



Clarence... a brighter place

## CLARENCE CITY COUNCIL

### SERVICES AND REFUSE BY-LAW

#### BY-LAW NO. 1 of 2014

By-Law made under Section 145 of the *Local Government Act, 1993* for the purpose of regulating the disposal of sewage, disposal of stormwater and the management and control of the supply and use of water in the City of Clarence and to regulate the storage, collection, transport and disposal of refuse in the City of Clarence.

#### PART 1 - PRELIMINARY

##### Short Title

1. This By-Law may be cited as the Services and Refuse By-Law.
2. The Clarence City Council – Services By-Law No. 3 of 2003 made on 16 December 2003 and notified in the Tasmanian Government Gazette on 7 January 2004 is repealed.
3. The Clarence City Council – Refuse Storage, Collection and Disposal By-Law No. 2 of 2003 made on 16 December 2003 and notified in the Tasmanian Government Gazette on 7 January 2004 is repealed.

##### Commencement

4. This By-Law commences on the date it is published in the Tasmanian Government Gazette.

##### Application

5. This By-Law applies to the municipal area of the City of Clarence.

##### Interpretation and Definitions

6. In this By-Law, unless the contrary intention appears, all words have the same meaning as defined in the Tasmanian Plumbing Code, the *Plumbing Regulations 2004*, the *Local Government (Building and Miscellaneous Provisions) Act 1993*, *Building Act 2000* and in the National Plumbing and Drainage Code and Australian Standard AS3500.0.

**'at the kerbside'** means at or near the back of the kerb face of a road, street or way and where there is no kerb, means at the outside edge of the road shoulder;

**'authorised person'** means the General Manager and any person appointed by the General Manager as an authorised person for the purposes of this By-Law;

**'authorised contractor'**, means a contractor appointed by the Council for the purposes of conducting a kerbside collection service on behalf of Council;

**'biohazardous waste'** means waste that arises from medical, dental or similar procedures that is or has the potential to become, prejudicial to human health;

**'builder'** means as defined under the *Building Act 2000*;

**'building site'** means the land on which building work is carried on in the municipal area;

**'controlled waste'** means controlled waste as defined under the *Environmental Management and Pollution Control Act 1994*;

**'domestic refuse'** means all domestic garbage, rubbish, litter and other similar matter generated at domestic premises but does not include liquid waste, hot ash, green waste, recyclable refuse, controlled waste, sharps, trade waste or hard waste;

**'domestic refuse container'** means a wheelie bin for domestic refuse supplied by the Council and bearing the Council logo, or such other receptacle approved by the General Manager;

**'drainage system'** means any pipe or open channel owned by the Council which is used or designated for the purpose of conveying stormwater from land in the municipal area;

**'environmental health officer'** means an environmental health officer appointed by the General Manager;

**'green waste'** means tree branches and prunings less than 200mm in diameter, leaves and grass cuttings, weeds and such other green organic material as Council may stipulate from time to time;

**'green waste container'** means a wheelie bin for green waste supplied by the Council and bearing the Council logo, or such other receptacle approved by the General Manager;

**'hard waste'** means large or bulky materials not able to be contained in a domestic refuse container;

**'land'** means land in the municipal area;

**'municipal area'** means the City of Clarence as defined by section 16 of the *Local Government Act 1993*;

**'notice'** means a Council notice:

- a) displayed or set up in a public place or adjacent to a public place in the municipal area;
- b) in a newspaper circulating in the municipal area; or
- c) forwarded by the Council, General Manager or authorised person to a person to whom this By-Law applies;

**'noxious refuse'** means any refuse of a highly putrescible nature which is not disposed of in sealed plastic bags and other offensive matter;

**'occupier'** means a person occupying land or a building site with the permission of the owner of the relevant land;

**'penalty unit'** means a sum prescribed under the provisions of the *Penalty and Other Penalties Act 1987*;

**'police officer'** means an officer of the Tasmania Police;

**'portable sanitary fixture'** means a commercially serviced portable toilet approved by an Environmental Health Officer;

