



Colac Otway
SHIRE

**(PROPOSED) LOCAL LAW No. 1
GENERAL LOCAL LAW 2023
PROCEDURE GUIDELINES**

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PURPOSE

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

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

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

Ongoing review

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

Council intends that these Guidelines be kept under regular review.

PART 2 – Use of Council and Buildings

Activities which may be permitted/allowed in a Reserve

Local Law Clause 2.6

Purpose of the Clause

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

Applies to:

All persons using/entering Reserve.

What Public Places are affected?

All Council Reserves.

Who requires a permit

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

Examples include:

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

Exemptions

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

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

Procedure Guidelines

Considerations when Issuing a permit

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

PART 3 – Consumption of Alcohol AND Possession of Alcohol

Local Law Clause 3.1

Purpose of the Clause

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

Applies to:

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

What public places are affected

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

When liquor consumption is prohibited

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

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

Who requires a permit

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

Exemptions

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

Applying for a permit

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

Criteria for issuing Permits

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

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

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

Authority and Inspection

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

Criteria for prescribing public places

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

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

PART 4 – Protection of Council land and Assets

Legal Point of Discharge

Local Law Clause 4.2

Purpose of the Clause

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

Applies to:

Any owner or occupier of any land

What Public Places are affected?

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

Who requires a permit

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

Exemptions

Nil

Procedure Guidelines

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

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

Council Controlled Standpipe

Local Law Clause Number: 4.4

Purpose of the clause:

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

Applies to:

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

What public places are affected?

All Council Standpipes

Who requires a permit?

Any person taking water from a Council operated standpipe

Exemptions:

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

Procedure Guidelines for taking water from standpipes.

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

Current Conditions of Standpipe Permit

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

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

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

Constructing Vehicle Crossings

Local Law Clause 4.5

Purpose of the Clause

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

Applies to:

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

What Public Places are affected?

All owner and occupiers of any land

Who requires a permit

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

Exemptions

None

Procedure Guidelines

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

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

Supporting documentation to be provided with this application

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

Traffic Management Plan:

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

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

Works on Council Land and Roads

Clause Number: 4.8

Purpose of the clause:

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

Applies to:

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

What public places are affected?

All Council Land in the Municipality

Our assets include:

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

Who requires a permit?

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

Exemptions:

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

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

Procedure Guidelines for Works on Council Land and Roads.

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

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

Nature Strips

Clause Number: 4.9

Purpose of the clause:

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

Applies to:

Owner or occupiers of a property not in a Rural Zone

Who requires a permit?

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

Exemptions:

None

Applying for a permit

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

Procedure Guidelines

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

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

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

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

NB

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

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

Recreational Vehicles on Council Reserves

Local Law Clause 4.10

Purpose of the Clause

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

Applies to:

Landowners and motorised toy vehicle users

What Public Places are affected?

All public and private land

Who requires a permit

The owner of private land or driver of any applicable vehicle

Exemptions

None

Procedure Guidelines

Criteria for issuing permits

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

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

Permit conditions

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

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

PART 5 – Building Sites

Controlling Asset Protection During Building Work

Local Law Clause: 5.8

Purpose of the clause:

To ensure an asset protection permit conditions are adhered by.

Applies to:

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

What public places are affected?

All Council Land in the municipality

Who requires a permit?

Owner of the land

Exemptions:

None

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

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

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

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

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

Asset Protection and Building Work

Local Law Clause Number: 5.9

Purpose of the clause:

To ensure an asset protection permit conditions are adhered by.

Applies to:

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

What public places are affected?

All Council Land in the municipality

Who requires a permit?

Owner of the land

Exemptions:

None

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

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

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

PART 6 - Camping

Camping on Council Land or in Public Places

Local Law Clause 6.2

Purpose of the Clause

To regulate the camping on Council land and or Public land

Applies to:

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

What Public Places are affected?

