



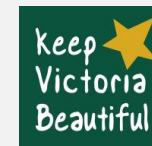
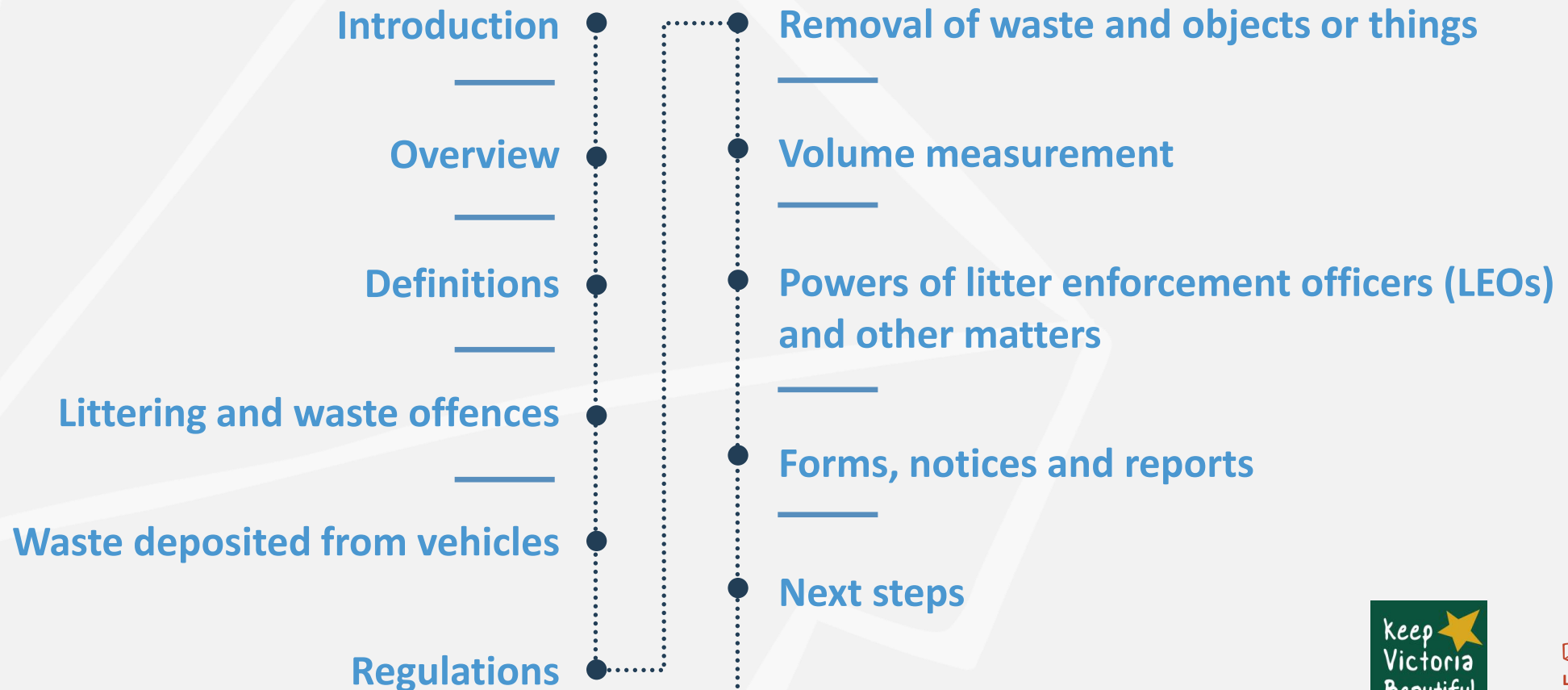
Warm welcome to

Regulating Litter and Other Waste Training Course

(unpacking the Environment
Protection Act 2017)



Agenda

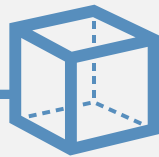


Expected Outcomes

At the end of the training session, you will be able to –



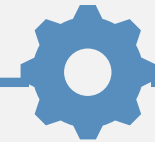
Understand the laws contained in Part 6.3 of the Environment Protection Act 2017



Understand the method/s to estimate volume to identify the appropriate offence in section 115



Understand your powers as a litter enforcement officer

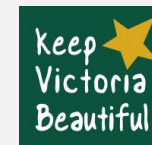


Start to use the enforcement tools from Part 6.3 of the Environment Protection Act 2017 in everyday situations

Overview of the Environment Protection Act 2017

Part 6.3 – LITTER AND OTHER WASTE

- **Division 1** – Preliminary matters (s112-113)
- **Division 2** – Appointment of litter enforcement officers (s114)
- **Division 3** – Offences in relation to littering and other waste (s115-118)
- **Division 4** – Removal of waste and objects or things (s119-123)
- **Division 5** – Powers of litter enforcement officers and other matters (s124-132)



Overview of the Environment Protection Act 2017

Section 3 – Definitions – includes waste

Section 307(4)(e) – power to serve infringements under Part 6.3

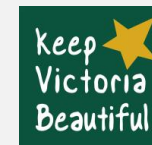
Sections 307(4)(a), 347(5) and regulation 59 – power to serve infringements under Part 4.1 of Regulations

Section 344 – service of documents

Section 347(4) – power to initiate proceedings

Regulations – Schedule 5 – waste classification

Regulations - Schedule 10 – infringement offences and infringement penalties



Overview of the Environment Protection Act 2017

GAME CHANGERS



Penalty structure that features escalating penalties based on waste volume



Penalty structure that features natural person and body corporate



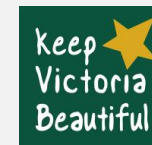
New notices and form – including waste abatement notice, waste information gathering notice, and written statement



