



## **UNSCHEDULED COUNCIL MEETING**

# **AGENDA**

**Wednesday 5 July 2023**

**at 4:00 PM**

**COPACC**

**95 - 97 Gellibrand Street, Colac**



# COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

Wednesday 5 July 2023

## TABLE OF CONTENTS

1 Declaration of Opening.....	3
2 Present.....	3
3 Apologies .....	3
4 Welcome and Acknowledgement of Country.....	3
5 Question Time .....	4
6 Declarations of Interest .....	4
7 Officer Reports.....	5
7.1 Proposed Local Law - Endorse for Exhibition .....	5

## COLAC OTWAY SHIRE UNSCHEDULED COUNCIL MEETING

NOTICE is hereby given that the next **UNSCHEDULED COUNCIL MEETING OF THE COLAC OTWAY SHIRE COUNCIL** will be held at COPACC on Wednesday 5 July 2023 at 4:00 PM.

### AGENDA

#### **1 DECLARATION OF OPENING**

##### **OPENING PRAYER**

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

*AMEN*

#### **2 PRESENT**

#### **3 APOLOGIES**

#### **4 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY**

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

##### **RECORDING AND PUBLICATION OF MEETINGS**

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

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

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

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

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

The sole purpose of this Unscheduled Council meeting is to consider the following agenda item:

- Proposed Local Law - Endorse for Exhibition.

## **5 QUESTION TIME**

Please note that as this is an Unscheduled Council meeting, only questions pertaining to this agenda will be responded to. A maximum of 15 minutes is allowed for question time at Unscheduled Council meetings. Any person wishing to participate in question time by videoconference will need to register their intention to do so by contacting the shire prior to 5pm on Monday 3 July 2023. Question time is not a forum for public debate or statements.

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

## **6 DECLARATIONS OF INTEREST**

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

Item: 7.1

## Proposed Local Law - Endorse for Exhibition

<b>OFFICER</b>	Rhassel Mhasho
<b>GENERAL MANAGER</b>	Heath Chasemore
<b>DIVISION</b>	Infrastructure and Operations
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"><li>1. Proposed General Local Law No 1 2023 [7.1.1 - 62 pages]</li><li>2. Proposed Local Law Procedure Guidelines [7.1.2 - 50 pages]</li><li>3. Community Impact Statement - Proposed Local Law 1 [7.1.3 - 7 pages]</li></ol>

### 1. PURPOSE

To seek Council resolution to exhibit the proposed General Local Law 1 (Attachment 1) and proposed Local Law Guidelines (Attachment 2) as an incorporated document of the Local Law, in accordance with Section 73 of the *Local Government Act 2020* (the Act).

### 2. EXECUTIVE SUMMARY

The Act states that all local laws have a sunset provision of 10 years from when that Local Law is made without provision to extend this period. This establishes a maximum period for a Local Law regardless of whether there have been interim amendments.

Council's existing Local Laws 1, 2 and 3 are due to expire in August and September 2023 will cease at that time, unless revoked sooner. If Council does not establish a new Local Law(s) prior to the cessation of the current laws there will be no equivalent powers for Council to manage general amenity, livestock matters and consumption of alcohol within the municipality.

Over the past nine months Council staff have been reviewing the existing provisions in the three existing local laws, to assess the relevance and effectiveness of these provisions. The community has also been engaged on key topics to provide input and advice on current and emerging issues that may be considered in a new Local Law. A single proposed Local Law has been developed and the draft is now ready for public exhibition in accordance with the section 73 of the *Local Government Act 2020*.

### 3. RECOMMENDATION

***That Council:***

- 1. Endorses the proposed Colac Otway Shire General Local Law 1 (Attachment 1) and proposed Local Law Guidelines (Attachment 2) as an incorporated document of the Local Law for the purpose of public exhibition for minimum of 28 days from 6 July 2023.***
- 2. Authorises the Chief Executive Officer to give notice of the proposed General Local Law 1 (Attachment 1) and proposed Local Law Guidelines (Attachment 2) in accordance Section 73(3) of the Local Government Act 2020.***
- 3. Agrees that the public notice will include:***
  - a. An invitation for written submissions from the public during the exhibition period.***
  - b. An invitation for submitters who wish to speak to their submission to be heard at a Submission Committee meeting to be held at 3 pm on the 9 August 2023.***
  - c. Advice that any submissions received after exhibition period will be presented to the Submission Committee, where they are received before 9am on the day of the committee meeting.***
- 4. Notes that a Community Impact Statement (Attachment 3) has been prepared for the proposed General Local Law 1 and will be published with the exhibited documents.***
- 5. Notes that the time available to establish the new Local Law before existing Local Laws cease means that it is not possible to provide a public exhibition period of 6-weeks as intended in its Community Engagement policy, and commits to undertake future community engagement after Easter 2024 to seek feedback about the effectiveness of the provisions of a new Local Law if one is made by Council.***
- 6. Considers, at a Council meeting before the end of July 2024, all feedback received as part of the community engagement referred to in point 5, to enable it to consider whether to review all or part of the new Local Law.***
- 7. Considers making the Colac Otway Shire General Local Law 1 2023 in accordance with section 74 on the Local Government Act 2020 at the scheduled Council meeting on 23 August 2023.***

### 4. KEY INFORMATION

The Act prescribes the process for developing, exhibiting and adopting Local Laws. The following phases in the development of the proposed Local Law project have been completed;

#### **Phase 1 (research phase)**

This phase involved a dedicated project team reviewing Council records such as customer requests from the past 3-4 years regarding local law topics. This review identified recurring issues or patterns that may need to be addressed via amendments to the local laws. The project team also considered other Council's local laws, changes in State legislation and supporting material available to the public on local laws.

### **Phases 2 and 3 (early input)**

These phases involved the project team inviting feedback on local law topics from internal Council departments, and Councillors. This is non-statutory consultation (i.e. not required by law). The early input informed the drafting of the proposed local laws.

### **Phase 3**

This phase involved community consultation through an online survey on key issues identified by Councillors and Council staff as issues warranting further investigations. The survey was put out for comment from 11 April 2023 to 5 May 2023.

### **Phase 4 (redrafting Local Laws)**

This phase will involve the project team redrafting Council's local laws considering the non-statutory consultation and Council's feedback from earlier phases. Quality assurance checks on the drafting will be carried out by expert internal departments and by Maddocks

All statutory requirements to review and develop a new Local Law have been completed. The final phase required by the Act is the formal public exhibition of the final Local Law.

## **5. CONSIDERATIONS**

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

This report's recommendation focuses on achieving the best outcomes for the municipal community, including future generations.

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

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

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

The Local Law is anticipated to have positive impacts on the environment through protecting the amenity, natural and built assets.

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

The creation of the proposed General Local Law 2023 must be undertaken in accordance with Council's Community Engagement Policy. Subject to Council approval, community consultation is scheduled to occur from 6 July 2023 to 3 August 2023. This is 4 weeks, which is less than 6 weeks in Council Engagement Policy. Council is requested to approve the shorter public consultation to enable the new Local Law to be adopted before the expiry of the current Local Laws. It is proposed to then undertake further community engagement after the Local Law has been in operation for over six months, and after Easter so that the 'summer/tourism season' has concluded, This will enable the community and businesses to provide feedback based on actual implementation of the new provisions.

This will be via Council's online website, community drop-in sessions and key stakeholder engagement.

Hard copies of the proposed Local Law and accompanying documents will be made available at Council offices and Library.

### **Public Transparency (s58 LGA 2020)**

The following Public Transparency Principles are relevant to the process:

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act.
- (b) Council information must be publicly available unless—
  - (i) the information is confidential by virtue of this Act or any other Act; or
  - (ii) public availability of the information would be contrary to the public interest.
- (c) Council information must be understandable and accessible to members of the municipal community.
- (d) Public awareness of the availability of Council information must be facilitated.

### **Alignment to Plans and Strategies**

Alignment to Council Plan 2021-2025:

Theme 1 - Strong and Resilient Community

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

Objective 3: Key infrastructure investment supports our economy and liveability

Objective 4: Colac Otway Shire is a destination to visit

Theme 2 - Valuing the Natural and Built Environment

Objective 1: We mitigate impacts to people and property arising from climate change

Objective 2: We operate sustainably with a reduced carbon footprint

Objective 3: Protect and enhance the natural environment

Objective 4: We will satisfy our community's reasonable expectations to reduce waste going to landfill, increase resource recovery and minimise waste charges

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

Theme 3 – Healthy and Inclusive Community

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

Objective 2: People are active and socially connected through engaging quality spaces and places

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

Theme 4 – Strong Leadership and Management

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

Objective 2: We are a financially robust organisation

Objective 3: We provide exceptional customer service

Objective 4: We support and invest in our people

### **Financial Management (s101 Local Government Act 2020)**

The project is budgeted in the 2022-23 budget and 2023-24 budget.



## **Service Performance (s106 Local Government Act 2020)**

The following service principles are applicable:

- (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;
- (b) services should be accessible to the members of the municipal community for whom the services are intended;
- (c) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring;
- (e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

## **Risk Assessment**

Section 84 of the Act provides that the local law is revoked 10 years after its making, unless sooner revoked. The Council's Local Law No 1 – Consumption of Alcohol in a public Place commenced 28 August 2013, Local Law No 3 – Livestock commenced -August 2013 Local Law No 2 – General Local 24 September 2013 will be revoked on 31 August 2023.

If the General Local Law 2023 is not adopted prior to 31 August 2023, Council will not have any 'local law' for the municipal district until the local law is adopted. Accordingly, there is a risk that there will be a period where there is no ability for Council to function in relation to activities regulated by the local law.

## **Communication/Implementation**

Any person who makes a written submission in relation to the proposed Colac Otway General Local Law 1 2023 and requests to be heard in support of their written submission, will be invited to talk to their submission at the 9 August 2023 Submissions Committee meeting.

The results of all community consultation will inform the final Local Law, which is planned to be adopted at the August 2023 Ordinary Council meeting.

Below is the implementation plan;

5 July 2023	Unscheduled Council meeting for adoption of Proposed Local Law out for public consultation
6 July 2023	Proposed Local Law on website (public consultation begins)
7 July 2023	Notice in paper
3 August 2023	Submission period closes at COB
4 August 2023	Submissions received will be provided to Councillors in full
4 August 2023	Summary of submissions and agenda made public for Submissions Committee meeting
9 August 2023	Any late submissions will be distributed prior to the commencement of the Councillor Briefing session
9 August 2023	Submissions Committee meeting to hear any verbal submissions
10 or 11 August 2023	Supplementary online/hybrid session with Councillors to discuss if needed
23 August 2023	Council meeting to adopt General Local Law

## **Human Rights Charter**

No impact.

## **Officer General or Material Interest**

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

## **Options**

### Option 1 – Adopt the proposed Local Law

This option is recommended by Officers. The prepared proposed Local Law document has been developed over the past months guided by community, stakeholder and Councillors participating in the process. Delays in approving the proposed Local Law for public exhibition will compromise Council's ability to complete the review process.

### Option 2 – Not adopt the proposed Local Law

This option is not recommended by officers. If Council doesn't adopt the proposed Local Law for public exhibition, it will compromise Council's ability to comply with its obligations under the *Local Government Act 2020*.



**GENERAL LOCAL LAW**  
**(LOCAL LAW NO. 1 – September 2023)**

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

**Contents**

<b>PART 1 - PRELIMINARY .....</b>	<b>1</b>
1.1 Title .....	1
1.2 Purpose .....	1
1.3 The power to make this Local Law .....	1
1.4 Commencement .....	1
1.5 Area of Operation .....	2
1.6 Previous Local Laws .....	2
1.7 Local Law Cease to Operate .....	2
1.8 Incorporated documents, codes and policies .....	2
1.9 Charter of Human Rights and Responsibilities .....	2
1.10 Definitions .....	2
Notes in this Local Law .....	11
<b>PART 2 - USE OF COUNCIL LAND AND BUILDINGS .....</b>	<b>12</b>
Introduction .....	12
2.1 What Council may do .....	12
2.2 What a person cannot do .....	12
2.3 Behaviour and Activities in Council Buildings .....	12
2.4 Access to Council Buildings .....	14
2.5 Activities Prohibited in a Reserve .....	15
2.6 Activities which may be permitted/allowed in a Reserve .....	16
<b>PART 3 - Consumption AND Possession of Alcohol .....</b>	<b>17</b>
Introduction .....	17
3.1 Consumption and Possession of Alcohol .....	17
<b>PART 4 - PROTECTION OF COUNCIL LAND AND ASSETS .....</b>	<b>18</b>
Introduction .....	18
4.1 Protection of drains .....	18
4.2 Legal Point of Discharge .....	18
4.3 Interference with Watercourse .....	18
4.4 Taking water from Council Controlled Standpipes .....	18
4.5 Constructing Vehicle Crossings .....	18
4.6 Maintaining Vehicle Crossings .....	19
4.7 Directing Vehicle Crossing Works .....	19
4.8 Damaging Council Land or Roads .....	19
4.9 Nature Strips .....	20
4.10 Recreational Vehicles on Council Reserves .....	20
<b>PART 5 – BUILDING SITES .....</b>	<b>21</b>
Introduction .....	21
5.1 Building Work or Works .....	21
5.2 Fencing of Building Sites .....	21
5.3 Storm Water Protection at Building Sites .....	22
5.4 Controlling Trade Waste and Building materials at Building Sites .....	22
5.5 Controlling Mud, Dirt and Debris from Building Sites .....	22
5.6 Managing a Building or Subdivision Site .....	23
5.7 Inspection of Building Sites .....	23
5.8 Controlling Asset Protection during Building Works or Work .....	23
5.9 Asset Protection and Building Work .....	24
5.10 Controlling Building Sites .....	24
<b>PART 6 – CAMPING .....</b>	<b>26</b>
Introduction .....	26
6.1 Camping General .....	26
6.2 Camping on Council Land or in Public Places .....	26
6.3 Camping on Privately Owned Land .....	26
6.4 Camping on Vacant Privately Owned land .....	27

6.5	Exemption .....	27
<b>PART 7 – MUNICIPAL AMENITY .....</b>		<b>28</b>
Introduction .....		28
7.1	Dangerous land or Detriment to General Amenity.....	28
7.2	Prohibition on Graffiti.....	28
7.3	Obstruction on Land - Vegetation and other Objects.....	28
7.4	Overhanging Vegetation.....	29
7.5	Vegetation on Road and Council Owned/Managed Land.....	29
7.6	Numbering of Allotments .....	29
7.7	Recreational Vehicles on Private Land.....	29
7.8	Shopping Trolleys.....	30
<b>PART 8 – FIRE HAZARDS .....</b>		<b>31</b>
Introduction .....		31
8.1	Fire Hazards.....	31
8.2	Fire In Open Air and Incinerators Specifically .....	31
8.3	Fire Danger Days .....	32
8.4	Nuisances .....	32
8.5	Extinguishing Fires .....	32
8.6	Permissible Burning .....	33
8.7	Discharging Into Air .....	33
<b>PART 9 - ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR .....</b>		<b>34</b>
Introduction .....		34
9.1	Spoil on Roads .....	34
9.2	Repair of Vehicles .....	34
9.3	Sale of Vehicles.....	34
9.4	Abandoned Vehicles .....	34
9.5	Storage of Vehicles (Including Caravans and Trailers) .....	35
9.6	Public Events .....	35
<b>PART 10 - SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS.....</b>		<b>36</b>
Introduction .....		36
10.1	Commercial Activities on Council Land .....	36
10.2	Collections, Subscriptions and Raffles .....	36
10.3	Unsolicited Material .....	37
10.4	Busking .....	37
10.5	Spruiking .....	37
10.6	Pavement Art .....	37
<b>PART 11 - ANIMALS AND LIVESTOCK .....</b>		<b>38</b>
Introduction .....		38
Application of this Part .....		38
11.1	Keeping of Animals, Birds, Reptiles and Bees Generally .....	38
11.2	Number of Animals.....	38
11.3	Animal Control (Housing of Animals).....	39
11.4	Control of Cats .....	39
11.5	Animal Excrement .....	39
11.6	Feeding of Wild Animals.....	40
11.7	Shelters for Animals .....	40
11.8	Adequate fencing for livestock .....	40
11.9	Droving of Livestock .....	40
11.10	Droving of Livestock within the Municipal District.....	41
11.11	Bees and Wasps .....	41
<b>PART 12 - WASTE MANAGEMENT .....</b>		<b>42</b>
Introduction .....		42
12.1	Disposal of Household Waste, Recyclables and Organic Waste and Glass .....	42

