

***COUNCIL LAND AND RECREATIONAL FACILITIES
BY-LAW 2017***

BY-LAW NO. 1 OF 2017

AND

REGULATORY IMPACT STATEMENT

NOTICE OF INTENTION TO MAKE BY-LAW COUNCIL LAND AND RECREATIONAL FACILITIES BY-LAW 2017

Council has resolved to make the *Council Land and Recreational Facilities By-law – No. 1 of 2017*. The purpose of the proposed By-law is for the control and management of council land and recreational facilities.

The Primary objectives of the proposed By-law are to:

- make provision for the management and control of Council owned land and swimming pools, recreation areas, recreation grounds, halls, sports centres and marine facilities (recreational facilities);
- make provision for the protection of Council land and property, public health, the environment and order arising out of the use of Council land and recreational facilities;
- make provision to ensure the peace and enjoyment of Council land and recreational facilities for use by the public;
- provide for a system of permits or user agreements for use of Council land or recreational facilities to provide for the above;
- provide for penalties and breaches of the By-law and for the issue of Infringement Notices by an Authorised Officer;
- provide necessary enforcement powers for Authorised Officers and Police Officers.

The envisaged or potential impact and the primary features of the proposed By-law affecting the community or groups within the community are:

- A person (which includes a Club, Body Corporate or relevant organisation) may use Council land or recreational facilities for specific purposes by way of a permit or a user agreement. This may also require a permit holder or hirer to hold an appropriate insurance policy, provide a security bond or undertake other actions to address, risk safety or amenity issues;
- Specific rules and regulations for the management, control or use of any Council land and recreational facility can be made by notice and must be followed;
- Any Council land or recreational facility may be closed as necessary including for safety reasons, protection of the Council land and recreational facilities, repair, maintenance or improvement or the conduct of an organised event or competition and a person not otherwise authorised to do so may not enter land that is closed;
- Specific provisions are made in relation to use of swimming pools to ensure public health and decency issues are addressed;
- Specific provisions are made for marine facilities (Council jetties and boat ramps) to ensure that the facilities are not damaged and general use is not unreasonably obstructed particularly by commercial activity;
- A number of activities are wholly prohibited or must not occur until a permit or user agreement is in place specifically authorising that activity to occur. Activities are generally categorised as to: general use; protection of natural areas and property; animals, vehicles, bicycles, skateboards or aircraft; public order, and; health. General offences are created for undertaking the specified activities without the necessary authorisation.

- A person will be required to comply with enforcement powers granted to authorised officers and police officers in respect of use of Council land or recreational facilities including the giving of directions and notices. Infringement notices may be issued for offences and a ban can be placed on persons from entering onto Council land or a recreational facility if they have offended against the By-law.
- Special committees of Council or third party contractors managing Council land or a recreational facility may be authorised to undertake powers and responsibilities under the By-law.

Availability of Proposed By-law

A copy of the proposed By-law and the regulatory impact statement may be viewed on the Council website at www.huonvalley.tas.gov.au and available for inspection at and for no cost from the Council's Customer Service Centre, 40 Main Street, Huonville.

Submissions

Submissions are invited in respect of the proposed By-law and the Regulatory Impact Statement stating the grounds of the submission and the facts relied on in support of those grounds, to be in writing addressed to the General Manager, Huon Valley Council, PO Box 210, Huonville, 7109 or by email hvc@huonvalley.tas.gov.au or by facsimile to 03 6264 0399 and to be received by the Council no later than Wednesday 29 March 2017.

Enquiries may be directed through Council's Customer Service Centre on 6264 0300 or by email hvc@huonvalley.tas.gov.au .

WAYNE THORPE
ACTING GENERAL MANAGER

DATED THIS 6TH DAY OF MARCH 2017

Local Government Act 1993
Section 156A

CERTIFICATE

APPROVAL OF REGULATORY IMPACT STATEMENT

COUNCIL LAND AND RECREATIONAL FACILITIES BY-LAW NO.1 OF 2017

The Regulatory Impact Statement for the Huon Valley Council 'Council Land and Recreational Facilities By-Law No.1 of 2017' has been examined for the purposes of compliance with section 156A of the *Local Government Act 1993*.

The Regulatory Impact Statement addresses the following statutory requirements:

- the objectives of the by-law and the means by which the by-law is to achieve them;
- the nature of any restriction on competition;
- an assessment of the costs and benefits of any restriction on competition;
- an assessment of the costs and benefits of any impact of the by-law upon the conduct of business;
- any alternative option considered by the council;
- an assessment of the greatest net benefit or least net cost to the community;
- an assessment of the direct and indirect economic, social and environmental impacts of the by-law; and
- the proposed public consultation process.

I therefore certify that for the purposes of section 156A of the *Local Government Act 1993* -

- (i) the Regulatory Impact Statement is satisfactory; and
- (ii) the council may commence the public consultation process.

Dated this 7th day of February 2017



Alex Tay
Director of Local Government
Department of Premier and Cabinet

**PROPOSED COUNCIL LAND AND
RECREATIONAL FACILITIES BY-LAW
2017
BY-LAW No. 1 OF 2017
REGULATORY IMPACT STATEMENT**
Section 156A Local Government Act 1993

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1. BACKGROUND

The Huon Valley Council as a local government authority undertakes general roles and functions under the *Local Government Act 1993* (the Act) as well as powers and functions under other Acts of State Parliament.

The broad functions of the Council are set out in section 20 of the Act as:

- To provide for the health, safety and welfare of the community;
- To represent and promote the interests of the community;
- To provide for the peace, order and good government of the municipal area.

The Council may do anything necessary or convenient to perform its functions within its municipal area.

The Huon Valley Municipal Area is diverse with:

- Five main towns of Huonville, Cygnet, Geeveston, Dover and Franklin;
- a number of small rural settlements;
- coastal “shack” settlements;
- rural living communities;
- bush living opportunities; and,
- large areas of rural land.

As part of providing service to the community and for its administrative operations the Huon Valley Council owns and manages land for specific purposes, vacant land, parks, reserves, open space, halls, sport centres, other buildings, walking tracks, swimming pools, boat ramps and jetties throughout the municipal area.

These can all be described as Council land and recreational facilities and these include, but are not limited to:

- Huonville swimming pool;
- Port Huon and Cygnet Sports Centres;
- Huonville, Cygnet, Dover, Glen Huon, Ranelagh, Judbury, Kermadie, Franklin, Surges Bay and Southport recreation areas which provide facilities for sports such as cricket, football and soccer. These recreation areas also include associated grounds such as soccer grounds, tennis courts, netball courts, Little Athletic tracks, clubrooms, grandstands and other associated buildings;
- Ranelagh Recreation Ground and Showgrounds;
- Halls and community centres at Huonville, Mountain River, Ranelagh, Judbury, Glen Huon, Franklin, Cradoc, Peverata, Cygnet, Surges Bay, Southport and Geeveston;
- Parks and gardens including Burton’s Reserve Cygnet, Heritage Park Geeveston, Loongana Park Cygnet, Harvey Park Cygnet, Walton Park Huonville, Calvert Park Judbury, Village Green Ranelagh, Glen Huon Park, Franklin Foreshore, Cradoc Park, Huonville Esplanade and Dover Foreshore;
- Walking tracks at Huonville, Geeveston, Franklin, Lymington Road Cygnet and Dover Beach;
- Shipwrights Point Regatta Grounds at Port Huon as land held under Trust;
- Children’s playgrounds at Burton’s Reserve Cygnet, Huonville Esplanade, Calvert Park Judbury, Ranelagh, Heritage Park Geeveston, Shipwrights Point Port Huon, Glen Huon, Franklin Foreshore, Cradoc Park and Dover Foreshore;
- Skate parks at Huonville and Dover with another planned for Cygnet;

- Marine facilities, jetties and boat ramps at Huonville, Franklin, Shipwrights Point, Granny Gibbons Bay Police Point, Surveyors Bay, Dover, Southport, Cradoc, Glaziers Bay, Sandrock Bay, Cygnet and Charlottes Cove;
- RV Friendly sites at Franklin and Shipwrights Point.

Council also hold land providing for other services such as waste management facilities, roads, medical centres, independent living units and visitor information centres and for other identified strategic purposes which may include for future economic development opportunities.

As well as owning land Council also leases/licences various portions of Crown Land for these purposes and some of the above facilities are on leased and licenced land.

Many of the Council facilities above are provided for the broad benefit of the community and for public use. Use of such land should not be unnecessarily impeded but must be regulated for the protection of those who use the land or facilities and to protect the assets of the land and facilities to the community.

Without some regulations specific to Council land and recreational facilities there is a reliance upon existing legislation. The Council has historically controlled use of Council land and recreational facilities by way of By-laws adopted under the *Local Government Act 1993*.

By-laws are provided for regulated use of Council land and recreational facilities to ensure that users of the facilities are protected and to ensure that the property of the Council and surrounding environment are also not damaged.

The By-laws also consider the need to ensure that users have responsible risk management consideration in place to ensure that the impact of any use of Council land and recreational facilities is reduced.

The need to protect the Council's property and investment in the assets that constitutes Council land and recreational facilities is extremely important because they are as a result of considerable investment of the Council's budget in asset management as well as often receipt of external public funding provided to develop or upgrade facilities.

The Council also recognises that it is important to involve the community in the development or management of Council assets and to that extent the Council has a number of Hall or Park Area Management Committees that are responsible for the day to day running and hiring out of those facilities.

Council also has a number of Advisory Committees in relation to specific areas for their future development such as the Burton's Reserve Advisory Committee, Ranelagh Recreation Area Management Advisory Committee, Huonville Recreational Area Management Advisory Committee and the Marine Facilities Development Advisory Committee.

The Council also from time to time may contract out the running of a facility and examples of this include management of the Cygnet Town Hall as well as the RV Sites at Franklin and Shipwrights Point.

The Council has therefore considered it appropriate to make a By-law to address these matters.

2. INTENTION TO MAKE BY-LAW

Section 145 of the Act provides the Council with the power to make By-laws in respect of any act, matter or thing for which a Council has a function or power under this or any other Act.

Under that section By-laws may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise specified in the By-law.

In accordance with Council's *Governance Framework, August, 2016* it is the Council's practice to undertake its roles and functions under existing legislation (Acts and Regulations) where this is provided.

Where there is a deficiency of legislation (ie. matters not properly covered) or where there are particular management or governance issues the Council will consider the making of By-laws to deal with these matters.

In preparing a By-law due regard is given to the provisions within existing relevant legislation and the need to ensure that the By-law does not duplicate or conflict with those statutory provisions rather the focus will be to complement existing legislation.

Due regard will also be given to the reduction of administrative burden. To that end the intent of any By-law will be to keep regulation to the necessary minimum.

In particular, regard has been had to the following legislation:

- *Local Government Act 1993*
- *Police Offences Act 1934*
- *Criminal Code Act 1924*
- *Environmental Management and Pollution Control Act 1994*
- *Public Health Act 1997*
- *Litter Act 2007*

Despite the above, there is no existing legislation that effectively enables the regulation, control and use of Council land and recreational facilities.