New definitions – litter, dangerous litter, waste and deposit



LEOs have a range of powers under Part 6.3 of the Act and able to enforce on Regulation offences under Part 4.1



Definitions

Waste (s3) – includes any of the following –

- a) matter, including solid, liquid, gaseous or radioactive matter, that is deposited, discharged, emitted or disposed of into the environment in a manner that alters the environment;
- b) a greenhouse gas substance emitted or discharged into the environment;
- c) matter that is discarded, rejected, abandoned, unwanted or surplus, irrespective of any potential use or value
- d) matter prescribed to be waste
- e) matter or a greenhouse gas substance referred to in paragraph (a), (b), (c) or (d) that is intended for, or is undergoing, resource recovery;

Definitions

Litter (s112) – means:

a quantity of waste that does not exceed 50 litres



Definitions

Dangerous litter (s112) – means:

litter that is wholly or partly comprised of one or more of the following –

- a) oil, fuel, grease, paint or solvents;
- b) a lit cigarette or a lit cigarette butt;
- c) glass;
- d) a syringe;
- e) any substance, material or other thing prescribed by the regulations;

Schedule 5 of Environment Protection Regulations – classification table of waste items. Any waste item that is marked **YES** under the **PRIORITY WASTE** column and **LESS THAN 50L** and must be **INDUSTRIAL/COMERCIAL SOURCE** may be **DANGEROUS LITTER**



Definitions

Section 5 – Waste Classification (excerpt)

Column 1 <i>Item</i>	Column 2 <i>Section</i>	Column 3 <i>Description of waste</i>	Column 4 <i>Waste code</i>	Column 5 <i>Pre-classified (Pre) or Mirror code (M)</i>	Column 6 <i>Priority waste</i>	Column 7 <i>Reportable priority waste (transactions)</i>	Column 8 <i>Reportable priority waste (transport)</i>
93	Solid and sludge wastes requiring special handling	Waste asbestos	N220	Pre	Yes	Yes	Yes
102	Miscellaneous	Sludges or slurries, including drilling muds containing hazardous substances	T130 - H	M	Yes	Yes	Yes
120	Glass	Glass	Z100	Pre	No	No	No
127	Paper and cardboard	Office paper	Z430	Pre	No	No	No



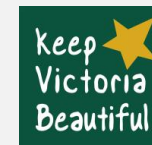
Definitions

Deposit (s3) –

the act of parting with the possession of litter or waste and includes the disposal of litter or waste by burning

s115(7). A reference in this section to the deposit of waste includes a reference to waste that –

- is blown from premises or a place; or
- falls or escapes from premises or a place



Litter and other waste offences

s115 – unlawful deposit of waste

- 4 offences
- volume thresholds
- offences relate to litter, dangerous litter and waste over 50L
- defences
- connected deposits of waste



Litter and other waste offences

s115(1) – unlawful deposit of litter

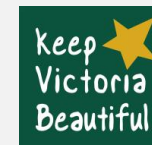
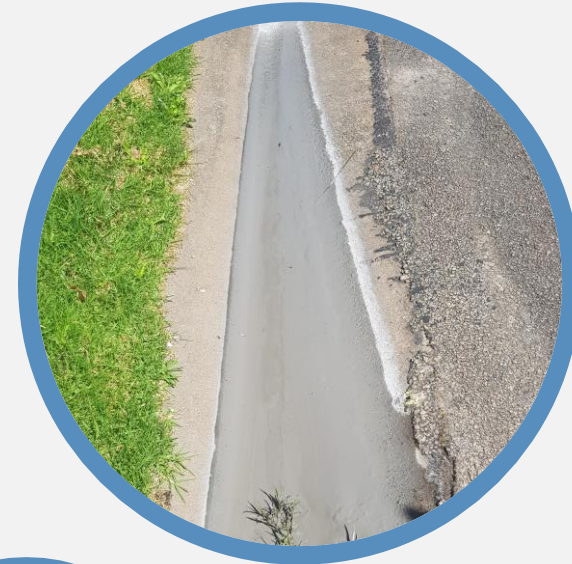
- waste that is less than 50 litres
- Infringement penalty is 2 penalty units (natural person) and 10 penalty units (body corporation)



Litter and other waste offences

s115(2) – unlawful deposit of dangerous litter

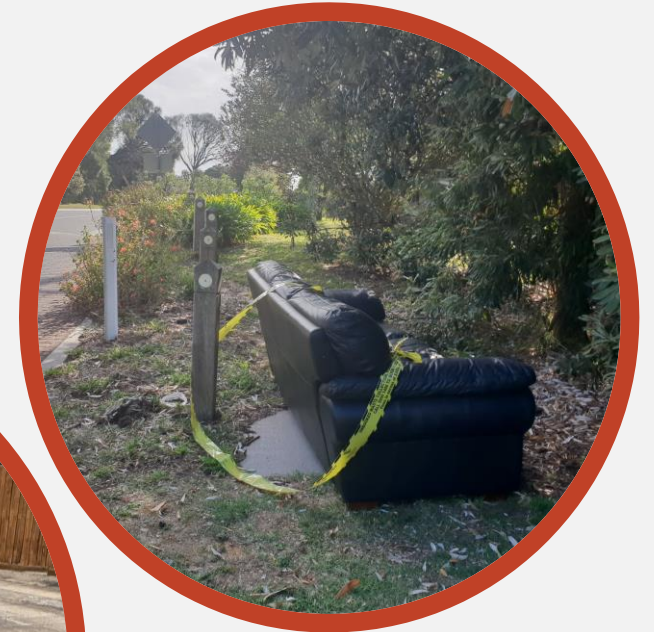
- litter that is wholly or partly comprised of one or more of the following –
 - oil, fuel, grease, paint or solvents
 - lit cigarette or lit cigarette butt
 - glass
 - syringe
 - any substance, material or other thing prescribed by the regulations
- infringement penalty is 4 penalty units (natural person) and 20 penalty units (body corporation)
- volume less than 50 litres



