



City of  
**LAUNCESTON**

# **STRATEGIC PLANNING & POLICY COMMITTEE AGENDA**

**COMMITTEE MEETING  
MONDAY 13 NOVEMBER 2017**

**10.00am  
COMMITTEE ROOM, TOWN HALL, ST JOHN STREET, LAUNCESTON**

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## Section 65 Certificate of Qualified Advice

### Background

Section 65 of the *Local Government Act 1993* requires the General Manager to certify that any advice, information or recommendation given to Council is provided by a person with appropriate qualifications or experience.

### Declaration

I certify that persons with appropriate qualifications and experience have provided the advice, information and recommendations to Council in the Agenda Items for this Meeting.



**Michael Stretton**  
**General Manager**

The reports in this Agenda are provided to the Strategic Planning and Policy Committee in order to explain the intent of the process/proposal proposed. Whilst the reports are in Council Meeting format, no decision is being sought.

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**Venue:** Committee Room, Town Hall, St John Street, Launceston

**Time:** 10.00am

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## ORDER OF BUSINESS

Item No	Item	Page No
1	<b>OPENING OF MEETING - ATTENDANCE AND APOLOGIES</b>	1
2	<b>DECLARATION OF INTERESTS</b>	1
3	<b>CONFIRMATION OF MINUTES</b>	1
4	<b>AGENDA ITEMS</b>	2
4.1	Deputation - Tourism Northern Tasmania	2
4.2	Facilities By-Law	4
5	<b>GENERAL BUSINESS</b>	25
6	<b>CLOSED ITEMS</b>	25
	<b>No Closed Items have been identified for this Agenda</b>	
7	<b>CLOSE OF MEETING</b>	25

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**1 OPENING OF MEETING - ATTENDANCE AND APOLOGIES**

**2 DECLARATION OF INTERESTS**

**3 CONFIRMATION OF MINUTES**

**DECISION STATEMENT:**

To resolve that the Minutes of the previous meeting are a true and correct record.

**RECOMMENDATION:**

That the Minutes of the Strategic Planning and Policy Committee Meeting held on 23 October 2017 be accepted as a true and correct record.

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## 4 AGENDA ITEMS

### 4.1 Deputation - Tourism Northern Tasmania

**FILE NO:** SF0097

**AUTHOR:** Anthea Rooney (Committee Clerk)

**GENERAL MANAGER:** Michael Stretton (General Manager)

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#### **DECISION STATEMENT:**

To receive a deputation at 10.00am from Mr Chris Griffin (Chief Executive Officer - Tourism Northern Tasmania) initiated by Ms Tracey Mallett (Manager Community, Tourism and Events).

#### **RECOMMENDATION:**

That the Strategic Planning and Policy Committee receives a deputation from Tourism Northern Tasmania regarding the presentation of Tourism Northern Tasmania's Annual Report 2016/2017.

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#### **REPORT:**

Mr Chris Griffin (Chief Executive Officer, Tourism Northern Tasmania) will present his deputation at 10.00am. Mr Griffin will present Tourism Northern Tasmania's Annual Report 2016/2017, highlighting achievements and key directions resulting from the report and including discussions for progress into the future. Discussion relating to developing the visitor economy in Northern Tasmania (including the City of Launceston) will also be presented.

#### **ECONOMIC IMPACT:**

Not considered relevant to this report.

#### **ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

#### **SOCIAL IMPACT:**

Not considered relevant to this report.

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## 4.1 Deputation - Tourism Northern Tasmania ...(Cont'd)

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### **STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Strategic Plan 2014-2024  
Priority Area 8 - A secure, accountable and responsive Organisation  
Ten-year goals - To communicate and engage consistently and effectively with our community and stakeholders  
Key Direction -  
1. To develop and consistently use community engagement processes

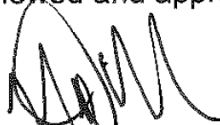
### **BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

### **DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Michael Stretton: General Manager**

## 4.2 Facilities By-Law

**FILE NO:** SF0066

**AUTHOR:** Michael Jacques (Senior Corporate Legal Counsel)

**DIRECTOR:** Paul Gimpl (Acting Director Corporate Services)

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### **DECISION STATEMENT:**

To consider the proposed Facilities and Local Highways By-law and Regulatory Impact Statement prior to Council giving notice of its intention to make a by-law.

### **RECOMMENDATION:**

That the Committee considers the draft Facilities By-law and Regulatory Impact Statement before they are submitted to a Council Meeting for the purpose of recording an intention to make a by-law under section 156 of the *Local Government Act 1993*.

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### **REPORT:**

The main objective of the proposed by-law is to regulate, control and protect designated malls, parks and gardens and in some instances local highway areas in the Launceston municipal area. The by-law is also to promote safe and user friendly areas for the public. The controls set out in the by-law are intended to provide a behavioural framework for members of the public when visiting the Council's land and facilities.