**'premises'** means a separately occupied residential tenement to which Council makes a kerbside refuse collection service available;

**'public place'** means any land (including highway) owned by or under the control of the Council and any public land in the municipal area and any building or structure in or upon that land that is part of any property or facility owned, controlled, managed or maintained by the Council or otherwise being the responsibility of the Council;

**'recyclable refuse'** means all empty food and liquid containers emanating from normal domestic use including glass bottles and jars, aluminium cans, foils and food trays, steel cans, aerosol cans, DPE and PET bottles and containers, PVC, paper and cardboard and other refuse as determined by the General Manager;

**'recyclable refuse container'** means a wheelie bin for recyclable waste supplied by the Council and bearing the Council logo, or such other receptacle approved by the General Manager;

**'refuse'** means any domestic refuse, biohazardous waste, controlled waste, green waste, hard waste, noxious refuse, trade waste and other rubbish, debris, litter, recyclable refuse, or any other similar materials, articles or things that is by notice determined to be refuse;

**'refuse collection area'** means that part of the municipal area served by a domestic refuse collection service;

**'sewerage system'** means sewers and sewerage works vested, under any Act, in a regulated entity within the meaning of the *Water and Sewerage Industry Act 2008*;

**'sharps'** means objects or devices having acute rigid corners, edges, points or protuberances capable of cutting or penetrating the skin and includes but is not limited to hypodermic needles, intravenous sets, pasteur pipettes, lancets and scalpel blades;

**'trade waste'** means liquid waste and any solids contained in it (excluding sewage), generated by, or collected from, any industry, business, trade process, manufacturing process, or commercial activity from, on, or in relation to land, including, but not limited to:

- a) commercial food waste;
- b) any matter discharged from any laundry used in relation to commercial activities or for commercial purposes including but not limited to laundrettes, hotels, motels, hospitals, and schools;
- c) any matter discharged:
  - i. from any industrial or commercial cooling, refrigeration or air conditioning system;
  - ii. from any marine vessel to land;
  - iii. as polluted stormwater run-off;
  - iv. as run-off water used to extinguish a fire or to deal with any other hazard or emergency on land used for industrial or commercial activities;

- v. as leachate from any private, commercial or municipal landfill disposal site.

'vehicle' has the same meaning as in the *Road Rules 2009*.

## **PART 2 - GENERAL**

### **Notices**

7. (1) The General Manager may by notice regulate the matters referred to in this By-Law.
- (2) A person to whom this By-Law applies must obey the terms and conditions of any notice.

**Penalty:** Fine not exceeding five (5) penalty units.

## **PART 3 - DRAINAGE**

### **Land Drainage Issues**

8. (1) If, in the opinion of the General Manager, water from land is being concentrated in a manner such that damage is being caused, or is likely to be caused to other land by that concentrated water, because the water is not being satisfactorily directed to a natural watercourse, drainage system or drained by other means approved by the General Manager, the General Manager by notice may require the owner of the land from where the water comes from to provide a means of drainage of the water so that it does not, in the reasonable opinion of the General Manager, continue to be concentrated in a manner such that damage is caused or may be caused to other land.
- (2) A person to whom this clause applies must obey the terms and conditions of any notice.

**Penalty:** Fine not exceeding one (1) penalty unit.

## **PART 4 - SANITATION**

### **Sanitation on Building Sites**

9. (1) The builder on a building site must ensure that on a building site, approved toilets are provided in accordance with this By-Law for the persons engaged in the building work on the building site and that the other provisions of this Part of this By-Law are complied with in respect of the building site.
- (2) An approved toilet provided on a building site is to be:
- a) a water closet (WC) pan connected to a sewerage system; or
  - b) a portable sanitary fixture approved by an environmental health officer.

