



HIGHWAY, PUBLIC RESERVES, PARKING AREAS AND STORMWATER BY-LAW

BY-LAW 1 OF 2016

Gazetted 3 August 2016

TABLE OF CONTENTS

PART I - PRELIMINARY	4
Short Title	4
Application	4
Interpretation.....	4
PART 2- HIGHWAYS	5
DIVISION 1 – USE OF HIGHWAYS	5
Occupation of Highway	5
Sales on highways	5
Placing of objects or mixing substances on a highway	6
Dismantling or repair of vehicles	6
Parking on footpaths and nature strips	6
Placing of skip bins on highways	6
DIVISION 2– DAMAGE TO HIGHWAYS	6
Dropping materials on highways.....	6
Wheels of vehicles to be cleaned.....	6
Removal of vegetation	6
DIVISION 3 – FOOTPATHS, GUTTERS AND KERBS.....	6
Driving vehicle over footpaths, kerbs and gutters	6
DIVISION 4 – SIGNS.....	7
Signs on highways and footpaths.....	7
DIVISION 5 – STREET DINING	7
Permit for street dining.....	7
Street dining without a permit.....	7
Conditions for street dining	7
PART 3 – PUBLIC RESERVES.....	7
DIVISION 1 – USE OF RESERVES	7
Closure of Public Reserve	7
Hire of Public Reserve	7
Peaceable Use of Public Reserve.....	7
Functions.....	7
Creation of entrances to Public Reserves	7
DIVISION 2 – DISALLOWED AND CONTROLLED ACTIVITIES	8
Permit for outside dining	8
Sale of Item	8
Organised Sport.....	8
Commercial Activity	8
Damage to Children’s Playground.....	8
Camping.....	8
Projectiles.....	9
Disorderly, Threatening and Offensive Conduct.....	9
Damage to Council Property	9

Protection of Wildlife	9
PART 4- PARKING AREAS.....	9
Entry and exit of parking areas	9
Driving of vehicles in a parking area	9
Parking of vehicles.....	9
Payment of parking fee	9
Parking vouchers	9
Parking longer than the maximum period	9
Reserved spaces	9
Damage to Council property	9
Unauthorised removal of infringement notice	9
Washing, dismantling or repair of vehicles	9
Use of skates and cycles.....	9
Obstruction	9
Offensive and prohibited conduct	9
Use of parking area for other purposes	10
PART 5- STORMWATER MANAGEMENT.....	10
DIVISION 1– PROTECTION OF HYDRAULIC SYSTEMS.....	10
Opening of ground	10
Interfering with pipes.....	10
Structures over Council's services.....	10
Defective work or maintenance.....	10
Altering surface	10
DIVISION 2— STORMWATER AND LAND DRAINAGE	10
Connection to Council's stormwater system	10
Land connected to a shared house connection	10
Provision of a stormwater branch.....	10
Discharge of appropriate stormwater.....	10
Works in watercourses.....	10
PART 6-PERMITS	10
Applications.....	10
Factors to be considered when granting a permit.....	11
Conditions of permit or approval.....	11
Permits generally.....	11
Cancellation and suspension of permits	11
Production of the permit.....	11
Assignment of permit.....	11
PART 7-ENFORCEMENT	11
Supply of name and address	11
Abuse or obstruction of an authorised officer.....	12
Enforcement and removal of articles.....	12

Removed articles.....	12
Fees costs and charges.....	12
Disposal of unclaimed articles.....	12
Article required for prosecution.....	12
Notices and directions generally.....	12
Non-compliance with notice or direction	13
PART 8 - INFRINGEMENT NOTICES.....	13
Infringement Notices.....	13
Debt due.....	13
Offences	13
Failure to comply.....	13
SCHEDULE I INFRINGEMENT NOTICE OFFENCES	13



**WARATAH-WYNYARD COUNCIL
HIGHWAY, PUBLIC RESERVES, PARKING AREAS
AND STORMWATER BY-LAW
BY-LAW 1 OF 2016**

By-Law made under Section 145 of the *Local Government Act 1993* for the purpose of regulating conduct and activities on highways, within public reserves and parking areas and relating to stormwater management in the Waratah-Wynyard municipal area.

PART I - PRELIMINARY

Short Title

1. This By-law may be cited as the Highway, Public Reserves, Parking Areas and Stormwater By-Law 2016.

Application

- 2 (1) This By-law applies to the municipal area of the Waratah-Wynyard 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 where such person is carrying out activities on a highway or within a public reserve or within a parking area in the course of their duties for and on behalf of the Council.

Interpretation

3 in this By-law:-

"**Act**" means the *Local Government Act 1993*;

"**authorised officer**" means an employee of the Council authorised by the Council or the General Manager for the purposes of this By-law or a police officer of the Tasmania Police Service;

"**bank**" means the sides of a watercourse from the adjacent land surface to the bed;

"**boat ramp**" means a ramp or other device or structure used or capable of use or intended for use for the purpose of launching and retrieving trailable vessels;

"**camp**" means to occupy overnight a tent or similar structure, a caravan, a motorhome or a similar vehicle;

"**caravan**" means a vehicle other than a motorhome equipped with living space and amenities;

"**children's playground**" means any area in which children's play equipment is installed and extends for a distance of 5 metres in all directions from the play equipment;

"**Council**" means the Waratah-Wynyard Council;

"**crossing**" means that part of a highway constructed in or over a footpath, kerb, gutter, drain, culvert, pavement or nature strip that is designed for or used as a means of access by vehicles or bicycles from the highway to land;

"**event**" means an assembly of people and includes a parade, performance, spectacle, entertainment, exhibition, rally, march, demonstration or other event which causes or is likely to cause people to assemble on

a highway or parking area or part of a highway or parking area or for any purpose which excludes the public's normal use of that highway or parking area;

"**furniture**" includes chairs, tables, barriers, panels and umbrellas, plus other chattels used in the preparation or service or consumption of food and drink;

"**General Manager**" means the General Manager appointed by the Council;

"**highway**" means a local highway within the meaning of section 4 of the *Local Government (Highways) Act 1982*;

"**manager**" means the General Manager or a person appointed by the General Manager to perform the functions required by this by-law of that person;

"**marina**" means a waterside facility that has docks, moorings, supplies or other facilities for vessels;

"**material**" includes stones, clay, earth, cement, concrete, glass, filth, dust, ashes, oil, liquid and animal droppings or other offensive or noxious substances;

"**motorhome**" means a motor vehicle equipped with living space and amenities.

