

10 REPORTS FOR DECISION**10.1 BY-LAWS REPORT****File Number:** IC22/121**Author:** Helen Robins, Manager City Maintenance & Community Safety**Responsible Executive:** John Zunis, Acting Director Infrastructure & Environment**EXECUTIVE SUMMARY**

- By-law 1 – Permits and Penalties (**Attachment 1**)
- By-law 2 – Moveable Signs (**Attachment 2**)
- By-law 3 – Local Government Land (**Attachment 3**)
- By-law 4 – Roads (**Attachment 4**)
- By-law 5 – Dogs (**Attachment 5**)
- By-law 6 – Waste Management (**Attachment 6**)

Council's by-laws took effect in 2016 and will expire on 1 January 2023. Council is required to review its existing by-laws to ensure they are still relevant and do not lapse. The review process involves adhering to legislative requirements. It is important to note that the by-laws as published on Council's website with their existing conditions will remain in place whilst this review/consultation period is being undertaken.

Paul Kelly from Norman Waterhouse Lawyers has reviewed the by-laws and will be in attendance at the Council meeting to discuss the proposed amendments.

RECOMMENDATION**That Council:**

1. **Having considered Item 10.1 By-Laws Report receives and notes the report.**

Option 1

- (1) **The Chief Executive Officer be authorised to refer By-law 5 – Dogs (as attached to the report entitled By-law Review) to the Dog and Cat Management Board for comment in accordance with Section 90(5)(a)-(b) of the Dog and Cat Management Act 1995.**
- (2) **Council endorse draft By-law No 1 – Permits and Penalties, draft By-law No 2 – Moveable Signs, draft By-law No 3 – Local Government Land, draft By-law No 4 – Roads, draft By-law No 5 – Dogs and draft By-law No 6 – Waste Management (as attached to the report entitled By-law Review) for the purposes of public consultation in accordance with Section 249 of the Local Government Act 1999. Such consultation will commence 21 days after the Chief Executive Officer has complied with resolution no (1).**
- (3) **The Chief Executive Officer be authorised to make copies of the draft by-laws available to the public in accordance with Section 132(1) of the Local Government Act 1999 (by publishing them on a website determined by the Chief Executive**

Officer and by providing them in printed form to any person, on request) 21 days after complying with resolution no (1).

Option 2

- (1) Council seek further amendments to the draft by-laws.

DISCUSSION

- 1.1 The Local Government Act 1999 and a number of other Acts give Council the power to make by-laws.
- 1.2 Council currently has six by-laws:
 - By-law 1 – Permits and Penalties (**Attachment 1**)
 - By-law 2 – Moveable Signs (**Attachment 2**)
 - By-law 3 – Local Government Land (**Attachment 3**)
 - By-law 4 – Roads (**Attachment 4**)
 - By-law 5 – Dogs (**Attachment 5**)
 - By-law 6 – Waste Management (**Attachment 6**)
- 1.3 The by-laws have been reviewed by Norman Waterhouse Lawyers and are provided as above in draft form.
- 1.4 Council's by-laws took effect in 2016 and will expire on 1 January 2023. Council is required to review its existing by-laws to ensure they are still relevant and do not lapse. The review process involves adhering to legislative requirements.
- 1.5 The review process can be a lengthy one and requires extensive public consultation, as well as consultation with other relevant bodies such as the Dog and Cat Management Board.
- 1.6 The proposed by-laws must be drafted and presented to Council along with a report detailing the anticipated effect on the community of the by-laws, a solicitor's certificate and a report regarding the impacts on competition of the by-laws.
- 1.7 A number of amendments have been proposed. The content of the by-laws are discussed in general terms below:

1.7.1 By-law 1 – Permits and Penalties

- The proposed draft By-law 1 – Permits and Penalties has been updated to provide additional enforcement mechanisms for Council including provision regarding the liability for vehicle owners and certain evidentiary presumptions. The proposed By-law provides for a permit system, fixes maximum penalties in all by-laws, clarifies the construction of by-laws, repeals the current Permits and Penalties By-law.
- In addition, the By-law defines certain terms for all by-laws.

1.7.2 By-law 2 – Moveable Signs

- The proposed draft By-law 2 – Moveable Signs essentially follows the same construction as the current Moveable Signs By-law and deals with the design and construction, placement and appearance of moveable signs on Council roads.
- The proposed draft By-law also deals with banners placed on Council roads, and provides additional clauses relating to removal of both authorised and unauthorised moveable signs, outlines applicable exemptions and repeals the current Moveable Signs by-law.