**Penalty:** Fine not exceeding three (3) penalty units.

### **Location and Kind of Approved Toilets**

10. The builder must comply with any directions given and any conditions imposed by an Environmental Health Officer or the General Manager with respect to the location, nature and operation of any approved toilets on a building site.

**Penalty:** Fine not exceeding three (3) penalty units.

### **Number of Toilets**

11. There is to be provided on every building site approved toilets in the ratio of one (1) approved toilet per twenty (20) persons working on the building site.

**Penalty:** Fine not exceeding two (2) penalty units.

### **Cleanliness**

12. Each approved toilet on a building site shall be maintained in a state of cleanliness by the occupier or other person to whom this By-Law applies to the standard required by the Environmental Health Officer.

**Penalty:** Fine not exceeding two (2) penalty units.

## **PART 5 - EXECUTION OF WORK**

13. (1) The General Manager may require a person to whom this By-Law applies to execute such work and to use such materials in a public place as the General Manager, or an authorised person on behalf of the General Manager, may direct.
- (2) The General Manager may require and direct that any work to be carried out under this clause is to be executed or carried out only by a person with appropriate qualifications.
- (3) The General Manager may require and direct that any work to be carried out under this clause is to be carried out by the Council or a person nominated by the Council or General Manager if the person to whom this clause refers fails or refuses to carry out that work and any expenses incurred by Council in carrying out that work are to be recoverable from that person by the Council in a manner considered appropriate by the General Manager.
- (4) The General Manager may require a person to whom this part of this By-Law applies to deposit with the Council, or enter into a bond with Council for payment to Council of such costs as the Council may determine as a reasonable pre-estimate of the cost of the works to be carried out pursuant to this By-Law in order to provide security against any reasonable costs which the Council may incur as a result of the execution of that work.
- (5) The General Manager may determine that all or part of the deposit is to be retained by Council as a result of the Council incurring any expense in relation to any failure or refusal by any person to whom this By-Law applies to carry out the work as directed.

## **PART 6 - DOMESTIC REFUSE**

### **Storage of Domestic Refuse Container**

14. (1) Every premises within a refuse collection area will be provided with a domestic refuse container for the storage and collection of domestic refuse.
- (2) The General Manager may, by notice, set fees for the supply and delivery of a domestic refuse container to an occupier of premises.
- (3) The General Manager may, by notice, determine the type or level of service provided by Council under this By-Law.
- (4) An occupier of premises within a refuse collection area must:



- a) store the domestic refuse container wholly within their premises unless otherwise authorised by the General Manager or an authorised person, except when placed on the kerbside for collection;
- b) keep the domestic refuse container in good repair and in a sanitary condition so as to not be a nuisance or injurious to health; and
- c) place the domestic refuse container at the kerbside or road shoulder adjacent to the entrance to the premises for collection, at such times as specified by notice.

**Penalty:** Fine not exceeding one (1) penalty unit in respect of each offence.

- (5) The domestic refuse container supplied by Council remains the property of Council and is to be left at that premises when the occupier vacates the premises.

### **Disposal of Domestic Refuse**

15. (1) It is an offence for an occupier of premises within a refuse collection area to:
- a) place refuse other than domestic refuse for collection in the domestic refuse container;
  - b) load a domestic refuse container in such a manner that domestic refuse protrudes over the top rim of the container;
  - c) place any biohazardous waste, controlled waste, noxious refuse, trade waste, recyclable refuse, green waste or other refuse in a domestic refuse container unless otherwise approved by the General Manager or an authorised person; and
  - d) place in a domestic refuse container anything or substance which:
    - i. is hot or burning matter or likely to become hot; or
    - ii. may, or is likely to explode; or
    - iii. contains gases or vapours; or
    - iv. contains sharps or potentially infectious waste; or
    - v. is corrosive; or
    - vi. is likely to rupture or pierce the domestic refuse container; or
    - vii. is otherwise dangerous.