12.2	Prohibited Waste .....	43
12.3	Placement of Mobile Bins .....	44
12.4	Hard Waste .....	44
12.5	Disposal of disused refrigerators and other compartments .....	45
12.6	Restriction on Use of Public Waste and Recycle Bins.....	45
12.7	Interference with Household, Recyclables, Glass, Organic Waste or Hard Waste..	45
12.8	Screening of Bins and Hoppers.....	45
12.9	Depositing of Waste at Recycling and Waste Transfer Facilities, Resource Recovery Centres .....	46
12.10	Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres .....	47
12.11	Storage of Trade Waste .....	47
12.12	Storage Site for Trade Waste .....	47
12.13	Waste Receptacles on Roads and Reserves .....	48
12.14	Obstructions on Roads or Council Land.....	48
12.15	Commercial Waste .....	48
	<b>PART 13 - ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW .....</b>	<b>49</b>
	Introduction .....	49
13.1	Application for Permits .....	49
13.2	Decision on Permit Applications .....	49
13.3	Duration of Permits.....	49
13.4	Correction of Permits.....	50
13.5	Amendment, Cancellation and Suspension of Permits.....	50
13.6	Transfer of a Permit.....	50
13.7	Fees and Charges.....	50
13.8	Registers .....	51
13.9	Delegation .....	51
13.10	Exemption from the requirement .....	51
13.11	Review Rights .....	51
	<b>PART 14 – ENFORCING THIS LOCAL LAW .....</b>	<b>53</b>
	Introduction .....	53
14.1	Failure to comply with this Local Law, permit or notice to comply. ....	53
14.2	Notices to comply .....	53
14.3	Infringement Notice .....	54
14.4	Power of Authorised Officer to Act in Urgent Circumstances .....	54
14.5	Impounding or Seizure .....	54
14.6	Warning to Offenders .....	55
14.7	Reviewing a Notice.....	55
14.8	Requirement to Act Fairly and Reasonably .....	56
	Schedule 1 .....	58

**COLAC OTWAY SHIRE COUNCIL****GENERAL LOCAL LAW****PART 1 - PRELIMINARY****1.1 Title**

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

**1.2 Purpose**

(a) The purpose of this Local Law is to:

- (1) provide for the peace, order and good government of the *municipal district*;
- (2) promote a physical and social environment free from hazards to health and assets, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community;
- (3) provide for the management of domestic and farm *animals* in a manner that promotes welfare and reduces nuisance, harm or environmental damage to residents and property; and
- (4) provide for the appropriate management of *Council* buildings and *reserves*.

(b) Prevent and suppress nuisances which may adversely affect the enjoyment of life within the *municipal district* or the health, safety and welfare of *persons* and *animals* within the *municipal district*,

by:

- (1) regulating and controlling activities which may be dangerous, unsafe or cause detrimental impact on quality of life or the environment within the municipal district;
- (2) providing standards and conditions for specified activities in order to reduce risk and increase safety.

**1.3 The power to make this Local Law**

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

**1.4 Commencement**

(a) This Local Law:

- (1) commences on the day following the gazettal of the Local Law in the Victorian Government Gazette.
- (2) This Local Law comes into operation the day after it is made.

## 1.5 Area of Operation

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

## 1.6 Previous Local Laws

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

## 1.7 Local Law Cease to Operate

This Local law ceases to operate on XX August 2033, unless it is revoked sooner.

## 1.8 Incorporated documents, codes and policies

- (a) The following documents are incorporated into this Local Law in accordance with section 76 of the Act;
  - (1) Events Policy 2023 (as amended)
  - (2) General Local Law No. 1 - Procedure Guidelines 2023 – Colac Otway Shire Council

## 1.9 Charter of Human Rights and Responsibilities

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

## 1.10 Definitions

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

**"Act"** means the *Local Government Act 1989* and *2020*.

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

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

**"allotment"** means any land in separate ownership or occupation.



"**animal**" includes any mammal but excludes a human.

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

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

"**Asset Protection Permit**" means a *permit* issued by *Council* under clause 5.8 and 5.9

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

"**bird**" means small birds suitable for domestic aviaries.

"**builder**" means:

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

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

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

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

"**building work**" has the same meaning as:

- In the *Building Act 1993*;
- Domestic *building work* in the *Domestic Building Contracts Act 1995*; and
- Includes *building work* that does not require a *building permit*.

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

"**caravan**" includes a mobile home and moveable *dwelling*.

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

"**cattle**" means any bull, cow, ox, steer, heifer, calf or buffalo.

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

"**Chief Executive Officer**" means the *Chief Executive Officer* of Council.

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

"**Commercial Area**" means an area zoned business or industrial under an applicable Planning Scheme.

"**Commercial Waste**" means a refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial industry.

"**Coordinating Road Authority**", in relation to a *road*, means the *road* authority which has coordination functions as determined in accordance with section 36 of the *Road Management Act 2004*.

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

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

"**Council**" means Colac Otway Shire Council.

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

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

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

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

"**daylight hours**" means the hours between sunrise and sunset.

"**Declared State Road**" means a *road* declared under section 11 of the *Road Management Act 2004*.

"**disease**" means any contagious or infectious *disease* or any condition which *livestock* is subject, or an exotic *disease* as declared by the Governor in Council for the purposes of the *Livestock Diseases Control Act 1994*.

"**Designated Township Area**" means the settlement areas of Alvie, Apollo Bay, Barwon Downs, Beeac, Beech Forest, Birregurra, Carlisle River, Colac, Coragulac,

Cororooke, Cressy, Elliminyt, Forrest, Gellibrand, Kennett River, Lavers Hill, Marengo, Pirron Yallock, Separation Creek, Skenes Creek, Warrion, Wye River and boundaries as defined in the Colac Otway Shire Rural Living Strategy.

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

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

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

**“EPA Alert Day”** means a day declared either totally or partially by the Environment Protection Authority as an Alert Day.

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

- Sporting activities (but does not include a regular, locally focussed and organised sporting competition permitted by a user agreement);
- One off or annual events such as fundraisers, religious meetings, weddings, functions, filming or broadcast activities, live performances and concerts, promotional activities and the like;
- Markets;
- Shows and Exhibitions; and
- Festivals.

**“event organiser”** means any individual, group or entity who undertakes the planning, control, management and/or implementation of an *event*.

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

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

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

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

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

- glass bottles and jars;
- aluminium cans, food trays and foil;
- steel cans;
- steel aerosol cans;
- liquid paperboard containers;
- HDPE, PET and PVC bottles and containers;
- newspapers;
- magazines;
- leaflets and 'junk mail';
- stationary;
- envelopes;
- telephones books;
- cardboard (flattened);
- miscellaneous paper, including paper from a home office; and
- any other material that *Council prescribes to be fully commingled recyclables*.

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

**"grazing of livestock":**

- means causing *livestock* to enter and remain on a *road* or *roads* within the *municipal district* for purposes of grazing rather than for purposes of droving or *movement of livestock*; and
- relates to grazing a particular or designated area and not to indiscriminate droving for purposes of or including supplementing feeding.

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

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

- *fully commingled recyclables*;
- *organic waste*;
- material *prescribed* by Council to be prohibited; and

- any other material that *Council prescribes to be household waste*.

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

- enclosed in any building;
- a barbeque; or
- licensed under the provisions of the *Environment Protection Act 1970*.

"**Internal Infringement Review Panel**" means Council's Internal Infringement Review Panel.

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

"**local water authority**" means Barwon Region Water Authority or its successor in law.

"**minor building work**" means *building work* valued at less than \$5,000 but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).

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

"**movement of livestock**" means individual or regular movement of livestock:

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

"**municipal district**" means the *municipal district* of *Council*.

"**Nature Strip**" means that part of any road which adjoins the land and which is designed or intended for pedestrian traffic or use and includes a lawn or garden and a crossing.

"**Non-Rural Area**" means any area within Colac, Elliminyt, Apollo Bay or any other *designated township area* as identified by the Colac Otway Shire.

"**Notice to Comply**" means a notice served under clause 14.2 of this Local Law.

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

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

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

**"offence"** means an act or default contrary to this Local Law.

**"outdoor eating facility"** means any tables or chairs located out of doors at which food or drink may be served or consumed in connection with premises situated nearby.

**"owner"** means the owner of premises.

**"penalty"** means the maximum fine that may be imposed by a court of appropriate jurisdiction.

**"penalty unit"** has the meaning ascribed to it by section 110 of the *Sentencing Act 1991*.

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

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

**"permit fee"** means a fee fixed by resolution of *Council* or a statutory fee *prescribed* in legislation by the Victorian Government.

**"person"** has the same meaning as in Section 38 of the interpretation of *Legislation Act 1984*.

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

**"prescribe"** means determine and give notice:

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

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

**"procession"** includes a fun run and bicycle *event*.

**"public holiday"** means a *public holiday* within the meaning of the *Public Holidays Act 1993*, applying in the *municipal district*.

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



**"public protection barrier"** means an erection of precautions over the street alignment which may include a fence, barrier or screen enclosing a building, land and/or materials while *builders* are at work or *works* are being undertaken.

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

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

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

**"Regulations"** mean the *Road Safety Road Rules 2009*.

**"reptile"** includes lizards, snakes and turtles.

**"Responsible Road Authority"**, in relation to a *road*, means the *road* authority which has operational functions as determined in accordance with section 37 of the *Road Management Act 2004*.

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

**"road"** has the meaning ascribed to it by the *Act*, and means:

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

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

**"Schedule"** means a schedule to this Local Law.

**"sealed container"** means a container sealed at the point of manufacture.

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

- the nature of the *building work*;

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

"**sell**" includes

- *sell* by means of any machine or mechanical device;
- barter or exchange;
- agree to *sell*;
- offer or expose for sale; and
- keep or have in possession for sale

and directing, causing or attempting any such acts or things.

"**Service Authority**" means an emergency service or a public body which *Council* has resolved is a *Service Authority* for the purposes of this Local Law.

"**single farming enterprise**" means a business of farming livestock run by one or more person as a single business.

"**stock crossing**" means a location on a road used regularly for the purpose of livestock crossing that road, and to which the requirements of the *Regulations*, and the *Guidelines*, apply.

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

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

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

"**toy vehicle**" means:

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

"**trade waste**" means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.

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

"**unsightly and/or dangerous land**" means land that:



- is being kept in a manner which is dangerous or likely to cause danger to life or property because of the materials or substances that are kept on the land; or
- is *unsightly* or detrimental to the general amenity of the neighbourhood because of rubbish, waste or other material giving the appearance of the land as one of neglect and out of character with other land in the vicinity; or
- has dismantled *vehicles* or *vehicle* parts visible from adjoining roadway or properties; or
- has any other matter deemed to be offensive or *unsightly* by an authorised officer of Council.

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

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

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

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

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

### Notes in this Local Law

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

## PART 2 - USE OF COUNCIL LAND AND BUILDINGS

### Introduction

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

### 2.1 What Council may do

(a) *Council* may:

- (1) restrict access to a *Council Building* or part of it;
- (2) close any *Council Building* or part of it to the public;
- (3) establish conditions of entry to a *Council Building*;
- (4) set and collect fees or charges for admission to or the hire or use of a *Council Building* or part of it;
- (5) set and collect fees or charges for the hire or use of any *Council* property in connection with a *Council Building*; and

authorise a person to do any one or more of the things described in clause 1- 5 (inclusive).

### 2.2 What a person cannot do

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

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

### 2.3 Behaviour and Activities in Council Buildings

(a) A person must not:

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

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

- iii. cause discomfort to any person.

**Penalty: A Maximum of 20 Penalty Units**

## **2.4 Access to Council Buildings**

(a) *Council* or an *Authorised Officer* may:

- (1) determine the hours when any *Council Building* will be open to the public;
- (2) restrict access to a *Council Building* or part of a *Council Building*;
- (3) close any *Council Building* or part of a *Council Building* to the public; and
- (4) charge fees for admission to or the use of a *Council Building* or part of a *Council Building*.

(b) *Council* may:

- (1) authorise any person to occupy a *Council Building* or restrict access to a *Municipal Building*; or
- (2) authorise any person to charge and collect fees for admission to or the use of a *Council Building* or part of a *Council Building*.
- (3) *Council*, an *Authorised Officer* or any person authorised by *Council* may from time to time establish
  - (i) conditions applying to and fees or charges for admission to or the hire or use of a *Council Building* or part of a *Council Building*; and
  - (ii) conditions applying to and fees or charges for the hire or use of any property of *Council* in connection with a *Council Building*.

(c) In exercising the powers conferred by clause 2.4 (a), *Council*, an *Authorised Officer* or any person authorised by *Council* may determine conditions applying to and fees and charges for admission to or the use of a *Council Building*:

- (1) on multiple occasions;
- (2) over a period of time; or
- (3) on any other basis that they consider appropriate.

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

- (1) enter a *Council Building* other than through an entrance provided for that purpose;
- (2) enter or remain in a *Municipal Building* during hours when the *Municipal Building* is not open to the public;
- (3) enter or remain in a *Council Building* without having paid any fee or charge imposed by *Council*, an *Authorised Officer* or any person authorised by *Council* for admission to the *Council Building*;

(4) remain in a *Council Building* after being directed to leave by an *Authorised Officer*; or

(5) enter a *Council Building*, after having been directed to leave that *Council Building* by an *Authorised Officer*, until they are granted written permission to do so by *Council* or an *Authorised Officer*.

**Penalty: A Maximum of 20 Penalty Units**

**2.5 Activities Prohibited in a Reserve.**

(a) In a *reserve*, a person must not:

(1) enter upon or remain on an area set aside as a playing ground during the course of a sporting match or gathering, unless that person is a player, official or competitor in or at a sporting match or gathering;

(2) act in any manner so as to endanger any other person, cause any damage to any property or the environment or interfere with the quiet enjoyment of the *reserve* by any person;

(3) use any children's playground equipment other than for the purpose for which it is provided;

(4) fish in or swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain contrary to any sign erected in the *reserve*;

(5) throw, place or allow to be thrown or placed any liquid, rubbish, dirt or other object, or substance into any wetland, lake, pond or fountain;

(6) play, engage in or practise any game or sport, whether or not in accordance with a *permit* issued under this Local Law, in a manner that is:

i. dangerous to any other person in the *reserve*; or

ii. likely to interfere with the reasonable use or enjoyment of the *reserve* by any other person;

(7) play or practise golf in a *reserve* to the danger or detriment of any person, *animal* or property;

(8) ride any horse other than in an area and at a time designated by *Council*; or

(9) drive, ride in or on or otherwise use any *motor vehicle* other than in an area designated by *Council*.

(10) enter a *reserve*, or part of a *reserve*, contrary to signage prohibiting access to the *reserve* or part of the *reserve*.

