENDEES:
Cr Frank Buchanan, Cr Lyn Russell (from 1.33pm), Cr Stephen Hart, Cr Terry Woodcroft, Cr Brian Crook</p> <p>Sue Wilkinson (CEO)
Colin Hayman (GM, Corporate & Community Services)
Doug McNeill (A/GM, Sustainable Planning & Development)
Paula Gardiner (A/GM, Infrastructure & Services)
Rhonda Deigan</p> <p>Apology: Cr Michael Delahunty, Cr Lyn Russell (until 1.33pm)</p> <p>Absent: Cr Chris Smith,</p> | |
| | <h2 style="text-align: center;">Agenda Topics</h2> | |
| 1.10 pm | <p>Declaration of Interest</p> <p>Cr Hart: OM152207-7 Bromfield Street Road Discontinuance to facilitate proposed supermarket and retail development</p> <p>Cr Hart: OM152207-10 Draft Domestic Waste Water Management Plan</p> | |
| 1.10 pm | <p>Councillor Briefing Session/Meeting Preparation</p> <p>Having declared a conflict of interest in item 7 of the Ordinary Council meeting agenda, Cr Hart left the meeting between 1.30pm to 1.33pm.</p> <p>Cr Russell arrived at 1.33pm and declared that she had an interest in item OM152207-7 Bromfield Street Road Discontinuance to facilitate proposed supermarket and retail development</p> <p>Having declared a conflict of interest in item 10 of the Ordinary Council meeting agenda, Cr Hart left the meeting between 2.26pm to 2.29pm.</p> | |
| 2.30pm – 3.22pm | <p>General Business</p> <ul style="list-style-type: none"> <input type="checkbox"/> "Community Matters" Newsletter <input type="checkbox"/> Parliamentary Inquiry into Unconventional Gas and Rate Capping <input type="checkbox"/> National Stronger Regions Fund applications | |

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Agenda | <h1>Councillor Briefing</h1> <p>Wednesday, 29 July 2015
COPACC
2.15 pm to 4.25 pm</p> | |
| | <p>ATTENDEES:
 Cr Lyn Russell, Cr Stephen Hart, Cr Frank Buchanan, Cr Terry Woodcroft,
 Sue Wilkinson (CEO)
 Colin Hayman (GM, Corporate Services)
 Brydon King (GM, Development & Community Services)
 Ingrid Bishop (GM, Infrastructure & Leisure Services)
 Paula Gardiner (Manager, Capital & Major Projects)</p> <p>Apology: Cr Brian Crook, Cr Woodcroft (until 2.40pm)
 Absent: Cr Chris Smith, Cr Michael Delahunty</p> | |
| | <h2>Agenda Topics</h2> | |
| 2.15 pm | Declaration of Interest | |
| 2.15 pm – 2.45 pm | General Business | |
| 2.45 pm – 3.00 pm | Former Colac High School Site | Ian Seuren/Doug McNeill |
| 3.00 pm – 3.45 pm | Lake Colac Masterplan – Community Engagement Process | Stewart Anderson/Leslie Humphrie |
| 3.40pm – 4.05 pm | 2015/16 Operational Plan | Carmen Lawrence/Margaret Giudice |
| 4.05 pm – 4.25pm | Public Arts Project | Lucy Vesey/Ian Seuren |

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Agenda | <h1>Councillor Briefing</h1> <p>Wednesday, 5 August 2015
COPACC
2.00pm to 4.30 pm</p> | |
| | <p>ATTENDEES:
Cr Lyn Russell, Cr Stephen Hart, Cr Terry Woodcroft, Cr Brian Crook</p> <p>Sue Wilkinson (CEO)
Colin Hayman (GM, Corporate Services)
Brydon King (GM, Development & Community Services)
Ingrid Bishop (GM, Infrastructure & Leisure Services)</p> <p>Apology: Cr Frank Buchanan, Cr Michael Delahunty,
Absent: Cr Chris Smith</p> | |
| | <h2>Agenda Topics</h2> | |
| 2.00 pm | Declaration of Interest
Cr Woodcroft – Colac Livestock Selling Centre (Local Law Component) | |
| 2.00pm – 2.40pm | Review Australia Day Award Guidelines | Hege Eier/Tony White |
| 2.40pm – 2.50pm | Planning Committee Briefing | Blaithin Butler |
| 2.50pm – 3.10pm | Beeac Lake Foreshore Walking Track | Tony White/Katrina Kehoe |
| 3.10pm – 4.25pm | Colac Livestock Selling Centre (Confidential)
Having declared a conflict of interest in the local law component of this item, Cr Woodcroft left the meeting from 3.55pm to 4.25pm) | Tony White/Paula Gardiner/Graeme Riches |
| 4.25 pm – 4.50pm | General Business | |

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Agenda | <h1>Councillor Briefing</h1> <p>Wednesday, 12 August 2015
COPACC Meeting Room
9.00 am to 10.47 am</p> | |
| | <p>ATTENDEES:
Cr Lyn Russell, Cr Stephen Hart, Cr Terry Woodcroft, Cr Brian Crook (Deputy Mayor – Chair), Cr Chris Smith (from 10.30am), Cr Michael Delahunty (from 10.30am).</p> <p>Sue Wilkinson (CEO)
Colin Hayman (GM, Corporate Services) to 9.40am
Brydon King (GM, Development & Community Services)
Ingrid Bishop (GM, Infrastructure & Leisure Services) from 10.40am</p> <p>Apology: Cr Frank Buchanan (Mayor)
Absent:</p> | |
| | <h2>Agenda Topics</h2> | |
| 9.00 am | Declaration of Interest | |
| 9.00am – 10.00am | Colac Commercial and Industrial Land Use Strategy Workshop | Doug McNeill, Tony White, Michael Swanson, Suzanne Barker, Capire & Essential Economics |
| 10.00am – 10.15am | Planning Committee Briefing Session | |
| 10.15am – 10.30am | Break | |
| 10.30am – 10.47am | Planning Committee Meeting | |



Old Beechy Rail Trail Committee Meeting

Meeting Venue: Meeting Room 1, COPACC

1 June, 2015

Time: 10.00am to 12.30pm

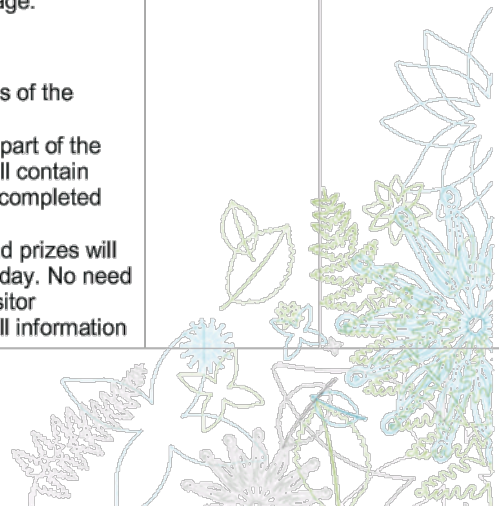
MINUTES

| | ITEMS & ACTIONS | RESPONSIBLE OFFICER | ACTION DUE DATE |
|----|---|---------------------|-----------------|
| 1. | ATTENDEES
Cr Chris Smith (Chair), Lucy Vesey – Recreation Officer (COS); Noel Barry, Tony Grogan, Tricia Jukes, Cyril Marriner, Phil Dandy, Anthony Zappelli, John Wilson – Capital Works Co-ordinator (COS);
Minutes: Vicki Jeffrey – Recreation & Events Administrator (COS) | | |
| 2. | APOLOGIES
Bernard Jordan; Craig Clifford (DWELP); | | |
| 3. | CONFIRMATION OF MINUTES FROM PREVIOUS MEETING 30 March 2015
Corrections
Section 3 – Spelling of Lovat
Section 5 – Spelling of Ditchley
Section 8 – Final point should read 'Photos of Gwenyth Knox cutting the ribbon for the Buchanan Name Board opening'.
Section 11 – Train ride passengers should be 500. Afternoon tea provided by the Gellibrand General Store.
Section 11 – Spelling of Banool.

Moved – Tricia Jukes
Seconded – Tony Grogan
Carried | | |
| 4. | BUSINESS ARISING from previous minutes.

