

Local Laws – Use of Private Land

Corangamite Shire

February 2024



**CORANGAMITE
SHIRE**

Council Policy



Local Laws – Use of Private Land Policy

Introduction

The use of private land has the ability to impact adversely on neighbourhood and visual amenity and pose a health and safety risk to the community.

Some common forms of uses that impact negatively on neighbourhood amenity and community safety include:

- Storage of materials and waste that are unsightly, odorous or dangerous;
- Placement of bulk rubbish containers;
- Using recreational vehicles in urban areas and afterhours;
- Occupying caravans or moveable dwellings or camping for extended periods;
- Storing or using shipping containers and moveable dwellings;
- Discharging materials, water and substances from property;
- Allowing trees and plants to obscure or interfere with roads and footpaths.
- Failing to correctly identify a property.

While some uses are short term and minor in nature, others may impact the wellbeing and safety of the community and can hinder emergency services.

Purpose

The purpose of this policy is to:

- Provide a clear and transparent direction for the use of private land to minimise adverse impacts on neighbourhood amenity and community safety.
- Support the community and Council authorised officers to interpret and apply the Local Laws relating to the use of private land.

Scope

This policy applies to all owners and occupiers of private land within the Corangamite Shire.

The policy does not control activities and uses that are subject to other permits and legislation.

This policy does not apply to open air burning on private land as this is covered by Council's Open Air Burning Policy 2021.

References

- Corangamite Shire Local Laws 2015
- Enforcements – Infringements and Prosecutions Policy 2023

Definitions

Refer to the Corangamite Shire Local Laws 2015 for definitions.

Policy Detail

Owners and occupiers of private land must ensure that the land does not adversely impact on neighbourhood and visual amenity or on the health and safety of the community.

The determination that a particular use of private land is adversely impacting on the neighbourhood and visual amenity or health and safety of the community will be determined by an authorised officer using the following guidance.

General Amenity of Land

Land will be considered to have an impact on the general amenity of a neighbourhood and/or pose a danger to health or property if any of the following apply:

- There are materials and/or rubbish on the land, which is, or may become:
 - unconstrained
 - unsightly (as viewed from road frontage)
 - odorous
 - unsafe
 - dangerous to health as determined by Council's Environmental Health Officer.
- Storage of more than two unregistered, unroadworthy, disassembled, incomplete or deteriorated vehicles (including cars, boats, caravans, or farm equipment) in urban areas which are not visually screened from the road frontage by a physical structure or vegetation to the satisfaction of Council.
- Bulk rubbish container/s placed in locations that may cause a visual impact from the road frontage or odour impact on the neighbourhood.
- Persistent use of recreational vehicles in urban areas and extended use after dark in other areas.

Caravans and Camping on Private Land

Land will be considered to have an impact on neighbourhood amenity where:

- a caravan, moveable dwelling or tent (which includes swags and other camping structures) is occupied for an extended period (more than 30 days in any 12 month period); or
- there are insufficient sanitation facilities available for a caravan, moveable dwelling or tent that is occupied for any period of time.

The occupation of caravans, moveable dwellings and tents for any period of time requires adequate sanitation facilities being available on the land and consent from the owner or occupier of the land.

Shipping Containers

Land will be considered to have an impact on neighbourhood amenity where a shipping container is stored on land, except where:

- the land exceeds 2 hectares;
- a building permit has been obtained; and
- it does not impact on the visual amenity of the neighbourhood.

A shipping container will be considered to be causing an impact if it is visible from the road frontage.

Materials, Water and Substances Leaving Private Property

Land will be considered to have an impact on neighbourhood amenity and community safety where water, mud, sludge or waste is discharged from the land onto a road or adjacent public or private land (except where stormwater is discharged to the point of legal point of discharge approved by Council).

Trees and Plants Obstruct or Obscure Roads and Footpaths

A tree or plant is considered to obstruct or interfere with a road where more than one quarter of the footpath is obscured within 2 metres above ground level of the footpath.

A tree or plant is considered to obstruct or interfere with a road where it encroaches into the road maintenance envelope (within 5 metres above the ground level).

