

**Local Government Act 1993**  
**Section 156A**

**CERTIFICATE**

**APPROVAL OF REGULATORY IMPACT STATEMENT**

**GLAMORGAN-SPRING BAY COUNCIL – ENVIRONMENTAL HEALTH BY-LAW NO.1 OF  
2018**

The Regulatory Impact Statement for the Glamorgan-Spring Bay Council Environmental Health By-Law No.1 of 2018 has been examined for the purposes of compliance with section 156A of the *Local Government Act 1993*.

The Regulatory Impact Statement addresses the following statutory requirements:

- the objectives of the by-law and the means by which the by-law is to achieve them;
- the nature of any restriction on competition;
- an assessment of the costs and benefits of any restriction on competition;
- an assessment of the costs and benefits of any impact of the by-law upon the conduct of business;
- any alternative option considered by the council;
- an assessment of the greatest net benefit or least net cost to the community;
- an assessment of the direct and indirect economic, social and environmental impacts of the by-law; and
- the proposed public consultation process.

I therefore certify that for the purposes of section 156A of the *Local Government Act 1993* -

- (i) the Regulatory Impact Statement is satisfactory; and
- (ii) the Council may commence the public consultation process.

Dated this 7<sup>th</sup> day of December 2018



**Alex Tay**  
**Director of Local Government**  
Department of Premier and Cabinet



## **Regulatory Impact Statement**

### ***Environmental Health By-law***

**By-law No. 1/2018**

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## **1.0 Background**

The by-law provides for the renewal and revision of the current *Environmental Health By-Law 1 of 2008*.

The proposed by-law maintains the scope and many of the provisions of the current by-law and regulates:

- Refuse disposal sites
- Household refuse disposal
- Animal control, particularly the keeping of poultry and other animals
- Occupation of caravans on private land
- Controlling burning

The proposed by-law does not maintain any provisions on on-site aerated wastewater treatment systems which are regulated by the *Building Act 2016*.

The purpose of this bylaw is for the regulation and control of matters of environmental health so acceptable levels of health, amenity and environmental quality are maintained in the Glamorgan Spring Bay Municipal Area.

The bylaw will apply to the whole of the Glamorgan Spring Bay Municipal Area but will affect residents, ratepayers and visitors differently.

## **2.0 Reasons why the bylaw is required**

With regard to the specific areas that the bylaw regulates, the following information outlines the reasons why the Bylaw is needed.

### **Refuse Disposal Sites**

Council operates a number of waste transfer stations and other Refuse Disposal Sites across the Municipal Area which allow residents, business operators and visitors to dispose of waste that cannot be collected by roadside collection services. The Bylaw specifies how and when a Refuse Disposal Site may be used to provide for safety and health of the community and users and will reduce potential pollution and contamination.

Existing state legislation that regulates Waste Management such as the *Environmental Management & Pollution Control Act 1994* and associated *Waste Management Regulations 2010* do not contain the specific detail that is required to operate a Refuse Disposal Site.

## **Household refuse disposal**

Council engages private contractors to collect mobile garbage bins on a weekly or fortnightly purpose from domestic and commercial properties for rubbish and recyclable material. The bylaw specifies how such bins are to be used, stored and maintained by users in order to protect the health and amenity of the Municipal Area.

Existing state legislation that regulates Waste Management such as the *Environmental Management & Pollution Control Act 1994* and associated *Waste Management Regulations 2010* do not contain the specific detail that is required to ensure the responsible use of mobile garbage bins.

## **Animal Control**

The bylaw ensures that animals are effectively controlled, that premises are clean and sanitary and that animals do not cause a nuisance by way or noise, smell or other matter.

Due to the nature of animals, Council can receive regular complaints regarding noise, sanitation or other matters. It is necessary for Authorised Officers to issue notices or directions on what measures are necessary to prevent an animal creating a nuisance or to ensure sanitary conditions are provided for the keeping of animals.

The proposed bylaw provides more direct provisions with respect to poultry, racing pigeons and farm animals in residential areas in response to specific issues that have arisen over recent years. Provisions are similar to other bylaws and provide for effective action by Authorised Officers if necessary.

The *Local Government Act 1993* provides controls for impounding animals, Part 12, Division 5 and the statutory nuisance provisions in Division 6 of this part are applicable but do not have sufficient detail to deal with all animal keeping issues. The bylaw does not overlap with dog or cat management legislation.

## **Caravans**

Through the existing bylaw Council licences the occupation of caravans through the Municipal Area.

The existing provisions are maintained but are expanded to provide control over the appearance of caravans, and to provide the ability to adopt and implement a Council policy on caravans. These provisions are necessary in response to some instances where caravans have had an adverse effect on neighbourhood amenity.

## **Controlled Burning**

The *Distributed Atmospheric Emissions Regulations 1997* control the type of waste that may or may not be burnt and the size of the property that burning may occur on. The regulations also recognise that a Council may have a Bylaw that regulates backyard burning.

The Regulations provided clarity on what type of burning is prohibited and allow for easier enforcement rather than relying on proving that a fire is creating a nuisance. Council has issued a number of infringement notices for offences under the regulations but problems sometimes arise when a fire is left burning unattended and no one is there to extinguish it. Sometimes a person refuses to put out the fire and action is required to extinguish the fire to reduce the nuisance and risk to surrounding residents.