The Council has had a long history of regulation of use of Council land and its facilities, examples include:

- *Reserves, Recreation Grounds and Council Buildings By-law* of the Huon Council;
- *Esperance Reserves and Recreation Grounds By-law* of Esperance Council;
- *Parks, Recreation Grounds and Reserves* of Huon Valley Council;
- *Reserves and Recreation By-law No. 12 of 1999*;
- *Council Land and Recreational Facilities By-law No. 19 of 2006* which is currently in force, and in accordance with Section 155 of the Act, is due to expire on 2 May 2017 (By-laws exist for a period of 10 years).

As a consequence the Council has resolved its intention to make the proposed *Council Land and Recreational Facilities By-law 2017* to replace the current By-law for the control and management of Council land and recreational facilities.

3. REGULATORY IMPACT STATEMENT

When a Council seeks to make a new or significant By-law amendment, the Act requires that a Regulatory Impact Statement (RIS) be prepared.

The preparation of an RIS requires the Council to analyse the most efficient and effective options available to deal with a particular issue. The RIS is also required to identify whether the benefits provided by the new By-law outweigh the cost of any restrictions on competition or the potential adverse impacts upon business. This requires an assessment of direct and indirect social, economic and environmental impacts of the proposed By-law and the alternatives considered.

Section 156A of the Act requires that, once the RIS has been prepared, Council must submit the RIS to the Director of Local Government. If the Director is satisfied that the RIS meets the statutory requirements, a Certificate to that effect will be issued and Council may then commence the public consultation process on the proposed By-law.

4. THE OBJECTIVES OF THE BY-LAW (Section 156A(2)(a))

The purpose of the proposed By-law is for the control and management of Council land and recreational facilities.

The primary objectives of the proposed By-law are to:

- make provision for the management and control of Council owned land and swimming pools, recreation areas, recreation grounds, halls, sports centres and marine facilities (recreational facilities); and
- make provision for the protection of Council land and property, public health, the environment and order arising out of the use of Council land and recreational facilities; and
- make provision to ensure the peace and enjoyment of Council land and recreational facilities for use by the public; and
- provide for a system of permits or user agreements for use of Council land or recreational facilities to provide for the above; and
- provide for penalties and breaches of the By-law and for the issue of Infringement Notices by an Authorised Officer; and
- provide necessary enforcement powers for Authorised Officers and Police Officers.

The proposed By-law does not generally apply to land that is:

- (a) a waste management facility within the meaning of the *Waste Management By-law 2012*;
- (b) a road within the meaning of the *Roads (Local Highways) By-law 2014*;
- (c) used as a retirement village within the meaning of the *Retirement Villages Act 1997*;
- (d) to a Councillor or employee of the Council or a contractor or agent of the Council for activities in or on any Council land or recreational facility in the course of their duties for an on behalf of the Council; and
- (e) to any Council land or recreational facility which is the subject of a lease or licence from Council to a person under Division 1 Part 12 of the *Local Government Act 1993*.

The means by which the proposed By-law is intended to achieve the objectives are:

- providing for the ability for specific rules and regulations for the management, control or use of any Council land and recreational facility to be made by notice (clause 5);
- allowing the General Manager to close any Council land or recreational facility that may be necessary including for safety reasons, protection of the Council land and recreational facilities, repair, maintenance or improvement or the conduct of an organised event or competition (clause 6);
- allowing for a person (which includes a Club, Body Corporate or relevant organisation) to use Council land or recreational facilities for specific purposes by way of a permit or a user agreement. This may also require a permit holder or hirer to take out a security bond (clauses 7, 8 and Part 6);
- making specific provisions in relation to swimming pools including standard of dress and suitable clothing, ensuring a person with a disease or skin complaint does not enter a pool, a requirement for a person to shower before entering a swimming pool and prohibiting placement of any polluting substances in a swimming pool (clauses 10, 11, 12 and 13);
- providing specifically for marine facilities including that general use of a marine facility is not obstructed by:
 - vessels for a period in excess of two days or for trading vessels mooring for more time than is necessary for its purpose and restricting the leaving of cargo on a marine facility (clause 14);
 - restricting parking in such a manner to obstruct access to a marine facility (clause 15);
 - causing damage to a marine facility, leaving dead fish, fish butts or bait on a marine facility and adding to or altering a structure of a marine facility without a permit (clauses 16, 17 and 18);
- providing a list of general offences for activities that are wholly prohibited or must not occur until a permit or user agreement is in place specifically for that activity or authorising that activity to occur. General offences include:
 - Use
 - conducting, arranging or participating in a function, party or reception of which more than 50 people are present (clause 21);
 - charging admission or taking collection for admission or enter into a Council land or recreational facility (clause 22);
 - entering onto hired Council land or recreational land facilities except in accordance with permission or by ticket (clause 23);
 - Protection of Natural Areas and Property
 - a person must not damage or injure any vegetation or remove any wood or timber (clause 24);
 - a person must not dig, remove any soil, turf, gravel, etc (clause 25);
 - a person must not take or trap or poison or disturb wildlife (clause 26);
 - a person must not make or mark out a track or route or erect a cairn or memorial (clause 27);
 - a person must not bring into or be in possession of any declared weeds (clause 28);
 - a person must not light or maintain any fire except in a designated place (clause 29);
 - a person must not remove or damage Council property or mark or otherwise deface Council property (clause 30);
 - a person must not place, leave or build any building or structure obstruction (clause 31);

- a person must not misuse a dump point or use for private purposes from any land in the municipal area (clause 32);
- a person must not misuse or damage any children's playground equipment (clause 33);
- a person must not make or create an entrance from any private property to Council land or recreational facility (clause 34).
- Animals, vehicles, bicycles, skateboards or aircraft
 - a person must not drive any vehicle or ride or lead any horses except on constructed roads or tracks set aside for the purpose (clause 35);
 - a person must not incorrectly park in designated areas (clause 36);
 - a person must not use bicycles, skateboards, hoverboards, segways or similar unless in designated area or where sign permits (clause 37);
 - a person must land, moor or launch any aircraft (including drones) except in case of emergency or permitted by a sign (clause 38);
 - a person must not allow any animals to graze or stray into Council land or recreational facilities or possess or be in charge of other animals unless authorised to do so by relevant legislation in respect of dogs (clause 39);
- Public Order
 - a person must not do anything that unreasonably interferes with the peaceable enjoyment of users of the Council land or recreational facility (clause 40);
 - a person must not display notices, signs, electoral signs or distribute hand bills or posters, etc (clause 41);
 - a person must not discharge any firearm or use any fireworks (clause 42);
 - a person must not conduct any amusement or entertainment for financial reward, organise or participate in an assembly or rally or take up collection of money (clause 43);
 - a person must not participate in organised sport or play golf (clause 44);
 - a person must not enter a change room or toilet for an area of the opposite sex if aged over seven years unless using a unisex toilet (clause 45);
 - a person must not loiter in a change room or toilet (clause 46);
 - a person must not sell liquor and if authorised must do in accordance with the *Liquor Licensing Act 1990* and must not be in any Council land in an intoxicated condition (clause 47);
 - a person must not undertake commercial activities (clause 48);
 - a person must not let or hire any goods (clause 49);
 - a person must not take or use water for private "off-site" purposes (clause 50);
- Health
 - a person must not camp or set up any caravan unless in designated area and relevant fee is paid (clause 51);
 - a person must not pollute, urinate or defecate on Council land except in a place provided for that purpose (clause 52).
- establishing a permit system which includes the ability to acquire bonds and deposits associated with use of Council land or recreational facility (see Part 6, clauses 8 and 9).

The granting of a permit includes provisions for relevant factors to be taken into account by the General Manager, the ability to provide conditions of permit, considerations of competing applications, specification of the manner that permits are to be provided, requirements to be considered for cancellation of permits and

obligation on permit holders to produce a permit immediately when requested to do so.

- Providing for enforcement provisions which include:
 - The General Manager may, by notice, ban a person who has offended against the By-law from entering onto any Council land and recreational facility for such period as determined (clause 62).
 - Powers for Authorised Officers to ask a person to leave Council land or recreational facilities, to refuse to admit a person to any Council land and recreational facility whom the Authorised Officer reasonably believes is offending or has offended against this By-law, remove anything which is in or on Council land and recreational facility without a permit or the approval of Council and to remove any person from any Council land and recreational facility whom the Authorised Officer may reasonably believe is offending against the By-law. An Authorised Officer may require a person to supply their full name and address. A Police Officer is authorised to carry out various actions of Authorised Officers under the By-law (clauses 63 and 64).
 - Dealing with articles removed from Council land and recreational facilities (clauses 65, 66 and 67).
 - Powers for Authorised Officers to give directions or notices in relation to any matter under the By-law and, where there is non-compliance, to allow for the Council to undertake the necessary work and seek to recover the debt from the person who has contravened the By-law or failed to comply with the relevant notice or direction (clauses 68, 69, 9, 18, 19 and 20).
 - Providing for offences within the proposed By-law and making provision for the issuing of infringement notices by Authorised Officers with penalty provisions in respect of specified offences for breaches of the proposed By-law. The penalty provisions act is a deterrent to breaching the By-law provisions and are directed towards situations where activities have been undertaken where damage has occurred or where permits or user agreements have not been obtained (clauses 70, 71, 72 and schedule 1).
- Providing for the ability to refer any particular matter to the Council for consideration and to delegate to special committees or authorising powers and responsibilities under the By-law to third party contractors (clauses 73 and 74).

5. NATURE OF ANY RESTRICTION OF COMPETITION (Section 156A(2)(b))

The proposed By-law primarily relates to issues of governance and Council control and management of Council land and recreational facilities.

Council land and recreational facilities are provided as necessary for the operations of the Council and for the benefit of the public for provision of a broad range of services. They are not provided for specific private use and a right or entitlement but this can be provided for by way of regulation under the By-law.

The proposed By-law does not place any restrictions on market entry, competitive conduct, produce service innovation or determine any administrative discretion of the Council in respect to the provision of goods and services.

The proposed By-law does not restrict competition and is necessary for Council to retain control over activities undertaken within Council's land and recreational facilities to ensure access to and peaceable enjoyment of Council land.

The proposed By-law will not have any impact on persons from a competitive respect other than those wishing to use Council land for commercial purposes.

This is reflected in a number of clauses including:

- use of marine facilities by trading vessels as specified in clauses 14(4) and 14(5);
- general restrictions on carrying out of commercial activities without a permit or a user agreement to do so as specified in clause 48;
- restriction on conducting any amusement or entertainment for financial reward also unless authorised to do so by a permit or user agreement as specified in clause 43.

The proposed By-law provides some guidance in how a permit or user agreement may be granted for any use and that any application will be determined on its merits in accordance with the By-law. Any permit or user agreement issued under the By-law will be subject to terms and conditions relevant to the By-law.

The By-law will place no restriction on competition as it deals with purely governance matters for the control and management of Council land and recreational facilities within the Huon Valley municipal area excepting those mentioned above.

6. COSTS AND BENEFITS OF ANY RESTRICTION ON COMPETITION (Section 156A(2)(c)(i))

As discussed in the previous Section of the Statement the proposed By-law is not considered to restrict competition.