All Land in the municipality

Who requires a permit

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

Exemptions

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

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

Procedure Guidelines

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

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

General Condition that apply to all applications include:

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

Camping on Privately Owned and Vacant Land

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

Purpose of the clause:

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

Applies to:

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

What public places are affected?

All Land in the municipality

Who requires a permit?

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

Exemptions:

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

Procedure Guidelines for Camping.

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

General Condition that apply to all applications include:

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

PART 7 – Municipal Amenity

Vegetation on Road & Council Owned/Managed Land

Local Law Clause 7.5

Purpose of the Clause

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

Applies to:

Owners and Occupiers of Private land

What Public Places are affected?

All roads within the municipality

Who requires a permit

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

Exemptions

Not applicable

Procedure Guidelines

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

Recreational Vehicles on Private Land

Local Law Clause 7.7

Purpose of the Clause

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

Applies to:

Land owners, occupier and motorised vehicle users

What Public Places are affected?

All Private and Public land in the Municipal district

Who requires a permit

The owner of private land or driver of any applicable vehicle

Exemptions

None

Criteria for issuing permits

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

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

Permit conditions

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

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

PART 8 - Fire Hazards

Open Air Fires and Incinerators

Local Law Clause Number: 8.2

Purpose of the clause:

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

Applies to:

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

Who requires a permit?

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

Exemptions:

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

A constructed fireplace, recreational fire pit or brazier.

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

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

Procedure Guidelines

Applying for a permit

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

Criteria for issuing permits

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

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

Permit Conditions

May include:

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

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

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

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

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

PART 9 – Roads and Council land – Obstructions and Behaviour

Public Events

Clause Number: 9.6

Purpose of the clause:

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

Applies to:

Any person or persons wanting to host an event

Who requires a permit?

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

Exemptions:

An exemption for a permit would apply to the following:

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

Procedure Guidelines

Applying for a Permit

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

Criteria for Issuing a Permit

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

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

Commercial Activities on Council Land

Clause Number: 10.1

Purpose of the clause:

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

Applies to:

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

Who requires a permit?

Person wanting to conduct a commercial activity

Exemptions:

None

Procedure Guidelines

Current Permit Conditions

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

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

ITEMS PROHIBITED

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

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

PERMITS RENEWAL REQUIREMENTS

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

PUBLIC LIABILITY

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

PERMIT HOLDERS RESPONSIBILITIES

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

GENERAL COMMENTS

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

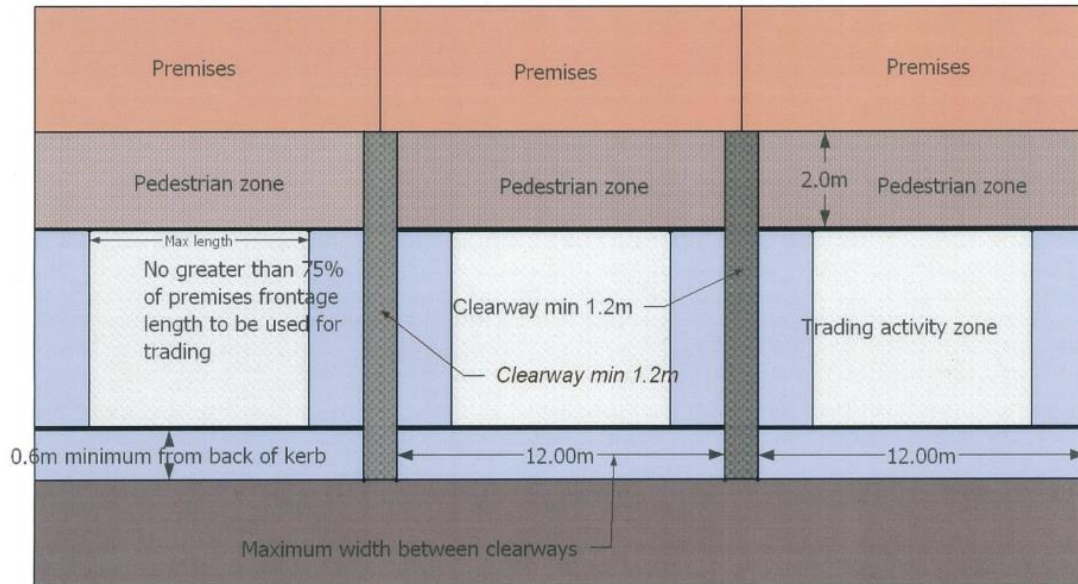
- A-Frames
- Tear Drop Flag(s)
- Tables and Chairs
- Planters Boxes
- Display Racks/Goods
- Screens
- Vehicles/Machinery