**Penalty: A Maximum of 20 Penalty Units**

## 2.6 Activities which may be permitted/allowed in a Reserve

(a) In a *reserve*, a person must not, without a *permit* or the consent of an *Authorised Officer*:

- (1) fly or allow or be flown any *aircraft* (including any powered modelled aeroplane, drone but excluding a kite);
- (2) drive or ride a *vehicle* or *animal* in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *reserve* by another person;
- (3) light a fire or allow any fire to remain alight except in:
  - i. a barbecue provided by *Council*; or
  - ii. a portable liquid petroleum gas barbecue; or
  - iii. a charcoal fuelled barbecue;
- (4) organise any competitive sport, game, *event* or activity other than a sport, game, *event* or activity played for family or social purposes;
- (5) camp or pitch, erect or occupy any camp, tent, *caravan* or *temporary structure*;
- (6) place or erect any fence, gate or any other object that impedes the public access and use of any *Council land*;
- (7) conduct or celebrate a wedding;
- (8) organise or hold any rally, *procession*, demonstration or any other public gathering;
- (9) make a collection of money;
- (10) destroy, damage or interfere with any flora or kill, injure or interfere with any fauna;
- (11) use an amplifier;
- (12) walk on any plot, bed, border or any other area set aside for vegetation;
- (13) operate or otherwise use any watercraft (excluding canoes, kayaks and surf paddles);
- (14) construct or install a film set, or record for television or other media purposes any *event* or activity, if the construction, installation or recording (as the case may be) is for free or reward or commercial purposes (but excluding wedding and general photography or recording and any media photography or recording for news production purposes);
- (15) conduct any commercial activity; or
- (16) drive any *livestock*.

**Penalty: A Maximum of 20 Penalty Units**

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

## PART 3 - Consumption AND Possession of Alcohol

### Introduction

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

### 3.1 Consumption and Possession of Alcohol

(a) A person must not, without a *permit*:

- (1) Consume any *alcohol*;
- (2) Have in their possession or control any *alcohol* other than *alcohol* in a *sealed container* in a prescribed place, in or at a *public place*, road or in or on a *vehicle* which is or at a prescribed place; or

(b) Sub-clauses a.1 and a.2 does not apply in places which are:

- (1) Licensed premises within the meaning of *Liquor Control Reform Act 1988*;
- (2) An area in which the consumption of *alcohol* is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1988* or this Local Law; or
- (3) An area in which *Council* has issued a *permit* for the consumption of *alcohol*; or
- (4) On any day during the period specified and, in the area specified in a notice signed by the *Council's Chief Executive Officer* as being the area and period during which *alcohol* may be possessed and consumed.

(c) If an *Authorised Officer* believes on reasonable grounds that a person is contravening or has contravened sub clause 3.1(a), the *Authorised Officer* may direct the person to seal any container or dispose of the contents of any unsealed container.

(d) A person to who fails to comply with a direction of an *Authorised Officer* under sub Clause 3.1(c) is guilty of an *offence*.

(e) *Council* may prescribe any area to be a 'prescribed area' for the purpose of this Local Law including:

- (1) On any day or between dates;
- (2) On any time or between times;
- (3) Or any other way.

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



## PART 4 - PROTECTION OF COUNCIL LAND AND ASSETS

### Introduction

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

#### 4.1 Protection of drains

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

**Penalty: A Maximum of 20 Penalty Units**

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.2 Legal Point of Discharge

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.3 Interference with Watercourse

- (a) A person must not, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge or levee which is vested in or under the management or control of *Council*.

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.4 Taking water from Council Controlled Standpipes

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.5 Constructing Vehicle Crossings

- (a) A *person* must not, without a *permit*, construct, remove or relocate any temporary or permanent *vehicle crossing(s)*.

- (b) Each *owner* and *occupier* of land must not, without a *permit*.



- (1) construct or allow to be constructed; or
- (2) use or allow to be used;

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.6 Maintaining Vehicle Crossings

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

**Penalty: A Maximum of 20 Penalty Units**

#### 4.7 Directing Vehicle Crossing Works

(a) *Council* or an *Authorised Officer* may direct the *owner* or *occupier* of land to:

- (1) construct a temporary or permanent *vehicle crossing*;
- (2) repair or reconstruct a *vehicle crossing*; or
- (3) remove a *vehicle crossing*, and the reinstatement of any kerb, channel, footpath or other areas to the satisfaction of the *Authorised Officer* by the *owner* or *occupier* of any adjacent land at their cost.

(b) The *owner* or *occupier* of land to whom a direction has been given under this clause must first apply to *Council* for a *permit* to do the thing which is directed.

**Penalty: A Maximum of 20 Penalty Units**

#### 4.8 Damaging Council Land or Roads

(a) A *person* must not, without a *permit*:

- (1) erect or construct, or allow to be erected or constructed, any thing on *Council land*;
- (2) occupy or fence off any *Council land*;
- (3) construct an opening or gate in a fence on the boundary of *Council land* which is more than one (1) metre wide, excluding driveways from access *roads*;
- (4) plant any vegetation on *Council land* or actively assist such vegetation to grow;
- (5) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, (other than recognised *weeds*) any *Council land* or any *road* or thing on *Council land* or any *road*;
- (6) place, or allow to be placed, any thing on *Council land* or any *road* so as to endanger any other person or any property;
- (7) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a *road* and thereby become a hazard;

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

**Penalty: A Maximum of 20 Penalty Units**

**Note:** *Clauses (b)(1)), (b)(2)), (b)(3)), (b)(4)), (b)(5)), (b)(8)) and (b)(9)) do not apply to a person employed or engaged by Council while acting in the course of their duties.*

#### **4.9 Nature Strips**

An owner or occupier of land that is not in a *Rural Zone* must ensure that the *nature strip*:

- (b)
  - (1) is maintained in a neat and tidy condition; and
  - (2) does not contain grass, stubble, scrub or undergrowth exceeding 10 centimetres in height.
- (c) An owner or occupier of land must not alter, or allow to be altered or remain altered any nature strip without a permit.

#### **4.10 Recreational Vehicles on Council Reserves**

(a) A person must not:

- (1) drive, ride on or otherwise use; or
- (2) allow a person under their care or control to drive, ride on or otherwise use

a *recreational vehicle* on any *reserve* unless that *reserve* has been designated for that purpose or otherwise authorised by *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## PART 5 – BUILDING SITES

### Introduction

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

### 5.1 Building Work or Works

During building work the person in charge must ensure that the building work is carried out such:

- (a)
  - (1) As not to emit excessive dust into the air and onto land proximate to the land on which the building work is carried out; and
  - (2) That it does not constitute a nuisance or unreasonably interfere with the enjoyment by any person of land proximate to the land on which the building work is carried out.

**Penalty: A Maximum of 20 Penalty Units**

### 5.2 Fencing of Building Sites

(a) Prior to the commencement of any building work on land that is in a residential zone, commercial zone, or industrial zone, and less than 1,500m<sup>2</sup> in size, the person in charge must ensure that a site fence is erected on each individual site that:

- (1) Complies with AS4687-2007; and
- (2) Is not less than 1,500mm in height and not greater than 2,000mm in height; and
- (3) Will prevent windblown trade waste and litter from being transported from the site; and
- (4) Will not have more than one access opening to the site which is;
  - i. Not greater than 2,800mm in width; and
  - ii. Fitted with gates that are the same height as the associated fence that will prevent windblown refuse and litter being transported from the site; and
  - iii. Located to correspond with the location of the temporary *vehicle crossing* for the *building site*; and
  - iv. Kept closed at all times when *works* are not in progress.

(b) If the person in charge has multiple and adjoining sites where building work is being undertaken simultaneously, the site fence may enclose all of those sites, and one access opening is allowed per *allotment*.

(c) No part of the site fence, including support feet, shall protrude in or any land other than the *building site* on which the building work occurring.

(d) Each section of the site fence is to be maintained as per AS4697-2007 and must remain erected until the completion of the building work.

**Penalty: A Maximum of 20 Penalty Units**

### 5.3 Storm Water Protection at Building Sites

(a) Where any building work is being carried out on any land, the person in charge must ensure that the site is developed and managed to minimise the risk of storm water pollution through the contamination of run-off by chemicals, sediments, *animal* waste or gross pollutants in accordance with industry best practice, including the adoption of measures to:

- (1) Minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads or washed into the storm water system; and
- (2) Prevent building clean-up, wash-down or other wastes being discharged off-site or allowed to enter the storm water system

**Penalty: A Maximum of 20 Penalty Units**

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

(a) Prior to the commencement of building work and during any building work, the person in charge must;

(1) provide a *refuse facility* for depositing of trade waste and litter, and which must:

- i. be maintained in working order by having a functioning lid that effectively contains all the trade waste and litter; and
- ii. be not less than 1.5 cubic metres in volume; and

(b) Ensure trade waste and litter is efficiently and effectively deposited into the *refuse facility*; and

(c) Keep the *refuse facility* in place until the building work is complete, except when it is necessary to remove the *refuse facility* for the purpose of emptying it; and

(d) Ensure all aspects of the *refuse facility* are within the *building site*, and

(e) Ensure all building materials are contained within the *building site*; and

(f) Ensure that all lightweight materials on the *building site* are secured at all times so that any materials cannot become airborne; and

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

**Penalty: A Maximum of 20 Penalty Units**

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

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

**Penalty: A Maximum of 20 Penalty Units**

## 5.6 Managing a Building or Subdivision Site

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

**Penalty: A Maximum of 20 Penalty Units**

## 5.7 Inspection of Building Sites

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

## 5.8 Controlling Asset Protection during Building Works or Work

- (a) The:
  - (1) *owner* of any land on which *building work* is being or is to be carried out;
  - (2) *builder* engaged to carry out *building work* on land;
  - (3) appointed agent;
  - (4) driver of any *vehicle* involved in placing or removing a *refuse facility* on land; or
  - (5) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition, must, in respect of the *building work or works*, ensure that:
    - i. entry takes place only across a temporary *vehicle* crossing unless otherwise allowed by *Council* and in accordance with that permission; and

- ii. no materials are deposited on any part of a *road* or *Council land* without the approval of *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## 5.9 Asset Protection and Building Work

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

- (1) *owner* of any land on which *building work* is being or is to be carried out;
- (2) *builder* engaged to carry out *building work* on land;
- (3) appointed agent; or
- (4) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of *building work* involving demolition, must at least seven (7) days before commencing *works* on the land:
  - i. obtain an *Asset Protection Permit*;
  - ii. advise *Council* in writing of any damage that exists to any *Council infrastructure assets*; and
  - iii. pay, or lodge, a *security bond* to, or with, the *Council*.

**Penalty: A Maximum of 20 Penalty Units**

## (a) 5.10 Controlling Building Sites

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

If *Council* or an *Authorised Officer* identifies any damage which appears to result from non-compliance with this Local Law, an *Authorised Officer*:

- (1) may direct the responsible party to reinstate the damage within a specified time; and
- (c) (2) must provide the responsible party with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.

**Penalty: A Maximum of 20 Penalty Units**

Where any *building work* is being carried out on any land, the *owner* of the land, *builder* engaged to carry out *building work* on the land or *appointed agent* must:

- (1) provide a *refuse facility* for the purpose of disposal of *builder's refuse* to the satisfaction of *Council* or an *Authorised Officer*;
- (2) place the *refuse facility* on the land and keep it in place (except for such periods as are necessary to empty the *refuse facility*) for the *construction period*;
- (3) not place the *refuse facility* on any *Council land* or *road* without a *permit*; and

- (4) empty the *refuse facility* whenever full, and, if necessary, provide a replacement *refuse facility* during the emptying process.

**Penalty: A Maximum of 20 Penalty Units**

PROPOSED

## PART 6 – CAMPING

### Introduction

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

#### 6.1 Camping General

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

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

**Penalty: A Maximum of 20 Penalty Units**

- (b) *Camping* must not be a nuisance or unreasonably interfere with the enjoyment to any person of land proximate to the land on which the *camping* is carried out.

**Penalty: A Maximum of 20 Penalty Units**

#### 6.2 Camping on Council Land or in Public Places

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

- (b) Clause 6.2 (a) does not apply to:

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

**Penalty: A Maximum of 20 Penalty Units**

#### 6.3 Camping on Privately Owned Land

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

- (b) Clause 6.1 does not apply if the *owner* of the land has authorised the *camping*, and the *camping* is:

- (1) for not more than sixteen (16) consecutive weeks; or
- (2) for not more than a total of four (4) months in any calendar year; or



- (3) not occurring within a distance of one (1) metre from the side or rear boundaries of the land, and
- (4) Not occurring within 30 metres of a waterway.

**Penalty: A Maximum of 20 Penalty Units**

#### **6.4 Camping on Vacant Privately Owned land**

(a) The *owner* or *occupier* of land which is vacant must not without a *permit*, occupy or allow any other person to occupy a *caravan*, tent, tiny house/movable *dwelling* or motor home on that land unless the following conditions are met:

- (1) The occupation does not exceed four (4) consecutive weeks;
- (2) The occupation is not more than a total of three (3) months in any calendar year;
- (3) No rent, licence fee or charge is paid by any person in respect of the occupation;
- (4) The *caravan*, tent, tiny house/movable *dwelling* or motor home is not located within:
  - i. 1 metre of any boundary of the land; or
  - ii. 30 metres of a waterway.
- (5) The *caravan*, tent, tiny house,/movable *dwelling* or motor home is vacated on declared days of total fire ban;
- (6) Has the adequate sanitary facilities, and the sanitation facilities are maintained to a reasonable standard.

**Penalty: A Maximum of 20 Penalty Units**

#### **6.5 Exemption**

- (a) *Council* or an *Authorised Officer* may from time to time exempt any;
  - (1) Person;
  - (2) Class of person.

From the requirement to obtain a *permit* under clause 6.2 to 6.4 and from the application of clause 6.1, 6.2, 6.3 and 6.4.

## PART 7 – MUNICIPAL AMENITY

### Introduction

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

#### 7.1 Dangerous land or Detriment to General Amenity

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

**Penalty: A Maximum of 20 Penalty Units**

#### 7.2 Prohibition on Graffiti

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

**Penalty: A Maximum of 20 Penalty Units**

#### 7.3 Obstruction on Land - Vegetation and other Objects

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

**Penalty: A Maximum of 20 Penalty Units**

#### 7.4 Overhanging Vegetation

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

**Penalty: A Maximum of 20 Penalty Units**

#### 7.5 Vegetation on Road and Council Owned/Managed Land

- (a) A person:

- (1) must not, without a *permit*, plant or allow to be planted any seedling or vegetation on a *road*;
- (2) who is the *owner* or *occupier* of land adjoining land owned or managed by *Council*, must ensure that environmental *weeds* as listed in the Colac Otway Shire Weed Management Strategy are contained to their property and not encroaching on *Council* land.

**Penalty: A Maximum of 20 Penalty Units**

#### 7.6 Numbering of Allotments

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

**Penalty: A Maximum of 20 Penalty Units**

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

**Penalty: A Maximum of 20 Penalty Units**

#### 7.7 Recreational Vehicles on Private Land

- (a) A person:

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

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

**Penalty: A Maximum of 20 Penalty Units**

## 7.8 Shopping Trolleys

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

**Penalty: A Maximum of 20 Penalty Units**

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

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

**Penalty: A Maximum of 20 Penalty Units**

## PART 8 – FIRE HAZARDS

### Introduction

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

### 8.1 Fire Hazards

- (a) An *owner* or *occupier* of land must not allow the land to contain any thing which constitutes or is likely to constitute a *fire hazard*, and ensure that:

- (1) All necessary steps are taken to;

- i. Prevent fire on; and
- ii. Minimise the possibility of spread of fire from those premises; and

- (b) The premises are kept free of material or substances likely to assist the spread of fire.

