

Rural Council Case Studies

We recognise the critical role rural Victorian Councils and their communities play in the smooth operation of our state's economy and the delivery of essential services. Our staff love getting out of the office and spending time within local communities among Council staff and Councillors across the breadth of Victoria. We are proud of our own rural and regional connections and the strong relationships we have developed while representing rural Councils particularly.

Here we share some insights from recent engagements where we have assisted our rural Council clients achieve better outcomes. Wherever your community is based and whether you're in the executive team of Council or at the depot, in governance, procurement, infrastructure or community services, we would be delighted to hear from you – either just for a chat or if you would like to discuss what assistance we might be able to provide you and your Council on a no obligation preliminary basis.

Financial Matters

- Advice to a rural council as to whether increasing an interim loan facility with a financial institution for the purpose of providing bridging finance until the next issue of municipal bonds using the MAV Local Government Funding Vehicle required a public tender process.
- Advice to a rural council as to whether introducing a "phased rate increase" over the course of a financial year was permitted under the Local Government Act 1989.
- Advising various Councils on appropriately dealing with demands, correspondence and purported summons received from Sovereign Citizens including in relation to objections to the payment of Council rates and charges.
- Providing advice to a rural council on its ability to seek financial contributions from the former manager and/or Victorian Government towards the maintenance of an historic disused cemetery.

Contracts

- Advice to a rural council as to whether a 13% variation request from its contracted architect in relation to a contract for a major new piece of public infrastructure works was defensible.
- Representing a rural council in relation to an assertion by another party that the council had, by its behaviour and representations, entered into a binding agreement in relation to potential residential development on council owned land. We were able to assert for Council that no such agreement had arisen and ultimately the other party walked away and abandoned an asserted claim for damages.
- Acting for a rural council to settle a Services Contract for management and operation of a community recreation centre.
- Presenting to Councillor staff a workshop on the use of Australian Standards construct only, design and construct and minor works contracts.
- Acting for a rural council in relation to the disputed ownership of a donated piece of historic equipment.

Planning & Building Matters

- Advice to a rural council as to the grounds on which council can approve the installation of domestic wind turbines in a General Residential Zone.
- Acting for a rural Council to advise whether the relevant planning scheme provision requiring access to land for a dwelling to be via “an all weather road” precludes access that is not within a road reserve.
- Advice to a rural council as to whether a Councillor’s public comments during a Council meeting to the effect that mapping for a proposed planning scheme amendment to introduce a flood overlap was flawed and out of date amounted to pre-conceived bias and lack of an open mind.
- Acting for a rural council in relation to the process to enable Council to undertake dwelling demolition work at a property the subject of an uncompleted with emergency order after fire damage and making legally effective arrangements for the cost of the proposed Council work to be secured by a charge against the title.
- Advising a rural council in relation to options to pursue a land owner for demolition of an historic kiln without a permit.
- Conducting reviews for various councils of particular statutory planning proposal assessment files in light of allegations of bias and misapplication of planning scheme controls.

Staffing

- Advice to a rural council on the application of the Professional Engineers Registration Act 2019 to relevant council staff.
- Providing advice to a CEO regarding potential declaration of an individual as a vexatious litigant and/or obtaining a personal safety intervention order against them.
- Advice to a rural council on its ability to engage family day care educators as independent contractors and conducting a comprehensive review of Council’s engagement practices to ensure compliance with relevant statutes.
- Drafting for a rural council a procedure and policy for body worn camera use by Council Officers.
- Acting as probity advisor for a rural council in the appointment of an executive search consultant for the vacant CEO role.
- Acting for Councils in relation to steps required to comply with subpoenas received by Council or individual Council staff to appear as witnesses or produce particular material for court proceedings including to obtain recovery of associated Council costs.
- Conducting workshops on bullying laws for various Councils at Council depots, Council corporate officers and amongst Councillors.
- Representing a rural council CEO to prepare a Concerns Notice under the Defamation Act in relation to defamatory comments published on a Facebook account.
- Representing various councils in relation to WorkCover claims by staff members.
- Representing a rural council at coronial inquest in relation to the death of a Council staff member.
- Providing advice to various Councils on the applicability of and ability to apply for Personal Safety Intervention Orders where Council staff are subjected to harassment from members of the public.
- Drafting a Gifts, Benefits and Hospitality Policy for Council staff and councillors at a rural council.

Housing

- Acting for a regional Council to prepare Heads of Agreement with local landowners in relation to the application of Australian Government Housing Support Program funding towards a proposed development of 90 homes.
- Preparing a Rental Guarantee Agreement for a Council whereby the Council supported the development of a transitional worker housing project by reducing the developer risk through provision of a rental guarantee by Council.
- Representing a rural council in relation to termination of a contract entered into with Director of Housing for provision of housing accommodation within the municipality.
- Drafting a Heads of Agreement for a rural council with a registered housing association in relation to the potential development of Council owned land for affordable housing projects.