<i>Discussion of email address – gmail account to be created by Colac Otway Shire.</i> <ul style="list-style-type: none"> Confirmed as – oldbeechyrailtrail@gmail.com All marketing and promotion information can be sent to the Colac Otway Shire PR department to load on their Facebook page. Golden Gumboot Event <ul style="list-style-type: none"> Will now run in a different smaller format over the 2 weeks of the September school holidays. 20 golden gumboots will be placed along the designated part of the trail and attached appropriately to fixtures or trees and will contain clues which have been laminated. A game sheet will be completed and returned to the Gellibrand General Store. There will be the usual BBQ at the end of the holidays and prizes will be given out. Children's activities will be planned for the day. No need for Shire registrations and this will be conveyed to the Visitor Information Centre and Customer Assist at Rae Street. All information | | |

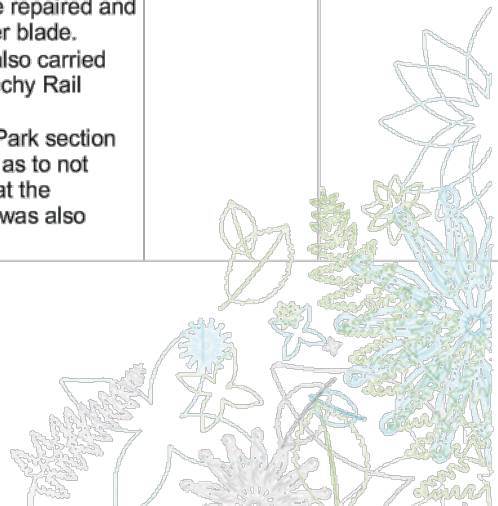
OBRT Meeting – 1/6/2015





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| | <p>to go to the Gellibrand General Store.</p> <ul style="list-style-type: none"> Currently waiting on advice of the Festival and Events Support Scheme application for funding which will be decided after the 24 June council meeting. <p><i>Tracker Counter Update</i></p> <ul style="list-style-type: none"> Counter has been removed from Ditchley instead of Beech Forrest. New counters installed at Colac and near Fairyland. Colac counter recorded 265. Counter will be returned to Ditchley. <p><i>Fact Sheet for Licence Agreements with Private Land Owners endorsed by Council.</i></p> | <p>Andrew Daffy</p> <p>Lucy Vesey</p> | |
| 5. | <p>CORRESPONDENCE IN</p> <ul style="list-style-type: none"> Email – Midway Plantations. Part closure of OBRT. Email – G21 Newsletter. Mention of OBRT opening of new section. Email – OBRT user. Part closure of OBRT. | | |
| 6. | <p>CORRESPONDENCE OUT</p> <ul style="list-style-type: none"> Email – Tricia Jukes. Options for email address. Email – Tricia Jukes. Re-printing of OBRT brochures. Email – Bicycle Network, Rail Trails Australia, Visitor Information Centres, OBRT Committee. Part Closure of OBRT. | | |
| 7. | <p>WORKS REPORT – Capital Works Co-ordinator (John Wilson)</p> <ul style="list-style-type: none"> Email report from Andrew Daffy as follows: Works completed on the Old Beechy Rai trail over the last 4 months have been of a general maintenance nature and repairs to damaged signage. Replaced the missing Bicycle/Pedestrian sign on Colac Lavers Hill Rd near Campiglis Rd, repaired and re-erected the damaged Hitts Siding heavy steel sign on Railway Line Road, repaired and re-erected the yellow watch out for traffic sign that gets continually damaged at the road crossing on Colac Lavers Hill Road near the Gellibrand River Bridge. CosWorks have also ordered and received some additional 150mm x 150mm Motorcycles Prohibited signs as many that were erected have been vandalised. Repairs to the drainage inverts on the sections of the trail between Dinmont & Ditchley Park and Gellibrand and Banool were repaired and reshaped using the small Kubota Tractor fitted with grader blade. Pavement cleaning and re-sheeting of rutted areas was also carried out at the same time in these two sections of the Old Beechy Rail Trail. Large fallen trees have been removed from the Ditchley Park section with some logs jutting out onto the trail being cut back so as to not impede bicycle riders. A cleanup of the car parking area at the commencement of the Beech Forest – Ferguson section was also carried out. | <p>John Wilson</p> | |

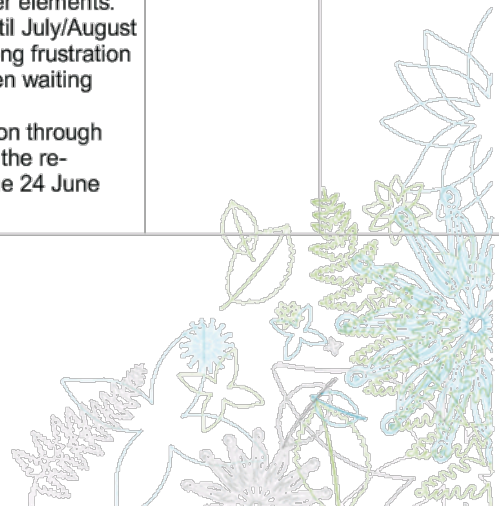
OBRT Meeting – 1/6/2015





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| | <ul style="list-style-type: none"> The bridge crossing at Loves Creek was repaired with the mesh railing being lifted so the debris and vegetation buildup that accumulates on the deck is partially self-cleaning (mesh now has a gap at the base so that debris is not enclosed on the deck), and the deck was painted with anti-slip paint as it becomes very slippery over the Winter period. The 'Trail Closed Under Construction' sign was removed at Dinmont at Tony Grogan's request after complaints from some cyclists. The remainders are works of a general maintenance nature have been removed of fallen trees which are ongoing at this time of year, mowing of grass at Beech Forest, Ditchley Park and Loves Creek Toilet area and ongoing vegetation control. The erection of 'Trail Closed and use of alternate route' signs were erected and are still in place for this section of the trail between Gellibrand and Banool whilst Midway Plantation carry out logging operation adjacent to the trail in this section. An inspection of the full length of the trail was carried out by John Wilson and Garry O'Connor using the ATV prior to the opening of the new section of the trail - Beech Forest to Ferguson. Works still pending and of which we await directions, are the relocation of signage on Old Beech Forest Road adjacent to the new section of the trail between Dinmont and Ditchley Park, additional warning signs on the steep sections of the trail in the same area of the trail. Installation of the metal Emergency Marker plates on all the wooden posts that have been installed. Old Beechy Rail Trail fingerboard directional signs in the Dinmont/Ditchley Park area. Completion of defects as listed in the Incident/Hazard Asset Inspection Report dated 25 Sept.2014. | | |
| 8. | <p>FRIENDS REPORT</p> <ul style="list-style-type: none"> New Counters installed. Magnet included with the counter which will return the counter mechanism to zero. Given to Lucy Vesey. Installed seat at Old Pile Bridge between Gellibrand and Banool on 4 April, 2015. OBRT sign at Railway station has been graffitied. Noel has already re-painted. Other metal objects have been discovered buried at the old locomotive shed. Dinmont sign timber ready to be installed. Should be completed by the next meeting. Lovat's Shelter - Email to John Wilson after the last meeting to contact Noel Barry to sign off the form so that final construction can be completed. The frame is standing and exposed to weather elements. John Wilson advised that he cannot inspect the frame until July/August this year. Noel Barry and Phil Dandy expressed their strong frustration that this matter that it has taken so long as they have been waiting since December 2014. Noel Barry and Tricia Jukes have completed an application through the Community funding program for the 8 new seats and the re-printing of the OBRT brochure. Decision pending after the 24 June council meeting. | | |

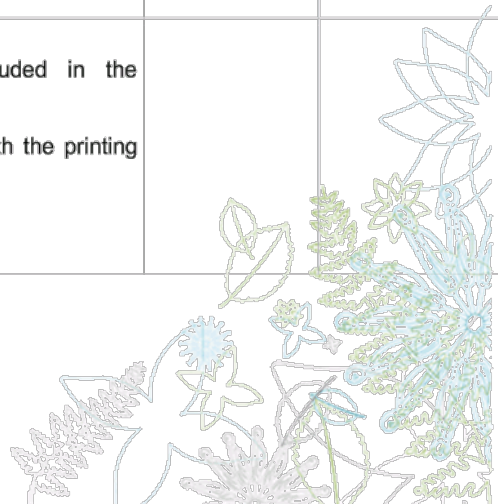
OBRT Meeting – 1/6/2015





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| 9. | <p>TREASURERS REPORT</p> <ul style="list-style-type: none"> As per copy presented – balance \$4991.01 Cheque - \$310 Beech Forest Progress Association for the cost of the afternoon tea provided for the recent opening of the trail. Cheque – payment of flowers for Jodie Fincham <p>MOTION – to pay the above amounts
Moved – Anthony Zapelli
Seconded – Tony Grogan
Carried.</p> | | |
| 10. | <p>Executive Officer Report – Lucy Vesey</p> <p><u>Private Landowner Licence Renewal</u></p> <ul style="list-style-type: none"> Six (6) Private Landowner Licences are up for renewal. Landowners are due to return Licences for signing by 29 May. Three Agreements have been returned. Three Agreements still waiting outstanding. Follow up on the \$1 payment for each agreement. <p><u>Pedestrian Counters</u></p> <ul style="list-style-type: none"> As detailed in the Executive Officer report.
Colac – 265
Coram – 4209
Maggio's Road – 22415
Maxwell Road – 32713
Fry's Road – 18314
Larson Gate – 28580
Zappelli's – 26985
Beech Forest –
Ditchley –
Fairyland – 152 OBRT Friends installed counters to Colac & Fairyland. Ditchley counter not in post. Beech Forest tracker counter is broken – back to "0" and not counting. Island Research has indicated they would consider replacing FOC if we can send them the old one. Andrew Daffy has agreed to remove it, no update provided by Andrew. | | |
| 11. | <p>GENERAL BUSINESS</p> <ul style="list-style-type: none"> \$2,592.80 for 5,000 folded OBRT brochures included in the Community Funding Program application. <p>MOTION – Subject to Funding approval to proceed with the printing and payment of the 5,000 brochures.
Moved – Noel Barry
Seconded – Cyril Marriner
Carried</p> | | |