Litter and other waste offences

s115(3) – unlawful deposit of waste that is more than 50L but less than 1000L

- infringement penalty is 6 penalty units (natural person) and 30 penalty units (body corporation)
- volume greater than 50 litres



Litter and other waste offences

s115(4) – unlawful deposit of waste that is more than 1000L

- infringement penalty is 10 penalty units (natural person) and 50 penalty units (body corporation)



Litter and other waste offences

s115(5)

- same as “OLD” defences for deposit of litter (EPA1970).
- deposit the waste in a premises or place that is provided for the deposit of waste and is appropriate for waste of that size, shape, nature or volume
- deposit the waste so that it cannot leave the premises or place without human assistance and the person owns, controls or is in possession of the place or has express consent of the owner
- accident
- etc

Litter and other waste offences

s115(6) – connected deposits of waste

- two or more deposits of waste may be taken to be one deposit for purposes of s115(1), 115(2), 115(3) and 115(4)



Waste deposited from vehicles

s116

liability of owners and drivers of vehicles in relation to littering of waste – owner-onus rule

s116 (2)

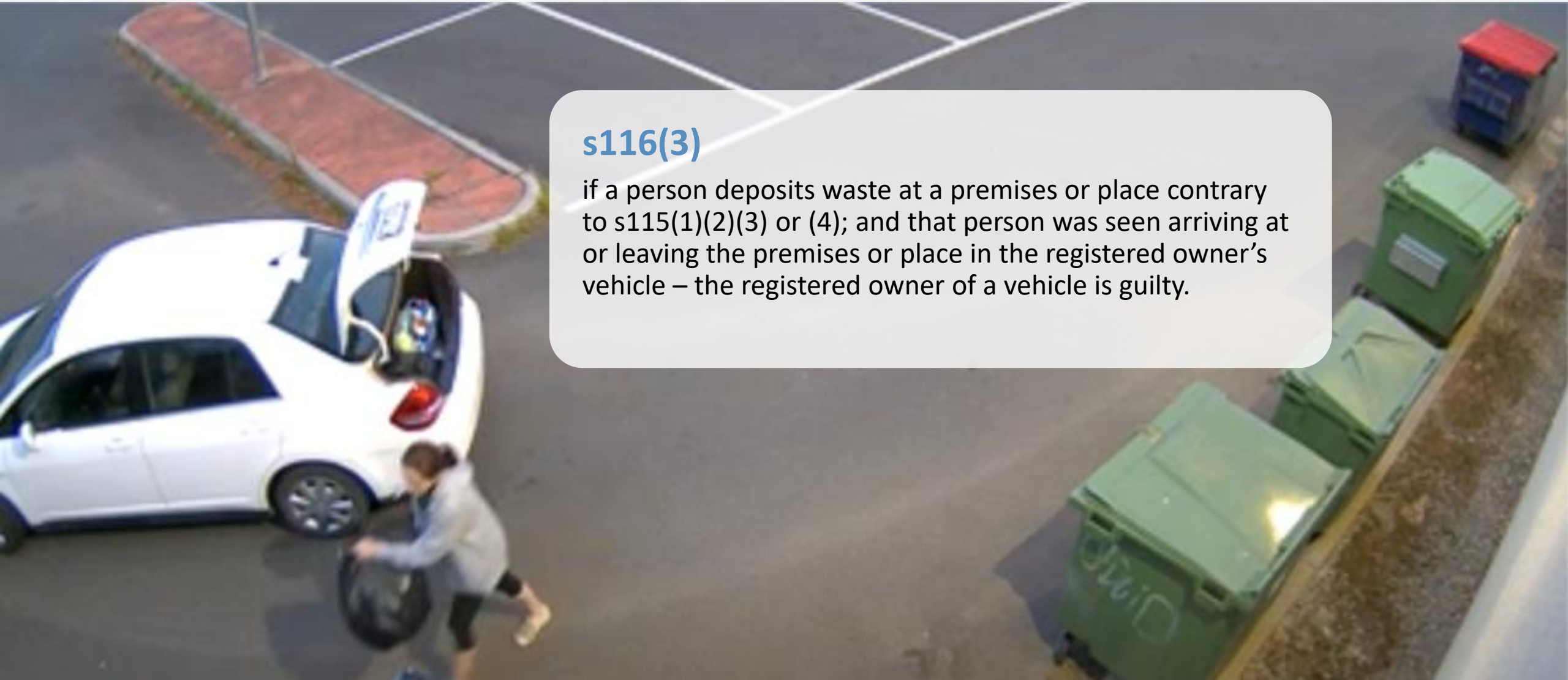
if waste is deposited from a vehicle the **registered owner** can be found guilty unless there is evidence that the **driver** or **authorised user** for the vehicle was responsible



Waste deposited from vehicles

s116(3)

if a person deposits waste at a premises or place contrary to s115(1)(2)(3) or (4); and that person was seen arriving at or leaving the premises or place in the registered owner's vehicle – the registered owner of a vehicle is guilty.

