

MICELLANEOUS AMENDMENTS BY-LAW No.1 of 2020

The By-law is to make a number of minor amendments to the *Waste Management By-law 2012*, the *Caravan By-law 2015* and the *Council Land and Recreational Facilities By-law 2017*.

Under section 156A of the *Local Government Act 1993*, in making a By-law, the Council is to prepare a regulatory impact statement (RIS) however a RIS is not required for an amendment to an existing By-law that:

- Is of a minor and technical nature; or
- Does not significantly alter the purpose or effect of the existing by-law; or
- Does not significantly alter the impact on the public of the existing by-law.

The purposes and effect of the By-laws are enclosed to assist with consideration of these amendments.

The amendments are summarised below taking into account Section 156A of the Act.

The amendments are considered to not require a Regulatory Impact Statement as set out in section 156A of the Act.

Whilst not specifically required in section 156A of the Act, the amendments are also not considered to have any particular impact on business or the regulation of business above any existing legislative obligations.

WASTE MANAGEMENT BY-LAW 2012

| Clause | Description of Amendment | Reason for Amendment | Is of a minor and technical nature; or | Does not significantly alter the purpose or effect of the existing by-law; or | Does not significantly alter the impact on the public of the existing by-law. |
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| 5 | To amend Clause 4 of the By-law to remove the definition of "inert waste" as this has been replaced with the term "clean fill" as a result of amendments to the <i>Environmental Management and Pollution Control Act 1994</i> (EMPCA) and to insert the definition of "clean fill" as defined in EMPCA | Legislative consistency | The amendments comprises generally of minor and technical changes associated with updating the By-law to be consistent with current legislation. | The purpose of the Waste Management By-law is for regulating the disposal and collection of waste and use of waste management facilities. Making the By-law consistent with legislation ensures that the purpose is met. | The amendments bring the By-law into line with current legislation. The By-law raises no greater impact to the public as a result of these amendments. |
| 6 | To amend clause 8 of the By-law to replace definition of "inert waste" with "clean fill" due to change in terms consistent with the previous amendment | Legislative consistency | The amendment comprises generally of minor and technical changes associated with updating the By-law to be consistent with current legislation. | The purpose of the Waste Management By-law is for regulating the disposal and collection of waste and use of waste management facilities. Making the By-law consistent with legislation ensures that the purpose is met. | The amendments bring the By-law into line with current legislation. The By-law raises no greater impact to the public as a result of these amendments. |
| 7 | To amend clause 11 of the By-law to clarify that a person can enter into a waste management facility for a purpose other than depositing waste if they are entering the re-use shop. | Clarification in relation to persons visiting the re-use shop are able to do so freely during opening hours | This is considered to be minor to provide clarification to the clause which may otherwise lead to unintended consequences of restricting access to the re-use shop. | The purpose of the Waste Management By-law is for regulating the disposal and collection of waste and use of waste management facilities. Regulating use of the Re-use shop is consistent with this purpose. | The amendments clarifies access to a Council facility for the benefit of the public rather than creating a restriction and does not alter the impact of the By-law on the public. |

CARAVAN BY-LAW 2015

| Clause | Description of Amendment | Reason for Amendment | Is of a minor and technical nature; or | Does not significantly alter the purpose or effect of the existing by-law; or | Does not significantly alter the impact on the public of the existing by-law. |
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| 9 | <p>To amend Clause 4 of the By-law to bring a number of definitions into line with current terms and legislations including:</p> <ul style="list-style-type: none"> • Redefining “Building Code” as meaning the National Construction Code defined in the <i>Building Act 2016</i> (which has replaced the <i>Building Act 2000</i>) • Updating to the <i>Road Rules 2019</i> in the definition of “motor vehicle” • Updating to the <i>Building Act 2016</i> in the definition of “temporary structure” • Clarifying the definition of “temporary structure” that the By-law does not apply to a structure that is exempt from approval to occupy under any Act or Regulation. | Legislative consistency | The amendments comprises generally of minor and technical changes associated with updating the By-law to be consistent with current legislation. | <p>The purpose of the Caravan By-law is for regulating and controlling occupation of caravans, motor vehicles and temporary structures on land in the municipal area.</p> <p>Making the By-law consistent with legislation ensures that the purpose is met.</p> <p>The amendments also do not change the effect of the By-law as it is intended to only operate where there is no existing legislation.</p> | The amendments bring the By-law into line with current legislation. The By-law raises no greater impact to the public as a result of these amendments. |
| 10 | To amend clause 5 of the By-law to update to the <i>Council Land and Recreational Facilities By-law 2017</i> | Legislative consistency | The amendments comprises generally of minor and technical changes associated with updating the By-law to be consistent with the current By-law. | <p>The purpose of the Caravan By-law is for regulating and controlling occupation of caravans, motor vehicles and temporary structures on land in the municipal area.</p> <p>Making the By-law consistent with legislation ensures that the purpose is met.</p> | The amendment brings the By-law into line with Council’s current By-law. The By-law raises no greater impact to the public as a result of these amendment. |

