

General Local Law No 2 of 2019 Community Amenity & Municipal Places (draft)

Submission to Hepburn Shire Council
prepared by **Dr David Holmgren**
Co-originator of the Permaculture Concept
18th October 2019

Introduction

This submission primarily addresses current and future informal uses of public land by local residents that would be adversely affected if the proposed draft law was adopted by Council in its current form.

Context

The informal use of public land by local residents has been a strong and continuing practise throughout Hepburn shire that contributes to self and collective provision within household and community non-monetary economies. Although affluence since the 1960's eroded many of these informal uses, beginning in the 1980s, there has been a reinvigoration of informal use and management of public land especially around the towns of Daylesford and Hepburn that is currently gaining momentum and sophistication.

The reasons for this increase are many but include factors both local and global.

- Increasing costs and red tape required, before even the simplest management can be undertaken (by Council and government departments).
- Increasing opposition to conventional methods of management of public land (especially involving chemicals).
- Accelerating impacts of climate change, especially bushfire threat.
- Rapid growth of interest in wild food foraging, keeping domestic livestock, salvage and repurposing goods and materials.
- A broader interest in redeveloping informal non-monetary household and community economies as a hedge against economic recession or depression.
- Rapidly mounting concern about more severe impacts of the climate emergency and other growing risks including financial system collapse, geo political conflict and acceleration constriction of civil rights by all levels of government

As these and other real and/or perceived threats materialise, informal use of public land will certainly explode from the practices of a minority to those of the majority.

In light of the recommendations made in our consultancy to Hepburn Shire Council on Energy Descent Action Planning (2011) and the more recent declaration of a climate emergency, the proposed General Local Law No2 2019 is a stunning example of governance dysfunction that sets up Hepburn Shire Council for an unwinnable collision with household and community self-provision and self-regulation.

Whether by ignorance or deliberate push back against the rising tide of local household and community use and management of public land in Hepburn Shire, this law if enacted will; either

- require a massive increase in pointless and unproductive work for council staff and costs for ratepayers that could be spent much more productively (more of what is technically described as "bullshit jobs")

Or

- Galvanise a politicisation of action in defiance of this law and lead to a situation where Council and its regulatory functions are ignored by the community.

Recommendations

Councillors should interrogate the local and state level drivers and motivations behind this proposal before giving any consideration to its enacting. (ie what is the evidence to justify this substantial increase in red tape)

If some radically modified version of this law is deemed necessary for reasons that can be justified and defended publicly, then substantial amendments will be essential to avoid either or both the outcomes listed above.

A detailed submission by Dr Patrick Jones provides an excellent overview of the reasons to support rather than hinder household and community informal use and management of public land and provides a set of carefully considered amendments to reduce the adverse impact of the proposed law.

While I support all of his recommended amendments as a minimal requirement to reduce the adverse consequences of the law, I think other more creative approaches could be considered in this matter.

There is a valid concern, that private use of public land can involve defacto privatisation and that large scale and rapid interventions can have adverse impacts on council managed infrastructure, ecological values, amenity or even public safety, that should be regulated by the requirement to gain a permit.

When the actors are;

- not local residents,
- driven by business imperatives and financial gain,
- supported by bank finance
- using machinery, toxins or other technologies
- or representing “non natural persons” (corporations)

then there is a strong case for Council controlling these activities on public land.

One way to support “small scale, slow solutions” by local residents to creatively use and manage public land for community benefit, could be to include a clause that allows all reasonable use without a permit where the persons are;

- natural persons (rather than corporations)
- are not using bank finance and/or machines greater than 5kw power? in the activity
- are not making monetary gain as part of a formal business
- have liaised with other local residents potentially affected by the activity

If this is seen as too loose in allowing open slather activity, Council could retain the right to retrospectively require a permit (or prohibit) a particular activity undertaken under these conditions if it;

- received substantial objection from local residents adversely affected by the action

And/Or

- could identify significant adverse impacts on Council infrastructure, ecological values, public amenity and/or safety, greater than any community and environmental benefits.

This proposal would clearly show Council’s intent in supporting community adaption and mitigation in response to the climate emergency and reflect a principle recommendation from the EDAP report to Council. On some occasions it would require council officers to adjudicate in contentious issue of disagreement by providing a permit with constraining conditions to address conflicting concerns in the community but this is what we pay officers for rather than charging fees to tick boxes.