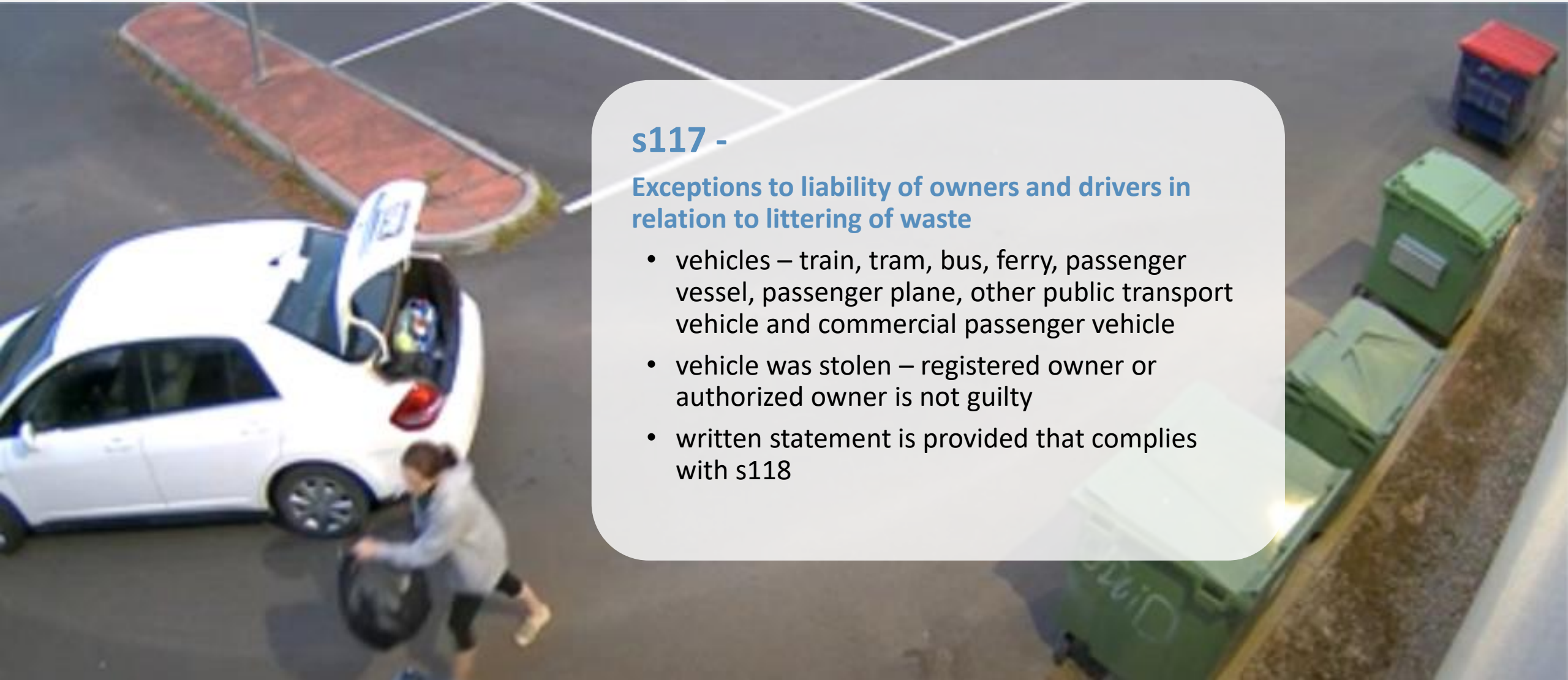


Waste deposited from vehicles

s117 -

Exceptions to liability of owners and drivers in relation to littering of waste

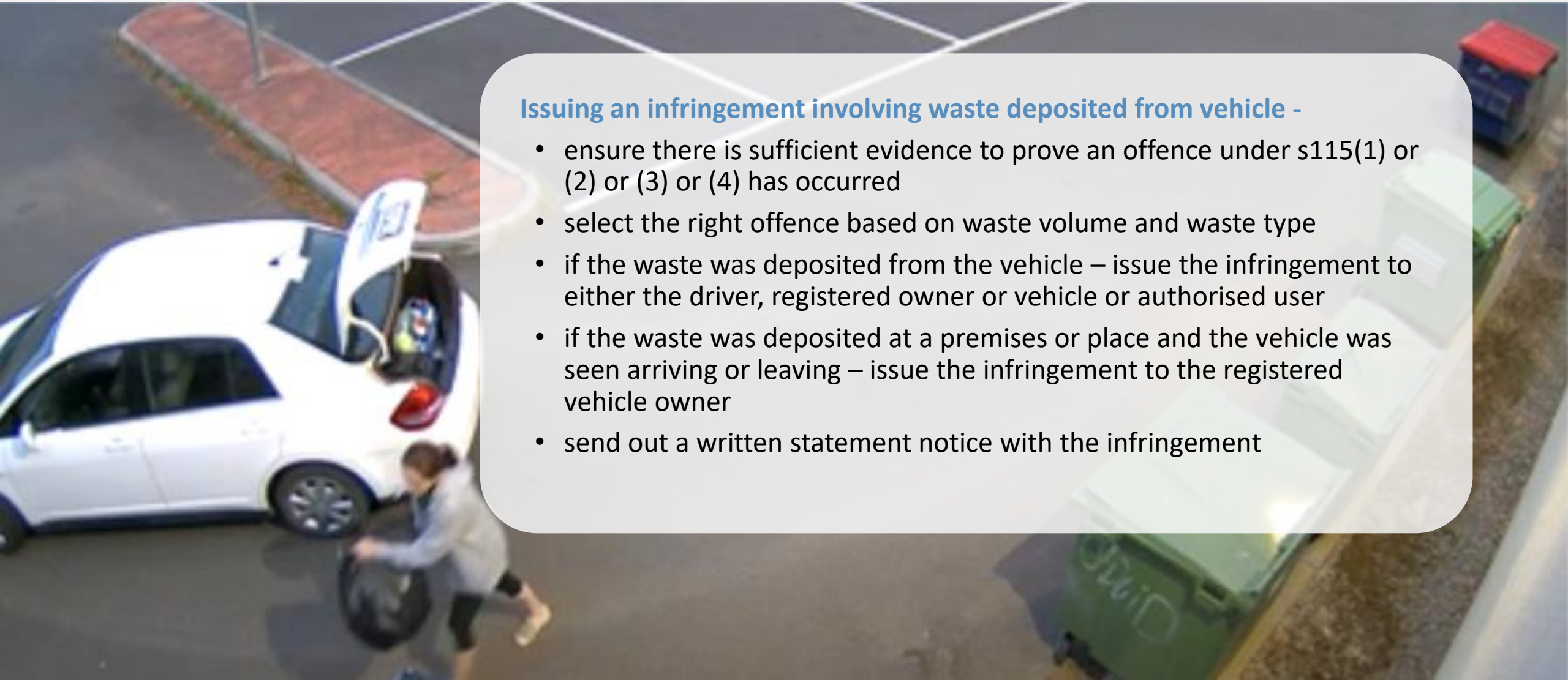
- vehicles – train, tram, bus, ferry, passenger vessel, passenger plane, other public transport vehicle and commercial passenger vehicle
- vehicle was stolen – registered owner or authorized owner is not guilty
- written statement is provided that complies with s118