7. COST AND BENEFITS OF ANY IMPACT ON THE CONDUCT OF BUSINESS (Section 156A(2)(c)(ii))

As generally discussed in Sections 5 and 6 of this Statement, no impact restricting the conduct of business is foreseen.

Council land and recreational facilities are funded by the Council as well as by various grant funding and unless set aside for other specific purposes, are generally available for the use and benefit of the public. Whilst facilities may be able to be used for commercial purposes this is only under permit or user agreement and specifically controlled. It is considered this is appropriate due to the community investment and no commercial activity or business should assume an inherent right to use Council land or recreational facilities except in approved circumstances.

It is noted that the majority of use of any Council land or recreational facilities for business or commercial activities would be by way of a lease for which the By-law does not apply. These would be carefully considered by Council at the time. There will though be circumstances for occasional use of Council land and recreational facilities for commercial activity. The By-law allows for these activities to occur whether by permit direct to that business or the businesses authorised to do so under a user agreement such as participating in events such as the Taste of the Huon or Huon Show.

The proposed By-law only has a potential to impact on the conduct of business where a business wishes to conduct its business in or on any Council land or recreational facility.

No business has a right to conduct any business activity on Council land without Council's permission. The By-law provides a process for this to occur through a permit system, user agreement or, such business could lease Council land separately through the provision of the *Local Government Act 1993*.

Any costs of complying with a permit or user agreement will be the same as any use by that business or private property and it will be inappropriate for the community to incur the costs of commercial businesses using Council land or recreational facilities.

So far as event organisers, sporting clubs and other similar users may be seen as a business it is acknowledged that they have social and economic benefits to the community and the services they provide. This will not preclude the requirements for user agreements but the social or economic benefits may be reflected in the responsibilities of those organisations in those agreements.

No impact on the conduct of business is foreseen with all restrictions placed by the By-law and any extra cost in complying with conditions placed upon a permit or user agreement (which cannot be quantified as they would depend directly on the particular proposed use), justified in the interest of public safety, amenity and the protection of Council property or environment in Council land and recreational facilities.

8. ALTERNATIVE OPTIONS CONSIDERED BY COUNCIL (Section 156A(2)(d))

The purpose of the proposed By-law is for the control and management of Council land and recreational facilities.

The By-law replaces Council's *Council Land and Recreational Facilities By-law 2006*.

Rather than preparing a new Council Land and Recreational Facilities By-law there are other alternatives.

Council could do nothing. This is not really considered a viable option as Council has an obligation to ensure that sufficient controls are in place to protect public health, visual amenity and prevent environmental nuisances which may arise out of use and occupation of caravans and temporary structures as identified in this RIS.

It is considered that Council has a responsibility to provide suitable controls that ensure acceptable order, safety, amenity, public health and environmental standards are maintained in using Council land and recreational facilities and to then also ensure that those controls are enforced.

If no regulatory controls are in place then individuals will determine their own standards and this will in turn lead to an immediate or progressive reduction in public order, acceptable safety, amenity, public health and environmental standards. Such an approach would create considerable uncertainty and ambiguity.

Another alternative is to rely on other available or relevant statutory provisions or regulations. Examples of opportunities in this regard include environmental nuisances, anti-social behaviour being referred to the police, or abatement notices. Abatement notices are issued in circumstances where a person is actually required to abate a nuisance such as carrying out the necessary work to remove the nuisance.

Examples of opportunities in this regard include:

- *Police Offences Act 1934*;
- *Criminal Code Act 1924*;
- *Litter Act 2007*;
- environmental nuisances (*Environmental Management and Pollution Control Act 1994*);
- abatement Notices (*Local Government Act 1993*).

These types of other regulatory alternatives do not adequately address the particular uses and activities that need to be controlled in Council land and recreational facilities. There are also benefits in defining the actual activities (within the By-law) that are to be controlled, rather than relying upon very general provisions within other legislation. This more precise definition makes it much clearer to everyone as to what is expected and so reduces arguments and conflicts. It provides a clarity needed for effective enforcement.

These opportunities can only be applied to individual circumstances as and when they arise and do not allow for effective management of specific issues arising from use of Council land or recreational facilities.

The proposed By-law is pro-active rather than reactive, as it provides for up-front approvals processes whether for permits or user agreements rather than reactive outcomes at first instance for issuing of notices under other legislation. The other legislation does not provide for written permission or agreement from the General Manager to control commercial activities. Without such approval Council would either rely on informal agreements or consider leasing part thereof on the basis that it is also available for public use. Both of these alternative options are inadequate and Council prefer to have much tighter control of any unsafe or unauthorised use. There are no other sufficient and effective alternative options to control such activity and the impacts of that activity other than by a By-law.

Regulation is considered the only feasible option to achieve the By-law's objectives and the proposed By-law has been carefully constructed to ensure it imposes the least regulatory burden on the community as possible.

There are no other alternatives to match the legal effectiveness of a By-law to govern these matters as they are a specific function and service provided by the Council for the benefit of the community.

9. GREATEST NET BENEFIT/LEAST NET COST ALTERNATIVE (Section 156A(2)(e))

Without an appropriate By-law proper standards cannot be imposed to ensure that Council land and recreational facilities are appropriately managed to create a safe and attractive environment for those who wish to use them.

In the event that Council could not be satisfied that public safety, order, environment or Council property is not being compromised then there would be no alternative other than to prohibit certain activities in Council land and recreational facilities.

The greatest net benefits to the community in the adoption of the proposed By-law are to ensure that:

- council land and recreational facilities and properties are protected;
- any Council land and recreational facility set aside for the use of the public is able to be peaceably enjoyed by the public without unreasonable obstruction and impact from other persons;
- public health and environmental issues arising out of the use of Council land and recreational facilities are managed;
- issues relating to general order on any Council land and recreational facilities are addressed.

Failure to ensure this could create risk to users of Council land and recreational facilities, cause damage to the environment and also create a cost to the community by way of repairs and damage to Council property on its land and recreational facilities.

The proposed By-law will incur costs on those who are seeking to use Council land and recreational facilities including:

- restricting the use of the Council land and recreational facility;
- in complying with terms and conditions of a permit or a user agreement. These are to ensure that costs of use of the Council land and recreational facilities is borne by the user to a reasonable extent and not wholly subsidised by the community and general impacting upon Council's budget and ability to provide other services to the community. Longer term users such as under user agreements will have specified responsibility for costs and maintenance of infrastructure. Other costs are to ensure that the activity is undertaken in a safe manner without impact upon other users and uses of the Council land and recreational facilities. This is also to minimise impact upon Council property and the general environment of the Council land or recreational facility.

These costs are considered to be reasonable given the impacts the proposed By-law is attempting to address.

It is therefore considered that the benefits of the proposed By-law far outweigh the cost to any person as a result of the proposed By-law.

10. DIRECT/INDIRECT ECONOMIC, SOCIAL, ENVIRONMENTAL IMPACT (Section 156A(2)(f))

The proposed By-law replaces the current *Council Land and Recreational Facilities By-law No. 19 of 2006* which has made provisions associated with respect for the control and management of Council land and recreational facilities.

The Council allocates budget and resources toward improving Council land and recreational facilities and wishes to ensure they continue to be managed in a way that makes it safe for all users.

Social

The By-law continues Council's existing By-law and practice in respect of Council land and recreational facilities.

Council land and recreational facilities are owned by the Council for the benefit of the greater community and are important to the wellbeing of the Huon Valley community, providing social venues and a wide variety of recreational activities as well as enjoyment of the environment and passive recreational activities.

The By-law provides a positive social impact in that it seeks to regulate anti-social behaviour within Council land and recreational facilities and protect against the privatisation of the land or recreational facilities by select groups.

Council land and recreational facilities will not, however, always be open to the public, and will at times be hired out for specific purposes and the general public will be excluded from their use at those times or by ticket only. This may be for specific events such as the Taste of the Huon, Huon Show and the Cygnet Folk Festival or one off events.

These events will have a benefit to the community but, in allowing these events to occur, Council needs to ensure that exclusive use is not presumed and that the effects on the community are considered and the impacts of any proposed exclusive use are addressed. It is therefore appropriate for Council to regulate and manage this process.

Likewise many Clubs within the Huon Valley rely upon the use of Council land and recreational facilities and property provided therein. This is particularly noted in relation to use of recreational facilities by Sporting Clubs along with change rooms and clubrooms. In these circumstances user agreements can clearly set out responsibilities of the Clubs and allow the Clubs then to contribute to the community accordingly.

The proposed By-law will allow Council to consider public safety and, as a risk management tool, ensure that Council is in a position to reduce loss to itself and the community in general for the benefit of the whole community.

General social benefits from the By-law include:

- the Council land and recreational facilities are able to be managed in such a way that they are as safe as the Council can reasonably make them for the use of all members of the public. The restriction on activities that can be carried out on the requirement for the obtaining of a permit or user agreement will have the effect of either eliminating or restricting and controlling activities that might either injure or inconvenience other users of the Council land or recreational facilities or damage property contained thereon;
- proper regulation and control that comes with the By-law will ensure the enjoyment that comes from the Council land and recreational facility will be maintained and enhanced;
- the amenity created by well maintained and managed Council land and recreational facilities is of considerable value;
- from a cost perspective in order to ensure that appropriate standards are maintained it is important certain standards be set that permit holders and hirers must meet. The administrative costs of a permit and user agreement system will be covered by the cost of the permit user agreement and thus will not impose any burden on the ratepayers generally. Enforcement costs will be minimal as the Council will use its existing staff to police the By-law. The cost of the legal enforcement of the By-law should largely be met by recovery of penalties and legal costs. The regulation of the proposed By-law should result in safe enjoyment of Council land and recreational facilities by all members of the public.

The proposed By-law will apply to all users of Council land and recreational facilities, however, observance of the By-law will ensure that all users will be able to peaceably enjoy the land and recreational facilities in the knowledge that Council is in a position to appropriately and efficiently deal with problems rather than a lengthy delay for court processes or awaiting the attendance of police.

Economic

The proposed By-law is not considered to have an economic impact in causing any loss to any party.

As a general principle recreational facilities are provided to the community by Council as a community service. This then has a flow-on effect for broader regional development of the Huon Valley in the sense that it makes the municipal area more liveable. It is therefore intended that the provision of permits and user agreements would reflect this, with full cost recovery only pursued in situations where there is commercial gain.

Some users of Council land or recreational facilities will be required to pay fees towards that use and will incur costs in complying with permits or user agreements this is a continuation of the current situation and is to ensure the cost of the facility to the wider community are reduced.

The By-law is a continuation of Council's practice of a permit and user agreement system in respect to many of its facilities. The same administration costs will apply under the By-law and it is not anticipated there will be further cost to Council. Some costs will continue to be covered by permit fees, fees applied in user agreements and normal entry fees.

Compliance with conditions of permit, which may require reparation work or cleaning up following an activity will be a cost to that user and not the Council and community at large.

Environmental

Without regulation under the By-law it can be difficult to make offenders accountable for the effects of their activities or conduct on the environment, both physical and on a person's enjoyment of the environment.