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

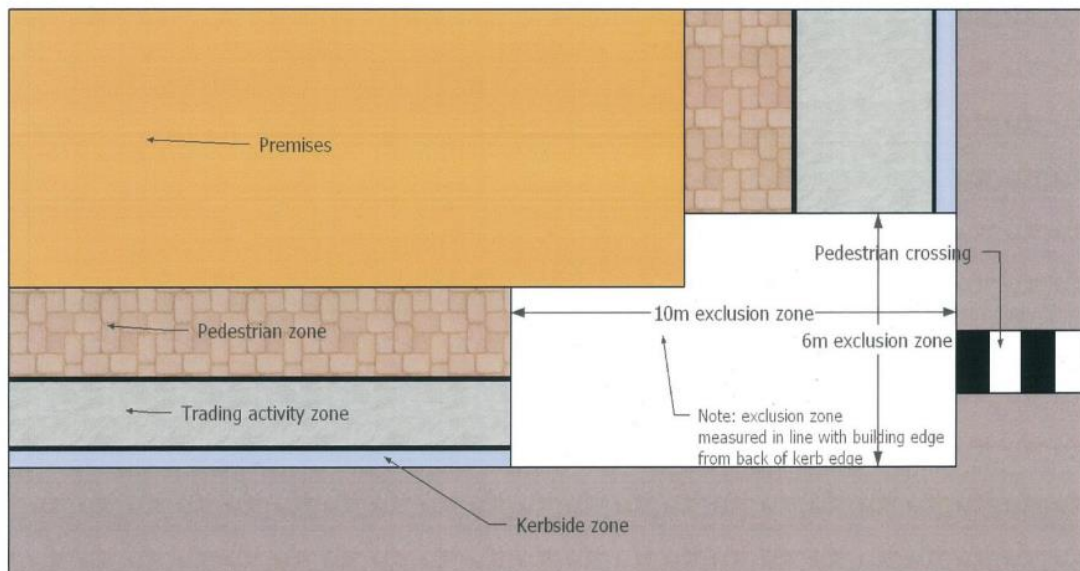
Screens must be positioned strictly in accordance with the approved plan or as directed by the appropriate Council officer at all times.

