

VicHealth Walk to School LGA Grant 2017

Terms and Conditions

These terms and conditions (**Terms and Conditions**) apply to the VicHealth Walk to School LGA Grant 2017 (**The Grant**), which is being administered by The Victorian Health Promotion Foundation (VicHealth).

By submitting a Walk to School LGA Grant 2017 Application (**Application**), You agree to be bound by these Terms and Conditions. In the event of any conflict between any terms referred to in any promotional and/or marketing materials and these Terms and Conditions, these Terms and Conditions take precedence.

Eligibility requirements

1. The Grant is administered by VicHealth in accordance with these Terms and Conditions.
2. The Grant commences on Tuesday 21 March 2017 and all Applications must be received online by VicHealth by 13:00 hours Eastern Standard Time on the closing date on Monday 1 May 2017.
3. The Grant will operate on the Walk to School Webpage. By participating in the Grant, You agree to act in accordance with:
 - a) these Terms and Conditions; and
 - b) the terms and conditions of the VicHealth Website which are located at www.vichealth.vic.gov.au/terms-of-use

Eligibility to apply

4. VicHealth provides the Grant to Victorian councils to undertake the following requirements:
 - Requirement 1: Promote Walk to School by encouraging primary schools to register and participate
 - Requirement 2: Deliver local engagement activities with participating schools throughout October
 - Requirement 3: Support primary school students' ongoing active travel by delivering local initiatives
5. More information about the Grant objectives and Assessment Criteria can be found in the VicHealth Walk to School Grant Guidelines 2017 (**Grant Guidelines**) at www.vichealth.vic.gov.au/walktoschool
6. VicHealth will not Fund an organisation if:
 - a) the organisation operates outside Victoria; and/or
 - b) the organisation is not classified as a Local Government Authority; and/or
 - c) the organisation is a recipient of financial support from tobacco companies.

Submitting the Application

7. To participate in the Grant, You must complete an online Application along with a Project Plan. The Application and Project Plan template can be found and downloaded at www.vichealth.vic.gov.au/walktoschool. You may participate in the Grant at any time between Tuesday 21 March 2017 and the closing date at 13:00 hours Eastern Standard Time on Monday 1 May 2017. Late entries will not be accepted.
8. VicHealth will not accept the Application by email, post, facsimile or any other method that does not involve completing and submitting an online Application and Project Plan in accordance with clause 7 above.
9. By submitting the Application You warrant that You are an authorised representative with the authority to bind Your organisation to these Terms and Conditions.
10. As part of the Application, You are required to provide VicHealth with Your ABN and GST registration status. You are required to notify VicHealth if Your GST status changes at any stage of the Grant.
11. As part of the Application process, You are required to provide VicHealth with complete and accurate organisation bank details to enable VicHealth to transfer Funds to You if You are a Successful Organisation. In the event that You provide incorrect bank account details, You must notify VicHealth immediately and provide Your correct bank account details. Where VicHealth has relied on the information submitted by You (including in the Application) and transferred Funds to an incorrect bank account, VicHealth may attempt to recover the Funds from the receiving financial institution and if successful, VicHealth may deduct any costs it incurs as a result of recovering the Funds from the Funding amount awarded to You. You acknowledge that VicHealth is not liable to repay any Funds to You in the event that You fail to provide correct bank account details and VicHealth is unable to recover the Funds post transfer.
12. You agree to pay Your own costs in relation to the Application, including but not limited by:
 - a) completing the Application;
 - b) complying with these Terms and Conditions and/or Grant Guidelines; or
 - c) attending to any other matter in relation to the Application.

Assessment of the Application

13. All valid Applications will be assessed by VicHealth starting the week beginning 1 May 2017.
14. VicHealth will:
 - a) assess all Applications against the Assessment Criteria; and
 - b) in its sole discretion, select the Successful Applications.
15. In assessing the Application, VicHealth may:
 - a) consider the Application; and
 - b) place any weight on the Assessment Criteria as it sees fit.

Assessment Criteria

16. The assessment of the Application will be made against the following Assessment Criteria:
 - a Project Plan clearly outlining activities to meet the three requirements
 - demonstrate chosen activities are well-suited to the local context and community
 - explain how council will cater for all students by ensuring activities are fair, accessible and inclusive
 - outline clear plans to improve activities and increase participation, based on previous years' learnings (for *Returning Councils only*).
 - More information about VicHealth's Assessment Criteria can be found in the Walk to School Grant Guidelines 2017 at www.vichealth.vic.gov.au/walktoschool.