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

**Penalty: A Maximum of 20 Penalty Units**

### 8.2 Fire In Open Air and Incinerators Specifically

- (a) A person must not, in a *Designated Township Area* unless given permission to do so by an *Authorised Officer*,

- (1) Light, allow to be lit or allow to remain alight, a fire in the open air in an *incinerator* on any day, other than a Friday or Saturday between the hours of 10am and 6pm; and where
- (2) The fire does not occupy an area in excess of one square metre and the size of the fire and the dimensions of solid fuel used are the minimum necessary for the purpose; and
- (3) The group and air space within a distance of three (3) metres from the outer perimeters and uppermost point of the fire are clear of flammable material; and
- (4) A supply of water adequate for the extinguishment of the fire is readily available at all times when the fire is burning; and
- (5) The average wind speed in the vicinity of the fire is no stronger than fifteen (15) kilometres per hour; and
- (6) The fire is supervised by a person who has the capacity and the means to extinguish the fire.

**Penalty: A Maximum of 20 Penalty Units**

- (b) With the exception for a declared day of Total Fire Ban, clause 8.1 does not apply to a person who lights or allows to be lit or remain alight a fire which is lit in a properly constructed fireplace, barbeque or enclosed outdoor oven for the purpose of meal preparation or person comfort.

**Penalty: A Maximum of 20 Penalty Units**

### 8.3 Fire Danger Days

- (a) Nothing in clause 8.2 authorises a person to light a fire, or allow a fire to be lit or remain alight:

- (1) during the Declared *Fire Danger Period*; or
- (2) on a day where the air quality category is poor, very poor or extremely poor as described by the Environment Protection Authority.

**Penalty: A Maximum of 20 Penalty Units**

### 8.4 Nuisances

- (a) A person must not burn or cause or allow to be burned any substance, either in the open air or within a structure if the burning of the substance is likely to:

- (1) cause a nuisance;
- (2) be dangerous to the health of any person; or
- (3) be offensive to any person.

**Penalty: A Maximum of 20 Penalty Units**

(b)

A person must not burn, or cause, or allow to be burned any:

- (1) rubber or plastic substance;
- (2) waste petroleum oil or material containing waste petroleum oil;
- (3) paint or receptacle which contains or has contained paint;
- (4) manufactured chemical or chemically treated material;
- (5) pressured container;
- (6) textile fabric; or
- (7) food waste.

**Penalty: A Maximum of 20 Penalty Units**

### 8.5 Extinguishing Fires

- (a) A person who has lit or allowed a fire to be lit or remain alight, or who has burned or caused or allowed to be burned any substance, contrary to clause 8.1 or 8.2 must extinguish the fire or burning substance immediately on being directed to do so by:

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

**Penalty: A Maximum of 20 Penalty Units**

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

- (1) the person to whom a direction has been given under clause 8.5 fails immediately to extinguish the fire or burning substance; or
- (2) a fire or an *incinerator* is apparently unattended.

**Penalty: A Maximum of 20 Penalty Units**

## 8.6 Permissible Burning

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

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

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

**Penalty: A Maximum of 20 Penalty Units**

## 8.7 Discharging Into Air

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

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

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

**Penalty: A Maximum of 20 Penalty Units**

## PART 9 - ROADS AND COUNCIL LAND: OBSTRUCTIONS AND BEHAVIOUR

### Introduction

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

#### 9.1 Spoil on Roads

(a) A person must not:

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

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

- i. the filling or excavation of any land; or
- ii. *building work*,

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

**Penalty: A Maximum of 20 Penalty Units**

#### 9.2 Repair of Vehicles

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

**Penalty: A Maximum of 20 Penalty Units**

#### 9.3 Sale of Vehicles

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

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

**Penalty: A Maximum of 20 Penalty Units**

#### 9.4 Abandoned Vehicles

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

- (1) which is unregistered; or
- (2) which has been left standing for at least seven (7) consecutive days, and has, in the opinion of an *Authorised Officer*, been abandoned.



**Penalty: A Maximum of 20 Penalty Units****9.5 Storage of Vehicles (Including Caravans and Trailers)**

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

**Penalty: A Maximum of 20 Penalty Units****9.6 Public Events**

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

**Penalty: 4 Penalty Units on the spot fine and a Maximum of 20 Penalty Units**

## PART 10 - SALE OF GOODS AND SERVICES, STREET COLLECTIONS AND DISTRIBUTIONS

### Introduction

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

### 10.1 Commercial Activities on Council Land

(a) A person must not, without a *permit*, conduct commercial activities on a footpath, road reserve or *Council land* where that person proposes to use a footpath, road reserve, *Council land* or *public place* for:

- (1) Outdoor eating;
- (2) Displaying goods or services for sale;
- (3) Placing signs and/or advertising goods and services for sale; or
- (4) Placement of signage on a *vehicle*.

(b) A person must not, without a *permit*:

- (1) erect a tent, *caravan*, trailer or other *vehicle*, *temporary structure*, building, table or stall for the sale of any goods or services; or
- (2) trade from *Council land* or a *road* where trading is to be done from a *vehicle*, stall or any other *temporary structure* and irrespective of whether trading is on a permanent or casual basis.

**Penalty: A Maximum of 20 Penalty Units**

### 10.2 Collections, Subscriptions and Raffles

(a) A person must not, without a *permit*, or permission from an *Authorised Officer*, solicit to collect:

- (1) on a *road*;
- (2) on *Council land*; or
- (3) from any *dwelling*,

any gifts, donations, or subscriptions for any purpose or cause nor authorise another person to do so.

**Penalty: A Maximum of 20 Penalty Units**

(b) Nothing in clause 10.2(a) applies to any person who is acting under or with the authority of an *Act* or *Regulation*.

### 10.3 Unsolicited Material

- (a) A person must not, without a *permit* or approval from an *authorised officer*, distribute any handbills, placecards, notices, advertisements, books, pamphlets, goods, gifts or samples to any person on any *road* or *Council land*.
- (b) Nothing in clause 10.3 (a) applies to any person who is acting under or with the authority of an *Act* or *Regulation*.

**Penalty: A Maximum of 20 Penalty Units**

### 10.4 Busking

- (a) A person must not, without a *permit*, busk on any:

- (1) *road*; or
- (2) *Council land*; or
- (3) *A public place*

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

**Penalty: A Maximum of 20 Penalty Units**

### 10.5 Spruiking

- (a) A person must not, without a *permit*, spruik on any:

- (1) *road*; or
- (2) *Council land*,

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

**Penalty: A Maximum of 20 Penalty Units**

### 10.6 Pavement Art

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

**Penalty: A Maximum of 20 Penalty Units**

## PART 11 - ANIMALS AND LIVESTOCK

### Introduction

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

### Application of this Part

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

- (1) on which a pet shop is located; or
- (2) on which an *animal* hospital or veterinary practice is located; or
- (3) other like facility that is subject to the provisions of a code of practice or planning scheme,

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

### 11.1 Keeping of Animals, Birds, Reptiles and Bees Generally

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

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

**Penalty: A Maximum of 20 Penalty Units**

### 11.2 Number of Animals

(a) An *owner* or *occupier* of land must not without a *permit*:

- (1) keep or allow to be kept any more in number for each type of *animal* as is set out in the following table:

	<i>Animal</i>	<i>Property Size up to .25 (ha)</i>	<i>Property Size .25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
a	Dogs	3	4	5 (other than dogs kept for working stock/primary production)
b	Cats	3	4	5
c	Poultry	10	20	No <i>Permit</i> Required

	<i>Animal</i>	<i>Property Size up to .25 (ha)</i>	<i>Property Size .25 (ha) to 1(ha)</i>	<i>Property Size 1 (ha) and above</i>
d	Roosters	Permit Required	Permit Required	No Permit Required
e	Pigeons	10	20	No Permit Required
f	Sheep or Goats	Permit Required	8	No Permit Required
g	Cattle/Horses and other large animals	Permit Required	4	No Permit Required
h	Pigs	Permit Required	Permit Required	No permit required
i	Reptiles	Subject to the issuing of a license by the Department of Energy, Environment and Climate Action (DEECA) or relevant authority		
j	Bees	Subject to hives being licensed with Agriculture Victoria and complying with the Apiary Code of Practice.		

- (2) For the purpose of calculating the maximum number of *animals* which can be kept or allowed to be kept without a *permit* under clause 11.2 (a)(1), the progeny of any *animal* will, for 12 weeks after the birth be deemed not to be an *animal*.
- (3) In *relation* to the keeping of *Poultry* (including Roosters) and Pigeons a *permit* will not be required by *owners* who are current financial members of a relevant Club or Organisation and abide with the relevant code of practice.

**Penalty: A Maximum of 20 Penalty Units**

### 11.3 Animal Control (Housing of Animals)

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

(a) **Penalty: A Maximum of 20 Penalty Units**

### 11.4 Control of Cats

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

(a)

**Penalty: A Maximum of 20 Penalty Units**

### 11.5 Animal Excrement

The *owner* or person in charge of an *animal* must:

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

**Penalty: A Maximum of 20 Penalty Units****11.6 Feeding of Wild Animals**

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

**Penalty: A Maximum of 20 Penalty Units****11.7 Shelters for Animals**

The *owner* or *occupier* of a property must ensure that any structure on that property used for housing any *livestock*, small *bird*, large *bird*, rodent or *reptile* or any other *animal* and the area within three (3) metres of such structure is maintained:

- (a)
- (1) In a clean, inoffensive and sanitary condition; and
  - (2) So, it does not cause any nuisance.

All *animal* shelters must be maintained so that:

- (b)
- (1) Manure and other waste do not remain on the land;
  - (2) Food is kept in fly and vermin proof container;
  - (3) Adequate drainage of the land is provided;
  - (4) Grass, *weeds*, refuse, rubbish and other material does not build up within three (3) metres of the *animal* shelter; and
  - (5) The *animal* shelter and the land are kept in a clean and sanitary condition.

**Penalty: A Maximum of 20 Penalty Units**

- (a)
- 11.8 Adequate fencing for livestock**

- (b) An *owner* or *occupier* of land on which *livestock* are kept must ensure that the fencing of any *cattle* grids relating to, that land is or are adequate to prevent the escape of that *livestock*.

Where an *Authorised Officer* gives a *Notice to Comply* to an *owner*, or *occupier* of land who appears to be in breach of clause 11.8(a), the *Authorised Officer* may direct that person to immediately remove the *livestock*, or install, repair, replace or modify the fencing or *cattle* grids, including through the installation or repair of gates.

- (a)

**Penalty: A Maximum of 20 Penalty Units****11.9 Droving of Livestock**

A person must not, without a *permit*, drove or graze *livestock* on a *road* or *Council land* in the *municipal district*.

**11.10 Droving of Livestock within the Municipal District**

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

- (a) **Penalty: A Maximum of 20 Penalty Units**

**11.11 Bees and Wasps**

An *owner* or *occupier* of *private land* on which bees are kept must comply with the Apiary Code of Practice.

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

**Penalty: A Maximum of 20 Penalty Units**

## PART 12 - WASTE MANAGEMENT

### Introduction

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

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

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



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

**Penalty: A Maximum of 20 Penalty Units**

## 12.2 Prohibited Waste

A person must not place, or cause or allow to be placed, in any mobile bin provided by Council any:

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

**Penalty: A Maximum of 20 Penalty Units**

### 12.3 Placement of Mobile Bins

To use the recycling and the domestic kerbside collection service provided by *Council*, the *occupier* of any premises must place the mobile bins:

- (1) At the front of the premises, or at an alternative collection point as approved or designated by an *Authorised Officer*;
- (a) (2) Immediately behind the kerb of the street *frontage* of the premises;
- (3) On the *carriageway* side of the open drain but well clear of the trafficable surface, where no kerb and channel exist;
- (4) At a suitable location within or outside the premises, with an *Authorised Officer's* approval, where restrictions on space or access do not allow placement in accordance with clauses 12.3(a)(1), 12.3(a)(2) and 12.3(a)(3);
- (5) At a suitable location within the premises, where an *Authorised Officer* certifies that special circumstances or hardship exists;
- (6) With the wheels facing the premises;
- (7) At least 50cm away from any:
  - i. Mobile Bin;
  - ii. Power Pole;
  - iii. Street Furniture;
  - iv. Tree; or
- (8) Other item advised by an *Authorised Officer* which may interfere with the emptying of the mobile bin.

### (a) 12.4 Hard Waste

- (b) The *occupier* of every premises to which a hard waste collection service is provided, may place out for collection accepted hard waste, and must do so in a manner set out in a notice published by *Council* as specified in any written advice provided to the *occupier* by *Council* or in a newspaper generally circulating in the *municipal district*.

The *occupier* of every premises to which a hard waste collection service is provided by *Council*:

- (1) may deposit hard waste on the *nature strip* at the front of the premises, for collection on days designated by *Council* from time to time as collection days;
- (2) must not deposit items or material on the *nature strip* other than hard waste;
- (3) must not leave the hard waste on the *nature strip* for more than six days before a collection day;
- (4) must place the hard waste and arrange it in a manner, as specified in any written advice provided to the *occupier* by *Council*, in front of the premises that allows collection by a collection *vehicle*; and

- (5) must remove items or material so placed, which is not collected within one day after the collection day.

**Penalty: A Maximum of 20 Penalty Unit**

**12.5 Disposal of disused refrigerators and other compartments**

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

**Penalty: A Maximum of 20 Penalty Units**

**12.6 Restriction on Use of Public Waste and Recycle Bins**

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

**Penalty: A Maximum of 20 Penalty Units**

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

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

**Penalty: A Maximum of 20 Penalty Units**

**12.8 Screening of Bins and Hoppers**

- (a) *Council* may, by notice in writing, direct the *owner* or *occupier* of any land to:
- (1) install;
  - (2) repair; replace or

(3) modify,

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

- (1) *unsightly*;
- (2) *dangerous*; or
- (3) detrimental to the general amenity of the neighbourhood in which it is located.

**Penalty: A Maximum of 20 Penalty Units**

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

- (a) *Council's* recycling and waste transfer facilities, resource recovery centre will be available for the disposal of waste subject to the fees, charges, terms and conditions as determined by *Council* from time to time.
- (b) A person using *Council's* recycling and waste transfer facility or, resource recovery centre:
  - (1) must pay the fees and charges and comply with the terms and conditions determined by the *Council* for use of the landfill, facility or centre for such persons, including Waste Disposal tickets and Hard Waste Vouchers;
  - (2) must deposit waste in accordance with the directions of the *facility* attendant or *Authorised Officer* and in accordance with any signs erected at the landfill, facility or centre;
  - (3) may only deposit material designated by *Council* from time to time;
  - (4) may only deposit material permitted by any Environment Protection Authority Site Licences applying to the facility or centre from time to time; and
  - (5) must not deposit any hazardous, dangerous or infectious materials.

**Penalty: A Maximum of 20 Penalty Units**

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

**Penalty: A Maximum of 20 Penalty Units**

### 12.10 Scavenging Recycling and Waste Transfer Facilities and Resource Recovery Centres

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

**Penalty: A Maximum of 20 Penalty Units**

### 12.11 Storage of Trade Waste

- (a) The *owner* or *occupier* of any land must ensure that any *trade waste hopper* or other *waste bin* kept on the land and used for *trade waste* is:

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

**Penalty: A Maximum of 20 Penalty Units**

### 12.12 Storage Site for Trade Waste

- (a) If directed by *Council* for public health or safety reasons, the *owner* of any land must ensure that any area where a *trade waste hopper* or other bins are placed:

- (1) is suitable for such placement or is an area directed or approved by an *Authorised Officer*;
- (2) has an impermeable surface;
- (3) is drained to a sewer approved by the *local water authority* for the receipt of any discharge or other outlet approved by *Council*;
- (4) is supplied with water from a tap and hose; and
- (5) is maintained in a clean, inoffensive and sanitary condition.