## **2.0 Objectives of the by-law**

**The objectives of the Bylaw are:**

1. To establish controls on the use of any Refuse Disposal Site and disposal of waste.
2. To establish controls on the use of household refuse collection and disposal
3. Establish standards for the keeping of animals to minimise nuisances to neighbours.
4. Set minimum standards with respect to health, safety and amenity for caravans and mobile homes.
5. Provide controls that allow Authorised Officers to extinguish fires that are creating a nuisance to neighbours.

## **3.0 How will the objectives be achieved?**

### ***Objective 1 – Refuse Disposal Sites***

- Outline where and when refuse and recycling can be left at a waste transfer station or other Refuse Disposal Site.
- Prohibit lighting of fires at a waste transfer station.
- Specify the type of waste that can be accepted at a waste transfer station and how such waste is accepted.
- Prohibit scavenging.

### ***Objective 2 – Household Refuse Disposal***

- Outline how mobile garbage bins are to be stored, maintained and used.
- Prohibit the placement of hot, corrosive, hazardous or other substance that may pose a risk to person or property.

### ***Objective 3 – Control of Animals***

- Structures, buildings and premises must be kept clean to prevent offensive odours.
- Require that animals do not make unreasonable amounts of noise and create a nuisance.
- Regulating the keeping of poultry and racing pigeons.
- Providing for the control of farm animals in residential areas.

- Allow Authorised Officers to issue notices to require the owner or occupier to take action to prevent a nuisance being created. This may involve keeping animals in cages, pens or enclosures.

#### **Objective 4 – Caravans**

- Require that caravans within the municipal area are licenced, other than caravans that are:
  - Stored at a residence and not used for residential purposes at that residence;
  - At a caravan park or overnight recreational vehicle parking area;
  - Caravans used for travelling showpersons or works crews.
- Conditions may be placed on a licence with respect to health and amenity issues such as – water supply, providing sanitary and washing facilities and refuse disposal.
- Allow for licences to be cancelled if conditions are not complied with.
- The General Manager may refuse to issue a licence for a caravan if the caravan would adversely affect the amenity of the neighbourhood or if inadequate sanitary or washing facilities are provided.

#### **Objective 5 –Control Burning**

- Allow an Authorised Officer to direct a person to extinguish a fire that is being burnt contrary to the *Environmental Management & Pollution Control Act 1993*;
- If a person refuses to put out the fire an authorised officer may use water, soil and materials on the property to extinguish the fire.
- The authorised officer may request the fire brigade to extinguish the fire at the owner's expense.
- This part does not apply to fire hazard reduction burning.

### **4.0 Restrictions on Competition**

The provisions that relate to waste management, caravans, animals and burning do not restrict competition or the conduct of business. Waste management controls relate to appropriate use of existing waste services and how to use the waste transfer station. It does not relate to the awarding of contracts for waste collection services.

*The Environmental Management & Pollution Control Act 1994* and the associated *Environmental Management & Pollution Control (Distributed Atmospheric Emissions) Regulations 2007* currently regulate the burning of waste, the impact on business has therefore already been considered. The bylaw only provides additional powers for Authorised Officers to deal with complaints by issuing directions to extinguish a fire.

Caravan regulation applies to domestic use of caravans and not the operation of caravan parks or other commercial businesses therefore, it has no direct impact on business. It does not typically prevent a caravan being located on private land but requires that a minimum standard of amenity is provided.

The bylaw does not establish sites for caravan parks or overnight self-contained motorhome parking areas that compete with caravan park businesses.

Animal keeping also relates to the domestic keeping of animals, as commercial businesses such as poultry farms are regulated under LUPAA.

## 5.0 Assessment of direct or indirect economic, environmental or social impacts

		Direct	Indirect
Economic	Benefits	Reduce administrative costs to Council and ratepayers by more efficient response and action to complaints	Protection of amenity maintains property values
	Costs	'Upfront' administrative costs of receiving and issuing licences, etc.	
Environmental	Benefits	Reduced pollution from burning of waste and noise from animals.  Better air and water quality.  Improved health outcomes for residents impacted from waste burning.	Fewer odour / noise complaints.  Fewer public amenity complaints.
	Costs	Nil	Nil
Social	Benefits	Reduced noise and odour from animals.  Less smoke pollution.  Improved visual amenity when caravans are well maintained and have adequate facilities on private property.	Fewer complaints and disputes
	Costs	Administrative processes for residents to comply with.	Perceived 'red tape'

The fee payable under the bylaw is set annual by Council through its resolution on fees and charges. For 2018-2019, the annual fee for a caravan licence is \$220.00. The annual resolution on fees and charges includes various other fees that are indirectly related to this bylaw, including fees for Refuse Disposal Sites, Dog Registration and the like.



## 6.0 Similar Council bylaws

Below is a list of all Council Bylaws in Tasmania that regulate similar activities:

- *Brighton Council – Environmental Health 2017*
- *Burnie City Council - Refuse Collection and Waste Management 2007*
- *Derwent Valley Council – Waste Management 2004*
- *Glenorchy City Council – Environmental & Health Services 2011*
- *Hobart City Council – Health & Environmental Services 2008*
- *Huon Valley Council – Caravans 2005*
- *Kingborough Council – Health & Environmental Services 2011*
- *Latrobe Council – Waste Management 2006*

## 7.0 Alternatives

The current by-law provides an effective and efficient mechanism to regulate these matters.