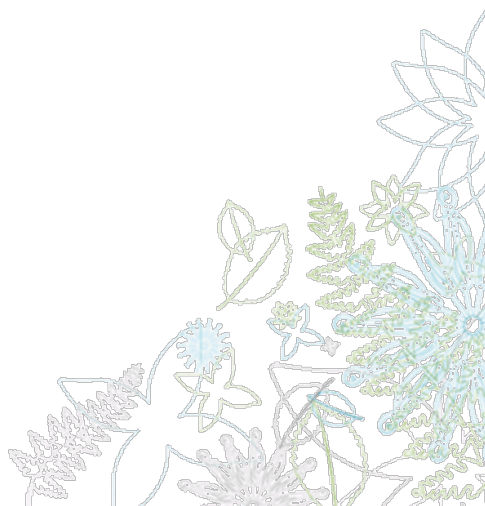
OBRT Meeting – 1/6/2015





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| | <ul style="list-style-type: none"> • Eight new seats to be provided subject to funding success. A decision on the exact positions required. Noel Barry and Phil Dandy will provide details on a map plus photos of sites for the next meeting. \$800 in materials. • Dinmont and Banool signs replacement construction is underway. • Phil Dandy mentioned the Strategic Plan that was developed by Insight. The committee has achieved many of the improvements identified in the plan, in fact, nine out of eleven items. • Lavers Hills to Crowes will be the next stage and applications have been made by the Lavers Hill Progress Association through the STIP Funding for a Master Plan. • Phil Dandy provided details of a company in Geelong that can provide stickers about completing the OBRT. These can be sold for a very small profit to raise some extra funds. Small pocket maps remain an idea as does a DL card with information about the OBRT. Other possible options could be performed electronically. • Train Report – 500 passengers. A cheque of \$1,000 presented to the Treasurer as fundraising from Cr Chris Smith. • Noel Barry has written 2 poems about the OBRT. 'Ode to the Beechy' and 'The Gellibrand Flyer'. Both have been saved electronically in the Colac Otway Shire TRIM folder. <p>Meeting closed 11.45am.
Next meeting – Monday, 3 August, 2015 - 10am to 12.30pm.</p> | | |
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OBRT Meeting – 1/6/2015



1

LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

{INSERT LICENSOR NAME – TYPED }

{INSERT LICENSOR SIGNATURE}

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

**THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL)
was hereunto affixed in accordance)
with its Local Law No. 4)**

..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

LICENCE SCHEDULE

1. **Licensor** {INSERT ADDRESS OF LICENSOR HERE}
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac,
Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
*(i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)
- OR**
- *(ii) 20 years
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licenced Land** Property description.

{ATTACH COPY OF MAP}
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**

The Licensor reserves the right to seal off the Licenced Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor public safety may be threatened by the Licensor's activities on or near the Licenced Land.

(2) **Dispute Resolution**

If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC)

before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for

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personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will :

2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licenced Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensors that during the term the Licensee will not-

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensors.

3.5 Licensors' Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensors or the Licensors' employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensors.

4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination

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LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

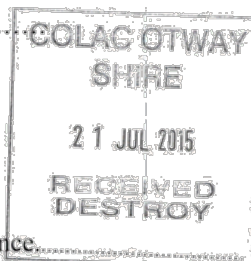
In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

{INSERT LICENSOR NAME - PRINTED}

STUART GARDINER
MALCOLM GARDINER

{INSERT LICENSOR SIGNATURE}

M Gardiner
S Gardiner



Licensor:

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL)
was hereunto affixed in accordance)
with its Local Law No. 4)

..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

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LICENCE SCHEDULE

1. **Licensor** M. Gardiner & S Gardiner, of 1805 Colac Lavers Hill Rd,
Kawarren
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac,
Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
*(i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)

OR
~~*(ii) 20 years~~
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address

1805 Colac Lavers Hill Rd, Kawarren

Property description:

Lot 1 TP174708, Lot 2 PS510851

Property outlined in red on attached map.
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**

The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor public safety may be threatened by the Licensor's activities on or near the Licensed Land.

(2) **Dispute Resolution**

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If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the

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Public Liability Policy") in respect of the activities specified in the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will :

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2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licensed Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensors that during the term the Licensee will not:

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-licence or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensors.

3.5 Licensors's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensors or the Licensors's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensors.

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination

D15/53535

Owner: M Gardiner

Property Description: Lot 1 TP174708, Lot 2 PS510851

Property Address: 1805 Colac Lavers Hill Rd, Kewarren



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LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licencee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licencee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

{INSERT LICENSOR NAME – PRINTED} Robert J Maxwell

{INSERT LICENSOR SIGNATURE} R Maxwell

R J Maxwell

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL)
was hereunto affixed in accordance)
with its Local Law No. 4)



..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

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LICENCE SCHEDULE

1. **Licensor** R J Maxwell, of 35 Kawarren East Rd, Kawarren
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac, Victoria, 3250
3. **Commencement Date** ~~1/1/2015~~
4. **Term** * Strike out one as inapplicable
*(i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)
OR
~~*(ii) 20 years~~
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address
1485 Colac-Lavers Hill Rd, Kawarren
Property description
Lot 1 TP79685, Lot 1 TP386832, CA 42
Property outlined in red on attached map.
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**
The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor, public safety may be threatened by the Licensor's activities on or near the Licensed Land.
(2) **Dispute Resolution**

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If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnify.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in

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the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

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2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licensed Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination.

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Owner: R.J. Maxwell

Property Description: Lot 1 TP79685, Lot 1 TP386832, CA 42

Property Address: 1485 Colac Lavers Hill Rd, Kewarren



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LICENCE
A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

(INSERT LICENSOR NAME - PRINTED) Robert J Maxwell

(INSERT LICENSOR SIGNATURE) R J Maxwell

R J Maxwell

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the
COLAC OTWAY SHIRE COUNCIL
was hereunto affixed in accordance
with its Local Law No. 4

..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

D15/47062

2

LICENCE SCHEDULE

1. **Licensor** R J Maxwell, of 35 Kawarren East Rd, Kawarren
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac, Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
* (i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)
OR
* (ii) 20 years
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address
1485 Colac-Lavers Hill Rd, Kawarren
Property description
Lot 1 TP79685, Lot 1 TP386832, CA 42
Property outlined in red on attached map.
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**
The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor, public safety may be threatened by the Licensor's activities on or near the Licensed Land.
(2) **Dispute Resolution**

D15/47062

If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them or any of them arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in

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the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

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2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licensed Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land.

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor.

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor.

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

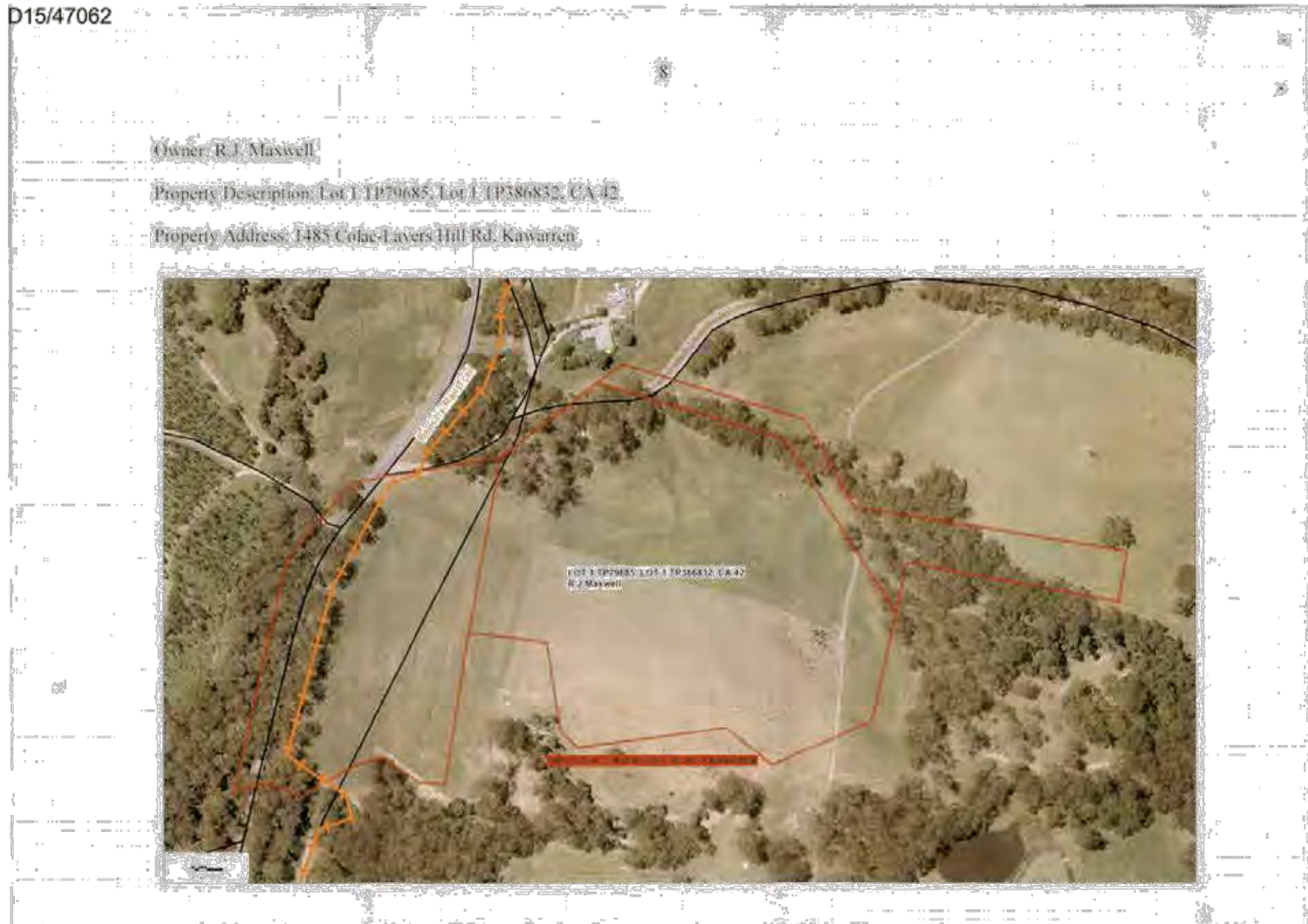
5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination



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LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

{INSERT LICENSOR NAME-PRINTED }

CJ & MJ Smith

{INSERT LICENSOR SIGNATURE}



CJ & MJ Smith

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL)
was hereunto affixed in accordance)
with its Local Law No. 4)

.....

