



Regulatory Impact Statement

Environmental Health By-law

By-law No. 1/2023

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Regulatory Impact Statement*

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1. Purpose and process of Regulatory Impact Statement

When a Council seeks to make a new or significant By-law amendment, the Local Government Act 1993 (the Act), requires that a Regulatory Impact Statement (RIS) be prepared.

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

The Act, under Section 156A, requires that, once the RIS has been prepared, Council must submit it to the Director of Local Government, Department of Premier and Cabinet for assessment. If the Director is satisfied that the RIS meets the statutory requirements, they will issue a certificate to that effect and Council may then commence the public consultation process.

Pursuant to Section 158 of the Act, copies of the By-law and the RIS are available by contacting Council by any of the following means:

Telephone:	(03) 6376 7900
E-mail:	admin@bodc.tas.gov.au
Website:	https://www.bodc.tas.gov.au/
In person:	Break O'Day Council
Mail:	32-34 Georges Bay Esplanade ST HELENS TAS 7216
Office hours	Monday to Friday - 9.00am to 5.00pm

Copies of the documents are available upon request or may be viewed at the Council's office.

2. By-law objectives

The Health and Environmental Services By-law is designed to act as a mechanism for ensuring that Council can provide protection for the community in matters relating to public and environmental health.

Under Section 156A(2)(a) of the Act Councils are specifically required to outline the objectives of the By-law and the means of achieving those objectives.

The following table summarises the various issues being addressed by the By-law, what the By-law will do to address these issues (the objectives) and how the By-law will achieve these objectives.

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Issue	Objective	Means to achieve Objective
Use of Council's waste disposal facilities	To ensure that materials delivered to Council's waste disposal facilities are disposed of correctly.	The By-law includes provisions ensuring that persons must dispose of waste correctly by setting of operational times, the ability to prohibit the disposal of certain articles and protection of the disposal facilities by prohibiting fires.
Disposal of household refuse and/or recyclable materials.	To ensure that Council's kerbside household waste and recycling services operate in an effective manner and residents do not create a nuisance through improper usage of mobile garbage and recycling bins.	The By-law includes provisions for the placement of bins at the kerbside and the materials that may be placed in the respective wheelie bins.
Animal control	To ensure that animals and poultry are not kept whereby they create a nuisance and that the animals and poultry are housed correctly.	<p>The By-law requires farm animals only to be kept on properties that have an area greater than 1000 square metres within the General Residential Zone.</p> <p>Also, the number of poultry kept is restricted within the residential zone and poultry must be a minimum distance from neighbouring properties.</p> <p>The By-law requires animals (other than cats and dogs) must not be allowed to stray onto neighbouring properties.</p> <p>The By-law prohibits the keeping of roosters in residential zones and requires the keeper of animals and poultry to ensure that they are housed</p>

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		<p>in a clean and sanitary environment.</p> <p>The By-law also limits the number of beehives that can be kept on a property with respect to the size of the lot.</p>
Control of habitation of caravans outside caravan parks	<p>To ensure that where caravans are being occupied for extended periods that there is no impact on local amenity, public health or the environment.</p> <p>Where occupancy is permitted there are minimum standards of sanitation.</p>	<p>The By-law provides for the issuing of permits for the occupation of caravans provided that minimum standards of sanitation are met and that there are minimal impacts on local amenity.</p> <p>Caravans are not to be occupied for more than 30 days without a permit.</p>
Control of burning	<p>To protect the health of the community and ensure fires do not cause nuisance from smoke emissions.</p> <p>The By-law provides clarity on what type of burning is prohibited and allows for easier enforcement rather than relying on proving that a fire is creating a nuisance.</p>	<p>Allow an Authorised Officer to direct a person to extinguish a fire that is creating a nuisance.</p> <p>If a person refuses to put out a fire an authorised officer may use water, soil and materials on the property to extinguish the fire.</p> <p>The authorised officer may request the fire brigade to extinguish the fire at the owner's expense.</p> <p>This Part does not apply to fire hazard reduction burning.</p>
Infringement Notices and Enforcement	To provide for the enforcement of the By-law and setting penalties for breaches of the By-law provisions	The By-law sets out that an infringement notice may be issued for breaches of specified offences in the By-law.