COUNCIL LAND AND RECREATIONAL FACILITIES BY-LAW 2017

| Clause | Description of Amendment | Reason for Amendment | Is of a minor and technical nature; or | Does not significantly alter the purpose or effect of the existing by-law; or | Does not significantly alter the impact on the public of the existing by-law. |
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| 12 | To amend clause 4 of the By-law to include a definition of "Homeless" | To provide a definition to support the addition of provisions relating to homeless persons camping on Council land | The definition is considered to be minor and technical in nature as it included for the purpose of the amendment set out in Clause 15 below and, of itself has no impact on the public. | The purpose of the Council Land By-law is for the control and management of Council land and recreational facilities. Provision of a definition for the purposes of the By-law is consistent with this. | The definition is included for the purpose of the amendment set out in Clause 15 below and, of itself has no impact on the public. |
| 13 | To amend clause 14 to insert a new sub-clause (3A) to provide that a vessel must not be left at a marine facility for a period in excess of "2 consecutive nights" | <p>This is in addition to sub-clause (3) which prohibits leaving a vessel at a marine facility for more than two days.</p> <p>The current provision is for two days however this in a literal interpretation could allow a person to move their vessel during the day and return later to leave their vessel at the facility and have ongoing use of the facility.</p> <p>This has provided difficulty in enforcement and does not meet the objectives of the By-law. The amendment addresses this issue.</p> | Considered to be minor in nature as it clarifies the circumstances where a person is committing an offence | <p>The purpose of the Council Land By-law is for the control and management of Council land and recreational facilities. This is achieved by a number of means including making provision to ensure the peace and enjoyment of Council land and recreational facilities for the use of the public and to establish offences for breaches of the By-law.</p> <p>Council provides marine facilities for general public use and has made provisions within the By-law in relation to obstruction of that use in Clause 14. This amendment does not change the purpose or effect of the By-law rather it provides some clarity around circumstances where unacceptable obstructions occur due to misuse.</p> | <p>It is apparent on the face that the minor amendment does not significantly alter the impact of the By-law on the public.</p> <p>The purpose of the amendment is to clarify circumstances for use of marine facilities such that it does not see private use impeding public use.</p> |
| 14 | To amend clause 39 to provide clarity in relation to when and where animals may be allowed to use Council land or a recreational facility without the need to require a permit. | <p>To clarify when Council land or facilities may be used for use of animals. Council may provide tracks which may be for the use of animals such as horse riding.</p> <p>The provision was not intended to exclude uses where the Council clearly intended to permit the use by an animal. It is the unapproved use that is addressed by provisions which could cause damage to Council land or recreational facility or restrict the public's use and enjoyment of the land or recreational facility.</p> | Considered to be minor in nature as it clarifies the circumstances where a person is not committing an offence | <p>The purpose of the Council Land By-law is for the control and management of Council land and recreational facilities. This is achieved by a number of means including making provision to ensure the peace and enjoyment of Council land and recreational facilities for the use of the public and to establish offences for breaches of the By-law.</p> <p>Council provides land and facilities for the benefit of the public. The amendment provides clarity around use of land and facilities by animals and does not in any way alter the purpose or effect of the By-law.</p> | <p>It is apparent on the face that the minor amendment does not significantly alter the impact of the By-law on the public.</p> <p>The public will benefit from greater clarity provided under the By-law.</p> |

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| 15 | To amend clause 51 to provide that a person is not guilty of an offence of camping or setting up a caravan without permission if that person can establish that they are Homeless. | This amendment is in response to a motion passed at the December 2019 LGAT General meeting <i>“that Tasmanian Councils consider adopting the provisions in the City of Hobart Public Spaces By-law so that a person is not guilty of an offence in relation to camping in public spaces if at the time they are homeless.”</i> This provision was developed by the Hobart City Council in consultation with service providers and experts in order to ensure the definition of homelessness was broad enough to protect vulnerable people, without permitting recreational camping in unauthorised public areas. | Considered to be minor in nature as it clarifies the circumstances where a person is not committing an offence when homeless. | <p>The purpose of the Council Land By-law is for the control and management of Council land and recreational facilities. This is achieved by a number of means including making provision to ensure the peace and enjoyment of Council land and recreational facilities for the use of the public and to establish offences for breaches of the By-law.</p> <p>The issue of homelessness is a real one within the community however it has not at any time been a cause of difficulty for Council in relation to a need to enforce the By-law. Relaxing the regulation for homeless persons is not considered to alter the purpose or effect of the By-law and even if it were to this would be minimal and certainly not significant.</p> | <p>It is apparent on the face that the minor amendment does not significantly alter the impact of the By-law on the public.</p> <p>Whilst there may be concerns raised that use of Council Land by a homeless person may obstruct a person’s peaceable enjoyment of the land, this is considered to be minor in the circumstances.</p> |
| 16 | To amend the Table of Infringement Notice offences by inserting an offence for mooring a vessel at a marine facility for a period in excess of 2 consecutive nights | To provide for an infringement notice to be able to be issued for the offence clarifying leaving vessels at marine facilities | The amendment is considered to be of a minor and technical nature to provide for infringement notice offence rather than require only prosecution action. | <p>The purpose of the Council Land By-law is for the control and management of Council land and recreational facilities. This is achieved by a number of means including making provision to ensure the peace and enjoyment of Council land and recreational facilities for the use of the public and to establish offences for breaches of the By-law.</p> <p>Council provides land and facilities for the benefit of the public. The amendment provides clarity around use of land and facilities by animals and does not in any way alter the purpose or effect of the By-law.</p> | See comment on Clause 13. |