Council through permits and user agreements can specifically regulate any activity on Council land or in any recreational facility to ensure that there are no impacts on the environment, or where this cannot be avoided, any impacts are minimised and addressed on completion of the activity.

Regulation of the By-law is considered to directly benefit the environment.

Conclusion

The benefit to Council of regulating and controlling and managing use of Council land and recreational facilities under the care, control and management of the Council far outweighs the administration costs of implementation of the proposed By-law and the cost to the community in complying with it which already apply under Council's current By-law and practice and are not expected to increase.

These costs are currently applicable. In any event the proposed By-law is not considered to create any additional cost to the community.

11. STATEMENT OF CONSULTATION PROCESS (Section 156A(2)(g))

In accordance with the *Local Government Act 1993*, and as part of the By-law making process, submissions are invited from the public.

Submissions on this proposed By-law may be made in writing to the General Manager, within 21 days from the date of publication of the initial notice in the Mercury newspaper. Council will take into consideration all submissions properly made to it during the public comment period.

Council will also undertake the following consultation process:

- Provision of media releases on the proposed By-law to the Huon Valley News, Cygnet Classifieds and Dover Bush Telegraph; and
- Direct Mail contact with the following State Government Agencies and identified stakeholders that use Council land or recreational facilities:
 - Local Government Division, Department of Premier and Cabinet (*Local Government Act 1993*);
 - Department of Police and Emergency Management (*Police Offences Act 1935, Criminal Code 1924 and Litter Act 2007*);
 - Department of Education and local schools;
 - Recreation Clubs and Organisations (includes swimming clubs, football clubs, soccer clubs and cricket clubs);
 - Regular holders of user agreements of Council land and recreational facilities
 - Council land and recreational facilities management committees and advisory committees;
 - Third party contractors managing Council land and recreational facilities (including Cygnet Town Hall and RV sites at Franklin and Shipwrights Point);
 - Marine facilities user groups;
 - Local Rotary, Apex Clubs and lodges;
 - Taste of the Huon, Cygnet Folk Festival and Huon Show organising committees/associations, Regatta Associations and Sailing/Yachting Clubs.

Copies of the proposed By-law and regulatory impact statement are available from the Council Office at 40 Main Street, Huonville or on the Council website – www.huonvalley.tas.gov.au, at no cost.

Enquiries in relation to the By-law may be directed to Council's Customer Service Centre on 6264 0300 or by email to hvc@huonvalley.tas.gov.au.



SIGNED

**MATTHEW GRIMSEY
EXECUTIVE MANAGER REGULATORY
AND DEVELOPMENT SERVICES**

DATED AT HUONVILLE THIS 6TH DAY OF MARCH, 2017

12. ADDENDUM

The Director of Local Government has provided a Certificate of Approval of Regulatory Statement pursuant to section 156A of the *Local Government Act 1993*.

In providing the Certificate the Director has suggested that Council take into account the following matters.

Proposed Changes to the Proposed By-law

The following changes have been suggested to the Proposed By-law:

- Under Part 1, Clause 3 – Clause 3(2) is repeated under clause 3(3)(d). The latter will be deleted.
- Under Part 1, Clause 4 – The definition of “article” incorrectly refers to clause 60 and clause 20. These will be altered to clause 63 and clause 19 respectively.

These changes will be made by the Council when considering submissions received.

Changes made from the current By-law

The proposed By-law is based on the current By-law with a review having been undertaken of similar By-laws of other Tasmanian Councils with the following main changes noted from the current By-law:

- In clause 3 “Application” it is specifically noted that the By-law does not apply to a Waste Management facility within the meaning of the *Waste Management By-law 2012*, a road within the meaning of the *Roads (Local Highways) By-law 2014* or a Retirement Village within the meaning of the *Retirement Villages Act 2004*.
- Include a definition of “aircraft” (clause 4).
- Include a general definition of “camp” (clause 4).
- Simply the definition of “caravan” for the purpose of the By-law (clause 4).
- Include a definition of “dump point”.
- Expand the definition of “person” to include Body Corporates, Club, Association and Organisation (clause 4).
- Include a definition of “polluting substance” (clause 4).
- Include a definition of “special committee” (clause 4).
- Clarify the definition of “wildlife” to such that it does not include a domestic dog or cat but could include feral dogs or cats (clause 4).
- Reorder closure of Council land or recreational facility from former clause 9 to clause 6.
- Create a penalty provision for a hirer to comply with terms and conditions of a user agreement (clause 7(5)).
- Extend the ability to require a permit holder to provide a security bond (clause 8).
- Extend the ability of a right to cover costs from a permit holder (clause 9).
- Include the ability of an Authorised Officer to restrict a person with a skin complaint entering a pool at any time (clause 9).
- Restrict the leaving of cargo from a trading vessel on a marine facility at any time (clause 14).
- Altering the number of persons which can conduct, arrange or participate in a function, party or reception in or on any Council land or recreational facility without a permit or user agreement from 25 to 50 (clause 50).

- Make various changes to terminology within the general offences from undertaking various activities “without a permit” to “unless authorised to do so by a permit or user agreement” noting that activities may not actually be undertaken by the permit holder or hirer rather people acting under that authorisation.
- Include a specific offence of bringing into or being in possession of declared weeds within any Council land or recreational facility (clause 28).
- Make specific provisions in relation to placing or depositing any substance in a dump point other than for its specified purpose and restricting use of a dump point or disposal of any substance arising from the use of any private land in the municipal area. It is noted that this should be done not at the cost of the community but undertaken at the cost and responsibility of the property owner (clause 32).
- Make a specific provision in relation to use of children’s playground equipment in accordance with the suitable age for that equipment on any sign (clause 33(2)).
- Expanding upon parking within designated areas in Council land or recreational facilities or remaining or parking in a Council land and recreational facility that is closed (clause 36(2) and (3)).
- Including a provision in relation to the landing, mooring or launching of any aircraft from or into any Council land and recreational facility as authorised to do so by permit or user agreement or in the case of emergency or otherwise permitted by a sign. This is to address the issue and use of drones and remote controlled aeroplanes and the impact that this can have on use of Council land but also broadly applies for other aircraft such as helicopters on Council land and recreational facilities (clause 38).
- Remove the restriction of dogs in Council land or recreational facilities as the By-law cannot specifically provide for these outside of the requirements to be undertaken in the *Dog Control Act 2000*. There is now a general provision for not possessing or being in charge of an animal unless authorised to do so by permit or User agreement except a dog provided it conforms with the requirements of the *Dog Control Act 2000* (clause 39(2)).
- Clarify that where a person sells liquor on any Council land or recreational facility under a permit or User agreement this is also to be authorised to do so unless licence granted under the *Liquor Licensing Act 1990* (clause 47).
- Clarify restrictions in relation to undertaking of commercial activities or instructing or coaching a person for financial reward on Council land or recreational facility (clause 48).
- Make specific provision for the taking or using water from any tap or outlet on any Council land and recreational facility for any use outside of that Council land or recreational facility unless authorised to do so. There have been many instances of taking Council water for private and domestic purposes within the Huon Valley. This is particularly during the summer period and is considered necessary to deal with persons who are caught taking Council water at the cost to the community. There is also an offence provided in relation to leaving a tap or outlet on to address water wastage (clause 50).
- Previous clause 49 in relation to no smoking has been removed as this is now dealt with by Division 1A Part 4 of the *Public Health Act 1997*.
- Inclusion in the requirement for an application to permit to also have the payment of the fee or charge in place of a Council under Section 205 of the *Local Government Act 1993* (clause 53).
- Providing general considerations of the General Manager in deciding to grant or not grant a permit under the By-law consistent with the *Roads (Local Highways) By-law 2014*(clause 54).

- To provide a general provision in relation to requiring a bond or deposit for activities undertaken under the By-law consistent with the *Roads (Local Highways) By-law 2014* (clause 56).
- To clarify enforcement provisions and supply name and address for consistency with By-laws particularly the *Roads (Local Highways) By-law 2014* (clause 63 and 64).
- Making provisions for dealing with removed articles, application of fees and charges and storage and disposal of unclaimed articles consistent with the *Roads (Local Highways) By-law 2014* (clauses 65, 66 and 67).
- Making the infringement notices provisions consistent amongst all By-laws of Council (clauses 70, 71 and 72).
- Including a general provision allowing the General Manager to refer any application for a permit to the Council if necessary consistent with all By-laws (clause 73).
- Reordering from former clause 10 the delegation of two special committees and providing authorisation to the parties undertaking By-law provisions (clause 74).
- Review of Infringement Notice Offences in the Schedule to reflect the changes in the By-law.

Costs under the By-law

The Council sets its fees and charges pursuant to section 205 of the *Local Government Act 1993* each June for the following financial year.

Fees and charges applicable to the By-law for the 2016/2017 financial year are as follows:

Description	Fee	GST
PUBLIC HALLS		
Geeveston Conference Room		
Full Day	\$165.00	#
Half Day	\$84.00	#
Hourly Rate	\$27.00	#
Council Chambers		
Per Day	\$170.00	#
Half Day	\$91.00	#
Per hour	\$32.00	#
<i>*Rooms should be left as found, if cleaning is required appropriate charge will be levied</i>		
Public Halls		
<i>Note: Halls administered by special committees are to use hire fees as set by the Council</i>		
Cradoc Park – Meeting Room Only	Class 1	
Dover Oval Clubrooms	Class 1	
Geeveston Community Hall	Class 1	
Glen Huon Hall	Class 1	
Huonville Scout & Guide Hall	Class 1	
Upper Huon Community Centre	Class 1	
Cygnets Town Hall	Class 2	
Huonville Town Hall	Class 2	
Mountain River Hall	Class 2	
Palais Theatre	Class 2	
Pelverata Hall	Class 2	
Ranelagh Memorial Hall	Class 2	
Southport Community Centre	Class 2	
Surges Bay Hall	Class 2	

Hall Hire - Monday - Thursday		
Class 1 Daily	\$160.00	#
Class 1 Hourly	\$27.00	#
Class 2 Daily	\$108.00	#
Class 2 Hourly	\$22.00	#
Health & Wellbeing Sessions - <i>When the venue is rented for the purpose of conducting classes that contribute to the health and wellbeing of the community it may be charged under the Health and Wellbeing rate. Council retains the right to determine what is to be classified as contributing to the health and wellbeing of the community</i>	\$10.00 Per Hour	#
Community Benefit or Bona Fide Community Group	\$10.00 Per Hour	#
Halls Hire - Friday - Sunday		
Class 1 Daily	\$191.00	#
Class 1 Hourly	\$32.00	#
Class 2 Daily	\$128.00	#
Class 2 Hourly	\$27.00	#
Health & Wellbeing Sessions - <i>When the venue is rented for the purpose of conducting classes that contribute to the health and wellbeing of the community it may be charged under the Health and Wellbeing rate. Council retains the right to determine what is to be classified as contributing to the health and wellbeing of the community</i>	\$10.00 Per Hour	#
Community Benefit or Bona Fide Community Group	\$10.00 Per Hour	#
Functions – Personal Events such as Weddings, Birthday Parties where consumption of Alcohol will take place	\$260.00	#
Alcohol Bond - Refundable	\$150.00	
Cleaning Bond - Refundable	\$150.00	
Coming of Age Birthday Parties (18th & 21st)		
Bond (includes cleaning) - Refundable	\$500.00	
Hall Meeting Room Hire		
Class 1 Hourly	\$22.00	#
Class 2 Hourly	\$15.00	#
<i>If any one Hall or Meeting room is utilised more than once a week by the same user the hire fee can be discounted by 25%</i>		

Insurance

Public Liability Insurance (casual hirers) Maximum 12 Bookings per year	\$25 per booking/ day	#
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Huonville Town Hall car park

Huonville Town Hall car park Market (to cover power usage etc)	\$25.00 per booking	
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Equipment Hire

Chair & Trestle Hire		
Bond (fully refundable)	\$50.00	
Chairs	\$1.50 Each	#
Trestle Hire	\$5.50 Each	#

Additional Charges for extra technical equipment, room set-up/ breakdown and services (eg. cleaning) as assessed by the Hall Management Committee

In instances where the application of the above fees upon a group would cause undue hardship such as to preclude the viability of conducting an event, application may be made to the General Manager for consideration of a reduction in the set fee

RECREATION GROUNDS

Daily Rate - with Changerooms	\$205.00	#
Daily Rate - without Changerooms	\$105.00	#

Note: Sporting bodies are not being charged but there is an expectation that each sporting body assist by providing at least \$1,000.00 of support in kind.