3. Background

The purpose of the by-law is for the regulation and control of matters of environmental health so acceptable levels of health, amenity and environmental quality are maintained in the Break O’Day Municipal Area. The By-law ensures that there are additional powers relating to the protection of public and environmental health that are not addressed in existing legislation.

In addition to current State legislation, Break O’Day Council currently controls Caravan License matters via the existing Caravan By-Law No. 1 of 2012. This existing By-law expires in April 2023 and a new By-law is required prior to the expiration of the current By-law to ensure continuity of Caravan licenses within the municipality.

The development of this By-law has come about through consultation with stakeholders and feedback from the community. The By-law reflects areas where Council has identified opportunity for improvement or to create more consistency with other Tasmanian Councils in order to provide better outcomes for the community and the environment.

For example, the By-law would provide Council with an ability to control circumstances such as:

- Preventing the disposal of hazardous wastes at Council’s waste transfer station and in Council’s kerbside waste collection service.
- Minimising nuisance from livestock and roosters by ensuring they are not kept in residential areas.
- Ensuring that the occupation of caravans outside caravan parks does not impact on local amenity or cause public health risks.

It is essential that sufficient controls are in place to ensure the public's general safety and well-being. Without the By-law there is limited existing State legislation that effectively enables the regulation and control of activities relating to public and environmental health.

4. Potential restriction on competition

The By-law creates minimal restrictions on competition of business. Whilst there are no restrictions on market entry (eg. licencing or registration requirements), competitive conduct, product/service innovation or administrative discretion, the By-law does create potential impacts on business through restrictions on waste management, animal management, occupation of caravans outside of caravan parks and waste management. These potential impacts are assessed in section 5.

5. Assessment of costs/benefits of restriction on competition and conduct

Issue	Costs	Benefits
Limitation of times for disposal at waste facilities.	The limitation does not place any restriction on competition as waste	The restriction of hours reduces the operational costs for Council, which has

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	facilities are operated under an environmental licence.	a direct benefit to business through lower waste disposal fees.
Use of mobile household waste & recycling bins.	The limitations on the size of household refuse and recycling bins means that some businesses need to utilise private contractors (eg. skip bin contracts).	The regulation of usage of mobile bins reduces the cost of collection thus providing a service at a lower annual cost to business.
Control of livestock, poultry and other animals.	The limitations on keeping of livestock and other animals has no direct cost to business	There are no direct benefits as a result of the limitations.
Limitation on number of beehives that can be kept on a property.	The By-law may limit the number of hives that a commercial honey producer can keep on a property. However the By-law provisions have been drafted in line with advice from the Tasmanian Beekeepers Association to ensure that there would be no impediment on beekeeping on large rural properties.	The By-law provisions will ensure that the business is suitably scaled to fit within the local neighbourhood and will ensure that bees from the beehives do not cause a nuisance to neighbouring properties, protecting the brand of the business.
Use of caravans outside caravan parks.	The restriction of use of caravans outside caravan parks may have a small cost through the potential reduction in tourism numbers.	The limitation on use of caravans outside caravan parks has a direct benefit to business by ensuring that only commercial facilities are used.

The above costs and benefits have not been quantified as it is difficult to determine the exact nature of the potential impacts on the conduct of business. Nevertheless, an analysis of the abovementioned costs and benefits indicates that the benefits outweigh the costs associated with any potential impact on the conduct of business.

6. Assessment of economic, environmental or social impacts

		Direct Impacts	Indirect Impacts
Economic	Benefits	<ul style="list-style-type: none"> • Provision of waste collection and disposal services reduces cost of collection of dumped wastes. 	<ul style="list-style-type: none"> • Improved regulatory controls allow for more efficient enforcement by Council.