Waste deposited from vehicles

Issuing an infringement involving waste deposited from vehicle -

- ensure there is sufficient evidence to prove an offence under s115(1) or (2) or (3) or (4) has occurred
- select the right offence based on waste volume and waste type
- if the waste was deposited from the vehicle – issue the infringement to either the driver, registered owner or vehicle or authorised user
- if the waste was deposited at a premises or place and the vehicle was seen arriving or leaving – issue the infringement to the registered vehicle owner
- send out a written statement notice with the infringement



Regulations - additional offences

Several laws from Environment Protection Act 1970 have come across as Regulations (55-58). Infringement notices can be issued except for Regulations 56(1) and 56(2)



Removal of waste and objects or things

s119-s123

- LEO may request person to remove waste
- court ordering person to remove waste
- waste abatement notice



Removal of waste and objects or things



s119

Litter enforcement officer requests person that unlawfully deposited waste to remove waste

- request can be verbal or in writing
- LEOs reasonable belief is the standard of evidence
- if the person fails to remove the waste, the infringement penalty is 2 penalty units (natural person) and 10 penalty units (body corporate)
- this can apply on any land or waters within the municipal boundaries

Removal of waste and objects or things

s120

Court first needs to find person guilty of an offence in Part 6.3

- court can order the person to remove the waste OR order the person to pay a sum of compensation for the removal of waste to another person who has management or control of the land or water where offence has occurred
- court will nominate the Supervisor to oversee the clean up
- if Order is complied with, Supervisor sends a statement to the person
- if Order is contravened, Supervisor may apply to Court for an order that the person pay a fine (max 40 penalty units)

Removal of waste and objects or things



s121 – waste abatement notice

- direction notice to remove waste and objects or things
- direction notice for things to be done or not so that Part 6.3 is not contravened

Volume measurement

Offences contained in s115 are based on volume in litres (L). The three volume-based thresholds are:

- less than 50 L (litter and dangerous litter)
- more than 50 L but less than 1000L
- more than 1000L

It is vital that we become confident and consistent in measuring volumes of waste so we can apply the correct offence

Volume measurement

EPA Victoria have developed excellent approaches / methodology (refer to Regulating Litter and Other Waste Toolkit) to estimate waste volumes.

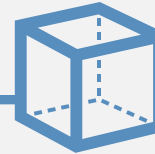
From the toolkit, three approaches to highlight:

01



Visual estimation
based on type of
waste (least precise)

02



Visual estimation
using scale object

03



Direct measurement
(most precise)

Volume measurement

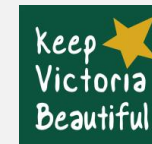
01

Visual estimation
based on types of
waste

When to use?
If waste is spread out

Item	Typical volume (L)*
Retail water casks	10L
Round plastic buckets for domestic use	9-10L
Large wine-casks	4L
Passenger tyre	50-80L
Council (wheelie) bins –general waste	140L
Council (wheelie) bins – recycle / green waste	240L
Petrol 'jerry cans'	20L
Bar fridges	120-550L
Single door fridge	400-1000L
Double door fridges	1000-1500L
Single mattress	350 L (0.92m x 1.90m x 0.2m)
Double mattress	525L (1.38m x 1.90m x 0.2m)
Queen size mattress	621L (1.53m x 2.03m x 0.2m)

*Volumes are
approximations only



Volume measurement

01

Visual estimation
based on types of
waste

How?

Take photos and use
typical volumes for
common waste items

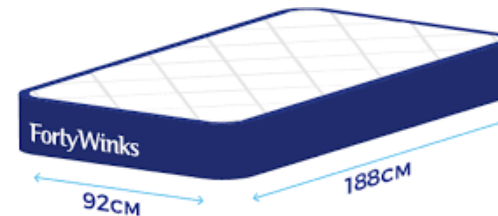
Example –

Pile of waste including a standard car tyre, a single sized
mattress and standard top mounted fridge.

Tyre = 70L



Mattress = 350L

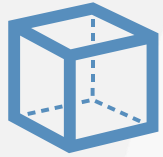


Fridge = 500L



Total is 70L + 350L + 500L = 920L

Volume measurement



02

Visual estimation using a scale object

When to use?

Waste pile may be too high to measure or may contain something hazardous like asbestos

How?

- Take photos of 4 different angles
- Stand next to the pile and the measurements of the person or an object like a surveyor's staff to show scale and estimate measurement.

Refer to Method 3 to estimate the volume of the cone.