**Penalty:** Fine not exceeding two (2) penalty units in respect of each offence.

- (2) The Council or its authorised contractor may refuse to empty any domestic refuse container, which in the opinion of Council or its authorised contractor, does not meet any requirements of this By-Law.

## **PART 7 - RECYCLABLE REFUSE**

### **Storage of Recyclable Refuse Container**

16. (1) Every premises within a refuse collection area will be provided with a recyclable refuse container for the storage and collection of recyclable refuse.
- (2) The General Manager may, by notice, set fees for the supply and delivery of a recyclable refuse container to an occupier of premises.
  - (3) The General Manager may, by notice, determine the type or level of service provided by Council under this By-Law.
  - (4) The General Manager may, by notice, determine classes of materials as being recyclables for the purpose of kerbside collection.

- (5) An occupier of premises within a refuse collection area must:
- a) store the recyclable refuse container wholly within their premises unless otherwise authorised by the General Manager or an authorised person, except when placed on the kerbside for collection;
  - b) keep the recyclable refuse container in good repair and in a sanitary condition so as to not be a nuisance or injurious to health.
  - c) place the recyclable refuse container at the kerbside or road shoulder adjacent to the entrance to the premises for collection, at such times as specified by notice;

**Penalty:** Fine not exceeding one (1) penalty unit in respect of each offence.

- (6) The recyclable refuse container supplied by Council remains the property of Council and is to be left at that premises when the occupier vacates the premises.

### **Disposal of Recyclable Refuse**

17. (1) It is an offence for an occupier of premises within a refuse collection area to:
- a) place refuse other than recyclable refuse for collection and disposal in the recyclable refuse container;
  - b) load a recyclable refuse container in such a manner that recyclable refuse protrudes over the top rim of the container;
  - c) place any biohazardous waste, controlled waste, noxious refuse, trade waste, domestic refuse, green waste or other refuse in a recyclable refuse container, unless otherwise approved by the General Manager or an authorised person; and
  - d) place in a recyclable refuse container anything or substance which:
    - i. is hot or burning matter or likely to become hot; or
    - ii. may, or is likely to explode; or
    - iii. contains gases or vapours; or
    - iv. contains sharps or potentially infectious waste; or
    - v. is corrosive; or
    - vi. is likely to rupture or pierce the recyclable refuse container; or
    - vii. is otherwise dangerous.

**Penalty:** Fine not exceeding two (2) penalty units in respect of each offence.

- (2) The Council or its authorised contractor may refuse to empty any recyclable refuse container, which in the opinion of Council or its authorised contractor, does not meet any requirements of this By-Law.

## **PART 8 - GREEN WASTE**

### **Storage of Green Waste Container**

18. (1) Council may provide premises with a green waste collection container for the storage and collection of green waste.
- (2) The General Manager may, by notice, set fees for the supply and delivery of a green waste container to an occupier of premises.
- (3) The General Manager may, by notice, determine the type or level of service provided by Council under this By-Law.
- (4) An occupier of premises to which Council has provided a green waste container must:

- a) store the green waste container wholly within their premises unless otherwise authorised by the General Manager or an authorised person, except when placed on the kerbside for collection;
- b) keep the green waste container in good repair and in a sanitary condition so as to not be a nuisance or injurious to health; and
- c) place the green waste container at the kerbside or road shoulder adjacent to the entrance to the premises for collection, at such times as specified by notice.

**Penalty:** Fine not exceeding one (1) penalty unit in respect of each offence.

- (5) The green waste container supplied by Council remains the property of Council and is to be left at that premises when the occupier vacates the premises.