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		<ul style="list-style-type: none"> • Reduce administrative costs to Council by more efficient response and action to complaints. 	<ul style="list-style-type: none"> • Protection of amenity maintains property value and attraction.
	Cost	<ul style="list-style-type: none"> • Caravan controls may impact on tourism numbers due to insufficient space in caravan parks. • 'Upfront' administrative costs of receiving and issuing licenses 	<ul style="list-style-type: none"> • Increased enforcement costs for Council in following up more complaints and responding to higher community expectations.
Environmental	Benefits	<ul style="list-style-type: none"> • A reduction in rubbish dumping and potentially polluting activities through provision of waste collection and disposal services. • Reduced burning of waste and noise from animals. • Better air and water quality • Improved health outcomes for residents impacted from waste burning • Controls to promote responsible waste disposal. • Human effluent disposed appropriately through regulation of occupation of caravans 	<ul style="list-style-type: none"> • Fewer odour/noise complaints • Fewer public amenity complaints. • Encourages improvement of local amenity.
	Cost	Nil	Nil
Social	Benefit	<ul style="list-style-type: none"> • A reduction in risks to public health and safety through control of animals and nuisance • Reduces the potential for conflict between neighbouring residents because of nuisance complaints. • Reduces the risk of lower amenity of areas through influx of caravans being used for occupation. 	<ul style="list-style-type: none"> • Discourages inappropriate behaviour from occurring in the first place. • Improved waste management controls result in cleaner public/private spaces.
	Cost	Nil	Nil

7. Discussion of alternatives

Rather than preparing an Environmental By-law, there are other alternatives.

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Council could do nothing, although this is not considered a viable option. Council has an obligation to ensure that appropriate health and environmental controls are provided in support of State legislation.

It is the responsibility of Council to provide suitable controls and measures that ensure acceptable community safety and amenity standards. It is also the responsibility of Council to maintain these standards and ensure that the controls are enforced.

In the instance of no regulatory controls, individuals determine their own standards and this will progress to an immediate or cumulative reduction in both public health and environmental health standards.

Another alternative is to rely on existing legislation. This is not sought for a number of reasons.

Examples of legislation in this regard include enforcement of environmental nuisance provisions (Environmental Management and Pollution Control Act 1993), or issuing of abatement notices (under the Local Government Act 1993). Abatement Notices are issued in circumstances when a person is required to abate a nuisance – such as carrying out the necessary work to remove the nuisance.

The existing regulatory alternatives are not adequate to address the purpose of the By-law in controlling particular uses and activities that ensure acceptable community safety and amenity standards. There are clear benefits in defining the specific activities (within the By-law) that are to be controlled as indicators of community standards. Relying upon very general provisions within other legislation does not outline to users what is expected or acceptable. Identifying these activities and standards (within the By-law) reduces arguments and conflicts. It provides the clarity required for effective enforcement.

8. Assessment of public costs and benefits

The outcome of preparing an Environmental Health By-law is to minimise nuisance and risks to both public and environmental health.

Without a By-law, the reduction of community standards will increase costs to the community in various ways including Council's rates and charges. A likely increased damage to the environment and other negative public health impacts will also result in an increase in State Government costs and charges.

The most feasible option to achieve the By-law's objective is regulation. This By-law has endeavoured to minimise the regulation burden on the community. The potential costs on the community that would be required to manage uncontrolled activities that adversely impact the environment and broader community standards offset the direct cost related to the implementation of regulatory control.

9. Proposed public consultation process

The proposed future public consultation is to occur following certification by the Director of Local Government, in accordance with Section 156A(6) of the Local Government Act 1993.

This public consultation will entail:

- Copies of the By-law will be sent to relevant State Government Departments for their review - including the Environment Protection Authority (Department of Primary Industries, Parks,

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Water and the Environment), Department of Police and Emergency Management,
Department of Justice and Department of Health;

- Advertisements will be placed in the Mercury and Examiner newspaper advising of Council's intention and seeking public comment;
- An article will be published in a local Break O'Day newspaper — such as the Valley Voice and The Coastal Column
- Council will display the proposal on its website, social media and at the Council office at St Helens
- Any person may make a submission to Council regarding the proposed new By-law; and
- Council will consider each submission as part of the consultation process