HUONVILLE SWIMMING POOL**Pool Hire (both pools)**

Per hour	\$113.00	#
Per Day	\$660.00	#
Plus attendants wages and oncosts	\$45.00 per hour	
Swimming Lesson (1/2 hour)	\$14.00	#
Swimming Lesson (1/2 hour - one on one)	\$22.00	#

*Family = 2 Adults & 3 Children**Child = Under the age of 18***Huonville Pool**

Daily Ticket		
Adult	\$6.00	#
Child	\$5.00	#
Family	\$20.00	#
Monthly Pass		
Adult	\$55.00	#
Child	\$45.00	#
Season Pass - Summer		
Adult	\$180.00	#
Child	\$130.00	#
Family	\$280.00	#
Swimming Lessons		
1/2 hour	\$14.00	#
1/2 hour - one on one	\$22.00	#

*Family = 2 Adults & 3 Children**Child = Under the age of 18***PORT HUON SPORTS CENTRE****Swimming Pool**

Daily Ticket		
Adult	\$6.00	#
Child	\$5.00	#
Family	\$20.00	#
Monthly Pass		
Adult	\$55.00	#
Child	\$45.00	#
Family	\$130.00	#
Season Pass		
Adult	\$180.00	#
Child	\$130.00	#
Family	\$280.00	#
Lane Hire		
one lane per half hour (> 5 participants)	\$10.00	#
one lane per half hour (< 5 participants)	\$5.00	#
Swimming Lessons		
1/2 hour	\$14.00	#
1/2 hour - one on one	\$22.00	#

*Family = 2 Adults & 3 Children**Child = Under the age of 18*

Gym		
Daily Pass	\$6.00	#
Monthly Pass	\$55.00	#
Per Session	\$7.00	#
6 Monthly	\$200.00	#
Sauna		
Daily	\$7.00	#
Squash & Racquet Ball		
Court Hire (30 Minutes)		
Adult	\$7.00	#
Children	\$5.00	#
Racquet Hire	\$3.00	#
Aerobics - Water & Land		
Daily	\$8.50	#
Multi Court (Competition)		
Adults	\$6.00	#
Multi Court (Non Competition)		
Adults	\$6.00	#
Children	\$4.00	#
Multi Court Hire		
Per hour	\$67.00	#
All Facilities (max of 1 instruction class or rostered game)		
Daily Pass		
Adult	\$11.00	#
Child	\$8.00	#
Family	\$30.00	#
10 Day Pass		
Adult	\$75.00	#
Child	\$55.00	#
Monthly Pass		
Adult	\$95.00	#
Child	\$65.00	#
Family	\$150.00	#
6 Month Pass		
Adult	\$345.00	#
Child	\$235.00	#
Family	\$580.00	#
Super Saver Pass		
2 classes plus 2 swims	\$24.00	#
2 classes plus 2 gym visits	\$24.00	#
School Hire		
	Negotiated Fee	
Corporate Passes		
	Negotiated Fee	
Meeting Room Hire		
PHSC Hire of meeting room - Per Hour	\$20.00	#
CYGNET SPORTS CENTRE		
Competition		
Adults	\$6.00	#
Children to 18 Years	\$5.00	#

Non-Competition		
Adults	\$5.00	#
Children to 18 Years	\$3.50	#
Aerobics		
Daily	\$6.00	#
Multi Court Hire		
Per hour	\$70.00	#
Community Room (Add staff costs if required)		
Daily Rate	\$95.00	#
MISCELLANEOUS APPLICATIONS		
Miscellaneous Applications, Certificate request etc under any Act, Regulation or By-law not otherwise provided for	\$180.00	

These fees and charges are subject to review annually and are an indication of the costs imposed under the By-law. It is noted that these costs would be applicable whether or not the By-law is in place.

HUON VALLEY COUNCIL

COUNCIL LAND AND RECREATIONAL FACILITIES BY-LAW BY-LAW NO. 1 of 2017

A BY-LAW of the Huon Valley Council made under the provisions of section 145 of the *Local Government Act 1993* and numbered 1 of 2017 for the control and management of council land and recreational facilities.

PART 1 PRELIMINARY

Short Title

1. This By-Law may be cited as the *Council Land and Recreational Facilities By-law 2016*.

Repeal

2. The *Council Land and Recreational Facilities By-law No.19 of 2006* made the 16th day of April, 2007 and notified in the Tasmanian Government Gazette on the 2nd day of May 2007 at page 674 is repealed.

Application

3. (1) This By-law applies to the municipal area of the council.
(2) This By-law does not apply to a councillor or an employee of the council or a contractor or agent of the council for activities in or on any council land or recreational facility in the course of their duties for and on behalf of the council.
(3) This By-law does not apply to:
- (a) a waste management facility within the meaning of the *Waste Management By-law 2012*;
 - (b) a road within the meaning of the *Roads (Local Highways) By-law 2014*;
 - (c) a retirement village within the meaning of the *Retirement Villages Act 1997*;
 - (d) a Councillor or employee of the Council or a contractor or agent of the Council for activities in or on any Council land or recreational facility in the course of their duties for an on behalf of the Council; and
 - (e) any Council land or recreational facility which is the subject of a lease or licence from Council to a person under Division 1 Part 12 of the *Local Government Act 1993*.

Interpretation

4. In this By-law -

“article” means anything that has been removed under clause 60 of this By-law and includes a vessel removed under clause 20;

“aircraft” means any machine that can derive support from the atmosphere from the reactions of the air;

“authorised officer” means the general manager and an employee of the Council appointed by the general manager as an authorised officer for the purposes of this By-law;

“camp” includes:

- (a) To erect portable shelter suitable for sleeping in overnight, whether or not that portable shelter is on or attached to a vehicle; or
- (b) Being in any such portable shelter at any time during a night; or
- (c) To sleep at any time during a night in the open or in any vehicle or shelter or a building; or
- (d) At any time during a night, to place, park or leave a vehicle that appears designed or equipped internally or externally to accommodate overnight sleeping, including a caravan.

“caravan” means any trailer, van, caravan, motorhome, self contained vehicle, recreational vehicle, bus or other conveyance that is used, whether regularly or not, for human habitation;

“children’s playground” means any area in which children’s play equipment is installed and, if not a fenced in area, extends for a distance of 5 metres in all directions from the play equipment;

“council” means the Huon Valley Council established under the *Local Government Act 1993*;

“council land” means any land owned, controlled, or managed by the Council and includes part of that land but does not include a road or local highway under the control and management of the Council;

“dump point” means a facility to receive the discharge from any holding tank or device installed in any caravan or portable toilet;

“electoral sign” means a sign erected for the purpose of standing as a candidate in an Australian Government, State Government or Local Government election;

“general manager” means the general manager appointed by the Council pursuant to section 61 of the *Local Government Act 1993* and includes a person acting in that capacity;

“hall” means a building owned or controlled and managed by the council and designated by the council as a hall or community centre and any toilets, change rooms, kiosk or other area associated with the hall;

“hirer” means a person who hires or uses any council land or recreational facility by a user agreement;

“marine facility” includes any facility structure or equipment under the management and control of the council used in relation to the launching and mooring of vessels and any associated landing stage, slipway, boat launching ramp, jetty, wharf or breakwater and any curtilage to that facility, structure or equipment;

“municipal area” means the Huon Valley Council municipal area as defined by section 16 of the *Local Government Act 1993*;

“permit” means a permit granted under Part 6 of this By-law;

“permit holder” means a person to whom a permit is granted under Part 6 of this By-law;

“person” includes but is not limited to a body corporate, a club, association and organisation;

“polluting substance” means faeces, urine, blood, vomit, detergents, food and beverages or any other substance deemed to be a polluting substance by an authorised officer;

“recreation area” means a recreation ground and areas appurtenant to that ground and any change rooms, club rooms, club house, buildings, grandstands and other structures associated with the use of that recreation ground;

“recreation ground” means the playing area of a sports field, court or similar facility and the area between the boundary of the sports field, court or similar facility to a fence or barrier surrounding the sports field, court or similar facility or, if there is no fence or barrier, a distance of 5 metres from the boundary;

“recreational facility” means a swimming centre, sports centre, hall, recreation area, recreation ground and marine facility and includes part of that facility;

“sign” means any board, sign, plaque, or banner which in any way makes an announcement or is an advertisement for any restaurant, shop, place of business, product, wares or any other thing which is not permanently attached to any building or other structure;

“special committee” means a special committee established by the Council under section 24 of the *Local Government Act 1993*;

“sports centre” means a building owned or controlled and managed by the council designated by the council as a sports centre and any sports courts, sports facilities, toilets, change rooms, kiosk or other area associated with the sports centre;

“stall” includes any table, wagon, trailer, wheelbarrow or transportable structure used by any person to sell and distribute goods and/or services to the public, solicit donations and/or sell raffle or lottery tickets;

“swimming centre” means a swimming centre owned or controlled and managed by the council and any swimming pool, toilets, change rooms, kiosk or other area associated with a swimming pool and a swimming pool contained in a sports centre;

“toilet” means a toilet owned or controlled and managed by the council for use by the public;

“trading vessel” means a vessel that is used or is intended to be used in connection with any business or commercial activity; or wholly or principally for the carriage of passengers or cargo for hire or reward; or the provision of services to ships or shipping, whether for reward or otherwise;

“user agreement” means an agreement entered into for the hire or use of any council land or recreational facility under clauses 7 and 55 of this By-law;

“vehicle” means a vehicle as defined by the *Vehicle and Traffic Act 1999*;

“vessel” includes a boat, ship, craft, hovercraft, aircraft or platform and any trailer used to transport any of them; and a vehicle that is capable of use in or on water whether floating, partly submersible or submersible and whether or not self-propelled; and

“wildlife” means any living creature other than -

- (a) a domestic dog or cat;
- (b) domestic stock;
- (c) fish, within the meaning of the *Living Marine Resources Act 1995*;
- (d) an animal that:
 - (i) is being farmed under and in accordance with the *Animal Farming (Registration) Act 1994*;
 - (ii) has been so farmed and is legally in the possession of any person.