Announcement of Successful Organisations

17. VicHealth will notify Successful Organisation(s) by sending an Award and Acceptance Email via the email address contained in the Application by Monday 15 May 2017.
18. Any decision by VicHealth to select a Successful Organisation or the amount of Funding to be provided to a Successful Organisation will be at the sole discretion of VicHealth.

Provision of Funding to Successful Organisation(s)

19. If You are a Successful Organisation, VicHealth will provide You with a Funds to be used towards delivering the Grant in accordance with these Terms and Conditions.
20. VicHealth is not under any obligation to provide any Successful Organisations with the Funds until You receive an Award and Acceptance Email.
21. The award of the Funding may be subject to additional terms and conditions that VicHealth may specify in the Award and Acceptance Email.

22. Payment of the Funds shall be made electronically to Your nominated bank account as specified in the Application.
23. VicHealth will issue You with a Recipient Created Tax Invoice (RCTI) in relation to the Funding. You are not required to issue VicHealth with any invoices in relation to the Funding.
24. The Funding must be expended by You only for the purposes of carrying out the Grant in accordance with these Terms and Conditions. If, at any time there remains an amount of the Funding that has not been expended in accordance with these Terms and Conditions to VicHealth's satisfaction, VicHealth may request that You refund all or part of the Funding, as directed by VicHealth.
25. You must notify VicHealth of any unspent Funds as soon as practicable following the completion of the Grant. At its discretion, VicHealth may request the return of the unspent Funds, which You must return to VicHealth within 30 days of that request.

VicHealth's decisions are final

26. For the avoidance of doubt, any decision by VicHealth on any matter in relation to the Grant is final and is not subject to review. This includes a decision by VicHealth to:
 - a) Accept the Application;
 - b) Determine which organisation will be a Successful Organisation or the number of Successful Organisations; or
 - c) Determine the amount of any Funding.
27. You acknowledge and agree that VicHealth is under no obligation to discuss or provide feedback to You in relation to the Application You have submitted.
28. You also acknowledge and accept that VicHealth may not enter in to any correspondence with You unless the Application is a Successful Application.

Financial Records and Reports

29. Successful Organisations are required to keep full and accurate financial records relating to the receipt and expenditure of Funding. Successful Organisations must retain those records for a period of at least 7 years following the termination or expiration of the Grant. VicHealth may request access to those records upon providing written notice to the Successful Organisation.
30. VicHealth will, at random, audit 20% of the total number of Successful Organisations. If requested by VicHealth, You must provide a Certified Project Plan and provide accurate financial records as required under clause 29 above. The Certified Project Plan must be signed by a person in senior management authorised to sign financial documents on behalf of the Successful Organisation. In the event that VicHealth determines that the Funds have not been expended in accordance with these Terms and

Conditions VicHealth may (at its sole discretion) require You to promptly repay all or part of the Funds.

Change of Contact Information

31. If there is a change to any contact information, You must notify VicHealth as soon as practicable following that change and give VicHealth the relevant details of that change.

Tobacco Products and Promotion

32. You acknowledge that VicHealth is established under *The Tobacco Act 1987 (Vic)* and it has certain objectives and functions set by that Act.
33. You will not endorse, promote, sponsor or otherwise be affiliated with tobacco, smoking or tobacco related products in relation to any activity that You undertake in connection with the Walk to School Grant.
34. You must not receive any funding, sponsorship or any other kind of endorsement from any person or organisation involved in or affiliated with the production, manufacture or marketing of tobacco, smoking or tobacco related products.