The only practice alternative to the proposed by-law is to not have a by-law and rely on existing legislation.

This alternative is not sought for a number of reasons.

The *Local Government Act 1993* provides for statutory nuisances, but these are general and provide no specific guidance on appropriate measures to prevent animals creating a nuisance. The *Environmental Management & Pollution Control Act 1993* provisions on 'environmental nuisance' are also applicable for animals causing a nuisance but as for 'statutory nuisances' they are not specific.

The *Building Act 2016* and the *Land Use Planning and Approvals Act 1993* cannot be used to control health and amenity issues associated with caravans as they apply to buildings not vehicles.

In relation to waste management services the *Environmental Management Pollution Control (Waste Management) Regulations 2010* provide controls on waste disposal and the *Litter Act 2007* regulates waste dumping. They do not provide enforceable management prescriptions relevant to household collection or to Refuse Disposal Sites.

The *Environmental Management & Pollution Control Act 1994* and *Environmental Management & Pollution Control (Distributed Atmospheric Emission) Regulations 2007* both contain provisions for dealing with 'environmental nuisances' from fires. The Bylaw allows Authorised Officers the power to extinguish fires if they are being burnt contrary to the regulations. The Bylaw is more specific than the general powers of Authorised Officers under that legislation.

## 8.0 Assessment of public benefit

The public benefit test assesses whether the benefits outweigh the costs and determines whether a bylaw is the most effective option for achieving the objectives.

Residents, visitors and businesses in the Glamorgan Spring Bay Municipal Area will benefit from the implementation of this bylaw, as they have from the implementation of the current bylaw. The proposed bylaw will help protect public health and residential amenity by applying controls on caravans, burning, keeping of animals and waste management so that these activities do not create a nuisance to the public.

Without these controls it is highly likely that there would be an increase in nuisance complaints from residents and a decline in neighbourhood amenity. The bylaw provides a head of power that prevents these types of nuisances arising and when they occur provides the tools to resolve issues.

Regulation is considered the only feasible option to achieve the bylaw's objectives and the bylaw has been carefully constructed to ensure it imposes the least regulatory burden on the community as possible.

## **9.0 Public Consultant**

Following certification of the Regulatory Impact Statement (RIS) further public consultation will occur:

1. Council will publish notice that it intends to make a new Environmental Health by-law:
  - a) In the Mercury & Examiner newspapers.
  - b) By displaying the notice on the notice board at the municipal offices from the day when the newspaper advertisement is first published until the end of the submission period which is specified in the notice.
  - c) On its Website.

The notice will state the purposes and general effect of the by-law, state that a copy of the by-law and RIS may be inspected in the Council office and on the Council website for the specified time and advise that submissions may be made in writing.

2. The specified day will be no earlier than 21 days after the publication of the notice in the newspapers.
4. The General Manager will make copies of the proposed by-law and the Regulatory Impact Statement will be available on the website for inspection by the public until the day specified in the notice.
5. Council will consider all submissions made concerning the by-law and, if it decides to make any amendments as a result of any of these submissions; it will do so by absolute majority. Council does not need to give further public notice unless an amendment substantially changes the purpose or effect of the proposed by-law.
6. Council will then pass, by an absolute majority, a resolution to formally make the by-law.

7. The by-law will then be submitted to a legal practitioner for certification, and signed by the General Manager.
8. Council will then cause the by-law to be gazetted within 21 days of being made.
9. Council will also submit the by-law to the Subordinate Legislation Committee within 7 working days of gazettal, and to both Houses of Parliament within 10 sitting days of gazettal.
10. Finally, Council will send to the Director of Local Government a signed, sealed and certified original, together with a statement of purpose and effect and the outcome of public consultation.

**Key stakeholders to be consulted:**

- Residents and rate-payers of the Glamorgan Spring Bay Municipal Area.
- Relevant Government Agencies.

**10.0 Comments on the proposed by-law**

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 Mercury & Examiner newspaper.

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 Bylaw.

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

**GLAMORGAN SPRING BAY COUNCIL  
ENVIRONMENTAL HEALTH BY-LAW**

**By-Law No. 1 of 2018**

A BY-LAW of the Glamorgan Spring Bay Council made under Section 145 of the *Local Government Act 1993* (Tas) for the purposes of regulating and controlling matters of environmental health.

**PART 1 – PRELIMINARY**

**1. Short Title**

This By-Law may be cited as the Environmental Health By-Law No *1* of **2018**.

**2. Repeal**

The Glamorgan Spring Bay Council Environmental Health By-Law No. 1 of 2008 made on the **[INSERT DATE]** and notified in the Tasmanian Government Gazette on the **[INSERT DATE]** at page **[INSERT NO.]** is hereby repealed.