"**motor vehicle**" means a vehicle (other than a motorised scooter) that is built to be propelled by a motor that forms part of the vehicle;

"**municipal area**" means the area of land under the control of the Council and defined in section 16 of the Act;

"**nature strip**" means that part of a highway reservation between the kerb and gutter (or the edge of the constructed carriageway) and the front boundary of, or footpath in front of, the adjoining property;

"**occupy**" includes to place on a highway, footpath or nature strip any wares, goods, chattels, items, tables and chairs, or structure to enable the service and/or sale of food or beverages or for any other purpose or to fence off or obstruct any part of the highway to exclude members of the public;

"**outside dining**" means the consumption of food and or beverages by customers seated in a public reserve external to a business providing and selling the food or beverages;

"**park**" in relation to a vehicle, means to stop the vehicle or allow it to remain in a place where the driver or person in charge of the vehicle intends it to remain stationary, otherwise than:-

- (a) because the stopping of traffic prevents movement; or
- (b) for so long only as is required to set down or take up passengers or goods without waiting;

"**Parking area**" means any area, other than a highway, that is owned by the Council or under the delegated control of the Council and designated for the parking of vehicles and all buildings, equipment, signs, access ways, land, fences, chattels and structures used or connected in any way with the parking area;

"**parking space**" means a space within a parking area indicated by lines or other marks on the ground or indicated by any other method, of sufficient clear space to accommodate a vehicle within that space;

"**parking voucher**" or "**voucher**" means a document issued by a voucher machine;

"pavement" means a hard smooth surface within a highway, a parking area or a public reserve that will bear travel

"penalty unit" means a sum provided for under the provisions of the *Penalty Units and Other Penalties Act 1987*;

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

"permit holder" means a person who has obtained a permit from the Council for any purpose under this By-law;

"public building" means a building owned or under the control of the Waratah-Wynyard Council and includes both buildings and land on which they are situated;

"public reserve" means:

- (a) any reserve, beach, coastal or river foreshore, wharf, marina, boat ramp, rockery, area of bushland, natural area, planted embankment, median strip, plantation, sports ground, recreation ground, swimming pool, park or garden; and
- (b) any public building or area;

under the control or management of the Council and includes any structure or building erected on these areas;

"reserved parking area" means an area designated by the Council for long term parking;

"reserved parking space" means a parking space designated by the Council for parking exclusive to a person or long term parking;

"roadside vendor" means any person who, in the course of a business, profession, trade or calling, sets up a stall in or on any highway to sell wares to the public;

"sale" includes to sell, agree to sell, offer or expose for sale, or keep in possession for sale;

"shared installation" means a stormwater installation to more than one property on separate land titles and which is owned by the owners of the land the subject of the connection;

"sign" means any board, sign, plaque or banner which in any way makes an announcement or is an advertisement which is not permanently attached to any building or other structure;

"skip bin" means a receptacle not owned by the Council or supplied by the Council to residents of the municipal area, used for depositing waste, garden and green refuse and material associated with building work;

"specified offence" means an offence against a clause specified in Column I of Schedule I of this By-law;

"stormwater branch" means that portion of a stormwater system owned and maintained by Council and connecting a stormwater installation to a stormwater main;

"stormwater installation" means an installation owned and maintained by the property owner comprising of discharge pipes, drains, fixtures, appliances and associated components used to convey stormwater from a property to a stormwater branch or other approved disposal system;

"stormwater main" means any pipe or open channel owned or managed by the Council which is used or designated for the purpose of conveying stormwater from

properties in the area;

"stormwater system" means the stormwater installations, stormwater mains and stormwater branches that together make up a system for the disposal of stormwater;

"street dining" means the consumption of food and or beverages by customers seated in an area of a highway in close proximity to a business providing and selling the food or beverages;

"street rubbish bins" means rubbish bins installed by Council on the footpath or nature strip;

"terms" includes conditions, whether imposed pursuant to this By-law, a permit issued under this By-law, or by virtue of a provision of any Act;

"trailable vessel" means a vessel capable of being transported overland by trailer and launched or recovered on or by the use of a ramp or sloping surface leading into a waterway;

"vehicle" means a vehicle as defined in section 3(1) of the *Vehicle and Traffic Act 1999*;

"vessel" means a craft, especially one larger than a rowboat, designed to navigate on water;

"voucher machine" is a device installed by or for Council that, on the insertion of a coin or coins of the name or value shown on the device or on a notice in the vicinity of the machine, issues a document or documents:

- (a) bearing, with or without other words, words indicating that the holder is entitled to park a vehicle in a place specified on the voucher and the name of the corporation for which the document or documents is or are issued; and
- (b) bearing an imprint indicating the date and time of issue;

"water course" means a natural channel into or through which water flows, whether permanently or intermittently; and

"wharf" means a structure built on the shore of or projecting into a harbor or stream, etc, so that vessels may be moored alongside to load or unload or to lie at rest.