Governance

- Providing advice to a CEO as to whether Councillors holding a directorship in a company owning land within the footprint of a proposed windfarm project would have a material conflict of interest under Local Government Act 2020.
- Providing advice to a CEO regarding the CEO's power to terminate or replace community asset committee members.
- Representing a rural council successfully in relation to a complaint to the Australian Human Rights Commission alleging that Council's carpark upgrade program was discriminatory under the Discrimination Disability Act 1992.
- Advising a rural council's CEO in relation to potential Councillor conflict of interest issues and preparing a draft protocol for Council's management of issues concerning a particular industry that a Councillor held a material interest in.
- Advising a rural council on the correct approach to a scenario where Council had passed a resolution regarding its aquatic strategy that was inherently inconsistent with aspects of an earlier unrevoked resolution.
- Advice to the CEO of a rural council on whether debate and resolution on whether Council ought continue as a service provider for certain services, ought be conducted in a closed Council meeting pursuant to section 66 of the Local Government Act 2020.
- Assisting a rural council encourage a broad field of prospective candidates for Councillor positions at the next Council election by facilitating candidate information sessions. A number of the candidates who participated in sessions we ran chose to be candidates for election and some were successful as first time Councillors.
- Advice to a rural council governance and risk officer in relation to the extent of the exemption in Part IV of the Freedom of Information Act 1982 in relation to unreasonable disclosure of information relating to the personal affairs of any person.
- Advising Councils on the use of instruments of delegation under section 11 of the Local Government Act 2020.
- Drafting a Councillor Interaction Policy in relation to Council's dealings with a local aerodrome that an elected Councillor had a material interest in.
- Working with various Councils to carry out a comprehensive update of their Governance Rules.
- Reviewing and settling for a rural council its community care service business plan including ensuring compliance with applicable statute and inclusion of appropriate exit mechanisms for Council.
- Advice to a rural council on proposed amendments to its Governance Rules, including walking councillors through a marked-up version and responding to their queries.

Economic Development

- Drafting a Heads of Agreement for a regional Council in relation to a proposed transfer of Council owned land to a private landowner for no consideration to facilitate the establishment of a bio-energy facility producing biogas and providing significant employment opportunities within the municipality.
- Preparing an "Agreement to Sell" for a Council wishing to sell Council owned land to a private entity on condition that the entity commit to establishing and operating a soft plastic recycling business on the land.
- Acting for a rural council to settle an Option Deed to grant an easement to a private wind energy company for use of Council land to locate wind turbines.
- Preparing a Memorandum of Understanding for a Council in relation to the disclosing of commercial sensitive information by a private company in relation to conducting a significant business within the municipality.
- Preparing an MOU between a rural council and a listed mining company in relation to developing processes for the parties to work together collaboratively to maximise community benefit and economic development outcomes from the development of a rare earth and mineral sands project.
- Representing a Council in the purchase of a caravan park business from a deceased estate.

Animals

- Acting for a Council in relation to whether offences under the Domestic Animals Act 1994 ought to be applied against dogs allegedly attacking sheep and lambs.
- Acting for a rural council to prepare responses to a resident who had alleged that Council had failed to act appropriately in relation to barking dog and dogs at large complaints.
- Acting for a rural council in relation to a claim by a farmer against Council arising from the seizure, impoundment and sale by Council of seemingly abandoned cattle.
- Acting for a rural council to advise on the application of section 29 of the Domestic Animals Act for the Control of Dangerous Dogs.

Land

- Advising a rural council on the implications of a reserve being vested in Council but title held in a name other than Council. The person whose name the title was held in was seeking to prevent works by Council on the reserve. We were able to quickly resolve the matter for Council by way of a vesting application in the Government Gazette.
- Representing a rural council in relation to a town Sunday market owned and operated by Council on Council owned land for many years. Council had received a claim of ownership in the intellectual property of the market from a private individual who had for a time been associated with the market operating committee.
- Advice to rural councils regarding the status of leases of Council owned commercial land on indefinite overholding and the correct process to re-formalise lease arrangements.
- Acting for a rural council regarding the proposed placement by a private energy park project developer of underground transmission assets within Council land. We advised on the appropriate form of agreement between Council and the developer to incorporate provisions preserving Council's rights as landowner and indemnify Council for potential liability.
- Acting for a rural council to prepare a Memorandum of Understanding with a private company in relation to installing solar virtual power generation at a landfill facility.
- Assisting a rural council on the appropriate language for an officer recommendation regarding the proposed sale of Council land prior to completion of statutory community engagement procedures.
- Representing Councils in relation to Federal Court and Native Title claims.
- Acting for numerous Councils regarding the sale of surplus land assets including old community halls, residential and commercial properties.
- Preparing a comprehensive lease agreement for a Community Hub on behalf of a rural council, ensuring alignment with community needs and regulatory requirements.
- Conducting a wholesale review and update for a rural council of its suite of template leases and licences for council owned land.
- Representing a rural council and its councillors before Commission of Inquiry hearings including preparation and presentation of detailed witness statements.



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