**Penalty: A Maximum of 20 Penalty Units**

**12.13 Waste Receptacles on Roads and Reserves**

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

**Penalty: A Maximum of 20 Penalty Units**

**12.14 Obstructions on Roads or Council Land**

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

**Penalty: A Maximum of 20 Penalty Units**

**12.15 Commercial Waste**

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

**Penalty: A Maximum of 20 Penalty Units**

## PART 13 - ADMINISTRATION AND FEES/ADMINISTRATION OF LOCAL LAW

### Introduction

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

### 13.1 Application for Permits

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

### 13.2 Decision on Permit Applications

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

### 13.3 Duration of Permits

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



### 13.4 Correction of Permits

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

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

*Council* or the *Authorised Officer* must note the correction in the register of *permits*.

### 13.5 Amendment, Cancellation and Suspension of Permits

(b) (a) *The Council* may cancel, suspend or amend a *permit* at any time if:

- (1) it is required to do so by the *permit holder*; or
- (2) it considers that there has been:
  - i. a material misstatement or concealment of fact in relation to the application for the *permit*;
  - ii. any material mistake in relation to the issue of the *permit*;
  - iii. any material change of circumstances which has occurred since the grant of the *permit*; or
  - iv. a substantial failure to comply with the *permit* or a *Notice to Comply*.

(b) *The Council* must give written notice to a *permit holder* of any correction, cancellation, suspension or amendment of a *permit*.

(c) Before it cancels a *permit*, the *Council* must provide the *permit holder* an opportunity to make a submission on the proposed cancellation.

(a) (d) If a *permit holder* is not the *owner* of the land and the *owner's* consent was required to be given to the application for the *permit*, the *owner* must be notified of any *Notice to Comply* subsequently issued by *Council* and the reason why it has been served.

### 13.6 Transfer of a Permit

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

### (b) 13.7 Fees and Charges

*Council* may, from time to time by resolution, determine a fee, charge, fare or rent in relation to any *Council* property, undertaking, good, service or other act, matter or thing, as per *Section 77 of the Act*.

*Council* may, from time to time by resolution, determine fees, charges, guarantees or bonds that are applied for the purposes of approvals required under this Local Law.



In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, including setting no charge.

*Council* may waive, reduce or alter any specific fee, charge or bond or guarantee with or without conditions.

(c) **13.8 Registers**

- (d) *Council* must maintain a record of *permits*, including details of corrections and cancellations.

- (a) *Council* must maintain a register of determinations made and of *guidelines* or procedures prepared for the purposes of this Local Law.

- (b) *Council* must ensure that the registers are available for public inspection at the office of *Council* during normal business hours otherwise in accordance with its Public Transparency Policy.
- (c)

**13.9 Delegation**

- (a) Council may delegate to the Chief Executive Officer all powers, functions and duties under this local law, and authorise the Chief Executive Officer to delegate any powers to Authorised Officers and other Authorities.

**13.10 Exemption from the requirement**

- (a) *Council* may by written notice exempt any *person* or class of *persons* from the requirement to have a *permit*, either generally or at specified times. An *exemption* may be granted subject to conditions.
- (b)
- (c) A *person* must comply with the conditions of an *exemption*.
- (d) An *exemption* may be cancelled as if it were a *permit*.

- (e) Despite any provision in the Local Law requiring a *permit* to undertake any particular activity, no *offence* will arise where *Council* or its delegate has granted an *exemption* from the requirements to hold any such *permit* and the holder of that *exemption* carries out the activity authorised by, and in accordance with any conditions contained in, that *exemption*.

Where compliance with any condition of a *permit* or an *exemption* or other condition arising under this Local Law is impracticable in a particular circumstance. *Council* may exempt a *person* from compliance with that condition or vary the condition in a way which is capable of compliance.

**13.11 Review Rights**

- (a) If any *person* is aggrieved by the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer* under this Local Law including failure to be granted

a *permit*, they may request the *Chief Executive Officer* to review the fairness or reasonableness of the action taken.

- (b) If the *Chief Executive Officer* elects to review the fairness or reasonableness of any action taken by *Council* or an *Authorised Officer*, the result of that review must be communicated to the *person* who made the request in accordance with clause 13.11(a).

PROPOSED

## PART 14 – ENFORCING THIS LOCAL LAW

### Introduction

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

#### 14.1 Failure to comply with this Local Law, permit or notice to comply.

(a) A *person* who:

- (1) contravenes or fails to comply with any provision of this Local Law or any document incorporated by reference;
- (2) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law; or
- (3) knowingly provides false information in support of an application for a *permit* issued under the Local Law;
- (4) knowingly supplies false or misleading information to an *authorised officer*;
- (5) fails to comply with a verbal direction issued, or a *Notice to Comply* served by an *authorised officer*;
- (6) fails to comply with a sign erected by *Council*; or
- (7) makes or attempts to make any agreement with an *authorised officer* to compromise their duty – is guilty of an *offence* and is liable to:
  - i. the maximum *penalty* stated under a provision or, if no *penalty* is stated, a maximum of two (2) *penalty units*;
  - ii. a further *penalty* of two (2) *penalty units* for each day after a finding of guilt or conviction for an *offence* during which the contravention continues; and

upon conviction for a second or subsequent *offence*, double the *penalty* stated under a provision of *penalty units*.

#### 14.2 Notices to comply

- (a) *Council* or an *Authorised Officer*, may serve a *Notice to Comply*, direct an *owner occupier* or other *person* in breach of this Local Law to remedy anything which constitutes an *offence* under this Local Law.
- (b) A *Notice to Comply* must state the time and date by which the thing must be remedied.
- (c) The time required by a *Notice to Comply* must be reasonable in the circumstances having regard to:
  - (1) The amount of work involved;
  - (2) The degree of difficulty;
  - (3) The availability of necessary materials or other necessary items;

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

### **Penalty: Maximum of 10 Penalty Units**

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

### **14.3 Infringement Notice**

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

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

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

### **14.5 Impounding or Seizure**

- (a) An *Authorised Officer* may seize and impound any item, thing or animal which is the subject of a breach of this Local Law or any legislation which is administered and enforced by Council.
- (b) Where any item, thing or animal is impounded or seized pursuant to this Local Law, notice of the impounding or seizure is to be given to the person that is known or appears to the owner of the impounded item, thing or animal.
- (c) Any item, thing or animal impounded or seized in accordance with this Local Law may be held until any fee or charge for its release is paid.

- (d) *Council* may include in any fee or charge any cost that *Council* has incurred in impounding, seizing, transporting, holding, storing or disposing of the item, thing or *animal*.
- (e) If the specified time for retrieval of an impounded or seized item, thing or *animal* has expired and it has not been claimed then it may be disposed of or destroyed according to the following principles:
  - (1) If it has no saleable value, in the most economical and appropriate way as determined by an *authorised officer*, or
  - (2) If it has a saleable value, by public auction, tender or private sale as determined by an *Authorised Officer*.
- (f) The monies realised from the sale of any impounded or seized item, thing or *animal* must be disbursed as follows:
  - (1) In payment of any expenses incurred by the *Council*
  - (2) The balance to be paid to the *owner* or *person* who in the opinion of *Council's Chief Executive Officer* appears to be authorised to receive them money.
- (g) If no *person* can be identified for payment of any money then any excess must be treated in accordance with legislation dealing with unclaimed money, or failing this, paid into the *Council's* revenue.
- (h) Clauses 14.5(b), 14.5(c), 14.5(d) and 14.5(i) do not apply to the impounding of alcohol under this Local Law or other items where the nature of the item impounded is such that it would be impracticable to return the item to the *person* from whom it was impounded or the *owner*.
- (i) If an impounded thing has not been surrendered to its *owner* or a *person* acting on the *owner's* behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, of the act of impounding, *Council* may, at its discretion:
  - (1) sell;
  - (2) give away; or
  - (3) destroy
 the impounded thing.

#### 14.6 Warning to Offenders

- (a) Where there is a breach of this Local Law an *Authorised Officer* may request the *person* breaching the Local Law to stop or remedy the breach.

#### 14.7 Reviewing a Notice

- (a) All requests for Infringement Notice review will be dealt with by way of *Council's Internal Infringement Review Panel* which may withdraw the Infringement Notice, deal

with the Infringement Notice by way of official warning, extend the due date to allow additional time for payment, or to proceed with prosecution of the *offence*.

- (b) Where an Infringement Notice is withdrawn, the *person* upon whom it was served is entitled to a refund of any payment which that *person* has made on the Infringement Notice.

#### **14.8 Requirement to Act Fairly and Reasonably**

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

Resolution for making this Local Law was agreed to by the Colac Otway Shire Council on the 25 September 2023.

SIGNED SEALED AND DELIVERED )

)

The COMMON SEAL of the Colac Otway Shire Council was affixed in accordance with its Local Law No 1

.....

Chief Executive Officer

This ..... day of ..... 20.....

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

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

A copy of this Local Law was sent to the Minister for Local Government on .....

**Schedule 1**Fixed Infringement *Penalties*:

<b>Clause</b>	<b>Fixed Penalty</b>
2.3(a)(3)	Three (3) <i>Penalty Units</i>
2.3(a)(6)	Three (3) <i>Penalty Units</i>
2.3(a)(7)	Three (3) <i>Penalty Units</i>
2.3(a)(14)	Three (3) <i>Penalty Units</i>
2.3(a)(16)i	Three (3) <i>Penalty Units</i>
2.3(a)(16)ii	Three (3) <i>Penalty Units</i>
2.3(a)(20)i	Three (3) <i>Penalty Units</i>
2.3(a)(20)ii	Three (3) <i>Penalty Units</i>
2.3(a)(20)iii	Three (3) <i>Penalty Units</i>
2.4(d)1	Three (3) <i>Penalty Units</i>
2.4(d)2	Three (3) <i>Penalty Units</i>
2.4(d)3	Three (3) <i>Penalty Units</i>
2.4(d)4	Three (3) <i>Penalty Units</i>
2.4(d)5	Three (3) <i>Penalty Units</i>
2.5(a) 1 - 5	Three (3) <i>Penalty Units</i>
2.5(a)6 i & ii	Three (3) <i>Penalty Units</i>
2.5(a)7	Three (3) <i>Penalty Units</i>
2.5(a)8	Three (3) <i>Penalty Units</i>
2.5(a)9	Three (3) <i>Penalty Units</i>
2.5(a)10	Three (3) <i>Penalty Units</i>
2.6(a) 1 – 16	Three (3) <i>Penalty Units</i>
7.7(a) 1 - 2	Three (3) <i>Penalty Units</i>
9.6	Four (4) <i>Penalty Units</i>
11.5(a)1	Three (3) <i>Penalty Units</i>





## General Local Law No. 1

## Procedure Guidelines 2023

## Table of Contents

PURPOSE .....	3
Ongoing review .....	3
PART 2 – Use of Council and Buildings.....	4
Activities which may be permitted/allowed in a Reserve .....	4
Local Law Clause 2.6 .....	4
PART 3 – Consumption of Alcohol AND Possession of Alcohol .....	5
Local Law Clause 3.1 .....	5
PART 4 – Protection of Council land and Assets .....	7
Legal Point of Discharge.....	7
Local Law Clause 4.2 .....	7
Council Controlled Standpipe .....	8
Local Law Clause Number: 4.4 .....	8
Constructing Vehicle Crossings .....	10
Local Law Clause 4.5 .....	10
Works on Council Land and Roads.....	12
Clause Number: 4.8.....	12
Nature Strips .....	13
Clause Number: 4.9.....	13
Recreational Vehicles on Council Reserves .....	14
Local Law Clause 4.10 .....	14
PART 5 – Building Sites.....	15
Controlling Asset Protection During Building Work.....	15
Local Law Clause: 5.8 .....	15
Asset Protection and Building Work .....	16
Local Law Clause Number: 5.9 .....	16
PART 6 - Camping.....	17
Camping on Council Land or in Public Places.....	17
Local Law Clause 6.2 .....	17
Camping on Privately Owned and Vacant Land.....	19
Local Law Clause Number: 6.3- 6.4.....	19
PART 7 – Municipal Amenity.....	20
Vegetation on Road & Council Owned/Managed Land .....	20
Local Law Clause 7.5 .....	20
Recreational Vehicles on Private Land.....	21
Local Law Clause 7.7 .....	21

PART 8 - Fire Hazards .....	22
Fire in Open Air and Incinerators Specifically .....	22
Local Law Clause Number: 8.2 .....	22
PART 9 – Roads and Council land – Obstructions and Behaviour.....	24
Public Events .....	24
Clause Number: 9.6.....	24
PART 10 - Sale of Goods and services, Street Collections & Distributions .....	25
Commercial Activities on Council Land.....	25
Clause Number: 10.1.....	25
Collections, Subscriptions and Raffles .....	30
Clause Number: 10.2.....	30
Busking, Spruiking .....	31
Local Law Clause 10.4 & 10.5.....	31
PART 11 – Animals and Livestock.....	32
Number of Animals .....	32
Local Law Clause 11.2 .....	32
Grazing or Droving of Livestock .....	33
Local Law Clause 11.9 & 11.10.....	33
PART 13 – Administration and Fees/Administration of Local Law .....	43
Review Rights .....	43
Local Law Clause 13.11 .....	43
Expectations of all parties in administration and compliance with the Local Law .....	44
PART 14 – Enforcing this Local Law.....	45
Notices to comply .....	45
Local Law Clause 14.2 .....	45
Infringement Notice.....	46
Local Law Clause 14.3 .....	46
Power of Authorised Officer to Act in Urgent Circumstances .....	47
Local Law Clause 14.4 .....	47
Warning to Offenders .....	48
Local Law Clause 14.6 .....	48
Reviewing a Notice.....	49
Local Law Clause 14.7 .....	49

## PURPOSE

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

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

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

## Ongoing review

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

Council intends that these Guidelines be kept under regular review.

## PART 2 – Use of Council and Buildings

### Activities which may be permitted/allowed in a Reserve

#### Local Law Clause 2.6

##### *Purpose of the Clause*

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

##### *Applies to:*

All persons using/entering Reserve.

##### *What Public Places are affected?*

All Council Reserves.

##### *Who requires a permit*

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

Examples include:

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

##### *Exemptions*

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

- Council Staff and contractors
- Council approved Events
- Areas prescribed by Council
- Emergency Services undertaking response or recovery activities

##### *Procedure Guidelines*

##### **Criteria for Issuing a permit**

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

## PART 3 – Consumption of Alcohol AND Possession of Alcohol

### Local Law Clause 3.1

#### *Purpose of the Clause*

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

#### *Applies to:*

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

#### *What public places are affected*

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

#### *When liquor consumption is prohibited*

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

#### *Who requires a permit*

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

#### *Exemptions*

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

#### *Applying for a permit*

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

#### *Criteria for issuing Permits*

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

- The effect on local amenity and public safety
- The nature of the event, the appropriateness of hosting said even in the chosen public place and any impact on public access to and use of the space
- The availability of sanitary facilities and waste disposal
- Protection of Council assets and the environment of the space
- Public liability insurance coverage and support from emergency services providers
- If approval has been obtained from *Victorian Gambling and Casino Control Commission* where applicable
- The applicant's record in conducting similar events or functions as well as any feedback provided by the community in relation to the event and
- That the applicable permit fee has been paid

#### *Authority and Inspection*

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

*Criteria for prescribing public places*

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

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

PROPOSED

## PART 4 – Protection of Council land and Assets

### Legal Point of Discharge

#### Local Law Clause 4.2

##### *Purpose of the Clause*

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

##### *Applies to:*

Any owner or occupier of any land

##### *What Public Places are affected?*

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

##### *Who requires a permit*

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

##### *Exemptions*

Nil

##### *Procedure Guidelines*

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

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



## Council Controlled Standpipe

Local Law Clause Number: 4.4

### *Purpose of the clause:*

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

### *Applies to:*

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

### *What public places are affected?*

All Council Standpipes

### *Who requires a permit?*

Any person taking water from a Council operated standpipe

### *Exemptions:*

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

### *Procedure Guidelines for taking water from standpipes.*

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

### *Current Conditions of Standpipe Permit*

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

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

8. They acknowledge that access to the standpipe is by licence and that Council reserve the right to close the standpipe, or to terminate the licence at any time for any purpose whatsoever; and
9. They agree to meet the costs of usage that may be set by Council from time to time and to accurately record your water usage for this specific purpose; and

Abide by use and conditions requirements that may be set by Council from time to time in addition to those hereon, of which they shall receive due notice.