**3. Interpretation**

- (1) In this By-law, unless the contrary intention appears –

**Act** means the *Local Government Act 1993* (Tas);

**Authorised Officer** means:

- (a) an employee of the Council appointed by the General Manager as an authorised officer for the purpose of this By-Law; or
- (b) an Environmental Health Officer;

**By-Law** is a reference to this Environmental Health By-Law No. *1* of **2018**;

**Council** means the Glamorgan Spring Bay Council (ABN 95 641 533 778) constituted pursuant to the Act;

**Environmental Health Officer** means a person employed by Council from time to time holding the position of Environmental Health Officer;

**General Manager** means the person appointed by Council from time to time to the position of general manager in accordance with section 61 of the Act;

**Infringement Notice** means a notice complying with section 149 of the Act;

**local highway** has the meaning given to that term in section 4 of the *Local Government (Highways) Act 1982* (Tas);

**Municipal Area** means the municipal area of the Glamorgan-Spring Bay Council defined in accordance with section 16 of the Act.

**person** includes a body corporate;

**proprietor** includes the owner, occupier or any person having the control or management of land;

**public land** means land within the Municipal Area which is owned, vested in or managed by Council and includes any public place and any local highway;

**public place** has the meaning given to that term in section 3(1) of the *Police Offences Act 1935* (Tas);

**Refuse** means rubbish, waste and other similar articles or things including recyclable materials but does not include Trade Waste;

**Refuse Disposal Attendant** means a person who is employed by Council to work at one or more Refuse Disposal Sites;

**Refuse Disposal Site** means any land designated by Council for the disposal of Refuse and includes:

- (a) refuse disposal areas (i.e. tips),
- (b) waste transfer stations;
- (c) resource recovery facilities; and
- (d) recycling centers; and

**Trade Waste** means liquid or solid waste produced or generated on commercial premises or as a result of commercial activities.

## **PART 2 – REFUSE DISPOSAL SITES**

### **4. Depositing Refuse**

A person must not deposit, or caused to be deposited, any Refuse at a Refuse Disposal Site other than in accordance with the directions set out in any signage or notice located at the Refuse Disposal Site or given by a Refuse Disposal Attendant.

**Penalty:** Fine not exceeding 5 penalty units.

### **5. Hours of operation**

A person must not, without the written permission of a Refuse Disposal Attendant or the General Manager, deposit or cause to be deposited any Refuse at a Refuse Disposal Site other than during the operating hours of that Refuse

Disposal Site as designated either by signage displayed at the entrance to the Refuse Disposal Site or on Council's website.

**Penalty:** Fine not exceeding 5 penalty units.

## **6. Fire safety**

A person must not:

- (a) deposit any hot or incendiary materials including ashes, embers, or coals; or
- (b) light any fire; or
- (c) provide fuel for any existing fire,

at a Refuse Disposal Site without first obtaining the permission of a Refuse Disposal Attendant.

**Penalty:** Fine not exceeding 5 penalty units.

## **7. Scavenging**

A person must not, without the written permission of an Authorised Officer, remove any article or thing deposited at a Refuse Disposal Site or interfere with any material, plant or equipment located at a Refuse Disposal Site.

**Penalty:** Fine not exceeding 5 penalty units.

## **8. Disposal of loose materials**

A person must not deposit any loose paper, cardboard, plastic or similar materials at a Refuse Disposal Site other than by depositing such materials in disposal bins designated for that purpose.

**Penalty:** Fine not exceeding 5 penalty units.

## **9. Direction of Authorised Officer**

- (1) Where a person (or persons) seeks to dispose of any item or material at a Refuse Disposal Site and a Refuse Disposal Attendant or an Environmental Health Officer forms the opinion that the relevant item or material:
  - (a) may pose a risk to the safety of Council employees, members of the public, or the environment if it were deposited at a Refuse Disposal Site; or
  - (b) is prohibited from being deposited at a Refuse Disposal Site by the regulatory conditions under which the Refuse Disposal Site is permitted to operate,

the Authorised Officer or Environmental Health Officer (as applicable) may direct that person (or persons):

- (c) not to deposit the relevant item or material at the Refuse Disposal Site;  
or
  - (d) to deposit the relevant item or material in a specific manner.
- (2) A person (or persons) must not fail to comply with a direction given by an Authorised Officer or an Environmental Health Officer under clause 9(1) of this By-Law.

**Penalty:** Fine not exceeding 5 penalty units.

### **PART 3 – HOUSEHOLD REFUSE DISPOSAL**

#### **10. Interpretation**

In this Part 3 -

**Kerbside Collection Service** means a service provided by Council consisting of:

- (a) the provision of mobile garbage bins for the separate disposal of recyclable and non-recyclable domestic Refuse; and
- (b) the periodic collection of Refuse from those mobile garbage bins; and

**Notice** means a public Council notice displayed in a daily newspaper circulated in the Municipal Area and provided by Council to persons to whom Council supplies domestic kerbside collection services.

#### **11. Kerbside collection service**

- (1) The General Manager may determine by Notice the classes of materials deemed to be recyclable for the purpose of the Kerbside Collection Service.
- (2) A person must not collect Refuse stored in mobile garbage bins that form part of the Kerbside Collection Service unless they are authorised to do so by Council.