Councillor

.....

Councillor

.....

Chief Executive Officer

.....

Date

D15/44146

2

LICENCE SCHEDULE

1. **Licensor** CJ & MJ Smith, of 1330 Carpendeit-Bungador Road
Swan Marsh VIC 3249
2. **Licensee** Colac Otway Shire Council of 2-6 Rae Street Colac,
Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
*(i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)

OR

*(ii) 20 years
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address

960 Old Beech Forest Road, Gellibrand

Property description

Lot 1 TP 562156, CA 16N

Property outlined in red on attached map
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**

The Licensor reserves the right to seal off the Licensed
Land at any time whatsoever, having first given 3 months
notice in writing to the Licensee of its intention, (except in
cases of emergency) to prevent access by the general public
when in the reasonable view of the Licensor public safety may
be threatened by the Licensor's activities on or near the
Licensed Land.

(2) **Dispute Resolution**

If a grievance arises out of or relates to this Licence, or
the breach, termination, validity or subject matter of it,
and if the grievance cannot be settled through
negotiation, the parties to the Licence and to the

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grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such

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conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

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2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licenced Land free of pest weeds and animals

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not:

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land.

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor.

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor.

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination

D15/44146

Owner: CJ & MJ Smith

Property Description: Lot 1 TP 562156, CA 16N

Property Address: 960 Old Beech Forest Road, Gellibrand



D15/43176

With Compliments

To Lucy Vesey
From: Amy Moulton

2 x Licence Agreements (Old Beechy
Rail Trail)

COLAC OTWAY
SHIRE

12 JUN 2015

RECEIVED
DESTROY



Midway Limited

ACN 005 616 043

ABN 44 005 616 043

10 The Esplanade

North Shore

Victoria 3214 Australia

PO Box 678

North Geelong VDC

Victoria 3215 Australia

Tel: 61 3 5277 9255

Fax: 61 3 5277 0667

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1

LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORIZES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

EXECUTED by Midway Plantations Pty Ltd
ACN 005 083 572


Signature of director

JOHN V. FREDERICK
Name of director (print)


Signature of director / company secretary

ASHLEY MERRETT
Name of director / company secretary (print)

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the
COLAC OTWAY SHIRE COUNCIL
was hereunto affixed in accordance
with its Local Law No. 4

..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

D15/43176

2

LICENCE SCHEDULE

1. **Licensor** Midway Plantations Pty Ltd, of 10 The Esplanade, North Shore
Victoria 3215
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac,
Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
*(i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)

OR

~~*(ii) 20 years~~

5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licenced Land** Property description.

Lot 1 TP837845, Lot 2 LP208593, CA 12F, CA 13D, CA 16M,
CA 16F, CA 15E, Lot 1 TP163422, Lot 1 TP133528, CA 15F,
CP108531, CA 16L & CA 18G

Property outlined in red on attached map.

8. **Specified Purpose** Walking and cycling access for the general public

9. **Special Conditions** (1) **Public Safety**

The Licensor reserves the right to seal off the Licenced Land at any time whatsoever, having first given 1 months notice in writing to the Licensee of its intention, (except in cases of emergency **and/or unforeseen circumstances**) to prevent access by the general public when in the reasonable view of the Licensor public safety may be threatened by the Licensor's activities on or near the Licenced Land.

(2) Dispute Resolution

If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC)

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before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for

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personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licenced Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

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On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor.

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

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3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor.

4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination.





D15/43176

Owner: Midway Plantation Pty Ltd

Property Description: CA 16L & CA 18G



D15/37933

LICENCE
A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

INSERT LICENSOR NAME - PRINTED

DAVID & PATRICIA JUKES

INSERT LICENSOR SIGNATURE

[Handwritten signature]

D & P Jukes

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the
COLAC OTWAY SHIRE COUNCIL
was hereunto affixed in accordance
with its Local Law No. 4

COLAC OTWAY
SHIRE

22 MAY 2015

RECEIVED
DESTROY

Councillor

Councillor

Chief Executive Officer

Date

D15/37933

2

LICENCE SCHEDULE

1. **Licensor** D & P Jukes, of 1845 Colac Lavers Hill Rd. Kewarren
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac, Victoria, 3250
3. **Commencement Date**
4. **Term**
 - * Strike out one as inapplicable
 - * (i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)
 - OR**
 - * (ii) 20 years
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land**
 - Property Address
 - 1845 Colac-Lavers Hill Rd. Kewarren
 - Property description
 - Lot 1 PS446400
 - Property outlined in red on attached map
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions**
 - (1) Public Safety**

The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor, public safety may be threatened by the Licensor's activities on or near the Licensed Land.
 - (2) Dispute Resolution**

If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by

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the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for

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personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

D15/37933

2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licensed Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor.

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor.

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

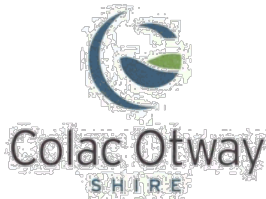
5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

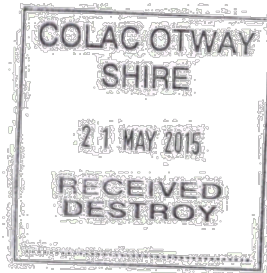
- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination



D15/37636



D Colless
43 Triggs Road
Irrewarra VIC 3249



Our Ref: D15/33448 LV
Your Ref: LAND OWNERS

8 May 2015

Dear David,

OLD BEECHY RAIL TRAIL LICENCE AGREEMENTS RENEWAL

The Colac Otway Shire is now ready to renew the licensing arrangements over the section of the old railway which you or your company owns.

Please find enclosed the Licence Agreement which is presented for your consideration and/or to seek advice as deemed appropriate, prior to returning to Council for signing and sealing.

If you are ready to sign the Licence, the Old Beechy Rail Trail Committee would be pleased to ensure that all licences start simultaneously, so that any renewal process can be dealt with efficiently. To this end, we request that you sign your particular licence (in duplicate) *but not date it*. Please ensure that the signed agreement is returned to the Colac Otway Shire no later than **the 29th May 2015**. Once all participating landowners have returned their signed copies, a common date will then be put on all licences by the other signatory, the Colac Otway Shire.

If you have any inquiries concerning this matter please contact me on 5232 9472.

Yours sincerely,

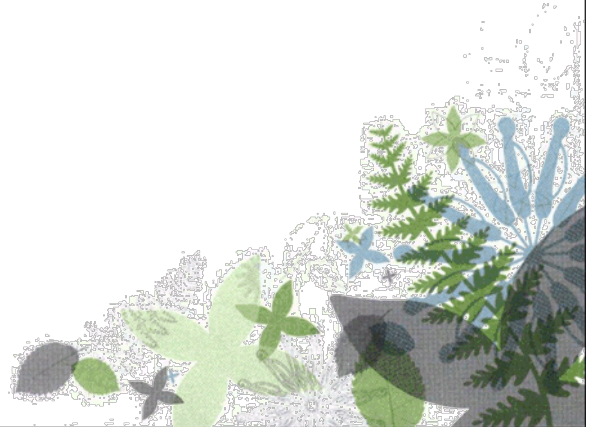
A handwritten signature in black ink, appearing to be "Lucy Vesey".

Lucy Vesey
Recreation Officer

5232 9472
lucy.vesey@colacotway.vic.gov.au

Colac Otway Shire
PO Box 283
Colac Victoria 3250
E: info@colacotway.vic.gov.au
W: www.colacotway.vic.gov.au

Customer Service Centre
Colac: 2-6 Rae Street
Apollo Bay: 69-71 Nelson Street
P: (03) 5232 9400
F: (03) 5232 9586



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LICENCE A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

{INSERT LICENSOR NAME – PRINTED }

*D. L. Colless Plantation
Trust No 3*

{INSERT LICENSOR SIGNATURE}

[Signature]

D. Colless

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the)
COLAC OTWAY SHIRE COUNCIL)
was hereunto affixed in accordance)
with its Local Law No. 4)

..... Councillor

..... Councillor

..... Chief Executive Officer

..... Date

D15/37636

LICENCE SCHEDULE

1. **Licensor** D. Colless, of 43 Triggs Road, Irrewarra 3249
2. **Licencee** Colac Otway Shire Council of 2-6 Rae Street, Colac, Victoria, 3250
3. **Commencement Date** ~~1/1/2015~~
4. **Term** * Strike out one as inapplicable
* (i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)

OR
~~*(ii) 20 years~~
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address
1170 Old Beech Forest Road, Beech Forest
Property description
Lot 1 TP 389471, Lot 2 TP389471, Lot 1 TP109214
Property outlined in red on attached map
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**
The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor, public safety may be threatened by the Licensor's activities on or near the Licensed Land.