PART 2- HIGHWAYS

DIVISION 1 – USE OF HIGHWAYS

Occupation of Highway

- 4 (1) A person must not for any purpose hold or conduct an event on, place any obstruction on or enclose or occupy a highway or part of a highway except in accordance with a permit to do so.
Penalty: Fine not exceeding 5 penalty units
- (2) A person may apply to the Council at any time under Part 6 of this By-law for a permit to occupy a portion of a highway.
- (3) A permit authorising occupation of a highway may include occupation by landscaping or vegetating a nature strip where it is issued to a person who owns or occupies land that is contiguous to the nature strip.

Sales on highways

- 5 A person must not park a vehicle or leave any other

article on a highway for the purpose of advertising it for sale except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

Placing of objects or mixing substances on a highway

6 (1) A person must not use any highway for placing or mixing any concrete, cement, cement mortar, lime mortar, tar, soil, sand, stone, firewood, or other material except in accordance with a permit to do so. This clause does not apply to trucks discharging pre-mixed concrete.

Penalty: Fine not exceeding 5 penalty units

(2) A person must not place any object or fence on any highway for the purposes of preventing or inhibiting parking except in accordance with a permit to do so. This sub-clause does not apply to parking spaces.

Penalty: Fine not exceeding 5 penalty units

(3) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to clean up or remove any material, object or fence.

(4) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may clean up or remove the material, object or fence and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Dismantling or repair of vehicles

7 Unless authorised by a permit to do so, a person must not dismantle, paint or repair any vehicle on a highway, unless it is necessary in order to enable the vehicle to be removed from the highway.

Penalty: Fine not exceeding 5 penalty units

Parking on footpaths and nature strips

8 (1) A person must not park a vehicle wholly or partly on a footpath, kerb, gutter or nature strip except in accordance with a permit to do so.

Penalty: Fine not exceeding 3 penalty units

(2) Notwithstanding sub-clause (1), a person is permitted to stop or park a vehicle on that part of a nature strip that is contiguous to land containing a private residence owned or occupied by that person where the vehicle does not damage the nature strip and when stopped does not unreasonably obstruct other highway users.

(3) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to remove the vehicle from the footpath, kerb, gutter or nature strip.

(4) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may remove the vehicle and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Placing of skip bins on highways

9 (1) A person must not place a skip bin on a highway except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

(2) Approval may be given for a skip bin to be placed on a highway temporarily where adequate measures are taken to make the skip bin readily visible to highway users. Where a skip bin remains on a highway overnight flashing lights and reflectors or reflectorised tape are to be fitted or applied to the bin.

(3) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to remove the skip bin from the highway.

(4) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may remove the skip bin and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

DIVISION 2– DAMAGE TO HIGHWAYS

Dropping materials on highways

10 A person must not deposit or drop any material or allow any material to flow, fall, be dropped or in any other way be deposited on any highway except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

Wheels of vehicles to be cleaned

11 A person must not drive any vehicle or permit any vehicle to be driven into, over or on any highway when the wheels of that vehicle hold material that is likely to be dropped or deposited on the highway.

Penalty: Fine not exceeding 3 penalty units

Removal of vegetation

12 A person must not willfully destroy, cut, pluck, remove or injure any tree, shrub, flower or other vegetation growing on a highway except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

DIVISION 3 — FOOTPATHS, GUTTERS AND KERBS

Driving vehicle over footpaths, kerbs and gutters

13 (1) A person must not cause or allow to be caused any damage to a footpath, kerb, gutter or nature strip of a highway.

Penalty: Fine not exceeding 5 penalty units

(2) A person must not drive a vehicle or allow a vehicle to be driven over a footpath, kerb, gutter or nature strip of any highway to or from any land other than over a designated crossing except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

(3) The Council may repair the footpath, gutter or kerb and recover the cost of the repairs from the person who damaged the footpath, gutter or kerb as a debt to it.

(4) The General Manager may give notice to a person who has contravened this clause requiring that person to repair any damage occasioned to a highway.

(5) The Council may recover the costs incurred in

repairing any damage occasioned as a result of a breach of this clause from the person committing the breach as a debt due to it.

DIVISION 4 – SIGNS

Signs on highways and footpaths

14 A person must not place, erect, construct or display or cause to be placed, erected, constructed or displayed a sign on a highway or footpath except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

DIVISION 5 – STREET DINING

Permit for street dining

15 (1) The proprietor or manager of a business may apply to the Council for a permit to provide street dining on a highway.

(2) The Council may grant to a person referred to in sub-clause (1) a permit to provide a street dining service.

(3) A permit may only authorise street dining on an area of a highway in close proximity to land owned or occupied or managed by the person to whom the permit is granted.

(4) The Council may cancel a permit immediately if a permit holder breaches Clause 17(3) of this By-law.

Street dining without a permit

16 (1) A person must not cause or permit any furniture to be placed on a highway for street dining except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

(2) An authorised officer may remove furniture that is placed on a highway in contravention of sub-clause (1) and store it in a safe location until any penalty or fine that may be payable under this Division has been paid to the Council.

(3) An authorised officer intending to remove any furniture pursuant to this clause must give at least two (2) days written notice of the intention to remove the furniture.

(4) Any costs incurred by the Council due to the removal and/or storage of furniture pursuant to sub-clause (2) are recoverable from the person who caused or permitted the furniture to be placed on the highway as a debt due to the Council.

Conditions for street dining

17 (1) A permit holder must:

(a) ensure that the street dining area and the area immediately adjacent to it is clean, tidy and in a sanitary condition at all times;

(b) regularly empty waste bins in the area that is subject to the permit;

(c) wash the pavement within the area that is subject to the permit every day on which the street dining area is used; and

(d) as soon as a table is vacated, clean the table and the area around it.