Volume measurement

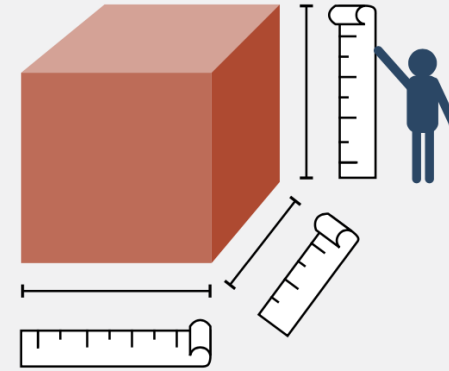


Direct Measurement

Boxes

Whitegoods
Mattresses
Actual boxes

Height of box
Width of box
Length of box



The volume of a box is calculated by multiplying the length, width and height.

- Multiply the length by the width, then by the height
- Multiply by 1,000

Formula: (V=lwh)

Volume = length x width x height

Volume measurement



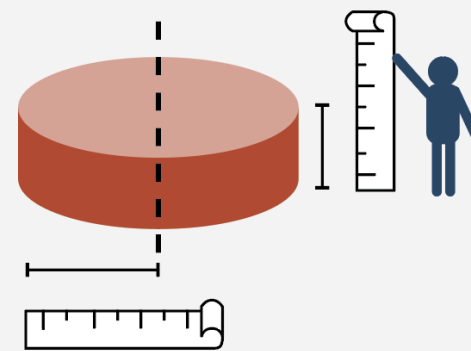
03

Direct
Measurement

Cylinders

Drums
Cans
Tyres

Height of
cylinder
Radius (half the
width of the
cylinder)



The volume of a cylinder is calculated by multiplying the height of the area by the base.

- multiply the radius by itself (e.g. if the radius is 4, multiply 4 by 4)
- multiply by the height
- multiply by 3.14 (known as "pi" or π)
- multiply by 1,000

Formula: ($V=\pi r^2h$)

Volume = 3.14 x (radius x radius) x height

Volume measurement

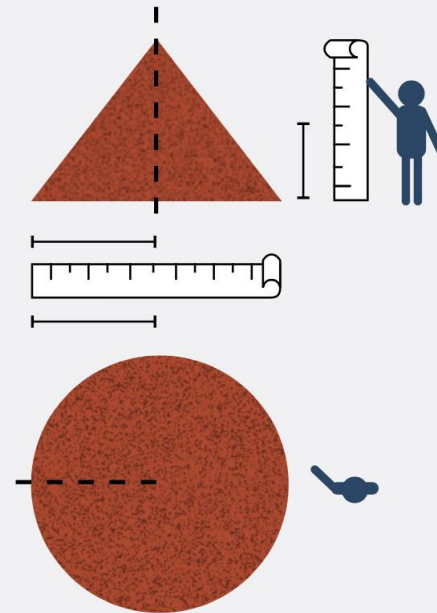


Direct Measurement

Conical piles with a circular base

Dumped soil or clippings

Height of pile
Radius of pile
(half the width)



The volume of a cone with a circular base is calculated by multiplying the area of the base by the height of the pile and then dividing by three.

- multiply the radius by itself (e.g. if the radius is 4.5, multiply 4.5 by 4.5)
- multiply by the height
- multiply by 3.14
- divide by 3
- multiply by 1,000

Formula: $(V = (\pi r^2 h) / 3)$

Volume = $1/3 \times 3.14 \times$
(radius x radius) x height

Volume measurement

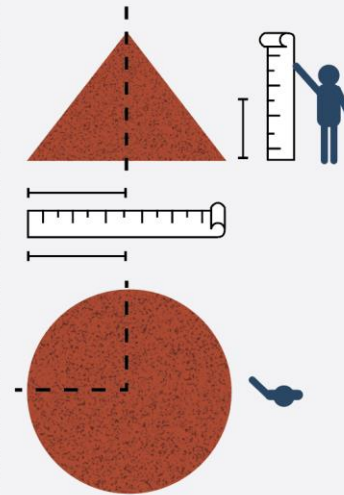


Direct Measurement

Conical piles with an oval base

Dumped soil or clippings

Height of pile
Long axis of pile
Short axis of pile



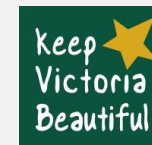
The volume of a cone with an oval base is calculated by multiplying half the long axis (R1) by half the short axis (R2), then multiplying by 3.14. This gives you the area of the base. Then multiply the area of the base by the height and divide by three.

- multiply the two axis measurements
- multiply by the height
- multiply by 3.14
- divide by 3
- multiply by 1,000

Formula:

$$(V = (\pi R_1 R_2 h) / 3)$$

Volume = $1/3 \times 3.14 \times$
short axis \times long axis \times
height



Powers of LEOs and other matters



s114 – Litter enforcement officer appointment

s124 – Powers of entry (other than part being used as residential premises)

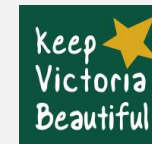
s125 – LEO may ask a person's name and address

s126 – LEO to produce proof of Identity and official status

Powers of LEOs and other matters

Asking person's name and address –

- s125(1)** – LEO can request person's name and ordinary place of residence or business
- s125(2)** – inform the person of reasons why we believe that the person has committed an offence under Part 6.3 and provide sufficient information about the alleged offence
- s125(3)** - offence if failure to comply with LEO's lawful request for name and address without reasonable excuse
- s125(4)** - offence to provide false name or address
- s125(5)** - LEO may request proof of name or address if they believe person provided false details; and
- s125(6)** - offence to fail to provide proof of name and address if requested by LEO under subsection (5); and
- s125(7)** - a person has not committed an offence under subsections (3) and (5) if the LEO has not informed them of these offences at the time/



Offence



Offence to supply false or misleading information

- **s132** -in connection with written statement
- **s118** -in connection with waste information gathering notice 127(2) **OR**
- report made under **s131**

- *can only be prosecuted in Court. Maximum penalty is 40 penalty units (natural person) and 200 penalty units (body corporate)*

Form – written statement

s118

- see form template
- method to contest an infringement that has been issued to a driver, registered owner of vehicle or authorised user of vehicle involving waste deposited from a vehicle and nominate the person who deposited the waste or was in or near the vehicle at the time the waste was deposited
- recommend that the form is sent out with the infringement involving waste deposited from a vehicle
- has to be provided within 10 business days

Form – written statement

STATUTORY DECLARATION –WASTE

(Written statement- Section 118 Environment Protection Act 2017)

Use this form to declare who was responsible for the offence by submitting a statutory declaration to <insert name of litter authority>.