1.7.3 By-law 3 – Local Government Land

- The proposed draft By-law 3 – Local Government Land largely follows the same construction and approach as the current Local Government Land By-law.
- Of note, new provisions regarding e-cigarettes, model (drone) aircraft and the use of council rubbish bins have been inserted to assist the enforcement and regulation of particular activities on local government land and to future proof the by-laws.
- Activities that are now more appropriately regulated under the Local Nuisance and Litter Control Act 2016 are proposed to be removed to avoid unnecessary duplication. Exemptions relating to local elections have been removed and State elections modified for consistency with Section 226 of the Local Government Act 1999. As with the other by-laws, this by-law repeals its equivalent current by-law.

1.7.4 By-law 4 – Roads

- The proposed draft By-law 4 – Roads largely follows the same construction and approach as the current Roads By-law.
- Of note, new provisions regarding advertising, canvassing, bicycles, touting for business, bridge jumping and use of Council rubbish bins have been inserted to assist the enforcement and regulation of particular activities on roads and to future proof the by-laws.
- Exemptions relating to local elections have been removed and State elections modified for consistency with Section 226 of the Local Government Act 1999. As with the other by-laws, this by-law repeals its equivalent current by-law.

1.7.5 By-law 5 – Dogs

- The draft proposed By-law 5 – Dogs follows a similar approach to the Council's current By-law but has been redrafted to modernise the drafting. A key amendment is that the limit on the number of dogs to be kept has been simplified, with a two dog limit in any property, regardless of size, is proposed. Additional relevant exemptions are outlined. Dog on leash areas have also been tweaked. The by-law revokes the current Dogs by-law.

1.7.6 By-law 6 – Waste Management

- There are no significant changes, but some language regarding garbage and hard rubbish has been updated in clause 6. Again, this by-law will revoke the existing equivalent.

1.8 Having received and considered the proposed by-laws, Council must resolve to commence the public consultation process and:

- 1.8.1 in accordance with Section 90(5) of the Dog and Cat Management Act 1995, at least 21 days before giving public notice of a proposed by-law under that Act, refer the proposed by-law to the Dog and Cat Management Board together with the requisite report; and
- 1.8.2 in accordance with Section 249(1) of the Act, at least 21 days before resolving to make the by-laws, Council must:
 - (1) make copies of the proposed by-laws (and any codes, standards or other documents to be applied to or incorporated in the by-laws) available for the public on a website determined by the Chief Executive Officer; and
 - (2) provide printed copies of these documents to any person on request.
- 1.8.3 At the conclusion of the public consultation period, Council must give reasonable consideration to any submissions made to Council in respect of the proposed by-laws.
- 1.8.4 Council must consider the proposed by-laws in light of the National Competition Policy to determine whether they have the potential to restrict competition. Council must then prepare and consider a report which clarifies the objectives of the proposed by-laws, identifies the nature of any proposed restriction on competition, analyses the most likely effect of any such restrictions and considers any alternative means of achieving the same controls (including any legislative processes). If Council determines to make the proposed by-laws, it must be satisfied that the benefits of the by-laws in the form proposed outweigh any detriment to competition that may be caused by passing the proposed by-laws in the relevant form.
- 1.8.5 Prior to resolving to make the by-laws, Council must obtain a certificate from a legal practitioner which certifies that, in the opinion of the legal practitioner:
 - (1) Council has the power to make the proposed by-laws by virtue of a specific statutory power stated in the certificate; and
 - (2) the by-laws do not conflict with the relevant legislation.
- 1.8.6 Council must prepare a report to the Legislative Review Committee which outlines:
 - (1) the reasons for introducing the proposed by-laws;
 - (2) the objectives of the proposed by-laws;
 - (3) the effect of each clause of the proposed by-laws;
 - (4) the administrative and policing strategies in respect of the proposed by-laws;
 - (5) Council's consideration of its obligations under the National Competition Policy; and
 - (6) details of public consultation undertaken, including the persons or organisations to which the proposed by-laws were submitted for comment and the details or copies of submissions received in relation to the proposed by-laws.
- 1.8.7 The proposed by-laws may then be passed at a meeting of Council at which at least two thirds of the elected members are present and the resolution to make the by-laws must be supported by an absolute majority of all members of Council.
- 1.8.8 The Chief Executive Officer of Council must then sign two copies of each by-law passed by Council and insert the date of the meeting at which the by-laws were passed.

- 1.8.9 Notice of the by-laws being passed must be published as soon as practicable after the relevant meeting of Council in the South Australian Government Gazette.
- 1.8.10 The by-laws must then be laid before both Houses of Parliament within six sitting days after they have been passed. For this purpose, Council must forward the following documents to the Secretary of the Legislative Review Committee:
- (1) one original signed copy of each by-law;
 - (2) photocopies of each signed by-law;
 - (3) copies of the report prepared for the Legislative Review Committee (at least one of which has an original signature attached);
 - (4) one original signed copy of the certificate obtained from the legal practitioner pursuant to Section 249(4) of the Act; and
 - (5) advice of the day the by-laws were, or are intended to be, published in the Gazette.
- 1.8.11 The Council must publish notice of the making of the by-laws in a newspaper circulating throughout the area of Council.