Penalty: Fine not exceeding 3 penalty units

(2) A permit holder must not use street rubbish bins for the disposal of table waste.

Penalty: Fine not exceeding 3 penalty units

(3) An applicant for a permit for street dining must have public liability insurance that covers the area designated for street dining before the applicant may be issued with a permit. The insurance cover is to be for a minimum sum of \$10 million and be in a form that is acceptable to Council.

(4) A permit holder must produce a Certificate of Currency of the insurance referred to in sub-clause (3) if requested by an authorised officer.

(5) The Council may terminate a permit immediately if a permit holder has refused to allow an authorised officer to view a relevant certificate of insurance or if the insurance cover lapses during the term of the permit.

PART 3 – PUBLIC RESERVES

DIVISION 1 – USE OF RESERVES

Closure of Public Reserve

18 (1) The manager may close a public reserve or any part of a public reserve to members of the public.

(2) A person must not enter or remain in a public reserve if it is closed to the public or any section of a public reserve if it is closed to the public except when authorised by written permission from the manager.

Penalty: Fine not exceeding 5 penalty units.

Hire of Public Reserve

19 (1) The manager may permit a public reserve or part of a public reserve including a berthing space at a wharf or marina to be hired or let to any person or other entity.

(2) The manager may impose terms and conditions in an agreement to hire a public reserve or a berthing space at a wharf or marina.

Mooring a vessel to a wharf or marina

20 A person must not moor or make fast a vessel to a wharf or marina in a public reserve for a period in excess of three hours otherwise than in accordance with the terms and conditions in an agreement to hire or let under clause 19 or written permission from the manager.

Penalty: Fine not exceeding 5 penalty units.

Peaceable Use of Public Reserve

21 A person must not in a public reserve do any act or thing which unreasonably interferes or is likely to interfere with the peaceable use by the public of any public reserve or the use of any nearby land.

Penalty: Fine not exceeding 10 penalty units.

Functions

22 (1) A person must not conduct or arrange a function, party or reception in a public reserve at which more than 50 people are present except in accordance with written permission from the manager.

Penalty: Fine not exceeding 5 penalty units.

(2) A police officer may arrest a person who commits an offence under this clause.

Creation of entrances to Public Reserves

23 (1) A person may not create an entrance to a public

reserve from adjoining privately owned land except in accordance with written consent from the General Manager.

Penalty: Fine not exceeding 10 penalty units.

- (2) The General Manager may consent to the creation of an entrance with or without conditions.
- (3) The General Manager may by written notice direct an owner or occupier of land adjoining a public reserve to close an entrance created in contravention of sub-clause (1) and specify a method for doing so.
- (4) An owner or occupier who receives a notice pursuant to sub-clause (3) must within a period specified in the notice being a period of not less than 14 days from the date of issue of the notice close the entrance by the method specified therein.
Penalty: Fine not exceeding 10 penalty units.
- (5) The Council may execute any work necessary to close an entrance if an owner or occupier fails to comply with a notice issued under this clause within the time specified in the notice.
- (6) The Council may recover the reasonable cost of any work it performs pursuant to sub-clause (5) from the owner or occupier as a debt due to it.

DIVISION 2 – DISALLOWED AND CONTROLLED ACTIVITIES

Permit for outside dining

- 24 (1) A person must not cause or permit any furniture to be placed in a public reserve for use for outside dining except in accordance with a permit issued for outside dining.
Penalty: Fine not exceeding 10 penalty units and for a continuing offence, a further daily fine not exceeding 1 penalty unit.
- (2) The proprietor or manager of a business may apply to the Council for a permit to provide outside dining within a public reserve.
- (3) The Council may grant to a person referred to in sub-clause (1) a permit to provide an outside dining service.
- (4) In lieu of issuing an infringement notice the Council may cancel a permit immediately if a permit holder breaches sub-clause (5).
- (5) The permit holder must:
 - (a) ensure that the outdoor dining area and the area immediately adjacent to it is clean, tidy and in a sanitary condition at all times;
 - (b) regularly empty waste bins in the area that is subject to the permit;
 - (c) wash the pavement of the area that is subject to the permit every day on which the outside dining area is used; and
 - (d) as soon as a table is vacated, clean the table and the area around it.
Penalty: Fine not exceeding 3 penalty units
- (6) A permit holder must not use rubbish bins in a public reserve for the disposal of table waste.
Penalty: Fine not exceeding 3 penalty units

- (7) An applicant for a permit for outside dining must have public liability insurance and product liability insurance that covers the area designated for outside dining before the applicant may be issued with a permit. The insurance cover is to be for a minimum sum of \$10 million and be in a form that is acceptable to Council.
- (8) A permit holder must produce a Certificate of Currency of the insurance referred to in sub-clause (7) if requested by an authorised officer.
- (9) The Council may terminate a permit immediately if a permit holder fails or refuses to allow an authorised officer to view a relevant certificate of insurance or if the insurance cover lapses during the term of the permit.
- (10) An authorised officer may remove furniture that is placed in a public reserve in contravention of sub-clause (1) and store it in a safe location until any penalty or fine that may be payable under this Division has been paid to the Council.
- (11) An authorised officer intending to remove any furniture pursuant to this clause must give at least two (2) days written notice of the intention to remove the furniture.
- (12) Any costs incurred by the Council due to the removal and/or storage of furniture pursuant to sub-clause (10) are recoverable from the person who caused or permitted the furniture to be placed in the public reserve as a debt due to the Council.

Sale of Item

- 25 A person must not sell or offer for sale goods, merchandise, food or drink in a public reserve except in accordance with the terms of written permission from the manager.
Penalty: Fine not exceeding 5 penalty units.
A police officer may arrest a person who commits an offence under this clause.