See the back of this form for a list of persons authorised under s.30(2) of the Oaths and Affirmations Act 2018 to witness the signing of the statutory declaration.

Step 1. DETAILS OF THE PERSON WHO RECEIVED THE INFRINGEMENT

Full name:

Infringement No:

Occupation:

Residential address:

Suburb:

Postcode:

Telephone No:

Email:



Form – written statement

Step 2. DECLARATION

I, the person named above, make the following declaration under the *Oaths and Affirmations Act 2018*:
(Please cross X one of the below)

- I did not deposit the waste and I saw another person deposit the waste. The name and address of that person is (write their details below).
- I did not deposit the waste and I saw another person in or near the vehicle at the time the waste was deposited. The name and address of that person is (write their details below).
- The waste was deposited by a passenger of a commercial passenger vehicle (i.e. taxi, uber, etc) at the time of the offence.

Form – written statement

Step 3. DETAILS OF PERSON RESPONSIBLE / IN OR NEAR VEHICLE AT THE TIME

Full name:

Residential address:

Suburb:

Postcode:

Telephone No:



Form – written statement

Step 4. DECLARATION SIGNED IN FRONT OF AUTHORISED WITNESS

Person making the declaration (declarant)

I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.

The following must be read aloud in the presence of the authorised witness before signing:

I, [full name of declarant] of [address], declare that the contents of this statutory declaration are true and correct.

Signature of declarant:

Declared at:

(place in the state of Victoria)

On: (date: DD/MM/YY)



Form – written statement

Authorised witness

I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration.

- (If applicable) I certify that I have read the statutory declaration to the declarant at the time the statutory declaration was made, due to illiteracy, limited English literacy, vision or cognitive impairment.
- (If applicable) I certify that I assisted the declarant in making the statutory declaration by... (write details of assistance provided, for example, translating the document):

Signature of authorised witness:

Full name of authorised witness:

On: / /
(date: DD/MM/YY)

Position/title:

Address:

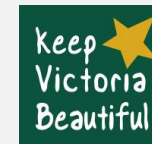


Form – written statement

Step 5. SEND DECLARATION TO <INSERT LITTER AUTHORITY>

Email a scanned copy to: <insert email address for litter authority>

Or post to: <insert postal address of litter authority>



Form – written statement

Authorised Witness

The following is a list of persons who may witness statutory declarations under Section 30 of the *Oaths and Affirmations Act 2018*.

For a complete list of authorised witnesses, refer to www.justice.vic.gov.au/statdecs

- A person currently licensed or registered to practice in Australia as one of the following occupations:
 - Architect
 - Chiropractor
 - Conveyancer
 - Dentist
 - Financial adviser or financial planner
 - Legal practitioner
 - Medical practitioner
 - Midwife
 - Migration agent
 - Nurse
 - Occupational therapist
 - Optometrist
 - Patent attorney
 - Pharmacist
 - Physiotherapist
 - Psychologist
 - Trademarks attorney
 - Veterinary surgeon
- An accountant who meets at least one of the following criteria:
 - Fellow of the national Tax Accountants' Association
 - Member of Chartered Accountants Australia
- Commissioner for Affidavits
- Judge
- Justice of the Peace
- Local government Council or
- Magistrate
- Registered marriage celebrant
- Master of a court
- Member of the Australian Defence Force who meets at least one of the following criteria:
 - An officer
 - A non-commissioned officer with 5 or more years of continuous service
 - A warrant officer
- Member of the Parliament of a State
- Member of a Territory legislature
- Member of a local government authority
- Registered minister of religion
- Notary public, including a notary public exercising functions at a place outside either the Commonwealth or the external Territories of the Commonwealth
- Police officer
- Police reservist
- Protective service officer (PSO)
- Registrar, or Deputy Registrar, of a court



Notice – waste abatement notice

- **s121 – can be issued by a Litter Enforcement Officer, a Litter Authority (council) or the Authority (EPA)**
- **See Notice Template**
- **Grounds for issuing a waste Abatement notice –**
 - person has deposited waste, object or thing that causes risks of harm to human health or environment
 - person has deposited waste, object or thing at a premises or place making it disorderly or detrimentally affecting its proper use
 - activity is causing or likely to cause the unlawful deposit of waste
 - has unlawfully deposited waste
- **Only applies on land or water of which litter authority has management or control**

Notice – waste abatement notice

Waste abatement notice can require the person to do one or more of the following:

- remove or dispose of the waste, object or thing within a specified time or manner
- restore any premises or place affected by the waste, object or thing
- modify the way the person engages in the activity
- do specific things to ensure that waste is not unlawfully deposited
- take any other action in relation to the waste, object, thing or activity



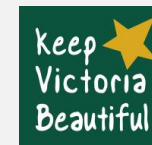
If the person who deposited the waste cannot be found, and this notice is issued to the occupier of the place or premises where waste was deposited pursuant to s121(6), the sole requirement which can be imposed is to remove or dispose of the waste

Notice – waste abatement notice

Options for Litter Authority if there is non-compliance with WAN:

- Litter Enforcement Officer issues an infringement notice – s121(5) or s121(7) – 6 penalty units (natural person) and 30 penalty units (body corporate)
- litter Authority removes/disposes of waste/object/thing
- recovers costs in Court