The principal means by which the by-law will assist in achievement of the above objectives are:

- The detailing of the requirement for written permission to use designated facilities for events, busking, sales of tickets and the like;
- The creation of deterrents by way of offences for things such as erection of structures, erection of signs, sale of items, distribution of advertising material and organising assemblies without a permit to do so;
- The creation of deterrents by way of offences relating to damage to Council property and nuisance;
- Controls on vehicular movements; and
- Clarifying the processes for infringement notices and the payment of fines associated with offences created under this by-law.

This by-law will replace four existing by-laws and will offer simplified provisions with repetitive provisions used in the previous four by-laws amalgamated in to one by-law. Changes in the new by-law, when compared with the prior by-laws include:

- Grammatical alterations.
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## 4.2 Facilities By-Law ...(Cont'd)

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- Fewer offences overall but differently expressed to cover some gaps and ambiguities.
- Removal of provisions that are adequately covered by amended State laws, such as liquor offences.
- More clarity and simplicity around who is authorised under the by-laws to exercise the powers under the by-law.

After the Committee has considered the draft by-law and Regulatory Impact Statement (RIS), the following process will occur:

- (1) Council will consider a recommendation that it record its intention to make this By-law. This requires an absolute majority (section 156(1) *Local Government Act 1993*).
- (2) The proposed RIS and by-law will be assessed and certified by the Director Local Government.
- (3) A notice will also be published in the Examiner. This will start a public submission period of at least 21 days. The draft by-law will also be made available on Council's website. Letters will be sent to identified stakeholders seeking input on the by-law.
- (4) Council will then consider the public submissions and any revisions it wishes to make as a result of the submissions. Council will then be able to consider a recommendation that it make a Facilities and Local Highways By-law.
- (5) The by-law will then be sealed, certified and gazetted in accordance with the *Local Government Act 1993*. The by-law will commence operation from the date of its Gazettal. The by-law is then provided to the Subordinate Legislation Committee and tabled in both Houses of Parliament.

### **ECONOMIC IMPACT:**

It is unlikely that the by-law will have any economic impact as it essentially deals with the regulation of behaviour in a public place.

### **ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

### **SOCIAL IMPACT:**

The By-Law will promote a safe and user friendly environment for the public.

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## 4.2 Facilities By-Law ...(Cont'd)

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### STRATEGIC DOCUMENT REFERENCE:

City of Launceston Strategic Plan 2014-2024  
Priority Area 2 - A city where people choose to live  
Ten year goal - to promote Launceston as a unique place to work, study and play.

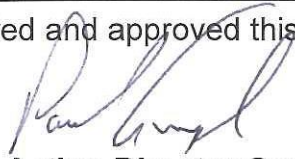
### BUDGET & FINANCIAL ASPECTS:

The by-Law provides for fines to be issued. Any fines will be directed back to the Department administering the by-Law.

### DISCLOSURE OF INTERESTS:

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation



Paul Gimpl: Acting Director Corporate Services

### ATTACHMENTS:

1. Draft Facilities By-Law and RIS
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Attachment 1 - Draft Facilities By-Law and RIS

## LAUNCESTON CITY COUNCIL

### FACILITIES AND LOCAL HIGHWAYS BY-LAW NO. **x** of 2017

A By-Law made under Section 145 of the *Local Government Act 1993* to control, regulate and protect facilities and local highways throughout the municipal area of the Launceston City Council.

#### PART 1 – PRELIMINARY

##### 1. Repeal

The following By-laws:

- (1) No.1 of 2010 Malls notified in the Tasmanian Government Gazette on the 12th day of May 2010;
- (2) No.4 of 2009 Reserves, Parks and Gardens notified in the Tasmanian Government Gazette on the 4th day of November 2009;
- (3) No.3 of 2009 Swimming Centres notified in the Tasmanian Government Gazette on the 8th day of April 2009; and
- (4) No.6 of 2007 York Park Stadium notified in the Tasmanian Government Gazette on the 23th day of May 2007, are repealed.

##### 2. Short Title

This by-law may be cited as the Facilities and Local Highways By-Law Number **x**/2017.

##### 3. Application

This by-law applies to all Facilities and Local Highways in the municipal area of the Launceston City Council.

##### 4. Interpretation

- (1) This by-law is not intended to interfere with the cultural activities of the Tasmanian Aboriginal community, nor with the cultural activities of any other peoples.
- (2) In this by-law, unless the contrary intention appears:

"Abandoned " means

- (a) objects or materials that appear to have been discarded by the owner and that in the opinion of the Authorised Officer have a negligible market value apart from scrap value; and
  - (b) Nuisance Vehicles
    - (i) that have been held for 28 days and the owner cannot be located after a search of available vehicle registration records; or
    - (ii) where the owner is informed of the removal but does not pay the charges required under this by-law within 14 days of being so informed.
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"Aquatic Centre" includes Launceston Aquatic, the Lilydale District Swimming Pool, the Basin Swimming Pool, and any other swimming related infrastructure, facility or building controlled or managed by the Council;

"Authorised Officer" means a person authorised in writing by the Council or the General Manager, or a police officer of Tasmania Police;

"CCTV" means any visual surveillance and recording technology system with the capability to monitor environments and activities;