Organised Sport

- 26 A person must not conduct or participate in any organised sport, contest or game in a public reserve except in an area set aside for the purpose or in accordance with written approval of the manager.
Penalty: Fine not exceeding 10 penalty units.

Commercial Activity

- 27 A person must not carry on the supply of goods or services for profit in a public reserve except in accordance with a permit to do so.
Penalty: Fine not exceeding 5 penalty units.

Damage to Children's Playground

- 28 A person must not in any place set apart in a public reserve by signs or notice boards as a children's playground misuse or damage any playground equipment.
Penalty: Fine not exceeding 5 penalty units.

Camping

- 29 A person must not in a public reserve or part of a public reserve camp or station and occupy a caravan, motorhome or other motor vehicle except in accordance with signage erected in that public reserve or part of a public reserve.
Penalty: Fine not exceeding 5 penalty units.

Projectiles

30 A person must not in a public reserve discharge a firearm or use a slingshot, catapult, bow and arrow or a similar device except in accordance with written permission from the manager.

Penalty: Fine not exceeding 5 penalty units

A police officer may arrest a person who commits an offence under this clause.

Disorderly, Threatening and Offensive Conduct

31 A person must not in a public reserve:-

- (a) use threatening or offensive language; or
- (b) act in a disorderly manner.

Penalty: Fine not exceeding 5 penalty units.

A police officer may arrest a person who commits an offence under this clause.

Damage to Council Property

32 A person must not in a public reserve remove or damage Council property.

Penalty: Fine not exceeding 10 penalty units.

A police officer may arrest a person who commits an offence under this clause.

Protection of Wildlife

33 A person must not in a public reserve:-

- (a) take or have in their possession any wildlife; or
- (b) use or have in their possession any hunting equipment; or
- (c) lay or set any trap or snare or deposit any poisonous or chemical substance; or
- (d) interfere with the nest, breeding place or habitation of any wildlife; or
- (e) intentionally rouse or disturb any wildlife

except in accordance with written permission from the manager.

Penalty: Fine not exceeding 20 penalty units.

A police officer may arrest a person who commits an offence under this clause.

PART 4- PARKING AREAS

Entry and exit of parking areas

34 A person driving a vehicle must not enter or leave a parking area except by an access point designated by a Council sign.

Penalty: Fine not exceeding 3 penalty units

Driving of vehicles in a parking area

35 A person must not drive a vehicle in a parking area at a speed exceeding that depicted on signs erected in the parking area or at an unsafe speed.

Penalty: Fine not exceeding 4 penalty units

Parking of vehicles

36 (1) A person must not in a parking area park a vehicle otherwise than wholly within a single parking space.
Penalty: Fine not exceeding 3 penalty units

(2) A person must not in a parking area park a vehicle in a position that obstructs the entry or exit of a vehicle to a parking space.
Penalty: Fine not exceeding 3 penalty units

(3) A person must not allow a vehicle to remain parked in a parking area or a public reserve in a position that obstructs public use of a boat ramp.
Penalty: Fine not exceeding 3 penalty units

Payment of parking fee

37 A person must not park a vehicle in a parking area without payment of the fee required by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

Penalty: Fine not exceeding 3 penalty units

Parking vouchers

38 A person must not park a vehicle in a parking area controlled by a voucher machine unless that person has clearly displayed on the driver's side of the vehicle's dashboard an unexpired voucher.

Penalty: Fine not exceeding 3 penalty units.

Parking longer than the maximum period

39 A person must not allow a vehicle to remain parked in a parking area for a longer period than is allowed by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

Penalty: Fine not exceeding 3 penalty units

Reserved spaces

40 (1) The General Manager may create reserved parking areas and spaces on land owned by or under the control of Council.

(2) A person must not park or leave a vehicle in a parking space or parking area which is designated "Reserved" unless authorised to do so.

Penalty: Fine not exceeding 3 penalty units

Damage to Council property

41 (1) A person must not remove or damage Council property within a parking area.

Penalty: Fine not exceeding 5 penalty units

(2) A person must not mark, write on or in any other way deface Council property within any parking area.

Penalty: Fine not exceeding 5 penalty units

Unauthorised removal of infringement notice

42 A person other than the registered owner or person in charge of a vehicle in a parking area must not remove or cause to be removed any infringement notice affixed to that vehicle.

Penalty: Fine not exceeding 5 penalty units

Washing, dismantling or repair of vehicles

43 A person must not dismantle, paint, wash or repair any vehicle in a parking area without the consent of the General Manager except where necessary to enable the vehicle to be removed from the parking area.

Penalty: Fine not exceeding 5 penalty units

Use of skates and cycles

44 A person is not to ride a wheeled recreational device or toy, which includes a bicycle, skateboard, motorized scooter, scooter, in-line skates and roller skates in a public reserve or in a parking area except in accordance with signs erected in the public reserve or parking area.

Penalty: Fine not exceeding 2 penalty units

Obstruction

45 A person must not cause any obstruction to vehicular or pedestrian traffic in a parking area.

Penalty: Fine not exceeding 5 penalty units

Offensive and prohibited conduct

46 (1) An authorised officer may direct a person to leave land owned by, or under the control of Council when

they reasonably believe such person is offending against this By-law. A police officer may arrest a person who refuses a direction of an authorised officer.

- (2) A person who does not obey the directions of an authorised officer is guilty of an offence.
Penalty: Fine not exceeding 5 penalty units

Use of parking area for other purposes

47 The council may grant a permit for a parking area to be used for any purpose.

PART 5- STORMWATER MANAGEMENT

DIVISION 1– PROTECTION OF HYDRAULIC SYSTEMS

Opening of ground

48 (1) A person must not open any ground so that a stormwater main or stormwater branch is exposed unless the person has applied to the Council for a permit at least 2 working days prior to the commencement of work and has received a permit to carry out the work.