Variation of the Draft By-laws After the Close of Public Consultation

- 1.9 In the event that Council decides to vary the draft by-laws after the close of public consultation, it is usually necessary to commence the public consultation process again. This will be the case whether the variation results from public submissions or the Council's own volition. This will extend the time taken for the process.

Public Consultation

- 1.10 Public consultation will be conducted in accordance with legislative requirements.
- 1.11 The Community Engagement Plan has been prepared as per Council's Community Engagement and Consultation Policy and Level 2 Engagement (consult and involve) will be conducted.
- 1.12 The by-laws review will be promoted through corflute signage, social media posts a notice in in 'The Advertiser' newspaper.
- 1.13 Draft by-laws will be available for the public to view on the Council's engagement hub and at the Council's offices.
- 1.14 Written submissions from the public will be invited.

Financial

- 1.15 The by-laws review is funded through the Annual Business Plan.

ATTACHMENTS

1. **By-law 1 - Permits and Penalties - 2022 - Draft** [↓](#)
2. **By-law 2 - Moveable Signs - 2022 - Draft** [↓](#)
3. **By-law 3 - Local Government Land - 2022 - Draft** [↓](#)
4. **By-law 4 - Roads - 2022 - Draft** [↓](#)
5. **By-law 5 - Dogs - 2022 - Draft** [↓](#)
6. **By-law 6 - Waste Management - 2022 - Draft** [↓](#)



By-law made under the Local Government Act 1999

PERMITS AND PENALTIES BY-LAW 2022

By-law No. 1 of 2022

To provide for a permit system, to fix maximum penalties in Council by-laws, to clarify the construction of such by-laws, and to repeal certain by-laws.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Permits and Penalties By-law 2022*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

3.1 In any by-law of the Council, unless the contrary intention is clearly indicated:

3.1.1 **authorised person** means a person appointed as an authorised person pursuant to Section 260 of the *Local Government Act 1999*;

3.1.2 **Council** means the City of Prospect;

3.1.3 **drive** a vehicle means to be in control of the steering, movement or propulsion of the vehicle;

3.1.4 **driver** of a vehicle means the person driving the vehicle;

3.1.5 **motor vehicle** has the same meaning as in the *Road Traffic Act 1961*;

3.1.6 **person** includes a natural person, a body corporate or incorporated association;

3.1.7 **road** has the same meaning as in the *Local Government Act 1999*;

3.1.8 **vehicle** has the same meaning as in the *Road Traffic Act 1961* and the *Australian Road Rules* and includes a motor vehicle.

3.2 In this by-law:

3.2.1 **owner** has the same meaning as in the *Road Traffic Act 1961*;

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- 3.2.2 **prescribed offence** means an offence against a by-law of the Council relating to the driving, parking or standing of vehicles.

4. **Construction**

Every by-law of the Council shall be subject to any Act of Parliament and Regulations made thereunder.

Part 2 – Permits

5. **Council May Grant Permits**

If any by-law of the Council states that a person needs a 'permit' or 'permission' to do a specified thing, then the following provisions apply:

- 5.1 the permit must be in writing;
- 5.2 a person may apply for permission by:
- 5.2.1 making a written application for permission to the Council or its duly authorised agent;
 - 5.2.2 making application by way of a website established by the Council for the purpose of issuing a permit of a particular kind;
 - 5.2.3 obtaining a permit from a permit vending-machine installed and maintained by the Council that has been designated by the Council for the purposes of issuing a permit of a particular kind;
- 5.3 the Council may:
- 5.3.1 provide that the permit applies for a particular term;
 - 5.3.2 attach conditions to the permit the Council considers appropriate;
 - 5.3.3 change or revoke a condition, by notice in writing; or
 - 5.3.4 add new conditions, by notice in writing;
- 5.4 a person who holds a permit must comply with every condition attached to it. Failure to do so constitutes a breach of this by-law;
- 5.5 the Council may revoke a permit, by notice in writing, if:
- 5.5.1 the holder of the permit fails to comply with a condition attached to it; or
 - 5.5.2 the permit is of a continuing nature, and the Council has reasonable grounds for revoking it;
- 5.6 the Council may, by resolution, fix, vary or revoke fees or charges for the granting of a permit to do a specified thing;

- 5.7 a person who applies for permission by way of subparagraph 5.2.2 or 5.2.3 is taken to have been granted permission when the following steps have been completed:
- 5.7.1 the person pays the permit fee (if any) by (as the case may be):
 - 5.7.1.1 inserting sufficient coins or notes into the permit vending-machine;
 - 5.7.1.2 credit or debit card; or
 - 5.7.1.3 such other method of payment that may be approved by the Council by resolution;
 - 5.7.2 the person receives a notice identifying itself as a permit from the Council to undertake the activity specified in the permit.