"City of Launceston" means the Launceston City Council;

"Closed Area" means any closed part of a Facility, or Local Highway that has been closed under clause 15,

"Commercial Activity" means any activity which relates to the provision of goods and services and includes:

- (a) the promotion of an undertaking that provides goods and services;
- (b) distributing or arranging to distribute or affixing to any Council property any type of advertisement, book, card, notice, pamphlet, print, paper, sign billboard or placard for any purpose; and
- (c) organised instructing or coaching at an Aquatic Centre;
- (d) the placement of Skip Bins;
- (e) the placement of security fencing, hoarding, shipping container, site office or site amenities associated with the use or development of the adjacent land

whether the person is remunerated or not;

"Council" means the Launceston City Council;

"Crossing" means a vehicular crossing or pedestrian path over a table-drain, gutter, or footpath at or opposite the entrance to land adjoining the highway that is intended primarily for ingress or egress from that land.

"Damage" includes:

- (a) to destroy, tamper with, remove, mark, write on, deface or in any other way injure;
- (b) collect or remove any wood or timber;
- (c) open or keep open an entrance to a Public Reserve; and
- (d) place or dump objects or materials,

without the permission of an Authorised Officer;

"Facility" means a Public Reserve, Mall, Aquatic Centre, or York Park Stadium;

"General Manager" means the General Manager of the Council;

"Liquor" has the same meaning as under the *Police Offences Act 1935*;

"Local Highway" has the same meaning as under the *Local Government (Highways) Act 1982*;

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"Mall" means the areas listed in Schedule 2;

"Nuisance" may include:

- (a) Possessing an open container of liquor or selling or consuming liquor in a manner that would not be lawful under Section 25 of the *Police Offences Act 1935*;
- (b) using indecent and/or offensive language;
- (c) acting in a disorderly or unlawful way.
- (d) throwing a projectile or releasing a projectile from any device,
- (e) causing Damage;
- (f) climbing on to a tree, shrub, roof, seat, fence, fixture, or other structure in a Facility;
- (g) light a fire other than in a fireplace provided by the Council for public use;
- (h) using a camera, video camera, mobile telephone camera or any other device that records still or moving images in any change room or toilet in a Facility; or
- (i) a nuisance as defined by Section 199 of the *Local Government Act 1993*,

where the Council or an Authorised Officer has not given written approval for that activity to occur in a Facility or Local Highway;

"Nuisance Vehicle" means a vehicle or part of a vehicle that is;

- (a) Abandoned;
- (b) left parked or stationary for a period in excess of 24 hours;
- (c) obstructing the public use of a Facility or Local Highway; or
- (d) is parked or used in breach of this by-law;

"Parking Area" means an area at a Facility allocated by Council for parking of vehicles;

"Public Reserve" means a reserve, rockery, area of bushland, planted embankment, nature strip, median strip, plantation, sports ground, park, flood levee, or garden usually open to the public and under the control and management of the Council;

"Polluting Substance" means in any Aquatic Centre:

- (a) blood;
- (b) faeces;
- (c) detergents;
- (d) food and beverages;
- (e) urine;
- (f) vomit; or
- (g) any other substance deemed to be a polluting substance by an Authorised Officer;

"Skip Bin" means any container that has a capacity in excess of 240 litres that is designed primarily for the collection and removal of waste or recyclable materials.

"Vehicle" means a vehicle as defined in Clause 3(1) of the *Traffic Act 1925*;

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"York Park Stadium" means the stadium area at York Park within the boundaries as marked on the map in Schedule 3.

## **PART 2 - USE OF FACILITIES**

### **5. Driving of vehicles**

(1) Subject to subclause (2), a person must not drive a vehicle in a Facility.

Penalty: a fine not exceeding 5 penalty units.

(2) This subclause (1) does not apply to a bicycle, trail bike, tricycle, skateboard, skates or other vehicle being used:

- (a) by an emergency service;
- (b) on a road, parking space, path or track provided for such vehicles unless signs or notice boards indicate that such use is not allowed; or
- (c) with the written permission of an Authorised Officer.

(3) Except for emergency vehicles, a person permitted to drive a Vehicle in a Facility must:

- (a) enter or leave by the access point identified by signage, or directed by an Authorised Officer;
- (b) not cause their vehicle to enter or remain in a closed Parking Area;
- (c) drive at a safe speed not in excess of 5 kilometres per hour unless otherwise authorised by an Authorised Officer; and
- (d) not abandon a vehicle.

Penalty: a fine not exceeding 5 penalty units.

### **6. Commercial Activity**

(1) A person must not engage in Commercial Activity in a Facility or on a Local Highway without written permission from an Authorised Officer.

Penalty: a fine not exceeding 10 penalty units.

(2) A person must not cause or permit the installation of any furniture, building, booth or other structure that will facilitate Commercial Activity in a Facility or on a Local Highway except under the conditions of a permit or license issued by an Authorised Officer or a Council, or a lease issued by a Council.