PROPOSED

## Constructing Vehicle Crossings

Local Law Clause 4.5

### *Purpose of the Clause*

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

### *Applies to:*

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

### *What Public Places are affected?*

All owner and occupiers of any land

### *Who requires a permit*

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

### *Exemptions*

None

### *Procedure Guidelines*

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

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

### **Supporting documentation to be provided with this application**

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

### **Traffic Management Plan:**

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

- vehicles and pedestrians requirements that may be necessary to carry out the works.
- If required to submit a TMP, it must be prepared by a suitably trained and qualified person.
- The plan must include the details of how proposed works will be undertaken.

- Applicant's will be requested to comply with the *Occupational Health and Safety Act 2004*, Australian Standard 1742.3 and all other relevant Acts, Regulations, Australian Standards, and Codes of Practice.
- Safe pedestrian access shall be maintained at all times, including provision of physical barriers to hazards, provision of safe temporary access, signage and lighting in accordance with Australian Standard 1742.3.
- A copy of the Traffic Management Plan is to be submitted to Council within seven (7) working days prior to any works commencing.

PROPOSED

## Works on Council Land and Roads

Clause Number: 4.8

### *Purpose of the clause:*

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

### *Applies to:*

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

### *What public places are affected?*

All Council Land in the Municipality

Our assets include:

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

### *Who requires a permit?*

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

### *Exemptions:*

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

### *Procedure Guidelines for Works on Council Land and Roads.*

- Where a person is required to undertake any works on Council land or a road other than under the Road management Act 2004, that person must:
- Notify Council of any proposed works;
- Hold current public liability insurance, relevant to the works proposed to a minimum level as determined by Council, for the duration of the works;
- Undertake those works safely;
- Provide and maintain pedestrian and traffic control devices during the course of the works;
- Ensure that any pedestrian or traffic control device during the course of the works;
- Ensure that any pedestrian or traffic control device which is being used on or in respect of the land complies with Australian Standard AS 1742.3 published by on behalf of Australian Standards; and
- Carry out all reinstatement works deemed necessary by Council.

## Nature Strips

Clause Number: 4.9

### *Purpose of the clause:*

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

### *Applies to:*

Owner or occupiers of a property not in a Rural Zone

### *Who requires a permit?*

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

### *Exemptions:*

None

### *Applying for a permit*

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

### *Procedure Guidelines*

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

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

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

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

NB

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

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

## Recreational Vehicles on Council Reserves

Local Law Clause 4.10

### *Purpose of the Clause*

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

### *Applies to:*

Landowners and motorised toy vehicle users

### *What Public Places are affected?*

All public and private land

### *Who requires a permit*

The owner of private land or driver of any applicable vehicle

### *Exemptions*

None

### *Procedure Guidelines*

#### **Criteria for issuing permits**

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

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

#### **Permit conditions**

- (1) Permits for recreational and motorised toy vehicles will be subject to conditions which limits the intended use, including:
  - the times, days and duration of the permit
  - the number of vehicles involved
  - the type of vehicles
  - precautions to be taken to protect amenity and Council land
  - permit holders must comply with the requirements of the Colac Otway Shire Planning Scheme in relation to any modification of land for the use of motorised toy vehicles
- (2) any specific insurance requirements.

## PART 5 – Building Sites

### Controlling Asset Protection During Building Work

Local Law Clause: 5.8

#### *Purpose of the clause:*

To ensure an asset protection permit conditions are adhered by.

#### *Applies to:*

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

#### *What public places are affected?*

All Council Land in the municipality

#### *Who requires a permit?*

Owner of the land

#### *Exemptions:*

None

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

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

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

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

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



## Asset Protection and Building Work

Local Law Clause Number: 5.9

### *Purpose of the clause:*

To ensure an asset protection permit conditions are adhered by.

### *Applies to:*

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

### *What public places are affected?*

All Council Land in the municipality

### *Who requires a permit?*

Owner of the land

### *Exemptions:*

None

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

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

## PART 6 - Camping

### Camping on Council Land or in Public Places

#### Local Law Clause 6.2

##### *Purpose of the Clause*

To regulate the camping on Council land and or Public land

##### *Applies to:*

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

##### *What Public Places are affected?*

All Land in the municipality

##### *Who requires a permit*

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

##### *Exemptions*

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

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

##### *Procedure Guidelines*

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

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

**General Condition that apply to all applications include:**

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

### Camping on Privately Owned and Vacant Land

Local Law Clause Number: 6.3- 6.4

*Purpose of the clause:*

To regulate the camping on privately owned land, and vacant land

*Applies to:*

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

*What public places are affected?*

All Land in the municipality

*Who requires a permit?*

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

*Exemptions:*

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

*Procedure Guidelines for Camping.*

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

**General Condition that apply to all applications include:**

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

## PART 7 – Municipal Amenity

### Vegetation on Road & Council Owned/Managed Land

#### Local Law Clause 7.5

##### *Purpose of the Clause*

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

##### *Applies to:*

Owners and Occupiers of Private land

##### *What Public Places are affected?*

All roads within the municipality

##### *Who requires a permit*

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

##### *Exemptions*

Not applicable

##### *Procedure Guidelines*

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

## Recreational Vehicles on Private Land

### Local Law Clause 7.7

#### *Purpose of the Clause*

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

#### *Applies to:*

Land owners, occupier and motorised vehicle users

#### *What Public Places are affected?*

All Private and Public land in the Municipal district

#### *Who requires a permit*

The owner of private land or driver of any applicable vehicle

#### *Exemptions*

None

#### *Criteria for issuing permits*

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

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

#### *Permit conditions*

- (1) Permits for recreational and motorised vehicles will be subject to conditions which limits the intended use, including:
  - The times, days and duration of the permit
  - The number of vehicles involved
  - The type of vehicles
  - Precautions to be taken to protect amenity and Council land
  - Permit holders must comply with the requirements of the Colac Otway Shire Planning Scheme in relation to any modification of land for the use of motorised vehicles; and
- (2) Any specific insurance requirements

## PART 8 - Fire Hazards

### Fire in Open Air and Incinerators Specifically

Local Law Clause Number: 8.2

#### *Purpose of the clause:*

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

#### *Applies to:*

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

#### *Who requires a permit?*

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

#### *Exemptions:*

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

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

#### *Procedure Guidelines*

##### *Applying for a permit*

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

##### *Criteria for issuing permits*

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

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

##### *Permit Conditions*

May include:

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

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

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

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

PROPOSED



## PART 9 – Roads and Council land – Obstructions and Behaviour

### Public Events

Clause Number: 9.6

#### *Purpose of the clause:*

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

#### *Applies to:*

Any person or persons wanting to host an event

#### *Who requires a permit?*

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

#### *Exemptions:*

An exemption for a permit would apply to the following:

- Activities permitted under recreation reserve user agreements
- Events delivered by the Colac Otway Shire (including Civic events)

#### *Procedure Guidelines*

##### *Applying for a Permit*

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

##### *Criteria for Issuing a Permit*

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

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

### Commercial Activities on Council Land

Clause Number: 10.1

#### *Purpose of the clause:*

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

#### *Applies to:*

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

#### *Who requires a permit?*

Person wanting to conduct a commercial activity

#### *Exemptions:*

None

#### *Procedure Guidelines*

#### *Current Permit Conditions*

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

Only one A-Frame advertising board to be placed out the front of each premises.

Permit Items must not obstruct thoroughfare or access and must be positioned in accordance with Figure 1

The A-Frame advertising sign is to be fabricated from sound material and kept in a good state of repair. A-Frame sign must not exceed 1.2 metres by 0.7 metres.

Adequate clearance is provided to allow people to alight from vehicles to gain:

- Access to the footpath.
- Access to service authority pits.

Signs and goods may only be displayed during the normal business hours of the permit holder, and only in front of the associated premises or the arcade in which the premises is located. The quantity of permit items that may be displayed must be contained within an area no greater than 75% of the total length of premise frontage.

Permit items shall have no moving or flashing parts and must be braced to withstand windy conditions.

Permit items must be constructed of sturdy and durable materials, be maintained in a clean condition and be aesthetic to the overall facility.

Permitted items shall only be placed in an approved location.

Permit items shall be of a style and standard approved by Council .

### **ITEMS PROHIBITED**

The placement of permit items on the following areas is not permitted:

- On a road and within 2.0 metres of the property boundary.
- Within 0.6 metres of the back of the kerb adjacent to a parking lane.
- Over any footpath or road where the resulting vertical clearance is less than 2.2 metres.
- On any vehicle parked or left standing on a road.

### **PERMITS RENEWAL REQUIREMENTS**

Applications for permits will be considered in accordance with Figure 1.

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

### **PUBLIC LIABILITY**

Where Council insurance has not been accepted, a Certificate of Currency must have a cover of at least \$20 million and must note Colac Otway Shire as an interested party.

A Satisfactory evidence showing public liability insurance cover in the form of a certificate of Currency must be provided.

### **PERMIT HOLDERS RESPONSIBILITIES**

The permit holder will be responsible for:

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

### **GENERAL COMMENTS**

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

- A-Frames
- Tear Drop Flag(s)
- Tables and Chairs

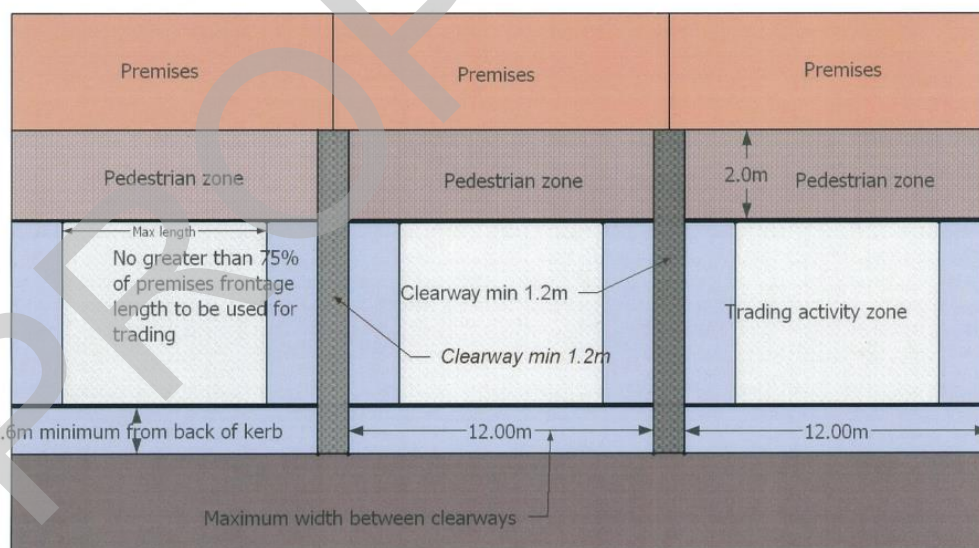
- Planters Boxes
- Display Racks/Goods
- Screens
- Vehicles/Machinery

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

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

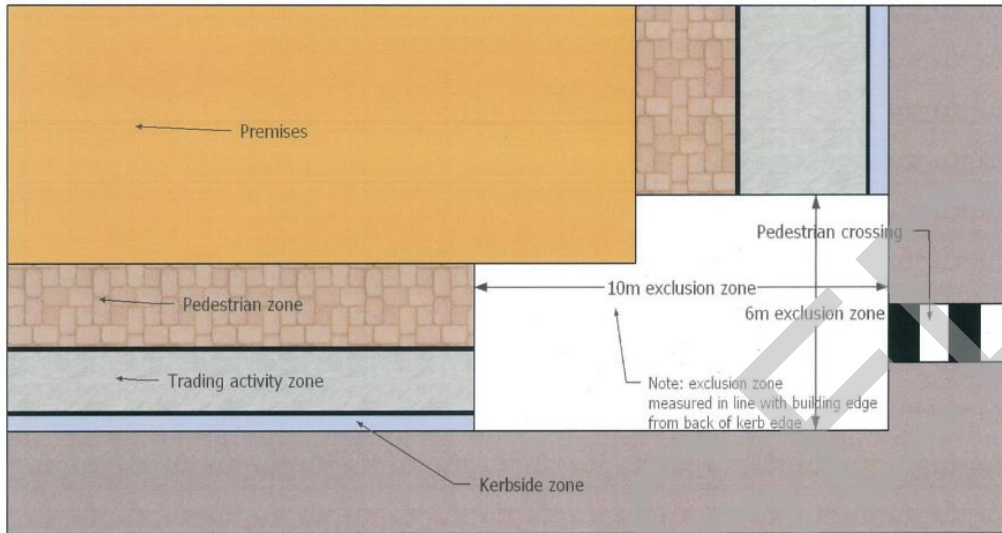
The location of Permit Items shall not, in the opinion of Council's Authorised Officers, be or create a danger to the public. The removal at the request of the appropriate Council officer or any responsible service authority of any permit items but not limited to screens, fixtures, planter pots, for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

#### APPENDIX A On street trading arrangements



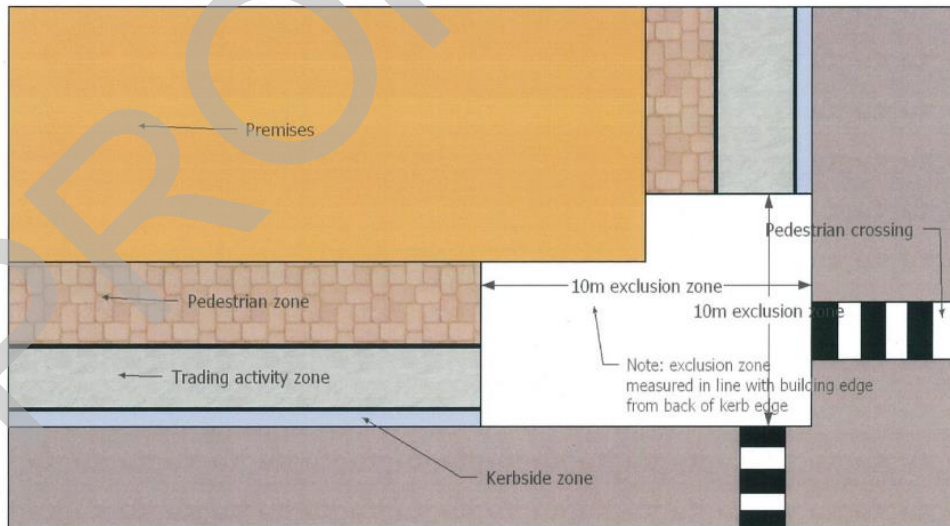
# APPENDIX A

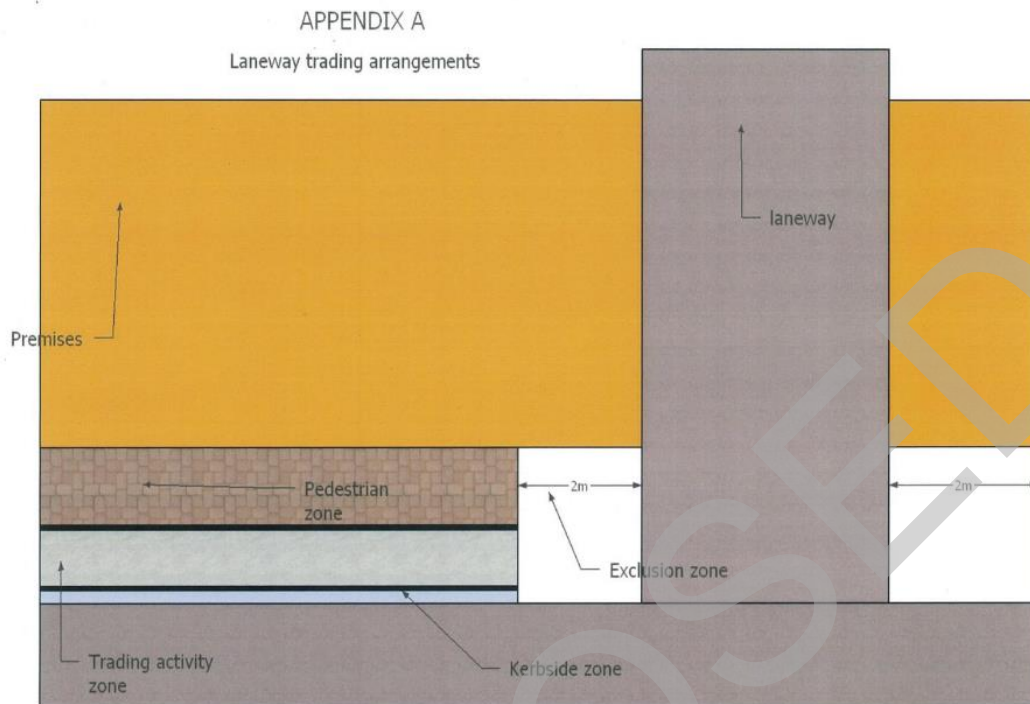
## Corner location trading activity arrangements



# APPENDIX A

## Corner location trading activity arrangements for double crossings





## Collections, Subscriptions and Raffles

Clause Number: 10.2

### *Purpose of the clause:*

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

### *Applies to:*

Any organisation or person wishing to conduct a collection.