Acknowledgement of VicHealth

35. You must acknowledge VicHealth's contribution of Funding to the Grant and obtain prior approval for:
- a) all public announcements concerning the Grant or the outcomes of the Grant;
 - b) all documents, publications, newsletters, materials, reports and other items relating to the Grant or the outcomes of the Grant;
 - c) all events (including any lectures) relating to or organised in connection with the Grant; and
 - d) as otherwise directed by VicHealth.
36. Without limiting Your obligations under clause 35, You must:
- a) display VicHealth's banners, posters, signage brochures and other materials at all events and activities connected with the Grant; and
 - b) display VicHealth's Trade Marks, and a link to the Walk to School Webpage on any web-based activities promoting or providing information relating to the Grant or the outcomes of the Grant, as directed by VicHealth.
37. VicHealth grants You a non-exclusive, non-transferable, revocable, royalty-free licence to use the VicHealth Trade Marks for the purpose of acknowledging VicHealth's provision of Funding in accordance with clauses 35 and 36.
38. VicHealth may, from time to time, provide You with guidelines as to how it wishes the VicHealth Trade Marks to be used and You must comply with those guidelines.

39. You must not:

- e) use the VicHealth Trade Marks other than to acknowledge VicHealth's contribution of Funding as provided in clauses 35 and 36 above or as otherwise agreed by VicHealth in writing;
- f) authorise any other party to use the VicHealth Trade Marks without VicHealth's prior written consent;
- g) use any of the VicHealth Trade Marks or any substantially identical or deceptively similar mark as part of any corporate or business name without VicHealth's prior written consent;
- h) do any of the things specified in section 26(1) of the Trade Marks Act 1995 (Cth), except as expressly permitted under these Terms and Conditions or with the prior written consent of VicHealth.

40. You must only use the VicHealth Trade Marks in a manner that enhances VicHealth's credibility and reputation.

Warranties

41. By participating in the Grant, You represent and warrant that:
- a) You have obtained all rights, licences, and permissions necessary, in writing, from any person who may have helped create the Application submitted as part of the Grant; and
 - b) The Application submitted as part of the Grant complies with these Terms and Conditions (and any applicable third party terms and conditions), and:
 - i. is Your original work;
 - ii. has not previously been submitted in any third party promotion, competition or event;
 - iii. does not contain any use of the names, likenesses, photographs, or other identifying elements, in whole or in part, of any person, living or dead, without permission of the relevant person or their parent or legal guardian using the relevant consent form available on the VicHealth Website (see clause 52 below);
 - iv. does not include trademarks, logos, or copyright protected material which belong to third parties unless You have permission from the owner to use the same in Your entry (including, but not limited to, company names, music, photographs, motion picture or television programme clips or audio tracks, works of art, or images published on or in websites, television, movies, or other media);
 - v. is not subject to any third party agreements, and VicHealth will not be required to pay any licence fees, royalties or other sums to any person or entity as a result of VicHealth's use of any

- Application in accordance with these Terms and Conditions;
- vi. does not defame, misrepresent, or contain disparaging remarks or any other content which could adversely affect the name, reputation or goodwill of VicHealth or any other individuals and/or entities, the determination of which shall remain in the sole discretion of VicHealth;
 - vii. does not contain pornographic or sexual content, hateful or offensive content, content which promotes violence or harm to another living creature or any other offensive, obscene or inappropriate content, the determination of which shall remain in the sole discretion of VicHealth;
 - viii. does not include threats of any kind or that intimidate, harass, or bully anyone, or invade the privacy of any person, the determination of which shall remain in the sole discretion of VicHealth;
 - ix. does not violate any applicable laws or include any content that may encourage or provide instructions for a criminal offence;
 - x. does not feature, refer to, or mention any brands competing with VicHealth; and
 - xi. along with any electronic method of communication used to submit it to VicHealth, does not contain any known virus, trojan horse, worm, trapdoor or similar software that may in any way infect or affect any of VicHealth's (or a third party's) hardware or software systems.

Right to remove or reject organisations

42. VicHealth reserves the right to remove or reject from the Grant (including the Walk to School Webpage), an organisation that has entered the Grant if:
 - a) VicHealth decides not to select the organisation's Application following an assessment against the Assessment Criteria;
 - b) the organisation's Application is illegible, incomplete or fraudulent or does not comply with these Terms and Conditions;
 - c) the organisation has breached these Terms and Conditions or VicHealth suspects that the organisation has breached these Terms and Conditions;
 - d) VicHealth receives a complaint about the organisation from a third party in relation to the Application or any matter relating to the Grant including the Funding;
 - e) the organisation has tampered with the operation of the Application, has engaged in cheating, hacking, deception or any other unfair practices such as intending to annoy, abuse, threaten or harass any other organisations or VicHealth and/or any of its agents or representatives, or VicHealth suspects, on reasonable grounds, that it has done so;

- f) the organisation submitting the Application does any act or does anything that is contrary to prevailing community standards, or is otherwise regarded by the public as unacceptable; or
- g) VicHealth otherwise thinks it is appropriate to do so.