Penalty: Fine not exceeding 10 penalty units

- (2) A person must not open the surface of any highway so that a stormwater main or stormwater branch is exposed except in accordance with a permit to do so.

Penalty: Fine not exceeding 10 penalty units

Interfering with pipes

49 A person must not alter or interfere with a stormwater main or stormwater branch except in accordance with a permit to do so.

Penalty: Fine not exceeding 10 penalty units

Structures over Council's services

50 (1) A person must not construct any structure, fence, or carry out other works that alters or interferes with a stormwater main except in accordance with a permit to do so.

Penalty: Fine not exceeding 10 penalty units

- (2) The Council may direct any person contravening this clause to remove the structure, fence, or other works.

- (3) If a person who has received a direction under sub-clause (2) fails to comply with the direction within a reasonable time, or any time provided in the direction, the Council may remove the structure or fence or carry out diversion works and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Defective work or maintenance

51 (1) On receipt of a notice in writing from the General Manager, the owner or occupier of any land is to replace, clean out or repair any leakage, blockage, or breakage in any stormwater installation or part thereof which in the opinion of the General Manager is, or has become defective.

- (2) An owner or occupier must comply with the notice within the time specified in the notice.

Penalty: Fine not exceeding 5 penalty units

- (3) The Council may undertake the work required in a notice issued under sub-clause (1) if the owner or

occupier fails to comply with the notice within the time specified in the notice.

- (4) The Council may recover its expenses in undertaking work under sub-clause (3) from the person who fails to comply with a notice under sub-clause (1) as a debt due to it in addition to any penalty imposed under sub-clause (2).

Altering surface

52 An owner or occupier of any land on which any stormwater system is constructed must not alter the ground level in the immediate vicinity of any Council service or main by the addition or removal of fill, top soil or other materials except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

DIVISION 2— STORMWATER AND LAND DRAINAGE

Connection to Council's stormwater system

53 A person is not to connect any drain or pipe to make any entry into, remove part of, or otherwise interfere with a stormwater system including any drain, pipe, fitting, or fixture connected to the system except in accordance with a permit to do so.

Penalty: Fine not exceeding 5 penalty units

Land connected to a shared house connection

54 The owner of any land to which a stormwater installation is connected by a shared installation, must within 30 days of service of a notice from the General Manager, or such other time as the General Manager may approve, disconnect from the shared installation and connect to the Council's stormwater branch as indicated in the notice.

Penalty: Fine not exceeding 5 penalty units

Provision of a stormwater branch

55 A person must not construct more than one stormwater branch connection within a single land title boundary unless in accordance with a permit to do otherwise.

Penalty: Fine not exceeding 5 penalty units

Discharge of appropriate stormwater

56 A person who occupies land connected to a stormwater system must not discharge any matter which may be legally discharged into the stormwater system in accordance with the *Urban Drainage Act 2013* and the *Plumbing Regulations 2014* otherwise than into the stormwater system.

Penalty: Fine not exceeding 5 penalty units

Works in watercourses

57 A person must not alter the bed, banks, or flood plains of a water course except in accordance with a permit to do so.

Penalty: Fine not exceeding 20 penalty units

PART 6-PERMITS

Applications

58 Any application for a permit pursuant to this By-law is, where applicable, to be made to the Council and be accompanied by the following:

- (a) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant;
- (b) a scaled drawing showing the location and extent of the proposed occupation or activity;
- (c) a safety management plan or a description of any necessary safety measures that are appropriate for

- the proposed activity; and
- (d) such other information as the Council may reasonably require.

Factors to be considered when granting a permit

- 59 (1) In deciding whether or not to grant a permit pursuant to this Part the Council may have regard to the following:
- (a) the potential for damage to Council infrastructure
 - (b) public amenity and safety;
 - (c) public access in the area;
 - (d) the maintenance of public order in the area;
 - (e) the movement of traffic in the area;
 - (f) the manner of any proposed advertising;
 - (g) the nature, size, shape, extent and location of any proposed highway furniture;
 - (h) the availability of suitable parking for motor vehicles in the area;
 - (i) representations made by a commissioned police officer; and
 - (j) any other relevant matters.
- (2) In considering an application for a permit under clause 14, the Council may have regard to the following:
- (a) the dimensions and construction of the sign;
 - (b) whether the sign is to be placed on the area of the footpath which is contiguous to the boundary of the land owned or occupied by the person seeking to place the sign;
 - (c) whether more than one sign is appropriate where the land owned or occupied by the person seeking to place the sign is a corner site;
 - (d) whether the sign is located as close as practicable to the boundary of the land owned or occupied by the person seeking to place the sign, or whether some other location is more appropriate;
 - (e) whether the sign is to be removed during hours of darkness or when any business operating on the land is not open to the public; and
 - (f) whether the sign is secured to the satisfaction of the Council.
- (3) In considering an application for a permit under clause 27 the Council may have regard to the following:
- (a) the impact on priority uses and users of public reserves, including informal social gatherings and celebrations, formal events and celebrations, quiet reflection, passive recreational activities, residents and tourists, community groups and local amenity.
 - (b) the impact of noise and other pollution
 - (c) visual impacts
 - (d) the impact on flora and fauna
 - (e) the impact on access, vehicle parking and public safety
 - (f) the impact on local population and growth
 - (g) the location's ability to support varied activities,
 - (h) the community's desire and tolerance of proposed activity.

Conditions of permit or approval

- 60 A permit or approval issued under this By-law may be subject to such conditions as the Council considers appropriate.