Penalty: a fine not exceeding 10 penalty units and for a continuing offence, a further daily fine not exceeding 1 penalty unit.

### **7. Public speaking, concerts and similar activities**

(1) In a Facility or on a Local Highway, a person must not conduct, arrange, or participate in:

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- (a) subject to clause 7(2), a function, party, reception, assembly, concert or informal social gathering;
- (b) an organised sport, contest, or game;
- (c) public speaking including preaching;
- (d) busking, selling raffle tickets or taking up collection of money, without written permission from an Authorised Officer.

Penalty: a fine not exceeding 5 penalty units.

- (2) Subject to clause 17, a person may conduct, arrange or participate in an informal social gathering in a Public Reserve without written permission from an Authorised Officer if the gathering does not:
  - (a) involve more than 20 people participating at any time;
  - (b) use an area which is notified as, or indicated by signs and barriers to be, a reserved or closed area; and
  - (c) involve the other activities referred to in clause 7(1)

## **8. Dogs and other animals**

- (1) A person must not possess or have under his or her control an animal in a Facility, except:
  - (a) a dog in a Public Reserve being exercised in conformity with the *Dog Control Act 2000*;
  - (b) a horse being ridden in a Public Reserve area where Council notices or signs state that such use is allowed;
  - (c) a guide dog as defined by the *Guide Dogs and Hearing Dogs Act 1967*; or
  - (d) with the written permission of an Authorised Officer.

Penalty: a fine not exceeding 5 penalty units.

## **9. Nuisance and Disorderly conduct**

- (1) A person must not in a Facility create or cause a Nuisance.

Penalty: a fine not exceeding 5 penalty units.

## **10. Misuse of change room and public toilet**

- (1) A person must not in a Facility or Local Highway, if that person is over the age of ten years, enter a change room or public toilet reserved for the use of people of the opposite sex except to help someone who is injured, elderly or disabled.

Penalty: a fine not exceeding 10 penalty units.

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## 11. Ground Invasion

A person must not enter or remain on the playing arena of York Park Stadium except;

- (a) while participating in an organised activity where the Council approved event organisers have invited the person to enter the playing arena; or
- (b) with the written permission of an Authorised Officer.

Penalty: a fine not exceeding 20 penalty units.

## 12. Substances in an Aquatic Centre

- (1) A person must not put any Polluting Substance in an Aquatic Centre.
- (2) A person who has an infection or a contagious disease or skin complaint must not enter a pool or waterslide in an Aquatic Centre.

Penalty: a fine not exceeding 5 penalty units.

## 13. Objects on a Local Highway or Facility

A person must not:

- (1) on a Local Highway or Facility deposit or allow to be deposited any;
  - (a) soil, gravel or other material;
  - (b) structure; or
  - (c) other object,

in a manner that an Authorised Officer determines may interfere with the amenity, comfort, convenience, or safety of the public.

Penalty: a fine not exceeding 5 penalty units.

- (2) in a Local Highway cause or a allow works to be performed on a Crossing without the consent of an Authorised Officer.

Penalty: a fine not exceeding 5 penalty units.

## PART 4 - POWERS OF AUTHORISED OFFICERS AND ENFORCEMENT

### 14. Permits and Hire Agreements

- (1) Subject to Part 12 Division 1 of the *Local Government Act 1993*, an Authorised Officer may,
    - (a) grant, cancel or vary a permit or authorisation; and
    - (b) grant a lease, license, permit or authorisation to temporarily occupy part of all of a Facility or Local Highway,on any terms and conditions that they may see fit to impose.
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- (2) A person must not occupy any part of a Facility or Local Highway unless the person is occupying the Local Highway in accordance with a lease, licence, permit or authorisation granted by the Council for the relevant land.

Penalty: a fine not exceeding 5 penalty units.

- (3) If a permit or authorisation is withheld or varied, reasons are to be provided.

## 15. Closure of Facility or Local Highway

- (1) Subject to Part II Division 3 of the *Local Government (Highways) Act 1982* where the land is a Local Highway, an Authorised Officer may from time to time, and for such temporary period as he or she determines, close all or any part of a Local Highway or Facility, to members of the public.

## 16. Making Good

- (1) An Authorised Officer may take any reasonable measure to restore a Facility, Parking Area, or Local Highway to its original condition after a breach of this by-law including,
- (a) require a person to undertake works to rectify any Council property which has been subject to Damage due to that person's acts or omissions; and
  - (b) if the Authorised Officer is an employee of the Council, remove any Nuisance Vehicle or other object and,
    - (i) take it to a safe place and keep it there until the penalty, removal and storage charges have been paid; or
    - (ii) dispose of the object in any manner the Council sees fit if the object is Abandoned.
  - (c) Where in the opinion of the Authorised Officer it appears likely that a discarded object may have been stolen the Authorised Officer must seek to contact Tasmania Police and seek further directions prior to disposal.
  - (d) The Council may use the proceeds of disposal to defray expenses but if the proceeds of disposal exceed the amount of the expenses, the Council must hold those balance proceeds for a period of 3 months from the date of disposal and, if not claimed by the owner during that period, then the Council may keep the balance of the proceeds.
- (2) In addition to a penalty imposed or remedy granted against a person in relation to a failure to comply with this by-law, any expense incurred by Council in consequence of that failure or contravention, including the costs of rectification work, is recoverable by Council as a debt payable by the person in contravention.