(2) **Dispute Resolution**

D15/37636

If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

(b) On receipt of the notice specified in paragraph (a) the parties to the dispute must within seven (7) days of receipt of the said notice seek to resolve the dispute.

(c) If the dispute is not resolved within seven (7) days or within such further period as the parties agree then the dispute is to be referred to ACDC.

(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

(e) This clause shall not merge upon completion.

(3) Indemnity.

The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them, or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

(4) Public Liability Insurance.

The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in

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the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

(5) Signage

The Licensee hereby guarantees that visible and clearly understandable signage will be located on the Licensed Land to direct and caution users of the Licensed Land as to an appropriate Code of Conduct for using the Licensed Land.

LICENCE CONDITIONS

1. Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the Licensed Land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2. Licensee's Obligations (Positive)

The Licensee Hereby Covenants with the Licensor that during the term and any renewal or extension of the Term or any period of overholding the Licensee will:

D15/37636

2.1 Maintenance

Throughout the term keep the Licensed Land in good order and condition and the improvements (if any) in good order and condition having regard to their condition at the commencement of this Licence or at the time of installation of the improvements as the case may be and will cooperate with the Licensor to:

2.1.1 Keep the Licensed Land free of pest weeds and animals.

2.1.2 As far as possible ensure that the Licensor's existing or future permitted uses are not jeopardised by the use specified in this Licence.

2.1.3 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

2.3 Condition at Termination

On expiry or prior determination of this Licence return the Licensed Land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.4 Notices

Give the Licensor prompt notice in writing of any defect in the Licensed Land and of any circumstance likely to cause any damage risk or hazard to users of the Licensed Land.

2.5 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the Licensed Land and all lawful orders or directions made under them.

2.6 Compliance with the Licensor's Directions

At the Licensor's request comply with any reasonable direction given by the Licensor as to the management of the Licensed Land so as to enable the Licensor to continue to utilise the Licensed Land in pursuit of the Licensor's commercial activities.

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3. Licensee's Obligations (Negative)

The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-

3.1 Use of Licensed Land

use the Licensed Land for any purpose other than the specified purpose referred to in Item 8 of the Schedule.

3.2 Allow Rubbish

permit any rubbish to accumulate in or about the Licensed Land.

3.3 Burning

undertake any burning of vegetation or other matter on the Licensed Land or allow any user of the Licensed Land to light a fire.

3.4 Assignment

assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor.

3.5 Licensor's Entry

prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose.

3.6 Void Insurance

do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance.

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor.

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4. General Conditions

4.1 Termination on Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by serving a written notice on the Licensee, declare that the Licence is cancelled and that the cancellation will take effect within 14 days.

4.2 Licensee's Improvements

The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence, sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

5. Further Terms of Licence

5.1 Renewal of Licence

The Licensee may give notice to the Licensor not later than one month before the expiration of the initial term and any subsequent term of the Licence requesting a renewal of the Licence for a further term as set out in Item 4 of the Licence Schedule.

5.2 Renewal Procedure

After receipt of a notice given under clause 5.1, the Licensor will promptly notify the Licensee that:

- (a) The Licensor agrees to renew the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the initial or further term of the Licence for another further term as agreed on the terms and conditions of this Licence (other than this clause); or
- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination.

D15/37636

Owner: D Colless

Property Description: Lot 1 TP389471, Lot 2 TP389471, Lot 3 TP109214

Property Address: 1170 Old Beech Forest Road, Beech Forest



D15/37636

LICENCE
A LICENCE TO PASS OVER PRIVATE PROPERTY

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of payment of the licence fee and the conditions contained in this Licence, the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the land described in the Schedule for the specified purposes set out in the Schedule.

(INSERT LICENSOR NAME - PRINTED)

*Dh. Colless Plantation
Trust No 3*

(INSERT LICENSOR SIGNATURE)



D. Colless

Licensor

The Licensee hereby agrees to comply with the terms and conditions of this licence.

THE COMMON SEAL of the
COLAC OTWAY SHIRE COUNCIL
was hereunto affixed in accordance
with its Local Law No. 4

Councillor

Councillor

Chief Executive Officer

Date

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2

LICENCE SCHEDULE

1. **Licensor** D. Colless, of 43 Triggs Road, Irrewarra 3249
2. **Licensee** Colac Otway Shire Council of 2-6 Rae Street, Colac, Victoria, 3250
3. **Commencement Date**
4. **Term** * Strike out one as inapplicable
* (i) 4 options of 5 years each (i.e. 5 x 5 x 5 x 5 years)
OR
* (ii) 20 years
5. **Licence Fee** One dollar
6. **Payable** On signing hereof
7. **Licensed Land** Property Address
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Property description
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Property outlined in red on attached map
8. **Specified Purpose** Walking and cycling access for the general public
9. **Special Conditions** (1) **Public Safety**
The Licensor reserves the right to seal off the Licensed Land at any time whatsoever, having first given 3 months notice in writing to the Licensee of its intention, (except in cases of emergency) to prevent access by the general public when in the reasonable view of the Licensor public safety may be threatened by the Licensor's activities on or near the Licensed Land
(2) **Dispute Resolution**

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If a grievance arises out of or relates to this Licence, or the breach, termination, validity or subject matter of it, and if the grievance cannot be settled through negotiation, the parties to the Licence and to the grievance expressly agree to endeavour in good faith to settle the grievance by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to arbitration, litigation or some other dispute resolution procedure.

(a) A party claiming that a grievance has arisen must give written notice to the other parties to the grievance specifying the nature of the grievance.

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(d) The mediation shall be conducted in accordance with ACDC Grievance Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and which terms are hereby deemed incorporated.

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The Licensee agrees to indemnify and to keep indemnified the Licensor its officers, employees and agents, and each of them, from and against all actions, costs, claims, charges, expenses, penalties, demands and damages whatsoever which may be brought or made or claimed against them or any of them, arising from the Licensee's performance or purported performance of its obligations under this Licence and be directly related to the negligent acts, errors or omission of the Licensee. The Licensee's liability to indemnify the Licensor shall be reduced proportionally to the extent that any act or omission of the Licensor contributed to the loss or liability.

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The Licensee shall, at all times during the Licence term, be the holder of a current public liability policy of insurance ("the Public Liability Policy") in respect of the activities specified in

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the Licence in the name of the Licensee, providing coverage for at least \$10million. The Public Liability policy shall be effected with an insurer approved by the Licensor. The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Licensor and shall extend to cover the Licensor in respect to claims for personal injury or property damage arising out of the negligence of the Licensee.

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2. Licensee's Obligations (Positive)

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2.2 Fire Protection Works

Undertake at the Licensee's sole expense all fire protection works on the Licensed Land required by law to the satisfaction of the Licensor and the responsible fire Authority.

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assign, mortgage, under-license or charge this Licence or part with or share possession of the Licensed Land or any part of it without the written consent of the Licensor

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prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employees or agent at any time from entering and remaining on the Licensed Land either with or without motor vehicles or other equipment for any purpose

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do or allow anything to be done which might result in any insurance relating to the Licensed Land becoming void or voidable or which might increase the premium on any insurance

3.7 Erection of Improvements

erect or permit the erection of any improvements on the Licensed Land without the prior written approval of the Licensor

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4. General Conditions

4.1 Termination on Default

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The parties agree that the Licensee may enter upon the land at any reasonable time and after giving reasonable notice to the Licensor, within a period of 6 months after the termination of this Licence sever and remove all the Licensee's fixtures and improvements on the Licensed Land. All right, title and interest in fixtures and improvements of the Licensee remaining on the land after the expiration of such 6 month period will vest automatically in the Licensor.

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- (b) despite anything contained in this Licence, the Licensor may terminate this Licence at the Licensor's sole and absolute discretion, upon giving to the Licensee 6 months prior written notice of such termination and the rights of the parties as set out under clause 4.2 of this Licence will apply to such termination

D15/37636

Owner: D Colless

Property Description: Lot 1 TP 389471, Lot 2 TP389471, Lot 1 TP109214

Property Address: 1170 Old Beech Forest Road, Beech Forest





COLAC OTWAY SHIRE YOUTH COUNCIL meeting

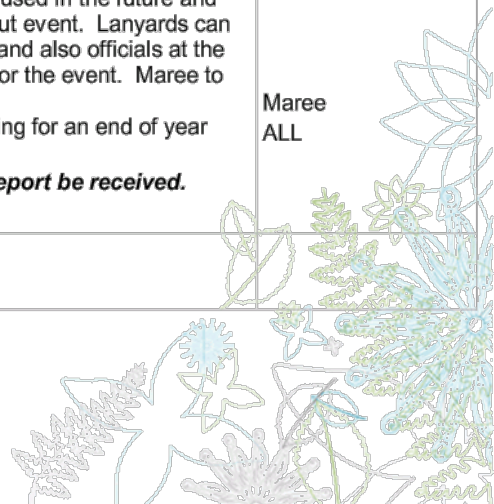
Meeting Venue: Conference Room – Rae Street Colac