**Penalty:** Fine not exceeding 2 penalty units.

#### **12. Use of mobile garbage bins**

The proprietor (or proprietors) of land serviced by the Kerbside Collection Service must:

- (a) store the mobile garbage bins wholly within the boundaries of their land unless authorised by an Authorised Officer, excepting when placed on the kerbside for collection;
- (b) only deposit in the recyclable mobile garbage bin recyclable Refuse as determined by Council;
- (c) only deposit in the non-recyclable mobile garbage bin non-recyclable Refuse as determined by Council;
- (d) only place in the mobile garbage bins Refuse produced on their land;
- (e) maintain the mobile garbage bins in a state of good repair (excepting fair wear and tear);
- (f) clean and disinfect the mobile garbage bins if directed to do so by an Authorised Officer;
- (g) keep the lid of their mobile garbage bins closed except when matter is being deposited in them;
- (h) put the mobile garbage bins out for collection at the times and in the manner and location notified by Council or as directed by an Authorised Officer;
- (i) ensure that the contents of any mobile garbage bin do not exceed fifty (50) kilograms;
- (j) remove the mobile garbage bins from the kerbside as soon as practicable following each collection;
- (k) not deposit Trade Waste in any mobile garbage bins; and
- (l) not deposit in any mobile garbage bins and material, item or substance which:
  - i. is hot, or is likely to become hot;
  - ii. may, or is likely to explode;
  - iii. may interact with other substances in the bin and generate toxic or poisonous gases or fumes;
  - iv. is corrosive or may otherwise damage the bin; or
  - v. contains sharps, hazardous waste or potentially infectious waste.

### **13. Penalties**

- (1) A person must not fail to comply with any of sub-clauses 12(a), (b), (c), (d), (f), (g), (h) or (i) of this By-Law.

**Penalty:** in each case, a fine not exceeding 2 penalty units.



- (2) A person must not fail to comply with a direction given by an Authorised Officer under clause 12(e) of this By-Law.

**Penalty:** Fine not exceeding 2 penalty units.

- (3) A person must not fail to comply with any of sub-clauses 12(j) or (k) of this By-Law.

**Penalty:** in each case, a fine not exceeding 5 penalty units.

## **PART 4 – ANIMAL CONTROL**

### **14. Interpretation**

In this Part 4 -

**animal** includes any live companion animal, domestic animal, farm animal, fowl or native animal;

**companion animal** means an animal kept by a person as a companion pet;

**domestic animal** includes an animal or bird kept as a pet or companion that is:

- (a) kept by an owner or some other person who has charge of the animal; and
- (b) reliant upon human contact to satisfy its welfare requirements;

**farm animal** means a horse, stock or any other animal that is commonly being farmed or grazed;

**Poultry** includes a domestic hen and a rooster;

**native animal** means any animal native to Australia;

**pest animal** means a feral animal, vermin or vectors;

**prepared food** includes:

- (a) a product manufactured altered or modified for the purpose of consumption by animals; or
- (b) commercial products or household scraps used for the purpose of animal consumption,

but does not include hay or straw of any type;

**stock** includes cattle, goats, deer, sheep, pigs, or a combination of two or more

of them; and

**vermin** means rats, mice, flies, fleas, lice, or any other animal or insect pest.

## **15. Effective control of animals**

- (1) Subject to clause 15(2) of this By-Law, the owner of any Animal must ensure that their animal does not:
- (a) enter or remain on any private property without the consent of the owner or occupier of such property; or
  - (b) enter any public land unless there is a sign displayed on that land authorising the entry of that kind of animal.

**Penalty:** Fine not exceeding 5 penalty units.

- (2) Clause 15(1) of this By-Law does not apply to:
- (a) domestic cats or domestic dogs; or
  - (b) a situation where farm animals or stock are on a public road and are under the supervision and effective control of a competent person.

## **16. Maintenance of premises used by animals**

- (1) The proprietor of any land must:
- (a) keep any structures, buildings, enclosures or areas to which animals have access in a clean and sanitary condition;
  - (b) keep any bedding or floor coverings used by animals, or to which animals have access, in a clean and sanitary condition;
  - (c) regularly empty any container used for the keeping of animal waste, animal food or manure and keep such container in a clean and sanitary condition; and
  - (d) not use or include any part of an adjoining property fence as part of an animal enclosure.

**Penalty:** Fine not exceeding 2 penalty units.

- (2) A person must not discharge, deposit, or allow or permit to be discharged or deposited, any animal waste including but not limited to faeces:
- (a) on to any property excepting the property on which the relevant waste is produced; or
  - (b) into any water course or drain,

**Penalty:** Fine not exceeding 5 penalty units.

#### **17. Pest animals**

- (1) An Authorised Officer may direct a proprietor of land where pest animals are present to take steps to remove or eradicate the relevant pest animals.
- (2) A person must not fail to comply with a direction given by an Authorised Officer pursuant to clause 17(1).

**Penalty:** Fine not exceeding 5 penalty units.

#### **18. Storage of animal food**

A person must not keep, store or allow to be kept or stored on any land, prepared food unless it is stored in a sealed receptacle constructed of a material that is resistant to access by pest animals.

**Penalty:** Fine not exceeding 2 penalty units.

#### **19. Keeping of Poultry**

- (1) A person must not keep any poultry within 5 metres of any dwelling house or 2 metres of a property boundary.

**Penalty:** Fine not exceeding 5 penalty units.

- (2) A person must not keep more than 6 poultry on a property within or partly within a residential zone as defined in a planning scheme applying to the area.

**Penalty:** Fine not exceeding 5 penalty units.

- (3) The occupier of any premises where an animal or poultry is kept must:-
  - (a) Maintain any structures, buildings, enclosures or areas which the animal or poultry has access to, so they are clean and sanitary;
  - (b) Not allow the animal or poultry to cause any nuisance through smell, noise, rodents, flies or drainage.