## 17. Refusal of admission and removal

- (1) If a person engages in conduct which an Authorised Officer reasonably believes to be in breach of this by-law, or a Nuisance, an Authorised Officer may either:
- (a) refuse to admit a person to a Facility or part of a Local Highway;
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- (b) require a person to leave a Facility or part of a Local Highway for a specified length of time;
  - (c) issue a prohibition notice banning a person from entering a Facility or part of a Local Highway for the period of the ban; or
  - (d) if the Authorised Officer is an employee of the Council, remove any person from a Facility or part of a Local Highway.
- (2) A person who has been banned from using a Facility or closed part of a Local Highway for a period of time must not enter that Facility or relevant part of a Local Highway during that period.
- Penalty: a fine not exceeding 5 penalty units.
- (3) A police officer may arrest without warrant a person who:
- (a) he or she believes on reasonable grounds to have committed an offence against this by-law; and
  - (b) is on land owned by, or under control of the Council.
- (4) Council may prosecute a person for breach of this by-law if the person fails to leave a Facility or closed part of a Local Highway after having been requested to do so.

## **18. Closed Circuit Television**

A person who enters a Facility or Local Highway may have their image recorded and disclosed for investigatory and management purposes.

## **19. Infringement notices and fine**

- (1) An Authorised Officer may:
- (a) issue an infringement notice to a person that the Authorised Officer has reason to believe is guilty of a specified offence;
  - (b) issue one infringement notice in respect of more than one specified offence;
  - (c) impose a monetary penalty for the specified offence in respect of which the infringement notice is issued.
- (2) Infringement notices may be issued in respect of the offences specified in Column 1 of Schedule 1 to this by-law and the penalty specified in Column 3 opposite the offence is the penalty payable under an infringement notice issued in respect of that offence, unless otherwise specified.
- (3) In order to avoid the infringement notice being referred to the Director Monetary Penalties Enforcement Service for enforcement action, the person issued with an infringement notice must either:
- (a) pay the total amount of the monetary penalty stated on the infringement notice to; or
-

- (b) lodge a notice of election to have the offence heard by a Court with the General Manager at the Town Hall, St John St Launceston within 28 days of the date of service of the notice.
  - (4) An infringement notice alleging that a vehicle has been used in relation to a prescribed offence may be served by affixing it to that vehicle.
  - (5) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this by-law.
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### Schedule 1 Infringement Notice Offences

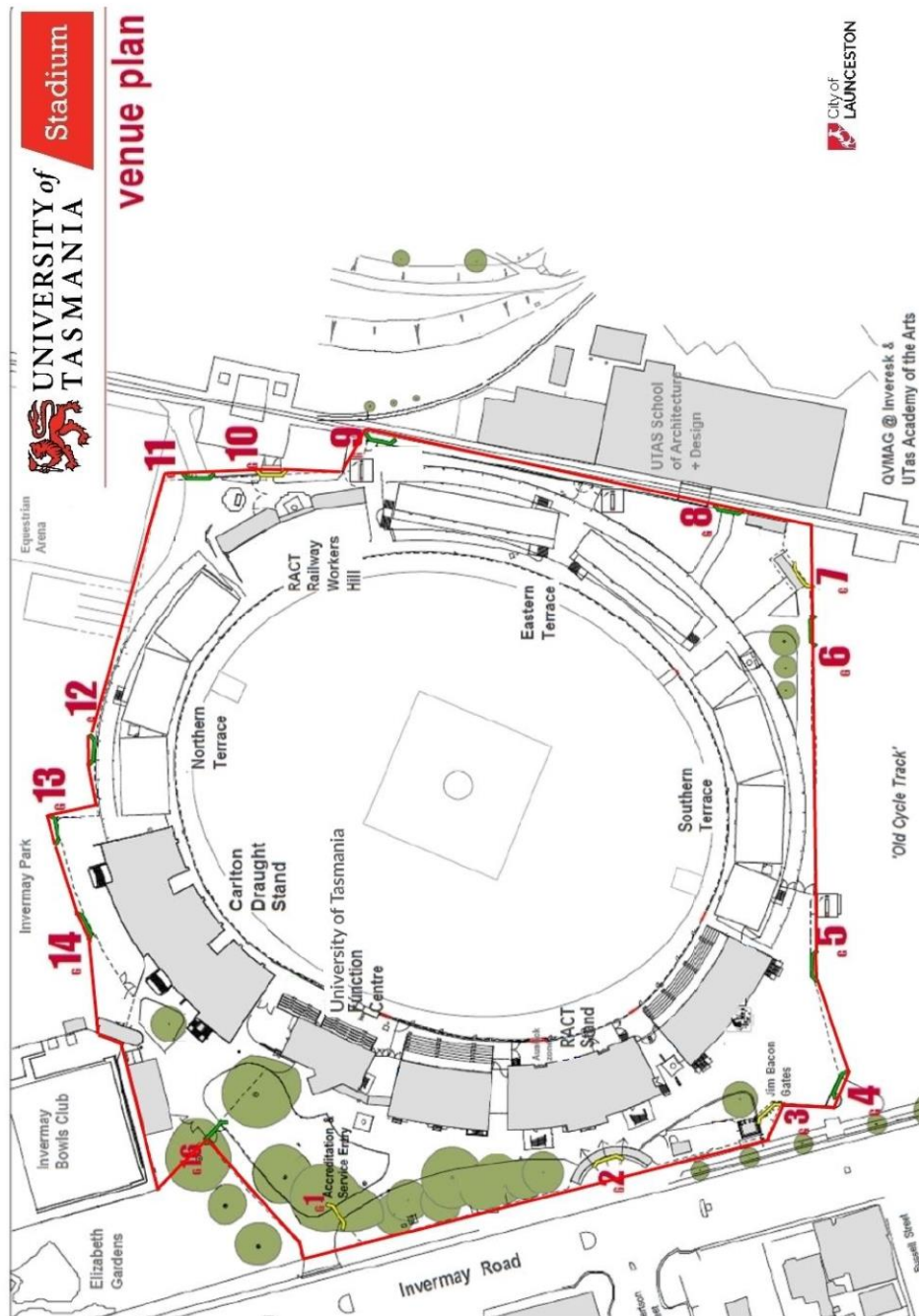
Clause	General Description of Offence	Penalty Units
5(1)	Driving a vehicle in a Facility	1
5(3)	Unsafe Driving	1
6(1)	Unauthorised Commercial Activity	2
6(2)	Unauthorised structures	2
7	Engaging in unauthorised activity	1
8	Unauthorised animals	1
9	Nuisance	1
10(1)	Entering change rooms	2
11	Ground Invasion	4
12(1)	Introduction of Polluting Substances into Aquatic Centre	1
12(2)	Use of Aquatic Centre with infectious disease	1
13(1)	Objects on a Local Highway or Facility	1
13(2)	Unauthorised works on a Crossing	1
14	Occupying land without a permit	1
15	Entering closed Facility	1

