

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 2017*.

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the 16th day of April, 2007 and notified in the Tasmanian Government Gazette on the 2nd day of May 2007 at page 674 is repealed.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) 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 63 of this By-law and includes a vessel removed under clause 19;

“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;

“homeless” means:

(a) the person is sleeping rough or living in improvised dwelling; or

(b) the person is temporarily living with friends or relatives, has no other usual address and does not have the capacity to obtain other suitable accommodation; or

(c) the person has no safe place to live (including because the person is, or is at risk of, experiencing domestic violence); or

(d) the person is living in accommodation provided by a specialist homelessness service; or

(e) the person is living in a refuge, shelter or similar crisis accommodation; or

(f) the person is living in a caravan park, boarding house, hostel or similar accommodation, whether on a short-term or long-term basis, in respect of which the person has no secure lease and the person is not living in that accommodation by choice.”

“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.

(3A) A person must not moor or leave a vessel at a marine facility for a period in excess of 2 consecutive nights 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.

(3) Sub-clause (1) does not apply where:

- (a) the activity specified is on roads, paths or tracks or in areas provided for these activities; and
- (b) signs or notice boards indicate that it is allowed.

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.(1) 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

(2) A person is not guilty of an offence under sub-section (1) where that person establishes that, at the time he or she camped or set up a caravan, he or she was homeless.

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
<u>14(3A)</u>	<u>Moor vessel for in excess of 2 consecutive nights without a permit</u>	<u>2</u>
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

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37	Use Skates/bicycle/hoverboard/segway outside permitted areas in council land/recreational facility	1
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:

Matthew Charles Grimsey, Legal Practitioner

Dated 27th day of April, 2017 at Huonville

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

Emilio Reale, General Manager

Dated 27th day of April, 2017 at Huonville

The Common Seal of the Huon Valley Council has been hereunto affixed this 27th day of April, 2017 pursuant to a resolution of the Council passed the 26th day of April, 2017 in the presence of:

(seal)

Emilio Reale, General Manager