### **Disposal of Green Waste**

19. (1) It is an offence for an occupier of premises to which Council has provided a green waste container to:
- a) place refuse other than green waste for collection in the green waste container;
  - b) load a green waste container in such a manner that green waste protrudes over the top rim of the container;
  - c) place any biohazardous waste, controlled waste, noxious refuse, trade waste, domestic refuse, or other refuse in a green waste container, unless otherwise approved by the General Manager or an authorised person; and
  - d) place in a green waste container anything or substance which:
    - i. is hot or burning matter or likely to become hot; or
    - ii. may, or is likely to explode; or
    - iii. contains gases or vapours; or
    - iv. contains sharps or potentially infectious waste; or
    - v. is corrosive; or
    - vi. is likely to rupture or pierce the recyclable refuse container; or
    - vii. is otherwise dangerous.

**Penalty:** Fine not exceeding two (2) penalty units in respect of each offence.

- (2) The Council or its authorised contractor may refuse to empty any green waste container, which in the opinion of Council or its authorised contractor, does not meet any requirements of this By-Law.

## **PART 9 – ENFORCEMENT AND PENALTIES**

### **Compliance**

20. A person must comply with any direction from an authorised person in relation to any matter under this By-Law.

**Penalty:** Fine not exceeding five (5) penalty units.

### **Enforcement**

21. (1) An authorised person may remove any person from a public place if the authorised person reasonably believes that the person is offending against any provision of this By-Law and the authorised person may also remove



anything which is on that land which has been placed or left on that land by any person without the approval of the General Manager.

- (2) A police officer may assist the authorised person to carry out any of the actions specified in this clause and may in so doing arrest any person who is on that land and whom the police officer reasonably believes is offending against any provision of this By-Law.

### **Offences**

22. Any person who contravenes or fails to comply with any of the relevant provisions of this By-Law is guilty of an offence under this By-Law and liable on conviction to the penalty set out in the relevant provision.

### **Infringement Notices**

23. In this Clause:  
**'specified offence'** means an offence against the clause specified in Column 1 of Schedule 1.
  - (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 is the penalty payable under the infringement notice for that offence.
  - (2) An authorised person may:
    - (a) issue an infringement notice to a person whom the authorised person has reason to believe is guilty of a specified offence; and
    - (b) issue one (1) infringement notice in respect of more than one (1) specified offence.
  - (3) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-Law.
  - (4) 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.

### **Recovery of Expenses**

24. In addition to any penalty imposed in relation to any failure by a person to comply with any of the provisions of this By-Law, any expenses incurred by the Council as a consequence of that contravention are recoverable by the Council as a debt payable by that person.

### **Provision of Name and Address**

25. If required to do so by an authorised person, the General Manager, or a police officer, in relation to a matter arising under this By-Law, a person must provide his or her name and address to the authorised person, General Manager, or a police officer when required to do so.

**Penalty:** Fine not exceeding two (2) penalty units.

## SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY (Penalty units)
7(2)	Fail to comply with notices	2
8(2)	Fail to comply with notices to redirect drainage of concentrated water from land to a natural watercourse, drainage system or drain	.5
9(2)	Fail to provide building site sanitation in accordance with the By-Law	2
10	Fail to comply with directions concerning the placement and operation of equipment used for the purpose of building site sanitation	2
11	Fail to provide ratio of one approved toilet per twenty persons working on a building site	1
12	Fail to comply with the standard of cleanliness of equipment used for the purpose of building site sanitation	1
14(4)(a)	Fail to store a domestic refuse container wholly within the occupier's premises	.5
14(4)(b)	Fail to keep a domestic refuse container in good repair and in a sanitary condition	.5
14(4)(c)	Fail to place a domestic refuse container at the kerbside or road shoulder for collection	.5
15(1)(a)	Fail to place refuse other than domestic refuse for collection in the domestic refuse container	1
15(1)(b)	Load domestic refuse container in such a manner that domestic refuse protrudes over the top rim of the container	1
15(1)(c)	Place biohazardous waste, controlled waste, noxious refuse, trade waste, recyclable refuse, green waste or other non-approved refuse in a domestic refuse container	1
15(1)(d)(i)	Place hot or burning or likely to become hot matter in domestic refuse container	1
15(1)(d)(ii)	Place anything in domestic refuse container that may or is likely to explode	1
15(1)(d)(iii)	Place anything in domestic refuse container that contains gases or vapours	1
15(1)(d)(iv)	Place sharps or potentially infectious waste in domestic refuse container	1
15(1)(d)(v)	Place corrosive substance in domestic refuse container	1
15(1)(d)(vi)	Place anything in domestic refuse container likely to rupture or pierce the container	1
15(1)(d)(vii)	Place dangerous substance in domestic refuse container	1
16(5)(a)	Fail to store a recyclable refuse container wholly within the occupier's premises	.5
16(5)(b)	Fail to keep a recyclable refuse container in good repair and in a sanitary condition	.5
16(5)(c)	Fail to place a recyclable refuse container at the kerbside or road shoulder for collection	.5