### Schedule 2 - Malls in which the by-law applies

- |   |                      |   |
|---|----------------------|---|
| 1 | Brisbane Street Mall | Between Charles and St John Streets   |
| 2 | The Quadrant Mall    | The Quadrant between Brisbane Street and St John Street including Dicky Whites Lane, Ingles Lane, Claytons Lane and Bookmakers Lane |
| 3 | Civic Square         | Cameron Street between Charles Street and St John Street  |
| 4 | The Avenue           | The area from the shop front to the kerb edge of the widened footpath in Brisbane Street between St John Street and George Streets. |
| 5 | Charles Street       | The area from the shop front to the kerb edge of the widened footpath in Charles Street between Paterson and York Streets.          |
| 6 | St John Street       | The area from the shop front to the kerb edge of the widened footpath in St John Street between Paterson and York Streets.          |

Schedule 3

York Park Stadium



The Common Seal of the Launceston City Council has been placed on this document pursuant to a resolution of Council on the xxx day of xxx 2017 in the presence of us:

.....  
Albert Van Zetten  
MAYOR

.....  
xxxxxx  
ALDERMAN

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

.....  
xxxxxxxxxxxx  
GENERAL MANAGER

Certified as being in accordance with the law.

.....  
Michael Jacques  
LEGAL PRACTITIONER

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## **Draft REGULATORY IMPACT STATEMENT**

### **LAUNCESTON CITY COUNCIL FACILITIES AND LOCAL HIGHWAYS BY-LAW**

#### **Purpose and Process of Regulatory Impact Statement**

When Council seeks to make a new by-law it is a statutory requirement of the *Local Government Act 1993* that a Regulatory Impact Statement (RIS) is prepared. The preparation of an RIS is a rigorous process aimed at analysing the most efficient and effective options available to address a particular issue. An RIS is required to identify whether the benefits of a restriction on competition or an impact on business imposed by the by-law outweigh the costs. This requires an assessment of the direct and indirect social, economic and environmental impacts of the proposed by-law and alternatives considered.

The *Local Government Act 1993*, under section 156A, provides once the RIS has been prepared, Council must submit it to the Director of Local Government for assessment. If the Director is satisfied that the RIS meets the statutory requirements, he or she will issue a certificate to that effect and Council can then commence the public consultation process.

#### **Objectives of the By-law**

The object of the Launceston City Council's Facilities and Local Highways by-law Number xx of 2017 is to control, regulate and protect facilities throughout the municipal area of the Launceston City Council.

The by-law will promote a safe and user friendly environment for the public. It is intended that the controls on use and behaviour detailed in the proposed by-law will provide a behavioural framework for all members of the public.