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

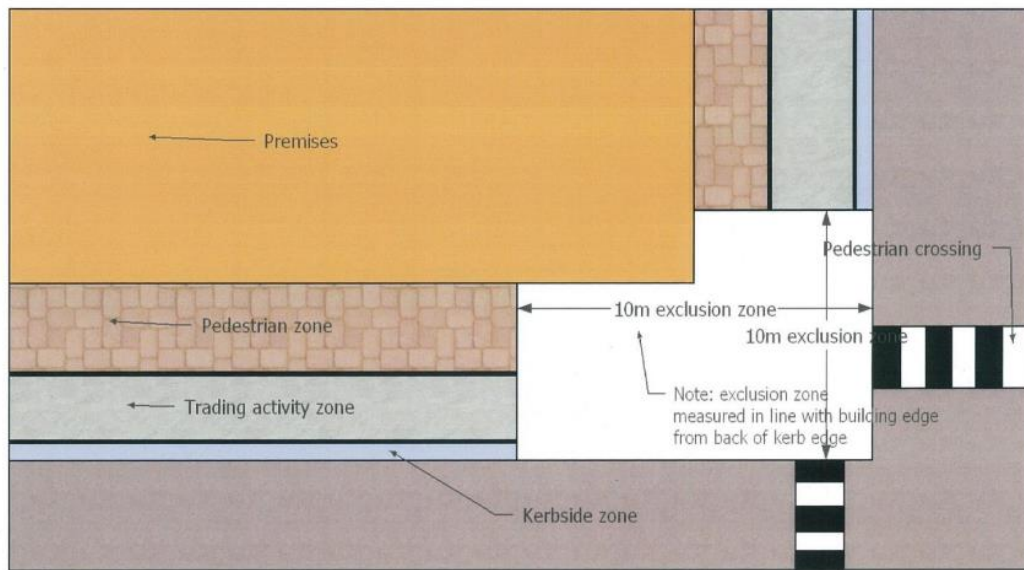
On street trading arrangements



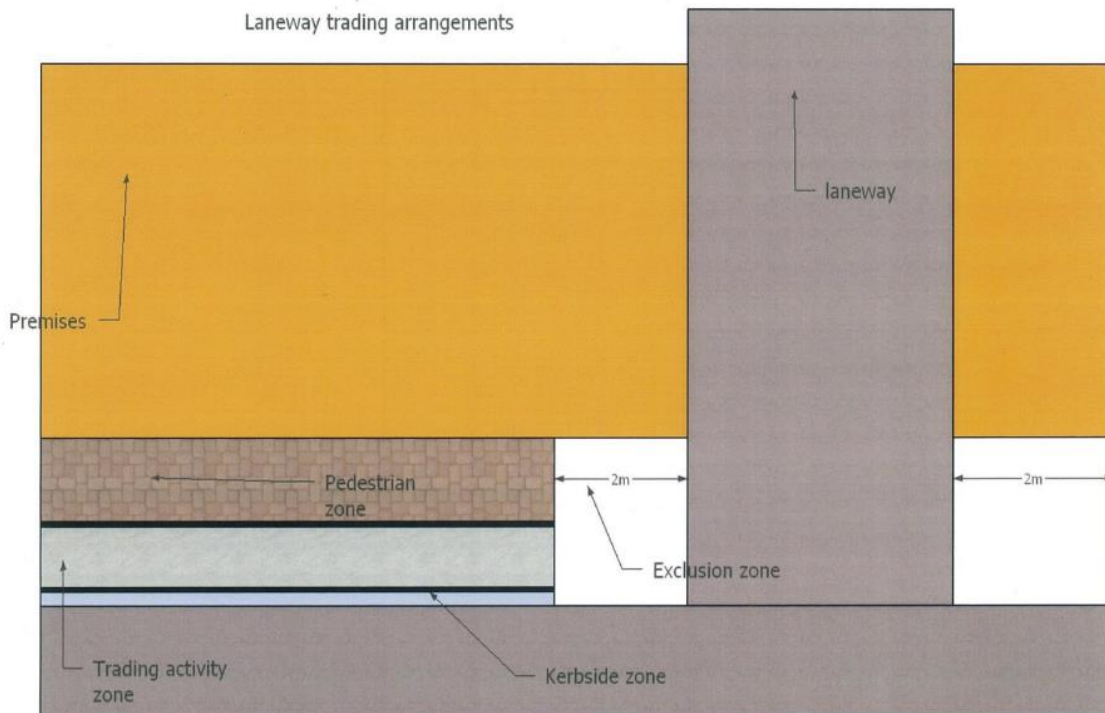
Corner location trading activity arrangements



Corner location trading activity arrangements for double crossings



Laneway trading arrangements



Collections, Subscriptions and Raffles

Clause Number: 10.2

Purpose of the clause:

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

Applies to:

Any organisation or person wishing to conduct a collection.