15 June 2015

Time: 4:00 pm – 5:00 pm

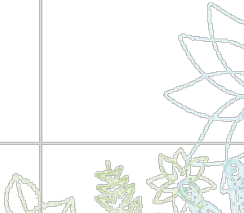
MINUTES

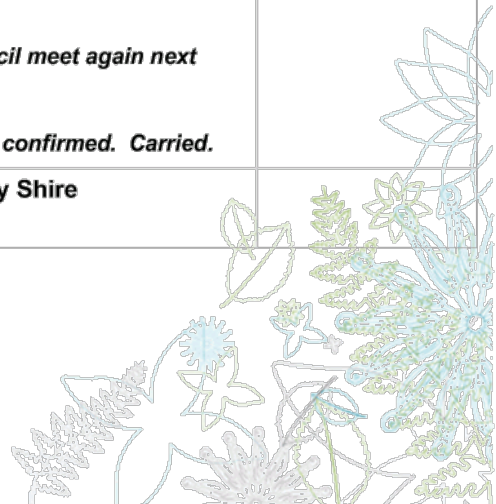
| | | |
|----|---|--------------|
| 1. | ATTENDEES
Youth Councillors:
Alice Kavenagh, Nicholas Lenehan-Anderson, Bradley Nelson, Emily Raison,
Rachael Richardson, Shane Richardson, Caitlin Rippon, Emily Tuck, Khalid Eldib
Mentors:
Cr Lyn Russell, Emma Warton (arrived 4.07pm) Maree Redmond. | |
| 2. | APOLOGIES
Cr Terry Woodcroft, | |
| 3. | CONFIRMATION OF MINUTES FROM PREVIOUS MEETING –
1 June 2015
<i>Moved: Alice Seconded: Bradley that the minutes be confirmed. Carried.</i> | |
| 4. | CORRESPONDENCE
In: <ul style="list-style-type: none"> Email from Nikki Karpeles re Quarterly Community Newsletter (Refer to Public Relations Report). Email from Ian Williams – approval for Baseball Mural Quotes for banners: <ul style="list-style-type: none"> Colac Herald Pull Up Banners Apology – Terry Woodcroft Out: <ul style="list-style-type: none"> Request for quote for banners: <ul style="list-style-type: none"> Colac Herald Pull Up Banners Email to Andrew Edgar – request for key messages for banners <i>Moved: Bradley Seconded: Emily R that correspondence be received. Carried.</i> | |
| 5. | TREASURER'S REPORT <ul style="list-style-type: none"> End of Financial Year Closeout
 Given the balance of the Youth Council budget will not be carried over to the next financial year, some items for the major project will need to be purchased in this financial year.
 Quotes received for a Youth Council banner that can be used in the future and also for banners to display key messages for the Sleepout event. Lanyards can be purchased to be used to identify those sleeping over and also officials at the event. Suggestion for a deposit to be put on equipment for the event. Maree to arrange purchase prior to 30 June.
 Youth Councillors to make suggestions at the next meeting for an end of year event. <i>Moved: Rachael Seconded: Shane that the Treasurer's Report be received. Carried.</i> | Maree
ALL |
| 6. | PUBLIC RELATIONS REPORT <ul style="list-style-type: none"> No current media releases. | |





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| | <ul style="list-style-type: none"> No current Facebook updates. Website updates.
Maree has updated the Youth Council page on the Council website to include information on the current year's youth councillors and projects. There is an opportunity to create a portal for youth issues with links to information and help. Could include a statement we are approachable at school or at any youth council event. Quarterly Community Newsletter (see Correspondence)
Shane to write a section to include in the council quarterly newsletter. <p>Moved: Alice Secoded: Shane that the Public Relations Report be confirmed. Carried.</p> | Shane |
| 7. | <p>MAJOR PROJECT UPDATE</p> <ul style="list-style-type: none"> Progress Report from each group and actions
The Lions Club have advised they would prefer not to hold their market as a twilight market on the Saturday night. Our options now are; <ul style="list-style-type: none"> find an alternative date and continue with our original plans have a food market only on Saturday night omit the market from the Saturday night activities and work around the Lions Sunday Market. <p>Youth Councillors to consider our options for a decision at the next meeting.
Moved: Alice Secoded: Bradley that Major Project Update be confirmed. Carried.</p> | ALL |
| 8. | <p>GENERAL BUSINESS</p> <ul style="list-style-type: none"> FReeZA Summit Registrations
7th of July in Ballarat. Learning about industry and event managing. Registrations must be in by next Monday. Please advise as soon as possible if you are able to attend. Long Road Appeal – Final Info
The event is this Saturday in COPACC's Civic Hall. Youth Councillors will have various responsibilities on the night. Must be there at 6:30pm – please do not be late. Please ensure that you are well presented, Youth Council shirt and badge, black pants/skirt and appropriate shoes. End of Year Breakup
Deferred to next meeting. Councillor Briefing
Deferred to next meeting. Other General Business
Moved: Shane Secoded: Emily R that Youth Council meet again next Monday due to the impending school holidays. Carried. <p>Moved: Alice Secoded: Bradley that General Business be confirmed. Carried.</p> | ALL

ALL |
| | <p>NEXT MEETING – Monday 22 June 2015 at Colac Otway Shire
Please bring a pen & paper</p>  | |





COLAC OTWAY SHIRE YOUTH COUNCIL meeting

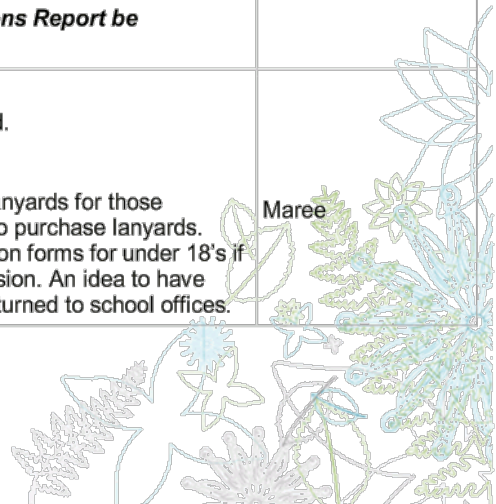
Meeting Venue: Conference Room – Rae Street Colac

22 June 2015

Time: 4:00 pm – 5:00 pm

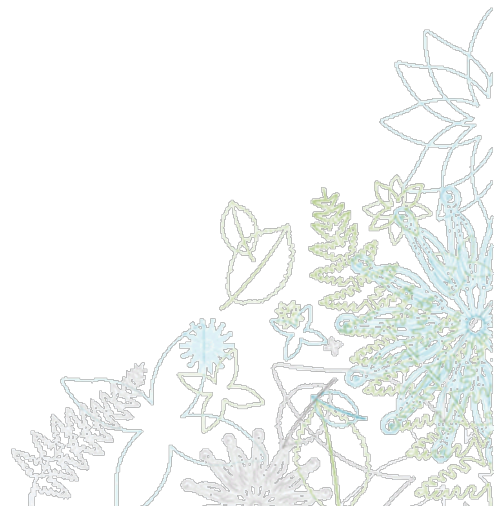
MINUTES

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| 1. | ATTENDEES
Youth Councillors:
Alice Kavenagh, Nicholas Lenehan-Anderson, Bradley Nelson, Emily Raison,
Rachael Richardson, Shane Richardson, Caitlin Rippon, Emily Tuck, Khalid Eldib
Mentors:
Cr Terry Woodcroft arrived 4.10, Cr Lyn Russell, Emma Warton, Maree Redmond. | |
| 2. | APOLOGIES Rachael Richardson, Shane Richardson, Alice Kavenagh
Moved: Emily T Seconded: Khalid that the minutes be confirmed. Carried | |
| 3. | CONFIRMATION OF MINUTES FROM PREVIOUS MEETING –
15 June 2015
Moved: Emily R Seconded: Emily T that the minutes be confirmed. Carried | |
| 4. | CORRESPONDENCE
In: <ul style="list-style-type: none"> Email Andrew Edgar – suggestions for key messages for banners Out: <ul style="list-style-type: none"> Moved: Emily T Seconded: Caitlin that correspondence be received. Carried | |
| 5. | TREASURER'S REPORT
Balance of Account at 22 June is \$2408.36
Moved: Emily T Seconded: Caitlin that the Treasurer's Report be received. | |
| 6. | PUBLIC RELATIONS REPORT <ul style="list-style-type: none"> Any media releases? Any Facebook updates? Website? Quarterly Community Newsletter Bradley, Caitlin, Nick and Emily R to send in a summarised report on their time spent in youth council so far for the quarterly community newsletter.
Emma would like to thank the youth council on a job well done at the Long Road Appeal ball.
Moved: Emily T Seconded: Emily R that the Public Relations Report be confirmed. Carried | Bradley/Caitlin/Nick/Emily R |
| 7. | MAJOR PROJECT UPDATE <ul style="list-style-type: none"> Confirmation that Lions Market is not the same weekend. Progress Report from each group and actions. Sleepout section
Generally thought that it would be a good idea to have lanyards for those attending the sleepover and to identify officials. Maree to purchase lanyards.
We have discussed some ideas on ways to get permission forms for under 18's if they are staying overnight, but haven't come to a conclusion. An idea to have sign-up sheets for the Sleepout and each form will be returned to school offices. | Maree |