PART 2 MANAGEMENT OF PUBLIC LAND AND RECREATIONAL FACILITIES

Division 1 - General

Use of council land and recreational facilities

5. (1) The general manager may by notice make rules for and regulate the management, control and use of any council land and recreational facility.
- (2) A notice under sub-clause (1) may be placed on a sign at the council land or recreational facility in respect of which the notice applies.
- (3) A person on or in any council land or recreational facility must obey the terms and conditions of any notice given under sub-clause (1).
- Penalty: Fine not exceeding 5 penalty units.

Closure of council land or a recreational facility

6. (1) The general manager may close any council land or recreational facility or part thereof to members of the public for such periods as the general manager may determine including for:
- (a) safety reasons; or
 - (b) protection of the council land or recreational facility; or
 - (c) repair, maintenance or improvement of the council land or recreational facility; or
 - (d) the conduct of an organised event or competition.
- (2) A person must not, without a permit, user agreement or other consent from the General Manager, enter or remain on or in any council land or recreational facility if it is closed to the public.
Penalty: Fine not exceeding 5 penalty units.

Division 2 - Hiring of Public land and Recreational Facilities

Hire of council land and recreational facilities

7. (1) A person may, by permit, hire any council land or recreational facility.
- (2) The general manager may require a person to sign a user agreement prior to hiring any council land or recreational facility in place of granting a permit however at all times the person must have paid the fee or charge imposed by the Council pursuant to section 205 of the *Local Government Act 1993* for an application under this Bylaw.
- (3) The general manager may impose terms and conditions in a user agreement as the general manager determines.
- (4) The general manager may under this clause confer upon a hirer, the right to -
- (a) make charges for admission to the council land or recreational facility or to any grandstands, pavilion, building or enclosure on the council land or recreational facility; and
 - (b) exclude any person from that land or recreational facility who does not pay such charge.
- (5) A hirer must comply with the terms and conditions in a user agreement.
Penalty: Fine not exceeding 5 penalty units.

Security Bond

8. The general manager may require a permit holder or a hirer to pay a bond to the general manager in such sums as the general manager or the council may determine to ensure the performance of that person's obligations and requirements under a permit or user agreement.

Right to recover costs

9. If a permit holder or a hirer makes default in carrying out any obligations and requirements of a permit or user agreement the council may carry out the obligations and requirements and may deduct the cost of the works from the bond paid under clause 8, or the council may recover in a court of competent jurisdiction from the person any expenses incurred by it in so doing less the amount of the bond paid by the person for that purpose, if any, as a debt due to it.

**PART 3
SWIMMING POOLS**

Division 1 - Standard of Dress

Clothing

10. (1) A person must at all times be decently clothed outside the change rooms of a swimming centre.
Penalty: Fine not exceeding 5 penalty units.
- (2) An authorised officer may direct any person who is not wearing suitable clothing to put on additional clothing.

Division 2 - Health

Disease

11. A person who has or appears to an authorised officer to have an infection, contagious disease or a skin complaint must not enter a pool at any swimming centre.
Penalty: Fine not exceeding 10 penalty units.

Showering

- 12.** A person must not enter a swimming pool until they have washed under a shower if requested to do so by an authorised officer.

Penalty: Fine not exceeding 5 penalty units.

Polluting substances

- 13.** A person must not put any polluting substance in a swimming pool.

Penalty: Fine not exceeding 10 penalty units.

PART 4 MARINE FACILITIES

Division 1 - Obstruction

Obstruction of a marine facility

- 14.(1)** A person must not moor or leave a vessel at a marine facility in a manner that obstructs another vessel coming alongside, using or leaving the marine facility.

Penalty: Fine not exceeding 5 penalty units.

- (2)** A person must not moor or leave a vessel at a marine facility in a manner which constitutes a nuisance as defined in section 199 of the *Local Government Act 1993*.

Penalty: Fine not exceeding 5 penalty units.

- (3)** A person must not moor or leave a vessel at a marine facility for a period in excess of 2 days without a permit.

Penalty: Fine not exceeding 10 penalty units.

- (4)** A person must not moor or leave a trading vessel at a marine facility, other than for a period necessary for picking up or putting down passengers or cargo.

Penalty: Fine not exceeding 10 penalty units.

- (5)** A person must not without a permit leave any cargo from a trading vessel on any marine facility at any time.

Penalty: Fine not exceeding 5 penalty units.

- (6)** A person must not without reasonable cause obstruct the passage of persons, vehicle or goods onto, on or off a marine facility.

Penalty: Fine not exceeding 5 penalty units.

Obstruction of access to marine facility

- 15.** A person must not park a vehicle or boat trailer in such a manner as to obstruct access to a marine facility.

Penalty: Fine not exceeding 5 penalty units.

Division 2 - Damage

Damage of marine facility

- 16. (1)** A person must not damage a marine facility.

Penalty: Fine not exceeding 10 penalty units.

- (2)** An authorised officer may give notice or direction to a person who has offended against sub-clause (1) requiring that person to undertake such works to repair the marine facility as determined by the authorised officer or the Council may undertake such works as are necessary to repair the marine facility and may recover from that person the cost of doing so in a court of competent jurisdiction as a debt due to it.

Fish parts and bait on a marine facility

- 17.(1)** A person must not leave any dead fish, fish parts or bait on a marine facility.

Penalty: Fine not exceeding 5 penalty units.

- (2)** An authorised officer may give a notice or direction to a person who has offended against sub-clause (1) requiring that person to undertake such works as determined by the authorised officer required to remove and clean up any dead fish, fish parts or bait left on a marine facility.

Unauthorised alteration of a marine facility

18. (1) A person must not add to or alter the structure of a marine facility without a permit.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not install cranes, fuel dispensing equipment, water lines, gas lines, electric power outlets or any other service facility on a marine facility without a permit.

Penalty: Fine not exceeding 10 penalty units.

(3) An authorised officer may give notice or direction to a person who has offended against this clause requiring that person to undertake such works as required to remove or repair anything added, altered or installed in contravention of this clause as determined by the authorised officer or the Council may undertake such works as are necessary to repair or remove anything added, altered or installed and may recover from that person the cost of doing so in a court of competent jurisdiction as a debt due to it.

Division 3 - Enforcement

Removal of vessel

19.(1) An authorised officer may, after giving notice as provided in clause 20, move or cause to be moved a vessel that is moored to or using a marine facility if the authorised officer is of the opinion that the vessel is moored or using the marine facility in contravention of clause 14.

(2) A vessel moved under sub-clause (1) may be moved to a place of safe anchorage.

(3) The Council may recover from the owner or person in charge of the vessel the costs of action undertaken under sub-clause (1) as a debt due to it.

Notice before removal

20.(1) For the purposes of clause 19 a notice must:-

(a) state that if the vessel is not removed from the marine facility within seven days of the notice being delivered or affixed as detailed below, the council may remove it at the cost of the owner;

(b) be in writing and delivered to the owner by any means the general manager considers appropriate or affixed to the vessel.

(2) Notwithstanding the foregoing provisions, where a vessel constitutes a nuisance under section 199 of the *Local Government Act 1993*, it is the general manager's discretion as to whether notice must be given before removal.

**PART 5
GENERAL OFFENCES**

Division 1 - Use

Function

21. A person must not, unless authorised to do so by a permit or user agreement, conduct, arrange or participate in a function, party or reception in or on any council land or recreational facility at which more than 50 people are present.

Penalty: Fine not exceeding 5 penalty units.

Admission charges

22. A person must not charge admission nor take any collection for admission from any person in, or who is about to enter any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 10 penalty units.

Entry into council land or a recreational facility

23.(1) A person must not enter any council land or recreational facility or part thereof if it is the subject of a permit or hired to any other person unless authorised to do so by the permit holder, hirer or by ticket.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not remain in or on any council land or recreational facility where an entry fee is payable unless they have paid the correct fee.

Penalty: Fine not exceeding 10 penalty units.

Division 2 - Protection of Natural Areas and Property

Protection of vegetation

24.(1) A person must not cut, destroy or injure any tree, shrub, flower or other vegetation in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not remove any wood or timber from any Council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Protection of soil

25.A person must not dig, cut or remove any soil, turf, loam, sand, gravel, stone or other material on or from any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Protection of wildlife

26.(1) A person must not, without a permit, take any wildlife or products of wildlife from, on, or in any council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not, without a permit, on or in any council land or recreational facility, lay or set any trap or snare or deposit any poisonous or chemical substance.

Penalty: Fine not exceeding 10 penalty units.

(3) A person must not, without a permit, on or in any council land or recreational facility interfere with the nest, breeding place or habitation of any wildlife.

Penalty: Fine not exceeding 10 penalty units.

(4) A person must not, without a permit, on or in any council land or recreational facility intentionally disturb any wildlife.

Penalty: Fine not exceeding 10 penalty units.

Tracks and cairns

27.(1) A person must not make or mark out a track or route on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not erect a cairn or memorial on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Declared Weeds

28.A person must not bring into or be in possession of any plants listed as declared weeds within the meaning of the *Weed Management Act 1999* on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 10 penalty units.

Fires

29. A person must not, without a permit, light or maintain any fire in or on any council land or recreational facility unless in a place designated for that purpose.

Penalty: Fine not exceeding 10 penalty units.

Damage to council land or recreational facility

30.(1) A person must not remove or damage council property on or in any council land or recreational facility without a permit.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not mark, write on, paint or in any way deface any council property, council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Buildings and structures

31. A person must not place, leave, build or set up any building, structure or obstruction of any kind in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Dump Points

32.(1) A person must not place or deposit any substance in a dump point on or in council land or a recreational facility other than the discharge of wastewater from any holding tank or similar device installed in any caravan.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not use a dump point on or in council land or a recreational facility for the purposes of disposal of any substance arising from the use of any private land unless authorised to do so by a permit or a user agreement.

Penalty: Fine not exceeding 5 penalty units.

Children's playground

33.(1) A person must not misuse or damage any children's playground equipment in a children's playground.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not use any children's playground equipment in a children's playground unless that person is of a suitable age for the use of that equipment or contrary to any sign on or near that equipment.

Penalty: Fine not exceeding 5 penalty units.

Creation of an entrance to council land or a recreational facility

34.(1) A person who has land adjoining any council land or recreational facility must not, without a permit, create an entrance to that council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units

(2) The general manager may by notice require the person who has land adjoining any council land or recreational facility to close any entrance that accesses the council land or recreational facility.

Division 3 - Animals, Vehicles, Bicycles, Skateboards, Aircraft

Use of vehicles

35. A person must not unless authorised to do so by a permit or user agreement, drive any vehicle, or ride or lead any horse in or on any council land or recreational facility except on a constructed road or track which the council has authorised to be used for vehicles and horses.

Penalty: Fine not exceeding 5 penalty units.