**Penalty:** Fine not exceeding 5 penalty units.

#### **20. Farm animals in General Residential Zone**

A person must not keep, or allow to be kept, any farm animal on any land less than 1000m<sup>2</sup> situated within the General Residential Zone as prescribed by the maps that form part of the planning scheme applying to the area without the written authorisation of the General Manager and without complying with any direction given in writing by the General Manager..

**Penalty:** Fine not exceeding 5 penalty units.

## 21. Keeping of racing pigeons in the General Residential Zone

A person must not keep, or allow to be kept, racing pigeons on any land situated within the General Residential Zone as prescribed by the maps that form part of the planning scheme applying to the area without the written authorisation of the General Manager and without complying with any direction given in writing by the General Manager.

**Penalty:** Fine not exceeding 5 penalty units.

## PART 5 – CARAVANS

## 22. Interpretation

### (1) In this Part 5 -

#### **Caravan:**

- (a) means any object which has the general characteristics of a caravan, house on wheels, a covered van or trailer and any vehicle used or adapted for occupation which may or may not have the wheels or axles attached and may or may not be resting directly on the ground or placed on blocks or some other form of supports; and

**Caravan Licence** means a valid and current licence to occupy a caravan issued by an Authorised Officer in accordance with Form 2 of Schedule 2 to this By-Law;

**development** has the meaning given to that term in section 3(1) of the *Land Use Planning and Approvals Act 1993* (Tas);

**occupy** includes to reside or live in for the purposes of shelter, entertainment, sleeping, resting, cooking, eating, or for any other similar use whether on a temporary or permanent basis;

**permit** has the meaning given to that term in section 3(1) of the *Land Use Planning and Approvals Act 1993* (Tas);

**planning scheme** has the meaning given to that term in section 3(1) of the *Land Use Planning and Approvals Act 1993* (Tas); and

**use** has the meaning given to that term in section 3(1) of the *Land Use Planning and Approvals Act 1993* (Tas).

### (2) This Part 5 does not apply to any Caravan (or Caravans):

- (a) located on an authorised caravan park or RV park;

- (b) used on a temporary basis by persons engaged in a travelling show, including but not limited to a circus or some other form of public performance; or
- (c) used by work gangs or contractors involved in construction work authorised by Council.

### **23. Caravan Licence**

- (1) A person must not have a caravan situated on land within the municipal area without a current Caravan Licence issued by Council unless the caravan is situated at the person's principal place of residence solely for the purpose of storage.
- (2) A person may apply for a Caravan Licence by submitting to Council:
  - (a) an application made in accordance with Form 1 in Schedule 2 of this By-law; and
  - (b) the application fee determined by Council.
- (3) Upon receipt of an application made in accordance with clause 22(2), an Authorised Officer may request that the applicant supply additional information for the purpose of assessing the application. If an applicant fails to comply with a request made pursuant to this clause 22(2) the relevant application will be refused.
- (4) Subject to sub-clauses 22(5) of this By-Law, an Environmental Health Officer may grant or refuse an application made in accordance with sub-clause 22(2) and if an application is granted the Authorised Officer may impose reasonable terms and conditions upon a Caravan Licence, including but not limited to the siting of the Caravan on the relevant site.
- (5) A Caravan Licence will not to be granted unless an Environmental Health Officer has approved of the proposed method (or methods) for the disposal of refuse and on-site wastewater during the period of occupancy.
- (6) When considering whether to grant an application made in accordance with sub-clause 22(2), the Environmental Health Officer and Authorised Officer must take into consideration the following matters:
  - (a) the current and future appearance of the site where the Caravan is to be located as viewed from adjoining land, public roads and any other public place;
  - (b) whether the Caravan will have a negative visual impact on the relevant streetscape;
  - (c) whether the proposed occupancy of the Caravan will negatively impact upon the amenity of the users of land in the vicinity of the site where the Caravan is to be located;

- (d) whether there is sufficient vehicular access to the site where the Caravan is to be located;
- (e) whether the site where the Caravan is to be located is subject to natural hazards including but not limited to flooding and bushfire;
- (f) the number of existing caravans on the site where the Caravan is to be located;
- (g) the need for the provision of smoke alarms and fire extinguishers; and
- (h) restricted to a maximum of 2 caravan licences per lot under 1000m<sup>2</sup> in the General Residential zone.

#### **24. Term of Caravan Licence**

Once granted, a Caravan Licence will remain current up to and including the day falling on 30 June next occurring following the date on which the Caravan Licence was issued.

#### **25. Non-compliance with Caravan Licence**

The person to whom a Caravan Licence is granted must comply with the terms and conditions of that Caravan Licence.

**Penalty:** Fine not exceeding 5 penalty units.

#### **26. No occupancy without Caravan Licence**

- (1) A person (or persons) must not occupy a Caravan without a Caravan Licence.

**Penalty:** Fine not exceeding 5 penalty units.

- (2) The proprietor of any land within the Municipal Area must not authorise, allow or otherwise permit any person to occupy a Caravan upon their land unless such occupancy is authorised by a Caravan Licence.

**Penalty:** Fine not exceeding 5 penalty units.

#### **27. No occupancy on public land**

A person must not occupy a Caravan situated on any public land unless such land is authorised for that purpose.