Permits generally

- 61 Every permit granted pursuant to this 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) include such terms and conditions as the Council may consider necessary;
 - (d) remain in force for the period for which it was issued, unless it is cancelled or surrendered;
 - (e) be carried by the permit holder or displayed in the area subject to the permit at all times when the activity approved under the permit occurs; and
 - (f) be surrendered to the Council if it is cancelled or when it is due for renewal.

Cancellation and suspension of permits

- 62 (1) The Council 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 Council 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) To cancel or suspend a permit, the Council is to serve a notice on the permit holder stating that the permit is cancelled or suspended and the reason for that cancellation or suspension.
- (4) Cancellation or suspension of any permit is effective from the day the notice is 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 Council 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 Council may cancel or suspend a permit by any communication conveyed to the permit holder by any means including in emergency situations notice by radio or television.

Production of the permit

- 63 A permit holder must produce the permit immediately when requested to do so by an authorised officer.
Penalty: Fine not exceeding 5 penalty units

Assignment of permit

- 64 A permit must not be assigned to any person except with the written consent of the Council.

PART 7-ENFORCEMENT

Supply of name and address

- 65 (1) An authorised officer may require a person to give his or her name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law.
- (2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.
Penalty: Fine not exceeding 5 penalty units.
- (3) A police officer may arrest a person if an authorised officer finds the person offending against this

clause.

Abuse or obstruction of an authorised officer

66 A person must not:

- (a) threaten, intimidate or use abusive language to an authorised officer in or on land owned by or under the control of the Council while the officer is acting in the course of his or her duties; or
- (b) assault, resist or obstruct an authorised officer in the execution of his or her duty.

Penalty: Fine not exceeding 10 penalty units.

Enforcement and removal of articles

67 (1) An authorised officer may:

- (a) refuse to admit a person to any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.
- (b) direct any person to leave any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.
- (c) remove anything which is on land owned by, or under the control of the Council without the approval of the Council; and
- (d) enlist the assistance of a police officer to remove any person from any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.

- (2) (a) A person who fails to comply with a direction under (1)(b) is guilty of an offence.
Penalty: Fine not exceeding 5 penalty units.
- (b) A police officer may arrest a person whom the police officer reasonably believes is offending against this clause.

Removed articles

68 (1) If an article is not claimed by the owner or person on behalf of the owner within 48 hours following its removal under clause 67, the General Manager is to give notice to the owner of the article in accordance with sub-clause (2).

- (2) A notice is to give the following details:
 - (a) a 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; and
 - (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.
- (4) If the owner of the removed article cannot be ascertained or found, and if the General Manager is of the opinion that the value of the article warrants the cost of advertising, the General Manager is to publish on at least one occasion a notice containing the particulars specified in sub-clause (2) in a newspaper circulating in the municipal area.

Fees costs and charges

69 (1) The owner of any article is liable to pay:

- (a) any fees, costs and charges specified in a

notice under clause 68; and

- (b) any further fees incurred in the storage and further maintenance of an article removed under this Part.

- (2) Any unpaid fees, costs and charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until any fees, costs and charges specified are paid.

Disposal of unclaimed articles

70 (1) The Council may dispose of an article if:

- (a) the article is not claimed within 14 days of notice being given under clause 68; and
- (b) any fees, costs and charges specified in a notice have not been paid within 14 days of that notice.

- (2) An article may be disposed of under sub-clause (1):
 - (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
 - (b) in a manner as the General Manager determines if:
 - (i) the General Manager is of the opinion that the article has a value that does not warrant the costs of a tender or a public auction; or
 - (ii) no tender is received or no bid is made at a public auction.
- (3) If an article is disposed of under this clause the General Manager must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If the owner of the article so requests, then the proceeds obtained from the disposal or sale of the article must be paid to the owner, less any fees that are due to the Council, advertising costs, and any other costs incurred by the Council in the removal and disposal of the article.

Article required for prosecution

71 (1) Where an article is required by the Council for the prosecution of an offence under this By-law, the article is to be released to the owner following the completion of the prosecution proceedings and on payment of any relevant fees, costs and charges unless otherwise directed by a court.

- (2) The Council may, under clause 70, dispose of an article required under sub-clause (1) which is not claimed by the owner or in relation to which fees, costs and charges have not been paid within 30 days of the completion of court proceedings.

Notices and directions generally

72 (1) A notice given under this By-law is to be given in writing, which may be in the form of a letter, and is to be given in accordance with section 29AB(1)(a) of the *Acts Interpretation Act 1931*.

- (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

allow such period for action as the General Manager or authorised officer 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 be in or of such materials, carried out within the periods, and carried out in the manner the Council or an authorised officer directs, or be done only by a person with a specified appropriate qualification.
- (6) The Council may require the person carrying out the work to pay the Council, or enter into a bond for payment to the Council of an amount it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

Non-compliance with notice or direction

- 73 (1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction within the time period specified in the notice or direction.
Penalty: Fine not exceeding 10 penalty units
- (2) The Council may undertake any work required to be carried out 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.

PART 8 - INFRINGEMENT NOTICES

Infringement Notices

- 74 (1) In this clause:
'specified offence' means an offence against a 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 penalty payable under the infringement notice for that offence.
 - (3) Payment of the monetary penalty set out in an infringement notice must be made to the Council.
 - (4) The monetary penalty set out in an infringement notice must be paid within 28 days of the service of the infringement notice, after which time the infringement notice may be referred to the Director, Monetary Penalties Enforcement Service.
 - (5) The General Manager or an authorised officer may:
 - (a) issue an infringement notice to a person who the General Manager or authorised officer believes on reasonable grounds has committed a specified offence; and
 - (b) issue a single infringement notice in respect of more than one specified offence.
 - (6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

Debt due

75 All monies payable to the Council under this By-law are a debt due to the Council and recoverable at law.

Offences

76 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 an offence.