Parking in council land or recreational facility

36.(1) A person must not park or leave any vehicle in or on any council land or recreational facility except within an area set aside by the Council as a parking area unless authorised to do so by a permit or a user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not park or leave any vehicle in or on any council land or recreational facility within an area set aside by the Council as a parking area in a manner that the vehicle is:

(a) wholly or partially outside a designated parking space; or

(b) parked otherwise than as directed by a sign or an authorised officer; or

(c) in a position where it obstructs the entry or exit of a vehicle to another parking space or parking area.

Penalty: Fine not exceeding 5 penalty units.

(3) A person must not in a vehicle, enter or remain in or park a vehicle on council land or a recreational facility when the council land or recreational facility is closed.

Penalty: Fine not exceeding 5 penalty units.

Use of skates, cycles and conveyances

37. A person must not in or on any council land or recreational facility ride, drive or use a bicycle, tricycle, scooter, quad bike, hoverboard, segway, skateboard or in-line skates or other similar conveyance except –

- (a) on roads, paths, tracks, skate parks or area provided for this purpose;
- (b) where signs or notice boards indicate that it is allowed;
- (c) as authorised by a permit or a user agreement.

Penalty: Fine not exceeding 5 penalty units.

Aircraft

38.(1) A person must not land, moor or launch any aircraft from, onto or into any council land or recreational facility unless authorised to do so by a permit or a user agreement or in case of emergency or otherwise permitted by a sign.

Penalty: Fine not exceeding 10 penalty units.

Animals and dogs in council land or recreational facility

39.(1) A person must not permit or allow any horse or stock to be in, graze or stray onto or into any council land or recreational facility without a permit.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not possess or be in charge of an animal in or on any council land or recreational facility unless authorised to do so by a permit or a user agreement except a dog conforming with the provisions of the *Dog Control Act 2000* and the Regulations made under that Act.

Penalty: Fine not exceeding 5 penalty units.

Division 4 - Public Order

Peaceable use of council land or recreational facility

40. A person in or on any council land or recreational facility must not do any act or thing which unreasonably interferes, or is likely to interfere with the peaceable use by the public of that land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Signs and handbills

41.(1) A person must not erect, exhibit, or display a notice, sign, electoral sign, bill, poster or advertisement on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not give out, distribute, scatter or throw down a handbill, notice, placard advertisement, book, paper or pamphlet on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Use of firearms or fireworks

42. A person must not fire or discharge any firearm, or use, fire or discharge any fireworks, in or on any council land or recreational facility unless authorised to do so by a permit or user agreement..

Penalty: Fine not exceeding 10 penalty units.

Conduct of certain activities

43.(1) A person must not conduct any amusement or entertainment for financial reward in or on any council land or recreational facility unless authorised to do so by permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not organise or participate in an assembly, rally, preaching, public speaking or similar activity on or in council land or a recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(3) A person must not take up a collection of money in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(4) Sub-clause (3) does not apply to a person or a person acting on behalf of an organisation if that person or organisation is approved under the *Collections for Charities Act 2001*.

Sports

44.(1) A person must not participate in an organised sport, contest, training or game on or in Council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not enter onto a recreation ground while an organised sport, contest, training or game is in progress without permission from the organiser of the sport, contest, training or game, the permit holder or hirer for that recreation ground, the Council, an authorised officer, or a police officer.

Penalty: Fine not exceeding 10 penalty units.

(3) A person must not play or practice golf or allow any person to play or practice golf in or on any council land or recreational facility, except where the council land or recreational facility has been designated by the council for that purpose.

Penalty: Fine not exceeding 5 penalty units.

Use of change rooms and public toilets

45.(1) A person who is over the age of 7 years must not enter a change room or toilet in or on any council land or recreational facility for the use of the opposite sex except to help someone who is injured, elderly or disabled.

Penalty: Fine not exceeding 10 penalty units.

(2) Sub-clause (1) does not apply to a toilet that is designated as a unisex toilet.

Loitering

46. A person must not loiter in a change room or toilet in or on any council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Sale of liquor and intoxicated condition

47. (1) A person must not sell liquor to any person in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 10 penalty units.

(2) A person may only sell liquor to any person in or on any council land or recreational facility as authorised by a permit or user agreement if that person is also authorised to do so under any licence granted under the *Liquor Licensing Act 1990* and in accordance with the terms of that licence.

Penalty: Fine not exceeding 10 penalty units.

(3) A person must not be in or on any council land or any recreational facility in an intoxicated condition.

Penalty: Fine not exceeding 10 penalty units

Commercial Activities

48.(1) A person must not set up a stall, sell or offer for sale any goods, chattels or property in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(2) A person must not carry on any commercial activity on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

(3) A person must not instruct or coach a person for financial reward on or in any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units.

Leasing

49.A person must not let or hire any goods, chattels or property in or on any council land or recreational facility unless authorised to do so by a permit or user agreement.

Penalty: Fine not exceeding 5 penalty units

Use of Water

50.(1) A person must not take or use water from any tap or outlet on or in any council land or recreational facility for any use outside of that council land or recreational facility unless authorised to do so by a permit or user agreement or a sign.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not leave any tap or outlet for water on or in any council land or recreational facilities on after use unless authorised to do so by a permit or user agreement or a sign.

Penalty: Fine not exceeding 10 penalty units.

Division 5 - Health

Camping

51.A person must not camp or set up any caravan in or on any council land or recreational facility unless authorised to do so by a permit or user agreement or in an area designated for that purpose and any applicable fee is paid.

Penalty: Fine not exceeding 10 penalty units.

Pollution of council land or a recreational facility

52.(1)A person must not urinate or defecate on or in any council land or recreational facility except in a place provided for that purpose.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not deposit, discharge or leave any faecal matter, offal, filth or other noxious or polluting matter or thing, on or in any council land or recreational facility.

Penalty: Fine not exceeding 20 penalty units

(3) A person must not deposit the dead body or part of the body of a creature on or in any council land or recreational facility.

Penalty: Fine not exceeding 20 penalty units

PART 6 PERMITS

Application for permit

53.(1) A person may apply to the general manager for a permit.

(2) An application for a permit is to be made in writing and, where applicable, be accompanied by the following:

(a) a statement in writing of the type of activity proposed to be undertaken by the applicant; and

(b) a scaled drawing showing the location and extent of the proposed occupation or activity; and

(c) such other information that the general manager may reasonably require; and

(d) payment of the fee or charge imposed by the Council pursuant to section 205 of the *Local Government Act 1993* for an application under this Bylaw.

Grant of a Permit

54.(1) The general manager may grant or refuse to grant a permit on an application made under clause 53.

(2) In deciding whether or not to grant a permit pursuant to this Part, the general manager may have regard to the following and any other relevant matters:

(a) pedestrian amenity and safety;

(b) pedestrian access in the area;

- (c) the maintenance of public order in the area;
- (d) the movement of traffic in the area;
- (e) the manner of any proposed sign or advertising;
- (f) the nature, size, shape, extent and location of any proposed structure;
- (g) the effect on premises or land in the area;
- (h) the availability of suitable parking for vehicles in the area;
- (i) representations made by a police officer;
- (j) the protection of the Council land or a recreational facility and for the comfort, convenience and safety of the public.

Conditions of permit

- 55.**(1) The general manager may grant a permit subject to such terms and conditions as the general manager may determine.
- (2) A permit is to make provision for any appropriate insurance cover as directed by the general manager.
- (3) A permit holder must comply with the terms and conditions of a permit.
- Penalty: Fine not exceeding 5 penalty units.
- (4) The general manager may require a person to sign a user agreement in place of granting a permit under this clause.
- (5) The general manager may impose terms and conditions in a user agreement as the general manager determines.

Bond and Deposit

- 56.**(1) The general manager may, as a condition of a permit, require a person to deposit a cash security or a bank guarantee with the Council or enter into a bond with Council for the payment to Council of such costs as the general manager determines as a reasonable estimate of the cost of the works to be carried out pursuant to this By-law in order to provide security against any reasonable costs which the Council may incur as a result of the execution of that work in the event of a failure to carry out the works by that person.
- (2) The general manager may determine that all or part of the deposit referred to is to be retained by the Council as a result of the Council incurring any expense in relation to any failure or refusal by any person to carry out the work as directed.
- (3) Monies deposited with the Council in accordance with this clause or the balance of the monies is to be forwarded to the person following final inspection and approval by the general manager of the work carried out.

Competing applications

- 57.**(1) If there are competing applications for a permit for the use of any particular council land or recreational facility, the general manager may determine which application for a permit is to be granted, if any.
- (2) The general manager may determine that a prior or later application for a permit to use the same council land or recreational facility, is to be granted in preference to any other application for that place.

Permits generally

- 58.** Every permit granted pursuant to the By-law is to -
- (a) be in writing and may be in the form of a letter;
 - (b) bear the date on which it was issued;
 - (c) remain in force for the period for which it was issued, unless it is cancelled or surrendered;
 - (d) be carried by the permit holder at all times while undertaking the activity approved under the permit;
 - (e) be surrendered to the Council if it is cancelled or when it is due for renewal.

Cancellation of permits

- 59.**(1) The general manager may cancel a permit if a permit holder fails to comply with or offends against this By-law or any condition of a permit.
- (2) The general manager may cancel a permit if the permit holder is -
- (a) convicted of any offence involving dishonesty; or
 - (b) convicted of any offence involving a breach of public order.
- (3) The general manager is to serve a notice in writing on a permit holder stating that the permit is cancelled and the reason for that cancellation.
- (4) Cancellation of any permit is effective from the day the notice has been served on the permit holder or the date specified in the notice whichever is the later.
- (5) Nothing in this clause is to be construed as preventing or prohibiting the general manager from cancelling a permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the council.
- (6) Notwithstanding, sub-clauses (3) and (4), the general manager may cancel or suspend a permit by any communication conveyed to the permit holder by any means including notice by radio or television in emergency situations or in a situation considered appropriate by the general manager.

Production of the permit

- 60.** A permit holder must produce the permit immediately when requested to do so by a police officer or an authorised officer and the holder of the permit must answer all questions which are reasonably necessary to establish that the person is a permit holder.
- Penalty: Fine not exceeding 2 penalty units.

Assignment of permit

- 61.** A permit is not assignable to any person except with the written consent of the general manager.

PART 7 ENFORCEMENT

Ban

- 62.**(1) The general manager may by notice ban a person who has offended against this By-law from entering any council land or recreational facility for such period of time as the general manager determines.
- (2) A person who has been banned from entering council land or a recreational facility under sub-clause (1) must not enter upon that council land or recreational facility during the period for which the ban applies.
- Penalty: Fine not exceeding 10 penalty units.
- (3) The general manager may withdraw a ban made under this sub-clause (1).

Enforcement

- 63.**(1) An authorised officer may ask a person whom the authorised officer reasonably believes is offending against this By-law to leave Council land or a recreational facility.
- (2) A person must obey a request to leave Council land or a recreational facility given by an authorised officer under sub-clause (1).
- Penalty: 5 penalty units
- (3) An authorised officer may refuse to admit a person to any council land or recreational facility whom the authorised officer reasonably believes is offending or has offended against this By-law.
- (4) An authorised officer may remove any thing which is in or on a Council land or a recreational facility without a permit or the approval of the Council.
- (5) For the purposes of sub-clause (4) anything that is on council land in contravention of this by-law is on council land without the approval of the council.
- (6) An authorised officer may remove any person from any council land or recreational facility whom the authorised officer reasonably believes is offending against this By-law.