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| | <p>Entertainment
 Alice has approached Nick Moloney enquiring about a screen for display. He is to send a quote to Maree.
 FReeZA could also be able to run entertainment on the night.
 Emily R to ask Trinity about a stage and Emily T to enquire at COPACC about a stage.
 Bradley has enquired about a jumping castle for the afternoon. Bradley to provide quotes.
 Night/Twilight Market
 Khalid suggested posting a message on Colac Buy Swap & Sell sites on Facebook to see if there is interest for stalls. \$15 per stall space.</p> <p>Moved : Bradley Seconded: Emily T that Major Project items be confirmed. Carried</p> | <p>Emily R/Emily T
 Bradley</p> |
| 8. | <p>GENERAL BUSINESS</p> <ul style="list-style-type: none"> • FReeZA Summit Registrations
 Only Bradley and Emily available. • End of Year Breakup
 Suggestions: <ul style="list-style-type: none"> ○ Bimbi Park. ○ Team building activities eg. Triplet Falls ○ Movie and pizza night. Maree to purchase movie tickets and vouchers for pizza from this year's budget. • Councillor Briefing
 Recommended that Youth Council brief the senior Councillors on a date to be determined in August. Each Youth Councillor to speak for just a couple of minutes on their experience as a Youth Councillor. Shane to brief Council on the major project plans. Youth Councillors to think about and prepare for their part of the briefing and bring information to the next meeting. • Sarah Henderson
 Nick to invite Sarah Henderson to a meeting sometime in the future. <p>Moved: Emily R Seconded: Emily T that General Business be confirmed. Carried Meeting ended 5:15</p> | <p>Maree
 All</p> |
| | <p>NEXT MEETING – Monday 20 July 2015 at Colac Otway Shire
 Please bring a pen & paper</p> | |





COLAC OTWAY SHIRE YOUTH COUNCIL meeting

Meeting Venue: Conference Room – Rae Street Colac

20 July 2015

Time: 4:00 pm – 5:00 pm

NOTES

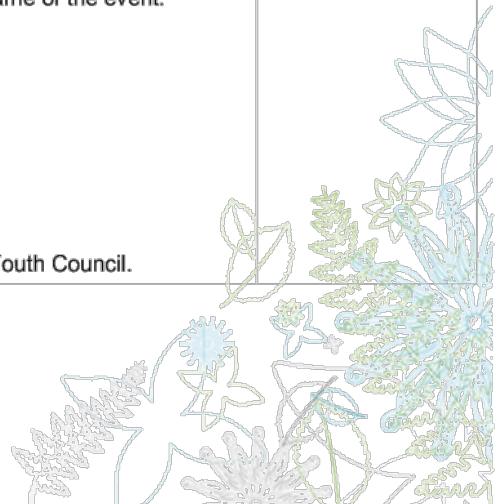
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| 1. | ATTENDEES
Youth Councillors:
Nicholas Lenehan-Anderson (Chair), Alice Kavenagh, Bradley Nelson, Emily Raison,
Rachael Richardson, Khalid Eldib
Mentors:
Cr Terry Woodcroft, Cr Lyn Russell, Emma Warton, Maree Redmond.
Guests:
Stewart Anderson, Manager Environment and Community Safety | |
| 2. | APOLOGIES Shane Richardson, Caitlin Rippon, Emily Tuck | |
| 3. | STEWART ANDERSON – LAKE COLAC MASTER PLAN
Stewart spoke to the group about the Lake Colac Masterplan and how they could have input into ideas to incorporate in development around the lake foreshore. There will be an online survey and the opportunity to add images and ideas via social media. Youth Council have the opportunity to meet with the consultants to talk about ideas for engaging youth and any ideas they might have. Meeting with the consultants will be Wednesday 29 July from 4:00 pm. Maree to discuss with Youth Councillors via Facebook.

Moved Bradley Seconded Alice that Youth Council be involved in the discussions. Carried. | |
| 4. | CONFIRMATION OF MINUTES FROM PREVIOUS MEETING –
22 June 2015 | |
| 5. | CORRESPONDENCE
In: <ul style="list-style-type: none"> Email from Lucy Vesey – Public Art Project (Refer General Business) Email from Emma re Cool Awards (Refer General Business) Invoice from Colac Herald for banners Letter confirming Festival & Events Funding Grant Account for Movie Tickets for end of year breakup Email from Andrew Edgar re event progress Email from Nick Moloney – LED screen not available Email from Greg Edge – Confirmation of LED Screen Hire & Invoice Email with proofs for Sleepout Banners (Refer Major Project Update) Invitations to attend Community Funding Program Civic Ceremony Email from Emma with FReeZA details. Invoice for Donation to Neighbourhood House Email from Suzanne Barker – seeking involvement with Economic Development and Land Use Strategy Certificate of congratulations for Grant Funding Thank you's and certificates from CAH for Long Road Ball assistance. Email from Oddfellows re assistance at Long Road Ball, offer of a free meal and request to assist at the Business Awards on 17 October. | |



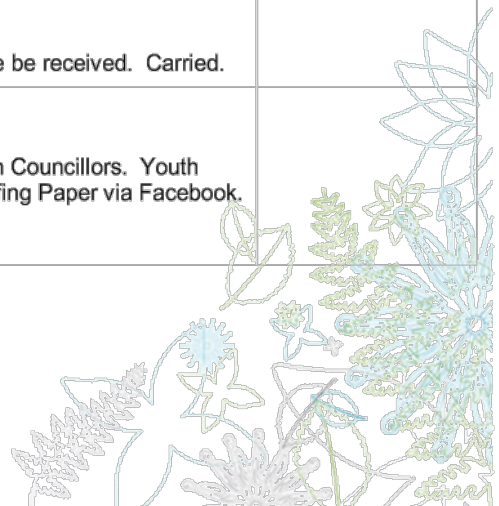


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| | <p>Out:</p> <ul style="list-style-type: none"> Email to Andrew Edgar – update on event progress Email to Neighbourhood House advising of \$300 donation Email to Emma – confirmation of FReeZA stage with comments for consideration. Email to Colac Herald – confirmation of Slogans for Banners Email to Colac Herald – approval to print banners Email to COS PR – information for quarterly newsletter Completion of form for acceptance of grant funding. <p>Discussion held regarding offer from Oddfellows. Discussion to be had on Facebook about how to use the meal and what to do about sponsorship.</p> <p>Moved Bradley Seconded Alice that correspondence be received. Carried</p> | |
| 6. | <p>TREASURER'S REPORT</p> <p>Balance of account at 30 June \$107.99 which was absorbed back into Council's budget. Balance of account for new financial year \$3,918.41. This amount does not include the grant funding of \$4,000.</p> <p>Moved Rachael Seconded Bradley that the treasurer's report be accepted. Carried.</p> | |
| 7. | <p>PUBLIC RELATIONS REPORT</p> <ul style="list-style-type: none"> Any media releases? Any Facebook updates? Website? Quarterly Community Newsletter <p>No PR items to report at this time however further media release will be required soon for the Sleepout Event.</p> <p>Moved Alice Seconded Bradley that the Public Relations Report be accepted. Carried.</p> | |
| 8. | <p>MAJOR PROJECT UPDATE</p> <p>Report from each Sub Committee on progress.</p> <p><u>Sleepout</u></p> <ul style="list-style-type: none"> Draft has been completed for the permission form Lanyards have been purchased Event has been registered on the Eventbrite website. Event is not live as yet as there are various details to be confirmed including the name of the event. <p><u>Market</u></p> <ul style="list-style-type: none"> Still no Team Leader for this group. Rachael offered to be Team Leader Nothing to report <p><u>Entertainment</u></p> <ul style="list-style-type: none"> Decided via Facebook that it would be a FReeZA stage. Some concerns by Emma as to the input requested by Youth Council. | |





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| | <ul style="list-style-type: none"> Youth Councillor to attend a FReeZA meeting to discuss the event. Emma to advise FReeZA at their next meeting about the event and get back to Maree to arrange Youth Councillor attendance at future meetings. <p><u>Corporate</u></p> <ul style="list-style-type: none"> Shane not in attendance however Maree advised that a letter has been drafted to send out to businesses. Unable to finalise until the name of the event has been confirmed. <p><u>Information</u></p> <ul style="list-style-type: none"> Nothing to report <p><u>Public Relations</u></p> <ul style="list-style-type: none"> Alice has spoken with a friend who can design a poster. Unable to finalise until the name of the event has been confirmed. <p><u>Activities</u></p> <ul style="list-style-type: none"> Nothing to report <p><u>Behind the Scenes</u></p> <ul style="list-style-type: none"> 2 applications have been completed Currently drafting a letter to emergency services to advise the event will be on <p><u>Speakers</u></p> <ul style="list-style-type: none"> Nothing to report <p><u>Displays</u></p> <ul style="list-style-type: none"> 2 banners have been ordered from the Colac Herald (copies distributed at the meeting) <p><u>Community Conversations</u></p> <ul style="list-style-type: none"> This item will be addressed closer to the event as there isn't a lot to organise. <p><u>Morning After</u></p> <ul style="list-style-type: none"> Scout Group have expressed an interest in doing the breakfast. Will look at seeking donations of food for the breakfast via the Corporate Sub-Group through sponsorship. <p>Moved Emily R Seconded Bradley that the Major Project Update be received. Carried.</p> | |
| 9. | <p>GENERAL BUSINESS</p> <ul style="list-style-type: none"> Councillor Briefing – August
Maree to identify a date for the briefing and advise Youth Councillors. Youth Councillors to provide information for the Councillor Briefing Paper via Facebook. | |