### *Who requires a permit?*

Any organisation or person wishing to conduct a collection.

### *Exemptions:*

Fee waived for registered charitable organisations

### *Procedure Guidelines*

#### *Applying for a Permit*

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

#### *Criteria for issuing permits*

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

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

### Permit Conditions

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

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

### Public Liability

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

## Busking, Spruiking

Local Law Clause 10.4 & 10.5

### *Purpose of the Clause*

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

### *Applies to:*

Anyone wishing to busk

### *What Public Places are affected?*

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

### *Who requires a permit*

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

### *Exemptions*

None

### *Procedure Guidelines for Busking*

Permits are required for busking or street entertainment.

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

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

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

- Loud and intrusive
- Excessively repetitive
- Causing public inconvenience

Conditions of the permit include:

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



## PART 11 – Animals and Livestock

### Number of Animals

#### Local Law Clause 11.2

##### *Purpose of the Clause*

Control the number animals on land.

##### *Applies to:*

Owner or Occupier of land

##### *What Public Places are affected?*

None

##### *Who requires a permit*

Any person wishing to keep more animals than permitted.

##### *Exemptions*

None

##### *Procedure Guidelines for Number of Animals*

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

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

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

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

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

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

## Grazing or Droving of Livestock

Local Law Clause 11.9 & 11.10

### *Purpose of the Clause*

To set requirements applying to the Droving/Grazing of livestock

### *Applies to:*

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

### *What Public Places are affected?*

All Council Land in the municipality

### *Who requires a permit*

Any person(s) who wish to move livestock.

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

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

## **Authorised Relocation of Livestock other than in Daylight Hours**

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

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

### *Exemptions*

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

### *Penalty*

Maximum penalty

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

## REQUIREMENTS APPLYING TO THE DROVING OF LIVESTOCK

*Droving of Livestock*

1. Council must not issue a permit for the droving of livestock if:

- there are more than:

(a) 6,000 sheep, ewes, wethers and rams; or

(b) 500 *cattle*; or

(c) 200 of any other *livestock*; or

1.2 it is not satisfied that the *livestock* are able to travel:

(a) eight kilometres each day (being *livestock* referred to in point 1(a) or 1(c)) in one direction; or

(b) ten kilometres each day (being *livestock* referred to in clause 1(b)) in one direction; or

1.3 the *roads* proposed to be travelled:

1.3.1 are or will be in use for the purpose for the droving of other *livestock* at the time proposed;

1.3.2 are carrying such an extent of traffic or in such a condition or being used for such other purposes at the time proposed for the droving that the droving is impracticable; or

1.3.3 contain areas of high conservation significance and the *applicant* cannot or is not prepared to give an undertaking to take all reasonable measures proposed to ensure that such areas are protected; or

1.3.4 have been declared by *Council* under point 2 (Droving of livestock).

1.4 the owner or person in charge of the *livestock* refuses to provide any bond, guarantee or indemnity requested by *Council* as security against *road* or adjacent fence or property damage; or

1.5 the owner or person in charge of the *livestock* does not provide evidence, to the satisfaction of *Council*, of an ability to adequately water and feed the *livestock* and to safely contain them overnight; or

1.6 the owner or person in charge does not supply a declaration of his/her knowledge of the health and fitness of the *livestock* in a form acceptable to *Council*; or

1.7 a person proposing to introduce *cattle* into Victoria has not first obtained permission in writing from an Inspector of Livestock under the *Livestock Disease Control Act 1994*, provided certification regarding the *livestock* to the Inspector nearest the first point of

entry and ensured that the *livestock* are ear-tagged with approved ear-tags prior to entry or otherwise complied with the *Livestock Disease Control Act*.

- 2 Council may declare a *road* for the purposes of point 1.3.4.
- 3 Any declaration made under point 2 (droving livestock) must be published in a newspaper generally circulating in the *municipal district*.
- 4 A person who is in charge of *livestock* which are being driven on a *road* must ensure that:
  - 4.2 the *livestock* are supervised and under *effective control* at all times by a person who is competent in the management of such *livestock*;
  - 4.3 *livestock* camped overnight are enclosed by a substantial and secure barrier (or otherwise isolated so as to prevent escape or danger to other *road* users);
  - 4.4 proper disposal takes place of any carcass of any *livestock*, under that person's charge, which die on the *road*;
  - 4.5 the *livestock* are only moved during *daylight hours*;
  - 4.6 the *livestock* are not moved on roads which *Council* or an *authorised officer* has notified the person must not be used for the *droving of livestock*;
  - 4.7 an Inspector of Livestock of the Department of Primary Industries or relevant authority administering the *Livestock Disease Control Act 1994* is notified if the person in charge of such *livestock* becomes aware or suspects that *livestock* (or any of them) have a *disease* or has died of a *disease* listed as a notifiable *disease* under that Act;
  - 4.8 they complies with the provisions of the *Livestock Disease Control Act 1994* and the *Prevention of Cruelty to Animals Act 1986*;

#### Stock Crossings

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

#### Right of Way

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

#### Factor to consider when determining the route to be travelled

2. The route to be travelled must be specifically determined by *Council* having regard to:
- (a) the route requested by the *applicant*;
  - (b) the practicality of that route or alternative routes given:
    - the respective volume of traffic regularly using *roads* in the vicinity;
    - the proposed commencing and finishing locations;
    - the sensitivity of vegetation on that route;
    - the duration and/or frequency of *livestock* droving proposed;
    - the number of *livestock* involved in the droving or each *livestock* droving;
    - any permits already granted for *livestock* droving, grazing or movement on or adjacent to the proposed area;
    - the condition of the *road* and prevailing weather conditions at the time of the proposed *droving of livestock* or throughout the proposed *livestock* droving;
    - the availability of alternative routes;
    - the distance to be covered each day;
    - the health and condition of the *livestock*;
    - the nature of any weeds or growth along any proposed route and the potential for *livestock* to spread noxious or environmental weeds;
    - the potential for safely accommodating any *livestock* overnight;
    - the capacity to adequately warn other *road* users of the presence of *livestock* on the *road*;
    - procedures for varying any route in situations of hardship;
    - the availability of water and feed;
    - the outcome of any consultation with the Department of Sustainability and Environment or relevant authority regarding native vegetation;
    - the views of Department of Transport and Planning concerning any droving on *road* for which Department of Transport and Planning is the co-ordinating or responsible road authority under the *Road Management Act 2004*; and
    - any other matters considered relevant by *Council*.

#### *Conditions of permit*

3. In determining conditions applying to any *permit* for the *droving of livestock*, *Council* may, in addition to any conditions, impose such conditions as it considers appropriate including conditions that:
  - *livestock* not be camped in an area which is a declared or designated area of medium or high conservation value as specified in the Colac Otway Roadside Management Prescriptions;
  - appropriate reflective signs or flashing lights be erected in front of, and at the rear of, any *livestock* camped overnight on a *road*;
  - the number of *livestock* which may be driven in the *municipal district* at any one time not exceed the number specified in respect of the *permit*;
  - the *livestock* travel not less than the distances specified by an *Authorised Officer* (which distances may allow for a rest day in appropriate circumstances);
  - the *permit holder* has a current public liability policy (minimum cover \$20 million) covering risks relevant to the droving;
  - the public liability policy notes the interests of *Council* and Department of Transport and Planning Strategic Plan;
  - the *livestock* be healthy and free of *disease*;
  - signs be displayed conforming to the *Guidelines*; and *livestock* are only to be driven on any *road* during *daylight hours*.
4. In addition to any other conditions which it may impose, *Council* may include in a *permit* or *exemption* other conditions which it considers to be appropriate, including conditions relating to:
  - a time limit to be applied either specifying the duration, commencement or completion date;
  - the happening of an event;
  - the rectification, remedying or restoration of a situation or circumstance;
  - where the *applicant* is not the owner of the subject property, the written consent of the owner; and
  - the granting of some other permit or authorisation.
5. Apart from any mandatory provisions or conditions under this Local Law, the conditions of a *permit* must be set out in or attached to the *permit*.
6. *Council* may, during the currency of *permit*, alter the conditions of a *permit* if it considers it to be appropriate to do so, after providing the *permit holder* with an opportunity to make comment on the proposed alteration.
7. A person who undertakes an activity for which *Council* has issued a *permit* must comply with the conditions of the *permit*.
8. Where an *Authorised Officer* considers that doubt arises as to the health and/or fitness of *livestock* to be grazed or moved within the *municipal district* without potential adverse health effect to

other *livestock* in the *municipal district*, they may require the owner, drover or person in charge of the *livestock* being or proposed to be grazed or moved to have the *livestock* examined by a suitable veterinary practitioner appointed by *Council* for the purpose at the cost of the owner, drover or person in charge of that *livestock*.

9. In the event that the veterinary practitioner confirms that the *livestock* are unhealthy or unfit to be grazed or moved in the *municipal district*, the Authorised Officer may refuse to allow such droving, grazing or movement

## Notes

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

## Bonds

10. *Council* must refund a bond on application:

- within seven days after refusing to issue a *permit*; or
- if a *permit* is issued, after the departure from the *municipal district* of the *livestock* if the *applicant* has, in the opinion of an *Authorised Officer*, complied with the conditions of the *permit*.

11. *Council* may retain all or part of a bond, to the extent of the cost to *Council* of repairing any damage to *roads* or other property which, in the opinion of an *Authorised Officer*, has occurred as a result of the moving of the *livestock*.

12. If a deduction is made from a bond before the *livestock* have left the *municipal district*, the *permit holder* must, within 48 hours, make further payment to maintain the amount of the bond at the prescribed amount.

13. In the event of the cost to *Council* of repairing any damage exceeding the amount of the bond, the *applicant* must pay the outstanding amount to *Council* and *Council* may serve a *notice to comply* on the *applicant*.

## Warning Signs (refer Guidelines)

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

15. Apart from any other warnings considered appropriate by the person involved in such activities under point 1 (warning signs), such a person must display signs conforming to the *Guidelines*.

16. A person involved in *droving of livestock* or *grazing of livestock* must ensure that any signs referred to in point 3 (warning signs) are removed from the *road* at the time of completing such *droving of livestock* or *grazing of livestock* or otherwise deactivated as set out in the *Guidelines*.

17. A person involved in *movement of livestock* across a *road* must comply with whichever of the *Guidelines* and referred to in the *Regulations* is appropriate to the relevant *stock crossing*.
18. In addition to any other *permit* or *livestock* movement conditions relating to warning signs to other *road* users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of *livestock* on roads must have regard to:
- any Australian Standards for such purposes;
  - any other signage for *road* safety having regard to topography, conditions, *livestock* type and numbers; or
  - any other requirements of Department of Transport and Planning Strategic Plan communicated to and published by *Council* in respect of *roads* for which Department of Transport and Planning Strategic Plan is the coordinating or responsible road authority under the *Road Management Act 2004*.

#### Grazing of Livestock

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



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

#### *Movement of Livestock*

25. A person must not move *livestock* across and/or along a *road* to travel from one property being part of a *single farming enterprise* to another being part of the same farming enterprise or from one part of a property to another part of the same property unless:

- in respect of any movement or part of any movement before *daylight hours* commence or after *daylight hours* end, suitable warning lights/signage conforming to the *Guidelines*;
- the length of travel is minimised so far as is practicable;
- areas of medium or high conservation significance as specified under the Colac Otway Roadside Management Prescriptions are avoided or protected;
- the location of any *road* crossing is chosen having regard to the safety of all *road* users;
- there is compliance with any appropriate Code of Practice; and
- the *applicant* has a current public liability policy (minimum cover \$20 million) on which *Council's* (and where appropriate Department of Transport and Planning Strategic Plan) interest is noted, and that proof of such notation is produced to *Council* on written request.

26. A person who is in charge of *livestock* being moved across or along a *road* must ensure that:

- the *livestock* are supervised and under *effective control* by a person who is competent in the management of *livestock*;
- except where point 2.5 (movement of livestock guidelines) applies, signs conforming to the *Guidelines* are in place and removed or deactivated following completion of the movement;
- subject to point 1 (movement of livestock guidelines), the *livestock* are not moved other than during *daylight hours*;
- the *livestock* are moved promptly, to prevent unnecessary grazing of roads;
- if there are more than 52 movements of *livestock* during a 12 month period on any *road* for which *Department of Transport and Planning Strategic Plan* is the co-ordinating or responsible road authority under the *Road Management Act* or any other *road* specifically determined by *Council*, and there is compliance with the *Guidelines* relating to signage and lighting;
- if, due to the nature of the terrain, volume of traffic or visibility, vision may be restricted, additional warning is given to other *road* users;
- where *livestock* are to be moved across or along and across any *road* in fog or other than in *daylight hours*, there is compliance with whichever of the *Guidelines* as is appropriate to the circumstance of the crossing;
- any *livestock* deposits, on any *road* pavement, which cause or are likely to cause danger to other *road* users are removed as soon as practicable; and
- the *livestock* are healthy and free of *disease*;

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

## Standards - Livestock

### *Introduction*

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

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

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

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

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

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

## PART 13 – Administration and Fees/Administration of Local Law

### Review Rights

#### Local Law Clause 13.11

##### *Purpose of the Clause*

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

##### *Applies to:*

Authorised Officers

##### *Who requires a permit*

Nil

##### *Exemptions*

The review of Notices issued is carried under clause 14.7

##### *Procedure Guidelines*

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

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

A person can request a review) if:

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

There were special circumstances warranting consideration.