Property numbers to be displayed

The owner or occupier of a property must correctly and clearly identify a property in accordance with a numbering system that has been approved by the municipal council to assist emergency services to identify the property.

Enforcement

If the use of private land is determined by an authorised officer to be impacting on neighbourhood and visual amenity or the health or safety of the community, the person/s currently making use of the land will be required to immediately apply for a Local Law Permit to undertake the activity, or if deemed unacceptable, the authorised officer may issue a Notice to Comply to cease the offending use of private land.

The Notice to Comply will be issued in accordance with Council's Local Law 2015 and may contain conditions to remedy impacts to neighbourhood amenity or community safety within a specified time period and conditions to ensure ongoing compliance for use of the land.

Permits

In some instances, a Local Law permit may be provided to an owner or occupier to undertake activities on private land if the use is considered temporary or to have limited impact on neighbourhood and visual amenity or the health and safety of the community.

Council may provide written consent/permits to:

- store materials and/or rubbish in urban areas;
- store unregistered, unroadworthy, disassembled, incomplete or deteriorated vehicles;
- place bulk rubbish containers;
- use recreational vehicles in urban areas or afterhours in rural areas;
- occupy caravans, moveable dwellings or tents for extended periods;
- store or use shipping containers and moveable dwellings; and
- allow trees or plants to obstruct or interfere with the footpath (i.e. historical hedges).

All applications must be on the prescribed form contained within the Council Local Laws 2015 and a permit fee will apply.

In determining whether to grant a permit, authorised officers will consider:

- neighbourhood amenity;
- visual impact (as viewed from the road frontage);
- community health and safety;
- public liability;
- if the use is to be of temporary nature;
- adverse impacts on neighbouring properties; and
- feasibility and cost of reinstating the site condition at expiration of the permit.

If the use is determined to be unsuitable by an authorised officer, a permit will not be issued.

Caravans and Camping on Private Land

In determining whether to grant a permit to occupy a caravan or moveable dwelling for an extended period, authorised officers will also consider:

- whether adequate sanitary facilities are available onsite;
- the location of the caravan or moveable dwelling on the property and screening from neighbouring properties;
- the number of caravans or moveable dwellings located on the site;
- the reasons for occupation of the caravan or moveable dwelling;
- where the applicant intends to occupy a caravan or moveable dwelling whilst a permanent dwelling is being built:
 - that the caravan or mobile dwelling is to be located on land where a permanent dwelling is located.
 - that a building permit or planning permit has been issued for the dwelling.
 - whether there is continuous progress towards construction of the dwelling and compliance with any associated permits;
- whether the landowner or occupier has provided consent;
- any special circumstances that apply to applicant (such as homelessness and family violence); and
- risk of bushfire and flooding at the site and access for emergency services.

Issuing Permits

Depending on the type of use, a Local Laws permit or consent may be issued for a specified or indefinite time period or as an annual permit. Annual permits operate from 1 January to 31 December and must be renewed annually unless cancelled by the permit holder or revoked by Council. There will be no refund of permit fees if the permit is cancelled.

Conditions of use will apply as determined by an authorised officer and will then be included as part of the consent/permit that is issued.

Permits are not transferred when the property owners or occupiers changes. A new permit must be applied for by the new owner or occupier.

A person may be required by an authorised officer, at any time to stop the permitted use and/or remove all associated items if requested by an authorised officer.

Council may revoke a permit should the permit holder fail to comply with any or all of the conditions contained in the permit.

Exemptions

Caravans, moveable dwellings and tents in registered caravan parks and Council signed camping areas are exempt from this policy.

Council may exempt any person or class of person/s or an authority from the need for a permit or the payment of a permit fee.

Review Date

January 2028

It is considered that this Policy does not impact negatively on any rights identified in the Charter of *Human Rights and Responsibilities Act 2006*.

The *Gender Equality Act 2020* requires Council to undertake gender impact assessments when developing or reviewing any policy, program or service which has a direct and significant impact on the public. This policy will not have a direct and significant public impact and a Gender Impact Assessment has not been undertaken.