Intellectual Property

43. Subject to clauses 44 to 46, You will retain all copyright and any other intellectual property rights in any Application.
44. By submitting the Application as part of the Grant, You grant to VicHealth a worldwide, exclusive, transferable, royalty-free, perpetual, irrevocable license (including a right to sub-license) to use, reproduce, distribute, adapt (including without limitation edit, modify, translate and reformat), derive, transmit, publish, communicate, display and perform (publicly or otherwise), the Application for the purpose of evaluating the Application, and for VicHealth's marketing, advertising and/or promotional activities, which may include, but is not limited to, using, publishing or communicating the Application on a website, social media or other digital media.
45. You hereby represent and warrant that You have all permissions necessary to grant the rights provided for in clause 44 and that any use of such Applications by, or on behalf of, VicHealth shall comply with all applicable laws, rules, and regulations and not infringe or otherwise violate the intellectual property, moral rights or other rights of any third party.
46. By participating in the Grant, You accept and agree that you waive any moral rights you may have in relation to any Application you submit, and that VicHealth may use any names, photographs or video footage featured in the Application in its publicity materials without any obligation for VicHealth to provide acknowledgment, payment or other compensation to You. This includes making such names and photographs available for internal business purposes, on the VicHealth Website, the Walk to School Webpage and other advertising and promotional materials.

Confidentiality

47. Confidential Information disclosed by VicHealth to You during the Grant must only be used for the express purpose for which it was disclosed. You agree to keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or programs which are of a confidential nature and have been disclosed by VicHealth to You. You must not, without the prior written consent of VicHealth, use or disclose the Confidential Information, or permit such Confidential Information to be used or disclosed by any third party, except:

- a) where it is necessary for the purposes of administering the Grant;
- b) where You have obtained the prior written permission from VicHealth;
- c) to Your officer's agents, professional advisers, employees, contractors and insurers, subject to those persons first being bound by confidentiality obligations in relation to that Confidential Information.
- c) any breach of confidentiality or breach of privacy by You;
- d) any infringement of a third party's intellectual property rights;
- e) any defamatory statement;
- f) any unlawful activity;
- g) any negligent act or failure to act by You; or
- h) anything else which causes loss, liability, or injury.

Privacy

- 48. In administering the Grant, VicHealth will collect personal information, including without limitation, the names and contact details of persons applying for the Grant.
- 49. Any personal information collected by VicHealth in administering the Grant will be managed in accordance with the Information Privacy Principles (IPPs), the *Privacy and Data Protection Act 2014* (Vic), and VicHealth's Privacy Statement which is available at www.vichealth.vic.gov.au/privacy
- 50. You acknowledge and accept that personal information will be shared with VicHealth's employees, agents and subcontractors to the extent necessary for the Grant to be delivered and for VicHealth's promotional purposes.

VicHealth consent forms

- 51. If You are a Successful Organisation, You must obtain:
 - a) Privacy and moral rights consents from all individuals appearing in photographs and/or video footage provided, or their parents or legal guardians (where applicable);
 - b) A copyright licence from all individuals or legal entities contributing intellectual property to Your photograph or video footage.
- 52. In obtaining such consents or licences, you must use the relevant consent forms appearing on the VicHealth Website and provide the signed consent forms upon receiving notification that the Application is a Successful Application. VicHealth will require You to return the completed consent forms. The consent forms can be found on www.vichealth.vic.gov.au/walktoschool.

Indemnity

- 53. By participating in the Grant, You will indemnify and hold VicHealth and its officers, employees and agents harmless against any loss, liability, or injury arising out of, or in connection with, the Grant including without limitation:
 - a) any breach of these Terms and Conditions or the terms and conditions on the VicHealth Website;
 - b) any warranty given by You under these Terms and Conditions being incorrect or misleading in any way;

- 54. You shall for the duration of the Grant and for 7 years following completion of the Grant maintain public liability insurance with a reputable insurer.