**Penalty:** Fine not exceeding 5 penalty units.

#### **28. Storage of caravans**

A caravan being stored at a “principle place of residence” within the Municipal Area must not be occupied without a current licence.

**Penalty:** Fine not exceeding 5 penalty units.

## **PART 6 – CONTROL OF BURNING**

### **29. Control of burning**

- (1) An Authorised Officer may direct an owner or occupier of land, or any other person, to extinguish a fire which has been lit for the burning of waste or fuel or for any other purpose.
- (2) A person who receives a direction from an Authorised Officer to extinguish a fire pursuant to sub-clause 30(1) must not fail to comply with that direction.

Penalty: Fire not exceeding 10 penalty units.

- (3) If an owner or occupier of land or a person who has lit a fire does not comply with a direction to extinguish a fire pursuant to sub-clause 30(1), an Authorised Officer may extinguish the fire or instruct the Tasmanian Fire Service to extinguish a fire.
- (4) Council may recover all costs incurred by it as a result of any action taken pursuant to sub-clause 31(3) from the person who failed to comply with the direction given pursuant to sub-clause 31(1).

## **PART 7 – AUTHORISED OFFICERS**

### **30. Obstruction, threats and intimidation**

- (1) A person must not obstruct or hinder an Authorised Officer or a Refuse Disposal Attendant engaged in the exercise of any of the powers conferred by this By-Law.

**Penalty:** Fine not exceeding 5 penalty units.

- (2) A person must not intimidate, threaten or abuse an Authorised Officer or a Refuse Disposal Attendant engaged in the exercise of any of the powers conferred by this By-Law.

**Penalty:** Fine not exceeding 5 penalty units.

### **31. Power to remove**

- (1) In accordance with s.152(1) of the Act, Authorised Officers are hereby authorized to:
  - (a) remove any person from land owned by, or under the control of the Council whom they reasonably believe is offending against this By-Law; and
  - (b) remove anything which is on such land without the approval of the Council.
- (2) In accordance with s.152(2) of the Act, police officers are hereby authorised to:

- (a) carry out any of the actions under clauses 29(1)(a) and (b) of this By-Law; and
- (b) arrest a person who is on land owned by, or under the control of, the Council and whom the police officer reasonably believes is offending against this By-Law.

### **32. Power of entry**

For the purposes of this By-Law, an Authorised Officer may enter and remain on land after giving the proprietor of the land notice of their intention to do so in accordance with s.20A of the Act other than where such notice is not required pursuant to s.20A(3) of that provision.

## **PART 8 – INFRINGEMENT NOTICES & ENFORCEMENT**

### **33. Interpretation of Part 7**

In this Part 7, ‘**specified offence**’ means an offence against the clause of this By-Law specified in Column 1 of Schedule 1 to this By-Law.

### **34. Infringement notices – breach of By-Law**

- (1) 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 to this By-Law is the penalty payable under the Infringement Notice issued in respect of that offence.
- (2) 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; and
  - (b) issue one Infringement Notice in respect of more than one specified offence; and
  - (c) issue a monetary penalty for the specified offence in respect of which the Infringement Notice is issued.
- (3) In addition to any other method of service, an Infringement Notice alleging that a vehicle has been used in relation to a specified offence may be served by affixing it to that vehicle.
- (4) Payment of an Infringement Notice issued under this By-Law must be made to the General Manager within 28 days of the issue of the Infringement Notice to avoid the Infringement Notice being referred to the Director, Monetary Penalties Enforcement Service.



- (5) The *Monetary Penalties Enforcement Act* 2005 (Tas) applies to an Infringement Notice issued under this By-Law.

**35. Recovery of expenses**

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

DRAFT

**Environmental Health By-law No 1 of 2018**

**SCHEDULE 1**

**INFRINGEMENT NOTICES – PENALTIES**

<b>Column 1 CLAUSE</b>	<b>Column 2 OFFENCE</b>	<b>Column 3 PENALTY (Penalty Units)</b>
4	Depositing Refuse	2
5	Hours of operation	2
6	Fire safety	2
7	Scavenging	2
8	Disposal of loose materials	2
9(2)	Failure to comply with direction	2
11(2)	Collection of refuse from mobile bins without authority	0.5
13(1)	Failure to comply with sub-clauses 13(a), (b), (c), (d), (f), (g), (h), or (i) of By Law	0.5
13(2)	Failure to comply with sub-clause 13€ of By-Law	0.5
13(3)	Failure to comply with sub-clauses 13(j) or (k) of By-Law	1.25
15(1)	Effective control of animals	2
16(1)	Maintenance of premises used by animals	0.5
16(2)	Maintenance of premises used by animals – discharge of waste	2

17(2)	Failure to comply with direction re pest animals	2	
18	Storage of animal food	0.5	
19(1)	Keeping of poultry	0.5	
19(2)	Keeping of poultry	2	
19(3)	Keeping of poultry	2	
20	Farm animals in General Residential Zone	2	
21	Keeping of racing pigeons	2	
25	Non-compliance with Caravan Licence	2	
26(1)	No occupancy without Caravan Licence	2	
26(2)	No occupancy without Caravan Licence – proprietor	2	
27	No occupancy on public land	2	
28	Storage of Caravans	2	
29 (2)	Control of burning	2	
30 (1)	Obstruct or hinder Authorised Officer or Refuse Disposal Attendant	2	
31(2)	Intimidate, threaten or abuse Authorised Officer or Refuse Disposal Attendant	2	