The principal means by which the by-law will assist in the achievement of this objective are:

- The detailing of the requirement for written permission to use designated Facilities for certain activities;
- The creation of offences relating to disorderly conduct and a range of other offences and nuisances relating to behaviour;
- Clarify the powers of Council's Authorised Officers
- Creating rules for infringement notices and the payment of fines associated with offences under this by-law.

#### **Background**

The by-law is intended to update our by-laws to incorporate improvements in our processes identified through operational use of the by-law powers in recent years. It also simplifies our by-laws by combining four existing by-laws in to one (No.1 of 2010 Malls; No.4 of 2009 Reserves, Parks and Gardens; No.3 of 2009 Swimming Centres; No.6 of 2007 York Park Stadium).

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Launceston City Council has had most of the above by-laws in some form for at least the last 10 years or more. Council's by-laws have recently been used by Council officers to manage use and behaviour in designated Council malls, although they are only relied on infrequently for other facilities.

Changes in the redrafted by-law include:

- Grammatical alterations.
- Reworded and simplified provisions with repetitive provisions used in four by-laws amalgamated in to one by-law.
- Fewer offences overall and differently expressed offences to cover some gaps and ambiguities.
- Removal of provisions that are adequately covered by amended State laws, such as liquor offences.
- More clarity and simplicity around who is authorised under the by-laws to exercise the powers under the by-law.

The by-law is a means to control, regulate and protect facilities throughout the municipal area of the Launceston City Council. It will work in conjunction with Council's established process for the hiring of facilities, entry conditions in to facilities, and the provisions of the *Police Offences Act 1935*. This proposed by-law allows for the issue of infringement notices to offenders.

The by-law avoids duplicating offences that are also covered by certain provisions of the *Police Offences Act 1935*, and deals only with areas where there are shortfalls in the scope of those provisions. This creates a mechanism for authorised Council officers to work in conjunction with Tasmania Police in managing facilities effectively. Recognition is given to the efforts of the Tasmania Police directed at providing a safe community. The ability of Council officers to enforce certain behaviours in facilities enables the efforts of Tasmania Police to be continued.

Consultation in relation to the development of the by-law has been undertaken with Tasmania Police and Council staff. The by-law has been developed in consultation with Council's senior legal advisor and external advisors.

### **Does the By-Law Restrict Competition?**

Council believes the by-law does not place a material restriction on competition as it essentially deals with governance matters, such as the regulation of behaviour in a public place, or Council recreational facility.

The process for hiring and authorising activities in facilities is already in place. The existing administrative systems will not need to be altered in order to address the by-law requirements.

The requirement for a licence to use a Council facility might be considered a restriction on market entry.

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The requirement for a licence or permit to erect a structure, erect signs or banners, sell or offer for sale merchandise, food or drink, busk, sell raffle tickets, distribute advertisements, conduct a concert, organise an assembly or engage in preaching or public speaking, sell liquor, may be considered a restriction on market entry or to have an impact on competitive conduct.

The licensing system could be seen to operate to limit participation in the market place and the required compliance with license conditions may stifle innovation in this context.

However, any impact of the by-law which occurs while it is endeavouring to provide a framework for the appropriate use of Council facilities and to enable the accessibility of these public places to all in a safe manner, more than justifies any potential restrictions. Further, without these restrictions Council's ability to create safe, accessible and user friendly public places for all would be impinged.

**Does the By-law Impact on Business?**

The Council believes that the by-law will not have a negative impact on business as it essentially deals with purely governance matters.

Commercial, sport and recreational operators will not be significantly affected by the by-law - the current hiring and permitting arrangements and controls around use of Council malls will be maintained.

The by-law does not provide for any disincentives for business and there are no additional compliance or reporting costs other than those required by the licensing and permitting system. Accordingly, it is unlikely that this by-law will have a significant negative impact on business.

The by-law may have a positive impact on business by helping to maintain a pleasant environment that will be attractive to shoppers and visitors.

The benefits of the by-law in terms of the creation of safe, accessible and user friendly public places for all outweigh the identified costs in terms of restrictions on market entry and competitive conduct.

**Assessment of the costs vs the benefits of any restriction on competition or on the conduct of business**

	Costs	Benefits
Restrictions on Market Entry (licensing requirements)	<ul style="list-style-type: none"> <li>• May limit participation (effect on business)</li> <li>• Administrative costs (effect on business and government)</li> <li>• Maintenance and enforcement costs (effect on business)</li> </ul>	<ul style="list-style-type: none"> <li>• The creation of safe, accessible and user friendly public places for all.</li> <li>• It is in the public interest that there is a safe and accepted approach to controlling the use of Councils malls and that it is open to public scrutiny.</li> </ul>



	Costs	Benefits
Competitive Conduct	<ul style="list-style-type: none"> <li>• May stifle innovation (effect on business, consumers and community)</li> <li>• May limit participation (effect on business)</li> <li>• Administrative costs (business and government)</li> <li>• Maintenance and enforcement costs (effect on business)</li> </ul>	<ul style="list-style-type: none"> <li>• The creation of safe, accessible and user friendly public places for all.</li> <li>• It is in the public interest that there is a safe and accepted approach to controlling the use of Councils malls and that it is open to public scrutiny.</li> </ul>

**Assessment of the direct and indirect economic, social and environmental impact of by-law**

The primary benefit of the by-law is establishing Council's facilities as safe and user friendly public places. Its purpose is to benefit the community as a whole with the creation of public places which facilitate the provision of a wide range of experiences and promotes physical well-being.