Modification, cancellation or suspension of the Grant

- 55. VicHealth reserves the right, at any time and in its sole discretion, to:
 - a) alter the structure and/or timing of the Grant;
 - b) vary or extend any time or date specified in these Terms and Conditions;
 - c) require additional information or clarification from and organisation submitting the Application;
 - d) modify, cancel, terminate or suspend the Grant in whole or in part; and will not be liable for any costs or expenses incurred by You or any other person as a result of exercising any of its rights in accordance with this clause 55.
- 56. If VicHealth exercises any of its rights outlined in clause 55, VicHealth will notify You in writing.

Disclaimer

- 57. VicHealth is not responsible and disclaims all liability for any condition, circumstances, losses, failures or delays caused by events beyond its control.
- 58. To the maximum extent permitted by law, VicHealth and its officers, employees and agents assume no responsibility for any damage, loss, costs, expenses (including special, indirect or consequential losses, or loss of profits) arising out of, or in connection with, the Grant including without limitation:
 - a) any technical, hardware or software failures, lost, faulty or unavailable network connections or difficulties of any kind that may limit or prohibit your ability to participate in the Grant;
 - b) any lost, damaged, defaced, incomplete, illegible or otherwise unreadable Application;
 - c) any unauthorised access to, or theft, destruction or alteration of any Application at any point in the operation of the Grant;
 - d) any infringement of third party's intellectual property rights, breach of confidentiality or breach of privacy or other action which arises as a result of:
 - i. Your Application; or
 - ii. VicHealth's use or disclosure of a Application in accordance with these Terms and Conditions; or
 - iii. any defamatory statement; or

- iv. any unlawful activity by any person; or
- v. any breach by You of any third party terms and conditions;
- vi. any breach of these Terms and Conditions by You or any misleading warranty provided by You; or
- vii. anything else which causes loss, liability, or injury.

59. By participating in the Grant, You voluntarily and knowingly release, discharge and relinquish any and all claims, actions and lawsuits of any kind against VicHealth and agree that no claim relating to any

loss or injury arising as a result of any of the above shall be made against VicHealth.

Governing Law

60. These Terms and Conditions are governed by, and are to be construed in accordance with the laws applicable in Victoria and You irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Victoria. You waive any right to object to any proceedings being brought in those courts.

Definitions

“Application” means an application made by Victorian councils to participate in the Walk to School LGA Grant 2017 and includes a online application, Project Plan and any other tangible or intangible works provided by You to VicHealth as part of the Walk to School LGA Grant 2017;

“Assessment Criteria” means the selection criteria set out in clause 16;

“Award and Acceptance Email” means the notification and award of a Walk to School LGA Grant 2017 from VicHealth to Successful Organisation/s;

“Certified Project Plan” means a Project Plan which has been signed in accordance with clause 30;

“Funding or Funds” means the funding provided by VicHealth to Successful Organisation/s to deliver the Walk to School LGA Grant 2017.

“GST” means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

“Project Plan” means a project plan in respect of the Walk to School LGA Grant 2017 to be produced and delivered to VicHealth in accordance with these Terms and Conditions;

“Returning Council” means any Council that has participated in Walk to School in the previous year

“Successful Application” means an Application that is selected by VicHealth pursuant to clause 20 which will result in VicHealth providing Funding to a Successful Organisation to deliver the Walk to School LGA Grant 2017;

“Successful Organisation” means a Victorian council whose Application is selected by VicHealth as a Successful Application;

“The Grant” means ‘the VicHealth Walk to School LGA Grant 2017’ administered by VicHealth via the VicHealth Website;

“Trade Marks” means the VicHealth logo and Walk to School Lockup;

“VicHealth” means the Victorian Health Promotion Foundation, a statutory authority established pursuant to The Tobacco Act 1987 (Vic), ABN 20734406352 of 15-31 Pelham Street, Carlton 3053;

“VicHealth Website” means the VicHealth website at www.vichealth.vic.gov.au;

“Walk to School Webpage” means the grant webpage on the VicHealth Website at www.vichealth.vic.gov.au/walktoschool;

“Grant Guidelines” means the VicHealth Walk to School Grant Guidelines 2017 at www.vichealth.vic.gov.au/walktoschool

“You, Your” means the organisation who has submitted the Application.