17(1)(a)	Fail to place refuse other than recyclable refuse for collection in the recyclable refuse container	1
17(1)(b)	Load recyclable refuse container in such a manner that recyclable refuse protrudes over the top rim of the container	1
17(1)(c)	Place biohazardous waste, controlled waste, noxious refuse, trade waste, domestic refuse, green waste or other non-approved refuse in a recyclable refuse container	1
17(1)(d)(i)	Place hot or burning or likely to become hot matter in recyclable refuse container	1
17(1)(d)(ii)	Place anything in recyclable refuse container that may or is likely to explode	1
17(1)(d)(iii)	Place anything in recyclable refuse container that contains gases or vapours	1
17(1)(d)(iv)	Place sharps or potentially infectious waste in recyclable refuse container	1
17(1)(d)(v)	Place corrosive substance in recyclable refuse container	1
17(1)(d)(vi)	Place anything in recyclable refuse container likely to rupture or pierce the container	1
17(1)(d)(vii)	Place dangerous substance in recyclable refuse container	1
18(4)(a)	Fail to store a green waste container wholly within the occupier's premises	.5
18(4)(b)	Fail to keep a green waste container in good repair and in a sanitary condition	.5
18(4)(c)	Fail to place a green waste container at the kerbside or road shoulder for collection	.5
19(1)(a)	Fail to place refuse other than green waste for collection in the green waste container	1
19(1)(b)	Load green waste container in such a manner that green waste protrudes over the top rim of the container	1
19(1)(c)	Place biohazardous waste, controlled waste, noxious refuse, trade waste, domestic refuse, or other non-approved refuse in a green waste container	1
19(1)(d)(i)	Place hot or burning or likely to become hot matter in green waste container	1
19(1)(d)(ii)	Place anything in green waste container that may or is likely to explode	1
19(1)(d)(iii)	Place anything in green waste container that contains gases or vapours	1
19(1)(d)(iv)	Place sharps or potentially infectious waste in green waste container	1
19(1)(d)(v)	Place corrosive substance in green waste container	1
19(1)(d)(vi)	Place anything in green waste container likely to rupture or pierce the container	1
19(1)(d)(vii)	Place dangerous substance in green waste container	1
20	Fail to comply with any direction from an authorised person in relation to any matter under the By-Law	3
25	Fail to provide name or address when required under the By-Law	1

Certified as being in accordance with the law by:



Clare Amy Shea, Registered Legal Practitioner

Dated this 2<sup>nd</sup> day of April 2014 at Rosny Park

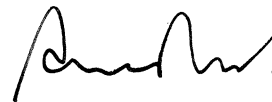
Certified as being in accordance with the *Local Government Act 1993* by:



Andrew Paul, General Manager

Dated this 2<sup>nd</sup> day of April 2014 at Rosny Park

The common seal of the Clarence City Council has been hereunto affixed pursuant to a resolution of the Council passed on the 17 March 2014 in the presence of:



Andrew Paul, General Manager

Dated this 2<sup>nd</sup> day of April 2014 at Rosny Park