Failure to comply

77 In addition to a penalty imposed in relation to a failure to comply with or a contravention of this By-law, an expense incurred by the Council in consequence of that failure of contravention is recoverable by the Council as a debt payable by the person so failing to comply or contravening.

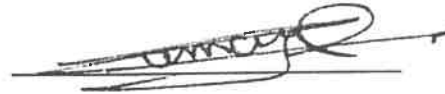
SCHEDULE 1 INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY Units	Column 4 Reduced Penalty if paid to Council within 14 days of date of service of Infringe- ment Notice (Penalty Units)	Column 5 Reduced Penalty if paid to Council after 14 days but within 28 days of date of service of Infringe- ment Notice (Penalty Units)
4(1)	Occupy highway without permit	1		
5	Park a vehicle or place object on highway to promote sale without permit.	1		
6(1)	Place objects on highway	1		
6(2)	Place objects on highway to inhibit parking	1		
7	Dismantle and repair vehicle on a highway	1		
8(1)	Park on footpaths and nature strips	1		
9(1)	Place skip bin on highway without permit	1		
10	Drop materials on a highway	1		
11	Wheels of vehicles to be clean	1		
12	Remove vegetation without permit	1		
13(1)	Damage footpaths, kerbs and gutters	1		

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY Penalty Units	Column 4 Reduced Penalty if paid to Council within 14 days of date of service of Infringe- ment Notice (Penalty Units)	Column 5 Reduced Penalty if paid to Council after 14 days but within 28 days of date of service of Infringe- ment Notice (Penalty Units)	Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY Penalty Units	Column 4 Reduced Penalty if paid to Council within 14 days of date of service of Infringe- ment Notice (Penalty Units)	Column 5 Reduced Penalty if paid to Council after 14 days but within 28 days of date of service of Infringe- ment Notice (Penalty Units)
13(2)	Fail to use designated crossing	1			30	Discharge projectile in public reserve	1		
14	Signs on highways or footpaths	1			31	Disorderly, threatening or offensive conduct in public reserve	1		
16(1)	Street dining without a permit	1			32	Damage to Council property in public reserve	1		
17(1)	As permit holder fail to keep street dining area clean	1			33	Take or possess Wildlife in public reserve	1		
17(2)	As permit holder use street rubbish bins	1			34	Enter or leave parking area except by designated access	0.5		
18(2)	Enter closed public reserve	1			35	Speed in a parking area	0.5		
20	Moor vessel to wharf or marina without permit	1			36(1)	Park vehicle outside a parking space	0.5		
21	Peaceable use of public reserve	1			36(2)	Obstruct use of a parking space	0.5		
22(1)	Functions in public reserve without permit	1			36(3)	Obstruct use of a boat ramp	0.5		
23(1)	Create entrance to public reserve	1			37	Park in a parking area without paying fee	0.5	0.20	0.40
23(4)	Fail to comply with notice to close entrance	1			38	Park in a parking area without displaying current voucher	0.5	0.20	0.40
24(1)	Conduct outside dining without permit	1			39	Parking exceeding maximum time	0.5	0.20	0.40
24(5)	As permit holder fail to keep outdoor dining area clean	1			40(2)	Park in a reserved parking space	0.5	0.20	0.40
24(6)	Not using rubbish bins in public reserve	1			41(1)	Damage Council property in a parking area	1		
25	Conduct sale in public reserve	1			41(2)	Deface Council property	1		
26	Organised sport in public reserve	1			42	Unauthorised removal of infringement notice	1		
27	Commercial activity in public reserve	1			43	Wash, dismantle or repair vehicle in a parking area	1		
28	Damage children's playground	1			44	Use skates and/or bicycles where prohibited	0.5		
29	Camp in public reserve	1							

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY Penalty Units	Column 4 Reduced Penalty if paid to Council within 14 days of date of service of Infringe- ment Notice (Penalty Units)	Column 5 Reduced Penalty if paid to Council after 14 days but within 28 days of date of service of Infringe- ment Notice (Penalty Units)
45	Obstruct vehicles and foot traffic in parking area	1		
46(2)	Fail to obey directions of an authorised officer	1		
48(1)	Open ground to expose stormwater main	2		
48(2)	Open highway to expose stormwater main	2		
49	Interfere with pipes	2		
50(1)	Erect structure over stormwater mains	2		
51(2)	Defective work or maintenance	1		
52	Alter surface depth above stormwater main	1		
53	Connect to Council's stormwater system without permit	1		
54	Fail to disconnect shared house installation	1		
55	Multiple branch connections	1		
56	Discharge only appropriate waste to stormwater system	1		
57	Works in water courses	2		
63	Fail to produce permit	1		
65(2)	Fail to supply name and address	2		
66	Abuse or obstruct an authorised officer	2		
67(2)	Fail to comply with direction of authorised officer	1		
73(1)	Fail to comply with notice or direction	2		

Certified as being in accordance with the law by:



Geoffrey W. Tremayne, Qualified Legal Practitioner

Dated this... 26 day of July2016
at Hobart

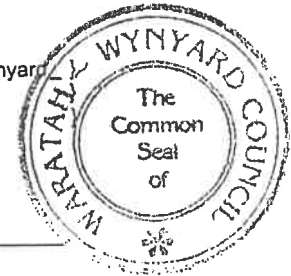
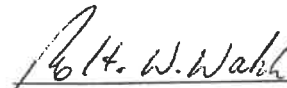
Certified as being made in accordance with the Local Government Act 1993:



Michael Strelton
General Manager

Dated this ... 14 day of ... July2016
at Wynyard

The Common Seal of Waratah-Wynyard Council was hereunto affixed in the presence of:

Robert (Robby) Walsh
Mayor



Michael Strelton
General Manager