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

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

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

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

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

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

### **What parties can expect from Council staff**

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

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

### **What parties can expect from Respondents**

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

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

## PART 14 – Enforcing this Local Law

### Notices to comply

#### Local Law Clause 14.2

##### *Purpose of the Clause*

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

##### *Applies to:*

Any person issued with a Notice to Comply

##### *Procedure Guidelines*

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

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

## Infringement Notice

### Local Law Clause 14.3

#### *Purpose of the Clause*

To provide a procedure for the issuance of infringement notices.

#### *Procedure Guidelines*

##### *Service of an Infringement Notice*

Infringement notices are served in accordance with section 315 of the *Local Government Act 2020*.

Infringement Notices may be personally delivered to a person or by delivery to the person's usual or last known place of residence or business with a person apparently not less than 16 years of age who apparently resides or is employed at that place or sending the document by post addressed to the person at the person's last known place of residence or business.

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

##### *Representations*

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

##### *Withdrawal*

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

##### *Prosecution*

Prosecutions may be taken:

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

## Power of Authorised Officer to Act in Urgent Circumstances

### Local Law Clause 14.4

#### *Purpose of the Clause*

To provide a procedure for Council to act in urgent circumstances

#### *Applies to:*

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

#### *Procedure Guidelines*

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

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

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

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



## Warning to Offenders

Local Law Clause 14.6

### *Purpose of the Clause*

To provide guidance when authorised officers can issue warnings

### *Applies to:*

Authorised officers

### *Who requires a permit*

Nil

### *Exemptions*

Nil

### *Procedure Guidelines*

Authorised officers have the discretion to issue an official warning

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

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

Serious and safety related offences are ineligible for official warnings.

## Reviewing a Notice

Local Law Clause 14.7

### *Purpose of the Clause*

To provide information on the process of Reviewing a Notice

### *Applies to:*

Authorised Officers

### *Who requires a permit*

Nil

### *Exemptions*

Nil

### *Procedure Guidelines*

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

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

The outcome of the review could be the:

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

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

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

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



## Colac Otway Shire Council

### Community Impact Statement – Local Law Review

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#### PART A

##### Introduction

Colac Otway Shire Council provides the following information in respect to the review of the current Local Laws.

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

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

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

The project seeks to review Council's existing Local Laws 1, 2 and 3 with a view to integrate the three local laws into a single contemporary local law designed to improve and protect the amenity of the shire.

The above Local Laws have been reviewed and streamlined into a new single local law called the General Local Law No. 1. This local law is now in draft form and community comment is being sought.

The proposed new General Local Law addresses all aspects of community amenity that were covered by the previous local laws. The new Local Law has removed unnecessary duplications, administrative matters and has refined Council's requirements, creating a user-friendly, 'plain English' document which does not compromise Council's enforcement powers and functions.

In order to inform the preparation of the draft General Local Law No. 1, Council engaged in extensive discussions as to how the draft Local Law could meaningfully address municipal changes, regulatory concerns and emerging issues.

The process for reviewing this Local Law to date has included:

- Review of issues raised in administering the current Local Laws;
- Review of feedback received by Council;
- An internal consultation process was then undertaken where all Council departments were invited to provide written feedback. Engagement comprised the following activities undertaken from May to August 2021 – staff workshops, and ongoing collection of insights from Council officers and Councillors;

- Extensive community consultation, including an online survey during April to 5 May 2023; and
- Initial legal review of the existing Local Law.

The purpose of the draft General Local Law No. 1 2023 are to:

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

This review and creation of the draft General Local Law No. 1 was conducted in accordance with the Better Practice Guidelines 2010, published by Local Government Victoria. Adoption of the Local Law will ensure compliance with the *Local Government Act 2020* and that Council's penalty and infringement regime remains current, relevant and reflects community expectations.

Comments on the proposed Local Law overall are summarised in Part B. A more specific clause by clause summary of the proposed Local Law changes is presented in a table in Part C.

### Part B – Comments on proposed Local Law – Summary of Major changes

<b>Measures of Success of the Local Law</b>	<p>Council will measure the success of the Local Law by:</p> <ul style="list-style-type: none"> <li>- Monitoring the level of compliance;</li> <li>- Comparing the level of compliance with the previous year's monitoring; and</li> <li>- Assessing the resources required to administer and enforce the Local Law.</li> </ul>
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<b>Existing legislation which might be used instead</b>	The draft General Local Law will supplement existing State legislation administered and enforced by Council.
<b>State legislation more appropriate</b>	<p>Council is of the view that each responsibility or problem identified in the draft General Local Law is a Council responsibility or problem to remedy.</p> <p>Accordingly, the requirements and provisions of the draft General Local Law are an appropriate solution to manage and effectively deal with the responsibility or problem.</p> <p>Where Council has considered State Legislation to be more appropriate to deal with the particular issue, these clauses have been removed from the draft General Local Law as part of its review.</p> <p>Council will continue to administer its responsibilities under relevant state legislation, with the Local Law having a number of provisions to complement its responsibilities.</p>
<b>Overlap of existing legislation</b>	Council does not consider that any provision of the draft General Local Law overlaps with existing State legislation.
<b>Overlap of Planning Scheme</b>	Council does not consider any provision of the draft General Local Law overlaps, duplicates or creates an inconsistency with Council's Planning Scheme.
<b>Risk Assessment</b>	<p>Council has adopted a risk management approach to the review and development of the draft General Local Law.</p> <p>The draft General Local Law seeks to manage risks through balancing the safety and amenity of the community with an individual's rights.</p>
<b>Legislative approach adopted</b>	<p>Council believes in the minimum imposition on the community with Local Laws.</p> <p>The draft General Local Law reflects this approach by providing for:</p> <ul style="list-style-type: none"> <li>- Reasonable penalties;</li> <li>- Minimum possible number of provisions which create offences;</li> <li>- Where possible, provision for permits rather than prohibition of activities;</li> <li>- Reasonable and appropriate permit conditions which will be relied on if a decision is made to issue a permit under the General Local Law; and</li> <li>- Reasonable enforcement procedures including provision for the giving of warnings where appropriate, provision of an internal review process for infringement notices and refusal of permit applications.</li> </ul> <p>Council has ensured that the draft General Local Law</p> <ul style="list-style-type: none"> <li>- Is expressed plainly and unambiguously and in a manner which is consistent with the language of the enabling Act and in accordance with modern standards of drafting applying in the State of Victoria;</li> </ul>

	<ul style="list-style-type: none"> <li>- Is not inconsistent with the principles, objectives or intent of the enabling <i>Local Government Act 1989 &amp; 2020</i>;</li> <li>- Does not make unusual or unexpected use of powers conferred by the Act under which the Local Law is made having regard to the general objectives, intention or principles of that Act;</li> <li>- Does not embody principles of major substance or controversy or contain any matter which principles or matter should properly be dealt with by an Act and not by subordinate legislation;</li> <li>- Does not unduly trespass on rights and liberties of the person previously established by law;</li> <li>- Does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions;</li> <li>- Is not inconsistent with principles of justice and fairness; and</li> <li>- Does not duplicate, overlap or conflict with other statutory rules or legislation.</li> </ul>
<b>Restriction of competition</b>	<p>Council has conducted a review of the draft General Local Law in accordance with National Competition Principles.</p> <p>Competition will be restricted in some instance because:</p> <ul style="list-style-type: none"> <li>- The benefits of the restriction to the community outweigh the costs; and</li> <li>- The objectives of the draft General Local Law can only be achieved by restricting competition.</li> </ul>
<b>Penalties</b>	<p>The penalty amounts stated in the draft General Local Law are designed as a deterrent and considered appropriate. They are in line with the State Government's penalty regime, will be reviewed annually and are scaled to reflect the impact of the offence on the community.</p>
<b>Permits</b>	<p>There are a number of provisions in the draft General Local Law that require permits for activities to be obtained.</p> <p>Council has standardised its requirements for applications for permits and the conditions on which permits are issued or refused.</p> <p>Some permit applications require supporting information to be provided. This may include consent from others who may be affected, appropriate public liability insurance cover or sketches/plans of what is proposed.</p>
<b>Fees</b>	<p>The draft General Local Law allows Council to set fees annually and this will be undertaken as part of the annual budget process.</p> <p>The fees cover part of Council's costs in processing applications as a 'user-pays' principle.</p>
<b>Performance standards or prescriptive</b>	<p>Where appropriate and possible, Council has adopted a performance based approach to local law provisions.</p>

<b>Comparison with neighbouring and like Councils</b>	In drafting the proposed General Local Law, Council examined the local laws of the following Councils – Surf Coast Shire, Southern Grampians Shire, Mitchell Shire, Nillumbik Shire, Loddon Shire.
<b>Charter of Human Rights</b>	Council regards the Victorian Charter of Human Rights and Responsibilities as an important reference in the development of local laws to ensure that such laws do not encroach upon a person's basic human rights, freedoms and responsibilities. As a public authority, Council appreciates its obligation to ensure that local laws are interpreted and applied consistently with human rights.
<b>Submissions</b>	A submission process will be conducted in accordance with the legislative requirements prescribed under Section 55 of the Local Government Act 2020.
<b>Consultation</b>	The initial phase of Council's consultation process is outlined as follows: <ul style="list-style-type: none"> <li>- Review of issues raised in administering the Local Laws;</li> <li>- Review of changes in legislation that could impact on the Local Laws;</li> <li>- Consultation and feedback with Councillors;</li> <li>- Engagement with staff having responsibilities under the Local Laws;</li> <li>- Benchmarking with other Councils' Local Laws;</li> <li>- Legal review of a first draft of the General Local Law.</li> </ul>
<b>Community Engagement Policy</b>	Section 73(2) of the <i>Local Government Act 2020</i> provides that Council must make a local law in accordance with its community engagement policy. The community engagement process undertaken to support the review of Council's Local Laws and the draft General Local Law, has been in accordance with Council's Community Engagement Policy 2022.

### Part C – Comments on specific parts or provisions of the proposed Local Law

Major and minor content issues have been addressed in the proposed Local Law. A major change is the consolidation of the three (3) Local Laws into one.

Changes have been broken down in the following table:

	Changes
Part 1 - Preliminary	<ul style="list-style-type: none"> <li>• Consolidate the objectives and the heading changed to purpose</li> <li>• Clause 1.3 heading was changed from Authoring Provisions to Power to make this Local Law</li> <li>• Clause 1.4 Heading changed deleted Area of Operation</li> <li>• Inserted a new heading Clause 1.5 Area of operation</li> <li>• Clause 1.6 heading changed from Revocation to Previous local Laws</li> <li>• Added a clause (b) to allow notices and consent given under previous local laws to continue to be in force</li> </ul>

	<ul style="list-style-type: none"> <li>• New clause 1.8 incorporated documents, Code and Policies clause was added</li> <li>• New Clause – Charter of human Rights and Responsibilities</li> </ul> <p>New Definitions added</p> <ul style="list-style-type: none"> <li>• Aircraft</li> <li>• Birds</li> <li>• Camping</li> <li>• Council control stand pipe</li> <li>• Infringement Review Panel</li> <li>• Offence</li> <li>• Commercial Waste</li> <li>• Nature Strip</li> <li>• Prescribed area</li> <li>• Occupier</li> <li>• Permit fee</li> <li>• Person</li> <li>• Vehicle Crossing</li> <li>• Unsightly /or dangerous land</li> <li>• Consolidated definition from the Livestock and Alcohol Local Laws</li> </ul>
Part 2 – Use of Council Land	<ul style="list-style-type: none"> <li>• Changed the word Municipal to Council</li> <li>• Clause 2.3 added the word activities in the heading</li> <li>• Clause 2.4 added the word behaviour in the heading and added dot point 10</li> <li>• Clause 2.6 changed the word allowed to permitted then added dot point 10</li> <li>• Clause 2.6 changed the word allowed to permitted</li> </ul>
Part 3 – Consumption and Possession of Alcohol	<ul style="list-style-type: none"> <li>• Deleted the Local law No 1 – Consumption of Alcohol in public places and inserted a new part to deal with the consumption of alcohol</li> </ul>
Part 4 – Protection of Council land and assets	<ul style="list-style-type: none"> <li>• Added standpipes and watercourse in the introduction</li> <li>• Clause 4.1 changed the heading to Protection of drains</li> <li>• Clause 4.2 inserted a new heading</li> <li>• Clause 4.3 reviewed the clause to read better</li> <li>• Clause 4.4 reviewed the clause to read better</li> <li>• NB most of the clauses were moved into the new Part in the new Local Laws</li> </ul>
Part 5 – Building Sites	<ul style="list-style-type: none"> <li>• A new part was created to deal with issues associated with Building Sites</li> <li>• New clause 5.2 – Fencing of Building Sites</li> <li>• Clause 5.3 new heading and review of the wording</li> <li>• Clause 5.4 new heading</li> <li>• Clause 5.6 new clause</li> <li>• Clause 5.7 new clause</li> </ul>
Part 6 - Camping	<ul style="list-style-type: none"> <li>• A new part</li> <li>• New introduction was inserted</li> <li>• Clause 6.1 (a) and (b) new clause</li> <li>• Clause 6.2 new clause to deal with camping on Council land and in Public Places</li> </ul>



	<ul style="list-style-type: none"> <li>• Clause 6.3 new clause to deal with camping on privately owned land</li> <li>• Clause 6.4 new clause to deal with camping on a vacant privately owned land</li> </ul>
Part 7 – Municipal Amenity	<ul style="list-style-type: none"> <li>• No major changes. Removed the camping provision and the Fire Hazard from this part</li> </ul>
Part 8 – Fire Hazards	<ul style="list-style-type: none"> <li>• New part created to cover the Fire Hazard</li> </ul>
Part 9 – Roads and Council land: Obstruction and Behaviour	<ul style="list-style-type: none"> <li>• Most clauses were relocated to other parts, i.e.</li> <li>• Dog excrement was included into the Animals Section</li> <li>• Sign and goods included in Part 10 Sale of Goods and Services, Street Collections and distribution</li> <li>• Obstruction on Road or Council Land was included in Part 12 Waste</li> <li>• Clause 9.3 was reviewed to only deal with Repair of Vehicles</li> <li>• New Clause 9.4 was inserted – Sale of Vehicles</li> <li>• New Clause 9.6 Storage of Vehicles was inserted</li> </ul>
Part 10 – Sale of Goods and Services, Street Collection and Distributions	<ul style="list-style-type: none"> <li>• No major changes.</li> <li>• Clause 10.1 was rewritten</li> </ul>
Part 11 – Animals and Livestock	<ul style="list-style-type: none"> <li>• Insert new clause 11.4 – Control of Cats</li> <li>• Inserted new clause 11.6 – Feeding of Wild Animals</li> <li>• Inserted Clause 11.7 – Shelter for Animals</li> <li>• Inserted new Clause 11.11 – Bees and Wasps</li> </ul>
Part 12 – Waste Management	<ul style="list-style-type: none"> <li>• Replaced the word garbage with the word household</li> <li>• Clause 12.2 – new heading – prohibited waste i.e. provision were taken from Clause 12.1</li> <li>• Clause 12.3 – new heading – placement of mobile bins, provisions were taken from Clause 12.1</li> <li>• Inserted 12.15 – Commercial Waste</li> </ul>
Part 13 – Administration and Fees/ Administration of Local Law	<ul style="list-style-type: none"> <li>• New part created after taking out enforcement provisions</li> <li>• New Clause 13.9 Delegation was included</li> <li>• New Clause 13.10 Exemption from this requirement</li> </ul>
Part 14 – Enforcing this Local Law	<ul style="list-style-type: none"> <li>• New Part – Enforcing this Local Law</li> <li>• No major changes</li> <li>• 14.6 – new clause – Warning to Offenders – has been included</li> </ul>