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| | <ul style="list-style-type: none"> Email re Street Art
Lucy Vesey would like input from Youth Councillors about Street Art project. Cool Awards
A reminder that the Cool Awards nominations close on 10 August.
Maree to resend the email to Youth Councillors. Peer to Peer
Confirmation of Peer to Peer event. Walk from Cape Otway Lighthouse.
Overnight stay at Bimbi Park. Home Sunday.
Need an indication of those who will be able to attend as soon as possible.
Youth Expo will be Friday 9th October
Peer to Peer Saturday 10th and Sunday 11th October <p>Moved Alice Seconded Emily R that the general business be accepted. Carried</p> | |
| | <p>Meeting closed 5:17 pm</p> <p>NEXT MEETING – Monday 3 August 2015 at Colac Otway Shire
 Please bring a pen & paper</p> | |





COLAC OTWAY SHIRE YOUTH COUNCIL meeting

Meeting Venue: SP&D Conference Room – Rae Street Colac

3 August 2015

Time: 4:00 pm – 5:00 pm

MINUTES

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| 1. | ATTENDEES
Youth Councillors:
Alice Kavenagh, Nicholas Lenehan-Anderson, Bradley Nelson,
Rachael Richardson, Shane Richardson, Caitlin Rippon, Emily Tuck Khalid Eldib
Mentors:
Cr Terry Woodcroft, Cr Lyn Russell, Emma Warton, Maree Redmond. | |
| 2. | APOLOGIES
Emily Raison | |
| 3. | CONFIRMATION OF MINUTES FROM PREVIOUS MEETING –
20 July 2015
Amend to include apology from Emily Tuck.
Moved: Alice Seconded: Bradley Carried | |
| 4. | CORRESPONDENCE
In: <ul style="list-style-type: none"> Email – Lucy Vesey re Public Art Project Email – Emma Warton – Cool Awards Nomination Pack Email – Carole Redlich – Lake Colac Foreshore Project Email – Terry Woodcroft – request for numbers attending Peer to Peer Letter - COS confirming booking of Memorial Square Email – Bev Rimmer Neighbourhood House – acknowledge inability to attend and advise letter to editor mention. Out: <ul style="list-style-type: none"> Letter of invitation – Sarah Henderson Moved: Bradley Seconded: Alice Carried | |
| 5. | TREASURER'S REPORT
Balance of account at 4 August 2015 - \$7,918.41
Moved: Rachael Seconded: Emily T Carried | |
| 6. | PUBLIC RELATIONS REPORT <ul style="list-style-type: none"> Any media releases? Any Facebook updates? Website? Quarterly Community Newsletter Alice to prepare dot points for a media release about the event.
Moved: Alice Seconded: Shane Carried | Alice |
| 7. | MAJOR PROJECT UPDATE
Report from each Sub Committee on progress. | |



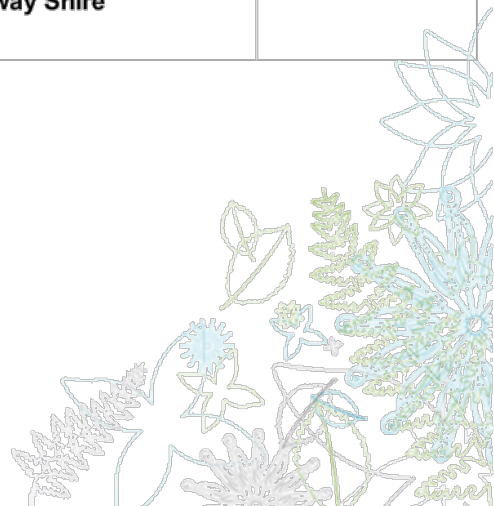


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| <p><u>Name Suggestions</u></p> <table border="1"> <tr> <td>The little big Sleepout</td><td>Homeless Sleepout</td></tr> <tr> <td>The cool night sleepout</td><td>Sleeping rough</td></tr> <tr> <td>Youth against homelessness</td><td>Homes for youth</td></tr> <tr> <td>A bed for everyone</td><td>Sharing the experience</td></tr> <tr> <td>Without a roof</td><td>Without a bed</td></tr> <tr> <td>Youth Without a Roof</td><td>A place to call home</td></tr> </table> <p>Selected "Youth Without a Roof"</p> <p><u>Sleepout</u>
Main event application to be completed.
Eventbrite website can now be updated with the name and finalised.</p> <p><u>Night Market</u>
Charge of \$10 per stall.
Inform Colac buy/sell/swap for stall positions.
Make posts on Facebook to share.
Start all sections of the event at the same time. Set-up from 4, start at 5.
Rachael to draft notices for Facebook</p> <p><u>Entertainment</u>
FReeZA stage is to be entertainment. FReeZA will cover costs of the entertainment.
Could be some cost to Youth Council if additional elements are required.
Emily T to attend a future meeting of FReeZA.</p> <p><u>Corporate Involvement</u>
Shane to update letter to send to businesses for sponsorship.</p> <p><u>Information</u>
Caitlin to contact Andrew Edgar to find information for the event and contacts.</p> <p><u>Activities</u>
Jumping castle, obstacle course, jam doughnuts and fairy floss, trolley racing, mini golf, face painting.
Rachael to provide further details and costs.
Agreed to look at obstacle course. Maree to provide details at next meeting</p> <p><u>Speakers</u>
Andrew Edgar
Alice to make enquiries regarding other speakers.</p> | The little big Sleepout | Homeless Sleepout | The cool night sleepout | Sleeping rough | Youth against homelessness | Homes for youth | A bed for everyone | Sharing the experience | Without a roof | Without a bed | Youth Without a Roof | A place to call home | <p>Emily R
Nick</p> <p>Rachael</p> <p>Emily T</p> <p>Shane</p> <p>Caitlin</p> <p>Rachael</p> <p>Alice</p> |
| The little big Sleepout | Homeless Sleepout | | | | | | | | | | | | |
| The cool night sleepout | Sleeping rough | | | | | | | | | | | | |
| Youth against homelessness | Homes for youth | | | | | | | | | | | | |
| A bed for everyone | Sharing the experience | | | | | | | | | | | | |
| Without a roof | Without a bed | | | | | | | | | | | | |
| Youth Without a Roof | A place to call home | | | | | | | | | | | | |





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| | <p><u>Morning After</u>
 Breakfast BBQ – sausages, veggie burgers, burgers, bacon, eggs.
 Drinks – orange juice, tea, coffee.
 Discussion held regarding cost. Agreed that those sleeping over (with lanyard) would be provided free breakfast. All others would be a gold coin donation.</p> <p><u>All Abilities Considerations</u>
 Advertising with radio and printed pamphlets – send to specialist school & Disability Services
 Provide a map of the location of different aspects of the event.
 Visual signs.
 Sufficient lighting.</p> <p>Moved: Emily T Seconded: Alice Carried</p> | |
| 8. | <p>GENERAL BUSINESS</p> <ul style="list-style-type: none"> • End of Year Breakup – Set date to advise Oddfellows via Facebook
All • Formulate response to Melanesia Carson re involvement in Business Awards & Sponsorship for Sleepout.
Business Awards, yes, Saturday 17th October.
Nick • Councillor Briefing – 19 August
Everyone to write their own account and to post on Facebook.
Will then build on those accounts on Facebook.
All • Peer to Peer – confirmation of numbers
Let Maree know whether we are able to go. 10th and 11th of October.
Emily T, Rachael, Emily R, Khalid, Bradley and Alice are confirmed to go.
All • Cool Awards – Emma gave the group copies of the information. Nominations close 21st August.
All • Reminder for the FReeZA Workshop this coming Saturday. Information would help some of the elements involved in organising the Sleepout.
All <p>Moved: Emily T Seconded: Shane Carried</p> | |
| | <p>NEXT MEETING – Monday 17 August 2015 at Colac Otway Shire</p> | |



Joint Committee

13 May 2015



1. **Welcome.** Russell Adams welcomed everyone.
2. **Present:** Russell Adams, Kerry Cawood, Colin Hayman , Jackie Dullard and Roslyn Cousins
3. **Apologies** Simon Dewar, Lindy Fullarton and Stephen Hart

| Agenda Item | Discussion | Action |
|--|--|--|
| 4. Minutes 11 February 2015 | Minutes were accepted.
<i>Moved by Russell and seconded by Jackie Dullard</i> | Carried |
| 5. Business arising | | |
| 5.1 English Conversation classes with Iranian refugees | Roslyn tabled a letter from Brian Crook to thank CCLLC for the support for the conversation classes that have now ended. | NFA |
| 5.2 Future Directions | Russell asked about the process for funding items. Roslyn explained that they have been included in the COS budget proposal for 15/16. However it is up to Council to decide if any will be funded. | Roslyn to include in COS budget proposal for 15/16 |
| 6. General Business | | |
| 6.1 Time of meetings | Colin Hayman requested the meetings be held on the first Wednesday of the month to ensure they do not clash with COS Planning meetings. | Roslyn - Agenda |
| 6.2 Quorum | It was noted that the joint use agreement states that the Advisory Committee must have present <ul style="list-style-type: none"> <input type="checkbox"/> School representative and a <input type="checkbox"/> Council representative Before a quorum is reached. | Noted |
| 6.3 Acting Principal | Roslyn noted Simon Dewar's leave and Jackie Dullard stepping up to the Acting Principal's position. Roslyn enquired if Jackie wished to appoint a second school representative during Simon's leave. | Jackie to appoint a second CSC rep |
| 7. Next meeting | 1pm Wednesday, 5 August, 2015. | Roslyn - Agenda |
| Meeting closed: | 5.20 pm | |