The economic impacts of the by-law are minimal - hirers will still be required to adhere to Council's established protocols for hiring and use of facilities, users will have clear guidelines as to behavioural requirements and will only suffer a financial consequence if they infringe the by-law requirements.

**Other Options Considered**

The common law powers of a property owner are not considered sufficient to deal with the myriad of behavioural issues that arise in facilities and local highways. Dealing with some activities becomes cumbersome if Council seeks to rely on common law or solely on the current provisions of the *Police Offences Act 1935*. The offences covered by the by-law are relatively minor and restricted to Council facilities and local highways. The offences are also more deliberately tailored to the needs of Council facilities and local highways.

**Justification of Public Interest**

The by-law makes provision to control, regulate and protect facilities throughout the municipal area of the Launceston City Council. The matters it covers include hire and use of facilities (which include Council malls, sporting grounds, parks and pools), controlling disorderly conduct, damage to Council property, erection of signs and structures and parking.

It is in the public interest that there is a safe and accepted approach to controlling the use of Councils facilities and the local highway and that it is open to public scrutiny.

The proposed by-law requires that some uses of facilities and local highways be authorised by authorised Council officers. This is a continuation of existing administrative practice.

### **Assessment of greatest net benefit or least net cost to the community**

The proposed by-law will benefit the community but at a minimal cost. The by-law has been designed to address the user behaviour issues associated with the management of a public place.

There will be minimal additional cost to the community in providing management in line with by-law provisions. The capacity to administer this system is contained within the current management practices and procedures. Council will continue to work with local police on behaviour management in public places and the by-law will facilitate increased enjoyment and safety for users.

### **Public Consultation Process**

The following consultation process will occur:

- (1) Letters will be sent to identified stakeholders seeking input on the Facilities and Highways By-law. The letter will seek comment in writing. The aim of such consultation is to identify all the issues of the stakeholders so that the by-law provides a suitable framework for managing the use of these public places.

The identified stakeholders include users and hirers of Council facilities, Tasmania Fire Service, Tasmania Ambulance Service, Taxi Association, Metro Tasmania, Royal Guide Dogs, Tasmanian Aboriginal Centre, Launceston Ratepayers Association, Bicycle Users Group, Access Committee, Nursing Mothers, Playgroup Association, Motorbike Association, Tourism Tasmania, Northern Tasmania Development, Migrant Resource Centre, Skateboard Association, Launceston Chamber of Commerce and Cityprom.

- (2) Council will debate a recommendation that it make a Facilities and Local Highways By-law.
- (3) Council will pass a motion that it intends to make the by-law.
- (4) It will then publish notice of that resolution:
  - (a) once in the Examiner newspaper
  - (b) by displaying the notice on the notice board at the Town Hall from the day when the newspaper advertisement is first published until the end of the submission period which is specified in the notice.

The notice will state the following:

- (i) the purposes and general effect of the by-law;
  - (ii) that a copy of the by-law and of the Regulatory Impact Statement may be inspected at the Customer Service Centre until the specified day ;
  - (iii) that a copy of the by-law and Regulatory Impact Statement may be downloaded from Council's website or purchased for the cost of \$4.00 at the Town Hall until the specified day;
  - (iv) that submissions in respect of the by-law may be made in writing, addressed to and lodged with the General Manager, stating the grounds of the submission and the facts relied upon to support those grounds;
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- (v) that submissions must be lodged before the specified day.

The specified day will be no earlier than 21 days after the publication of the notice in the Examiner newspaper.

- (5) The General Manager will make copies of the proposed by-law and the Regulatory Impact Statement available for inspection or purchase by the public until the day specified in the notice.
- (6) The draft by-law will also be made available on Council's website, [www.launceston.tas.gov.au](http://www.launceston.tas.gov.au).

### **Do you have any concerns or comments?**

Submissions about the by-law and Regulatory Impact Statement may be made in writing, addressed to and lodged with the General Manager, stating the reasons for the submission and the facts relied upon to support those reasons.

The submission must be received before the day specified in the advertisement which is no earlier than 21 days after the publication of the advert in the Examiner newspaper.

The Council will consider all submissions that have been made to it concerning the by-law and the Regulatory Impact Statement and, if it decides to amend the by-law as a result of any of these submissions it will do so by absolute majority. The Council does not need to give further public notice unless an amendment substantially changes the purpose or effect of the proposed by-law.

If you make a submission you will be notified of Council's decision in writing.

**If you have any questions about the process please contact Michael Jacques, Senior Corporate Legal Counsel, on (03) 6323 3000.**

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**5 GENERAL BUSINESS**

**6 CLOSED ITEMS**

**No Closed Items have been identified for this Agenda**

**7 CLOSE OF MEETING**