**Environmental Health By-law No [X] of 201[X]**

**SCHEDULE 2**

**CARAVAN LICENCE FORMS**

Form 1 – Application Form



**Application for a Caravan Licence**

**Applicant**

Name:

Residential Address:

Postal Address:

Email:

Phone number:

**About the Caravan**

Registration number:

Period of registration:

Manufacture:

Model:

Size:

Colour:

Address where caravan will be placed:

If the applicant does not own this property:

Name of owner:

Address of owner:

**Use of caravan**

Purpose:

Number of people to occupy:

How regular will occupancy of the caravan be?"

Method of water supply:

Method of wastewater disposal:

Method of greywater disposal:

Method of solid waste / rubbish disposal:

Signature of applicant:

Date of application:

All application must include a site plan showing:

- The outline of the property, the siting of the caravan (including distances to all boundaries) and all existing buildings:
- The location of screening vegetation or fences:

All applications must include a photo of the caravan (external) and photos of all internal amenities and fixtures.

### Occupation of a caravan – information and advice

Glamorgan Spring Bay Council recognises that many ratepayers utilise caravans on private lots for weekenders or on more permanent occupation over a short-period of time, such as whilst completing a permanent shack or dwelling. This is part and parcel of the culture and community on the East Coast and something which is encouraged where appropriate.

Council is also aware that occasionally caravans cause issues for neighbours. Common concerns raised are that caravans devalue properties, detract from the appearance of tourist roads, noise particularly from multiple caravans or extra guests and the environment through poor management of wastewater and greywater.

To minimise potential impacts, Council expects that:

- Your caravan and your lot will be maintained in good order and all times. There will be no waste or items stored externally that are visible from the street.
- Your caravan will be positioned away from the street and partially screened by 1.5m high boundary fencing, landscaping or garden walls. As a solid front boundary fence above 1.2m high requires a planning application, some form of screening will generally be required between the caravan and street.
- Any external bbq or main outdoor areas should be to the rear of the caravan.
- If you occupy on a regular basis and are located in a urban environment, you will construct an annex with toilet, kitchen and shower facilities so that all toilet and greywater is disposed of via TasWater services.
- You will limit the number of guests at any one time and allow no more than two

A maximum of two caravan licences per lot will be approved.

Form 2 – Form of Caravan Licence

## Licence to Occupy a Caravan

A licence to occupy a caravan with the registration ..... located at ..... for a period of ..... months is hereby granted subject to the following:

Standard condition list:

Condition	When to apply
<b>General Amenity</b>	
Rubbish and solid waste must be appropriately contained on site and removed to a waste transfer station on a regular basis.	For all
External storage of goods, sports equipment, and the like and amenities like washing lines must be located behind the caravan as viewed from the street.	For all
The caravan must be sited in the rear half of the lot and must be no less than 4m from a side or rear boundary unless adjacent to a neighbouring outbuilding [or must be (insert description)]	To specify precisely where caravan is to be located
The caravan must be partially screened by solid side and rear boundary fencing at least 1.5m high.	If the lot is in an urban environment and is not fenced.
The caravan must be partially screened by other buildings, plantings, garden walls or fencing between the street and caravan.	If the lot abuts a major road and the caravan may detract from the streetscape if not screened.
The site must be maintained at all times in good order to not detract from the amenity or appearance of the street.	For all
At any time, no more than two tents, campers, RVs or the like are to be on the lot in addition to the licensed caravan.	If lot is on a major public road
Vehicles accessing and using the site must do so in a manner that avoids dust, mud or sedimentation. If this occurs, a gravel driveway must be constructed.	
A working smoke alarm must be installed in the caravan.	
<b>Greywater / Wastewater</b>	
Greywater may be disposed of on-site but must not cause a nuisance either by its volume or quality. Kitchen scraps and similar material are to be separated and	

composted or remove to a waste transfer station.	
Wastewater must be disposed of off-site to an authorised dump point.	
An annex must be constructed within three months of the date of approval of this licence and this annex must contain a plumbed in toilet connected to TasWater water and sewer mains.	If caravan is to be occupied on a regular basis
<p>Bushfire</p> <p>Note: Further consultation with TFS required. TFS have no standard rules or prescriptions.</p>	If located in a bushfire prone area, you must maintain all vegetation within 20m in a low fuel state and have adequate measures in place for safe evacuation in case of bushfire including vacating the site when a high fire danger day is forecasted.
Occupation of the caravan must not cause excessive or unreasonable levels of noise either by use of generators or the actions of licensee or their guest.	

David Metcalf  
General Manager

**[INSERT FORM 2 – FORM OF CARAVAN LICENCE]**

Certified as being in accordance with the law by:

.....  
Legal Practitioner

Dated this.....day of.....2016 at .....

Certified as being in accordance with the *Local Government Act* 1993 (Tas)

.....  
General Manager

Dated this.....day of.....2016 at .....

The Common Seal of the Glamorgan Spring Bay Council has been placed on this document pursuant to a resolution of Council passed on the .....day of ..... in the presence of:

.....  
Mayor

.....  
General Manager