Who requires a permit?

Any organisation or person wishing to conduct a collection.

Exemptions:

Fee waived for registered charitable organisations

Procedure Guidelines

Applying for a Permit

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

Criteria for issuing permits

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

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

Permit Conditions

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

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

Public Liability

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

Busking, Spruiking

Local Law Clause 10.4 & 10.5

Purpose of the Clause

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

Applies to:

Anyone wishing to busk

What Public Places are affected?

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

Who requires a permit

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

Exemptions

None

Procedure Guidelines for Busking

Permits are required for busking or street entertainment.

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

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

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

- Loud and intrusive
- Excessively repetitive
- Causing public inconvenience

Conditions of the permit include:

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

PART 11 – Animals and Livestock

Number of Animals

Local Law Clause 11.2

Purpose of the Clause

Control the number animals on land.

Applies to:

Owner or Occupier of land

What Public Places are affected?

None

Who requires a permit

Any person wishing to keep more animals than permitted.

Exemptions

None

Procedure Guidelines for Number of Animals

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

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

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

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

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

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

Grazing or Droving of Livestock

Local Law Clause 11.9 & 11.10

Purpose of the Clause

To set requirements applying to the Droving/Grazing of livestock

Applies to:

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

What Public Places are affected?

All Council Land in the municipality

Who requires a permit

Any person(s) who wish to move livestock.

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

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

Authorised Relocation of Livestock other than in Daylight Hours

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

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

Exemptions

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

Penalty

Maximum penalty

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

REQUIREMENTS APPLYING TO THE DROVING OF LIVESTOCK

Droving of Livestock

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

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

Stock Crossings

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

Right of Way

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

Factor to consider when determining the route to be travelled

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

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

Conditions of permit

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

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

Notes

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

Bonds

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

Warning Signs (refer Guidelines)

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

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

Grazing of Livestock

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

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

Movement of Livestock

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

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

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

Standards - Livestock

Introduction

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

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

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

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

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

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

PART 13 – Administration and Fees/Administration of Local Law

Review Rights

Local Law Clause 13.11

Purpose of the Clause

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

Applies to:

Authorised Officers

Who requires a permit

Nil

Exemptions

The review of Notices issued is carried under clause 14.7

Procedure Guidelines

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

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

A person can request a review) if:

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

There were special circumstances warranting consideration.

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

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

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

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

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

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

What parties can expect from Council staff

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

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

What parties can expect from Respondents

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

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

PART 14 – Enforcing this Local Law

Notices to comply

Local Law Clause 14.2

Purpose of the Clause

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

Applies to:

Any person issued with a Notice to Comply

Procedure Guidelines

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

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

Infringement Notice

Local Law Clause 14.3

Purpose of the Clause

To provide a procedure for the issuance of infringement notices.

Procedure Guidelines

Service of an Infringement Notice

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

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

Representations

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

Withdrawal

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

Prosecution

Prosecutions may be taken:

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

Power of Authorised Officer to Act in Urgent Circumstances

Local Law Clause 14.4

Purpose of the Clause

To provide a procedure for Council to act in urgent circumstances

Applies to:

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

Procedure Guidelines

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

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

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

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

Warning to Offenders

Local Law Clause 14.6

Purpose of the Clause

To provide guidance when authorised officers can issue warnings

Applies to:

Authorised officers

Who requires a permit

Nil

Exemptions

Nil

Procedure Guidelines

Authorised officers have the discretion to issue an official warning

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

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

Serious and safety related offences are ineligible for official warnings.

Reviewing a Notice

Local Law Clause 14.7

Purpose of the Clause

To provide information on the process of Reviewing a Notice

Applies to:

Authorised Officers

Who requires a permit

Nil

Exemptions

Nil

Procedure Guidelines

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

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

The outcome of the review could be the:

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

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

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

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