Occupier may recover cost of removing waste in complying with s121(6)



Notice – waste information gathering notice

- **s127 – issued by the Litter Enforcement Officer**
- **See notice template**
- **No mandatory time period of 14 days**
- **Grounds for issuing is a reasonable belief held by the Litter Enforcement Officer that:**
 - person possessed the waste
 - person responsible for commissioning the production or distribution of material that became waste

Notice – waste information gathering notice

Information sought can include -

- how, when and where the waste came into or left the person's possession
- if the waste left the person's possession – name and address of person who has possession of the waste
- name and address of another person who was involved in commissioning the production or distribution of material that became waste
- any other relevant information that relates to the waste



Person is required to either advise the Litter Enforcement Officer that the information is not within their knowledge or possession, or provide the information sought in writing

Refusal or failure to comply with a waste information gathering notice breaches s127(3). LEO issues Infringement notice which is 2 penalty units (natural person) and 10 penalty units (body corporation)

Notice – waste information gathering notice



Application for Court Order

- Litter Enforcement Officer may apply to Court for an order compelling a person to comply with a waste information gathering notice

Notice – waste information gathering notice



Application for Court Order

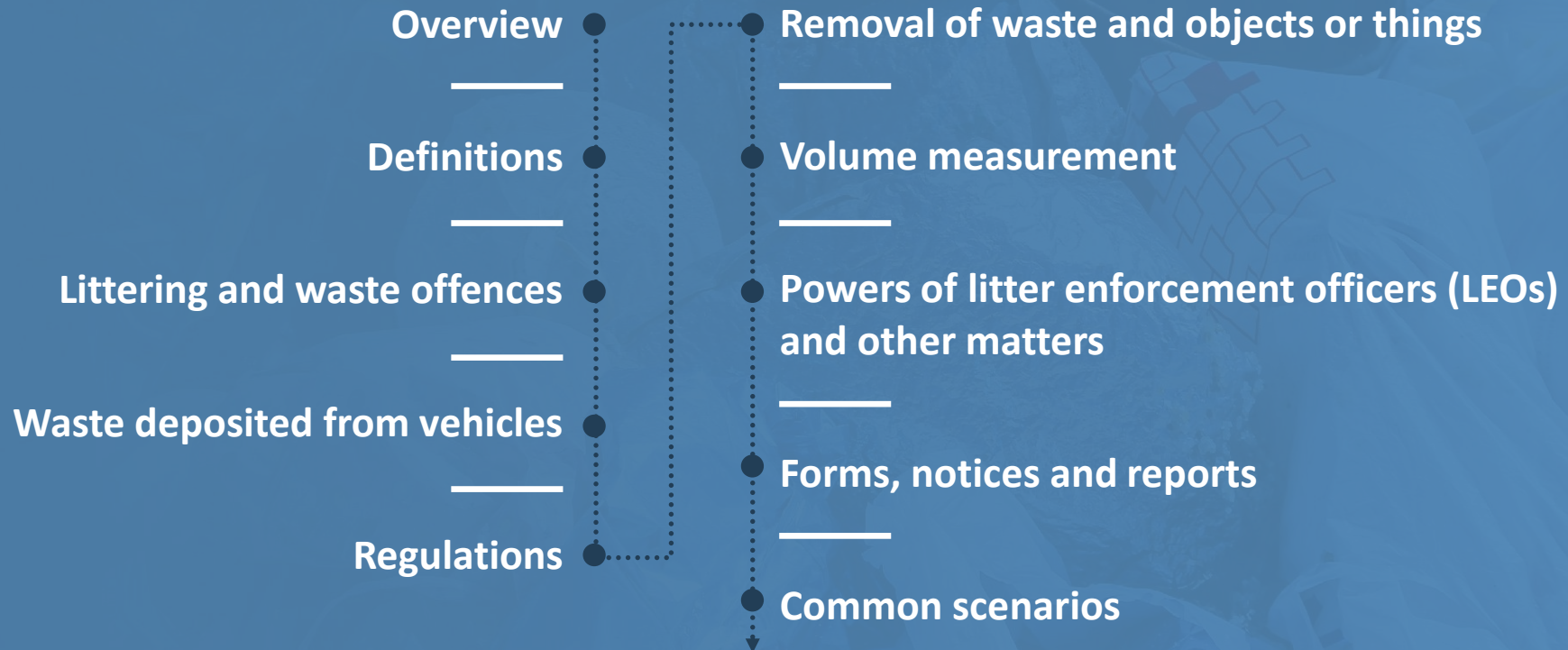
- Litter Enforcement Officer may apply to Court for an order compelling a person to comply with a waste information gathering notice
- Application can be made in conjunction with proceedings or infringement notice

Report - signed written report – report of littering offence provided by witness



- **s131**
- **See report template**
- **Information required includes –**
 - date, approximate time and place of offence
 - nature of waste
 - any evidence of the identity of the person who is alleged to have committed the offence
 - signature
- **Once written report is received – Litter Enforcement Officer can take appropriate enforcement action against the person who is alleged to have committed the offence**

Session Recap



Session Recap

Are you able to



Understand the laws contained in Part 6.3 of the Environment Protection Act 2017



Understand a method/s to estimate volume to identify the appropriate offence in section 115



Understand your powers as a litter enforcement officer



Start to use the enforcement tools from Part 6.3 of the Environment Protection Act 2017 in everyday situations

Next steps

Start to enforce the Environment Protection Act 2017



01

Stay tuned for feedback and certification

02

Contact LEON or Travis Finlayson if further advice needed

03

Provide us with updates on cases under the new Act to share with other members



Contact LEON

 leon@kvb.org.au

 litterenforcement.org.au