(7) A police officer is authorised to:

- (a) to carry out any action to be able to be carried out by an authorised officer under sub-clauses (3) and (4); and
- (b) to arrest any person who is on or in council land or a recreational facility whom the police officer reasonably believes is offending against this By-law; and
- (c) to carry out any action able to be carried out by an authorised officer under clause 64.

Supply of Name and Address

64.(1) If an authorised officer reasonably believes that a person has offended or is offending against this By-law that officer may require that person to supply their full name and address.

(2) A person must supply their full name and address if requested to do so by an authorised officer under sub-clause (1).

Penalty: Fine not exceeding 5 penalty units

Removed articles

65.(1) If an article is not claimed by the owner or a person on behalf of the owner within 48 hours following its removal, the general manager is to give notice to the owner of the article.

(2) A notice is to give the following details -

- (a) the description of the article and any distinguishing features;
 - (b) the place from where it was removed;
 - (c) the date on which it was removed;
 - (d) the place from which the article may be claimed;
 - (e) the fees, costs and charges payable in respect of the removal, maintenance and storage of the article;
 - (f) that if not claimed within 14 days that the article may be disposed of by the council.
- (3) A notice is to be given in writing and delivered to the owner by any means the general manager considers appropriate.
- (4) If the owner of the article cannot be ascertained or found after making reasonable enquiries, the general manager is to hold the article for a minimum period of 14 days for collection by the owner.

Fees, Costs and Charges

66.(1) The owner of an article is liable to pay-

- (a) any fees, costs and charges specified in a notice under clause 65; and
- (b) any further fees, costs and charges incurred in the storage and further maintenance of the article once removed.
- (c) any further fees, costs and charges incurred in the disposal of the article.

(2) Any unpaid fees, costs and charges is a debt due to the council and may be recovered by the council in a court of competent jurisdiction.

(3) The general manager may retain an article until any fees, costs and charges specified in a notice are paid.

Storage and Disposal of unclaimed articles

67.(1) Unless provided for under sub-clause (2), any article, other than material, hazardous material and a spilt substance, will be stored in a safe location for collection of the owner thereof on payment of the fees, costs or charges specified in a notice under clause 65.

(2) Where an article, other than material, hazardous material and a spilt substance, is required by the Council for the prosecution of an offence under this By-law, the article may only be released to the owner following the completion of the prosecution proceedings and return of the article from the Court and on payment of the fees, costs or charges specified in a notice under clause 65 or as otherwise directed by a court.

(3) Where an article is not collected by the owner thereof within the period under clause 65 or on return of the article from the court under sub-clause (2), and any fees, costs and charges remain unpaid the article may be disposed of in such manner as the general manager thinks fit.

PART 8 NOTICES AND DIRECTIONS

Notices and directions generally

- 68.**(1) A notice given under this By-law is to be given in writing and may be placed on a sign in or on any council land or recreational facility and may be in the form of a letter.
- (2) A direction given under this By-law may be given verbally or in writing and may be in the form of a letter.
- (3) A notice or direction given under this By-law may be subject to such conditions and requirements and subject to such time period as the general manager or authorised officer, where applicable, may determine.
- (4) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (5) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work to be done only by a person with the appropriate qualification.

Non compliance with notice or direction

- 69.**(1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction and any conditions of that notice or direction and within the time period specified in the notice or direction.
- Penalty: Fine not exceeding 5 penalty units.
- (2) The council may undertake the work required in a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.
- (3) The council may recover in a court of competent jurisdiction, its expenses in undertaking work under the notice issued or direction given pursuant to this By-law as a debt payable to it from the person who fails to comply with the notice or direction in addition to any penalty imposed under sub-clause (1) and this By-law.

PART 9 INFRINGEMENT NOTICES

Offences

- 70.**A person who contravenes or fails to comply with a provision of this By-law is guilty of an offence and is liable on conviction to a penalty as specified in this By-law in respect of such offence.

Infringement notices

- 71.**(1) In this clause –
- “specified offence” means an offence against the clause specified in column 1 of Schedule 1.
- (2) An infringement notice may be issued in respect of a specified offence and the monetary penalty set out adjacent to the offence in Column 3 of Schedule 1 is the monetary penalty payable under the infringement notice for that offence.
- (3) An authorised officer may –
- (a) issue an infringement notice to a person who the authorised officer has reason to believe is guilty of a specified offence; and
- (b) issue one infringement notice in respect of more than one specified offence.
- (4) Payment of an infringement notice issued under this By-law must be made to the General Manager within 28 days of the issue of the infringement notice to avoid the notice being referred to the Director, Monetary Enforcement Service appointed under section 8 of the *Monetary Penalties Enforcement Act 2005*.
- (5) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

Monies Payable to Council as a recoverable debt

- 72.** All monies payable to the council or general manager in respect of an infringement notice are a debt due to the council and recoverable at law.

PART 11 – MISCELLANEOUS

Referral to Council

73. No provision of this By-law is to be construed as preventing the general manager from referring any application for a permit to the Council.

Delegation to special committee

74. The Council may authorise or delegate, on such conditions and restrictions as the Council may determine, the functions and powers contained in the clauses 7, 8, 53, 54, 55, 56 and 57 of this By-law to a special committee or other third party appointed to control any council land or recreational facility in respect of that council land or recreational facility.

SCHEDULE

INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY (Penalty Units)
GENERAL DESCRIPTION OF OFFENCE		
5(3)	Fail to comply with terms and conditions of notice	1
6(2)	Enter or remain in council land or recreational facility closed to the public	1
7(5)	Fail to comply with terms and conditions of a user agreement	1
10(1)	Fail to be decently clothed in swimming centre	1
11	Enter pool with infectious disease or skin complaint	2
12	Fail to wash as requested by authorised officer	1
13	Put polluting substances into swimming pool	2
14(1)	Moor vessel to obstruct marine facility	1
14(2)	Moor vessel in manner which constitutes a nuisance	1
14(3)	Moor vessel for in excess of 2 days without a permit	2
14(4)	Moor trading vessel at marine facility	2
14(5)	Leave cargo on a marine facility	2
14(6)	Obstruct access to marine facility	1
15	Park vehicle to obstruct access to marine facility	1
16(1)	Damage marine facility	2
17(1)	Leave fish parts or bait on marine facility	1
18(1)	Alter structure of marine facility	2
18(2)	Install structures and equipment on marine facility	2
21	Conduct a function in council land/recreational facility	1
22	Charge admission to council land/recreational facility	2
23(1)	Enter closed or hired council land/recreational facility without a ticket	2
23(2)	Remain on council land/recreational facility without paying correct fee	2
24(1)	Damage vegetation on council land/recreational facility	1
24(2)	Remove wood and timber from council land	1
25	Remove materials from council land/recreational facility	1
26(1)	Take wildlife or wildlife products from council land/recreational facility	2
26(2)	Lay/set trap/deposit poison on council land/recreational facility	2
26(3)	Interfere with breeding/habitation of wildlife on council land/recreational facility	2
26(4)	Intentionally disturb any wildlife on council land/recreational facility	2
27(1)	Mark out track or route on council land/recreational facility	1
27(2)	Erect a cairn or memorial on council land/recreational facility	1
28	Bring or be in possession of a declared weed on or in council land/recreational facility	2.5
29	Light or maintain a fire on council land/recreational facility	2
30(1)	Causing disfigurement to council land/recreational facility	1
30(2)	Defacement of council property	1
31	Place or leave building or obstruction on council land/recreational facility	1
32(1)	Place or deposit unapproved substance in a dump point	1
32(2)	Use a dump point to dispose of substances from private land	2
33(1)	Misuse or damage children's play equipment in children's playground	1
33(2)	Use children's play equipment in children's playground by a person of an age contrary to a sign	1
34(1)	Creation of entrance to council land/recreational facility	1
35	Use of vehicles or riding horses on council land/recreational facility	1
36(1)	Park in area outside designated parking area in council land/recreational facility	1
36(2)	Park in a manner outside of designated parking space/otherwise than as directed/obstruction entry or exit of a vehicle	1
36(3)	Enter, remain or park in a vehicle in closed council land or recreational facility	1
37	Use Skates/bicycle/hoverboard/segway outside permitted areas in	1

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	council land/recreational facility	
38	Operate aircraft from or onto council land/recreational facility	1
39(1)	Permit animals or stock in council land/recreational facility	1
39(2)	Possess/be in charge of animal in council land or recreational facility	1
40	Unreasonably interfere with peaceable enjoyment of council land/ recreational facility	1
41(1)	Erect or display signage in council land/recreational facility	1
41(2)	Distribute notices and pamphlets in council land/recreational facility	1
42	Use of firearms or fireworks in council land/recreational facility	2
43(1)	Conduct entertainment for financial reward in council land/recreational facility	1
43(2)	Organise/Participate in assembly in council land/recreational facility	1
43(3)	Take up collection of money in council land/recreational facility	1
44(1)	Participating in sport on council land/ recreational facility	2
44(2)	Enter onto recreation ground while sport being played	1
44(3)	Playing or practicing golf outside designated area on council land/ recreational facility	1
45	Use of change room or toilet of opposite sex on council land/recreational facility	2
46	Loiter in change room/toilet on council land/recreational facility	2
47(1)	Sale of liquor in council land/recreational facility	2
47(2)	Sale of liquor without/ in contravention of liquor licence	2
47(3)	Be on council land/recreational facility in intoxicated condition	2
48(1)	Sale of goods on council land/recreational facility	1
48(2)	Carry on a commercial activity on council land/recreational facility	1
48(3)	Instruct or coach on council land/recreational facility	1
49	Let or hire goods on council land/recreational facility	1
50(1)	Take water for use outside of council land/recreational facility	4
50(2)	Fail to turn off water tap or outlet on council land/recreational facility	1.5
51	Camping/set up a caravan on council land/recreational facility	1.5
52(1)	Urinate or defecate on or in council land/recreational facility	1.5
52(2)	Deposit faecal or similar matter on council land/recreational facility	1.5
52(3)	Deposit carcass on council land/recreational facility	1.5
55(3)	Fail to comply with conditions of permit	1
60	Fail to produce permit if requested	.5
62(2)	Fail to comply with ban from council land/recreational facility	2
63(2)	Fail to comply with request to leave council land/recreational facility	1.5
64(2)	Fail to supply name and address	1
69(1)	Fail to comply with notice/direction	1.5

Council Land and Recreational Facilities By-law 2017

Certified as being in accordance with the Law by:

, Legal Practitioner

Dated day of , 2017 at Huonville

Certified as being made in accordance with the *Local Government Act 1993*.

, General Manager

Dated day of , 2017 at Huonville

The Common Seal of the Huon Valley Council has been hereunto affixed this day of , 2017
pursuant to a resolution of the Council passed the day of , 2017 in the presence of:

(seal)

, General Manager