Part 3 – Enforcement

6. Penalties

- 6.1 A person who contravenes, or fails to comply with any by-law of the Council is guilty of an offence and is liable to a maximum penalty, being the maximum penalty referred to in the *Local Government Act 1999* which may be fixed for offences against a by-law.
- 6.2 A person who is convicted of an offence against any by-law of the Council in respect of a continuing act or omission is liable, in addition to the penalty otherwise applicable, to a further penalty, being the maximum penalty referred to in the *Local Government Act 1999* which may be fixed for offences of a continuing nature against a by-law.

7. Liability of Vehicles Owners and Expiation of Certain Offences

- 7.1 Without derogating from the liability of any other person, but subject to this paragraph, if a vehicle is involved in a prescribed offence, the owner of the vehicle is guilty of an offence and liable to the same penalty as is prescribed for the principal offence and the expiation fee that is fixed for the principal offence applies in relation to an offence against this paragraph.
- 7.2 The owner and driver of a vehicle are not both liable through the operation of this paragraph to be convicted of an offence arising out of the same circumstances, and consequently conviction of the owner exonerates the driver and conversely conviction of the driver exonerates the owner.
- 7.3 An expiation notice or expiation reminder notice given under the *Expiation of Offences Act 1996* to the owner of a vehicle for an alleged prescribed offence involving the vehicle must be accompanied by a notice inviting the owner, if they were not the driver at the time of the alleged prescribed offence, to provide the Council or officer specified in the notice, within the period specified in the notice, with a statutory declaration:
- 7.3.1 setting out the name and address of the driver; or

- 7.3.2 if they had transferred ownership of the vehicle to another prior to the time of the alleged offence and has complied with the *Motor Vehicles Act 1959* in respect of the transfer - setting out details of the transfer (including the name and address of the transferee).
- 7.4 Before proceedings are commenced against the owner of a vehicle for an offence against this section involving the vehicle, the Informant must send the owner a notice:
- 7.4.1 setting out particulars of the alleged prescribed offence; and
- 7.4.2 inviting the owner, if he or she was not the driver at the time of the alleged prescribed offence, to provide the Informant, within 21 days of the date of the notice, with a statutory declaration setting out the matters referred to in subparagraph 7.3.
- 7.5 Subparagraph 7.4 does not apply to:
- 7.5.1 proceedings commenced where an owner has elected under the *Expiation of Offences Act 1996* to be prosecuted for the offence; or
- 7.5.2 proceedings commenced against an owner of a vehicle who has been named in a statutory declaration under this section as the driver of the vehicle.
- 7.6 Subject to subparagraph 7.7, in proceedings against the owner of a vehicle for an offence against this paragraph, it is a defence to prove:
- 7.6.1 that, in consequence of some unlawful act, the vehicle was not in the possession or control of the owner at the time of the alleged prescribed offence; or
- 7.6.2 that the owner provided the Informant with a statutory declaration in accordance with an invitation under this paragraph.
- 7.7 The defence in paragraph 7.6.2 does not apply if it is proved that the owner made the declaration knowing it to be false in a material particular.
- 7.8 If:
- 7.8.1 an expiation notice is given to a person named as the alleged driver in a statutory declaration under this paragraph; or
- 7.8.2 proceedings are commenced against a person named as the alleged driver in such a statutory declaration,
- the notice or summons, as the case may be, must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged driver.
- 7.9 The particulars of the statutory declaration provided to the person named as the alleged driver must not include the address of the person who provided the statutory declaration.

8. Evidence

In proceedings for a prescribed offence, an allegation in an Information that:

- 8.1 a specified place was a road or local government land; or
- 8.2 a specified vehicle was driven, parked or left standing in a specified place; or
- 8.3 a specified vehicle was parked or left standing for the purposes of soliciting business from a person or offering or exposing goods for sale; or
- 8.4 a specified place was not formed or otherwise set aside by the Council for the purposes of the driving, parking or standing of vehicles; or
- 8.5 a specified person was an authorised person; or
- 8.6 a specified provision was a condition of a specified permit granted under paragraph 5 of this by-law; or
- 8.7 a specified person was the owner or driver of a specified vehicle; or
- 8.8 a person named in a statutory declaration under paragraph 7 of this by-law for the prescribed offence to which the declaration relates was the driver of the vehicle at the time at which the alleged offence was committed; or
- 8.9 an owner or driver of a vehicle for a prescribed offence was given notice under paragraph 7 of this by-law on a specified day,

is proof of the matters so alleged in the absence of proof to the contrary.

Part 4 – Miscellaneous**9. Revocation**

Council's *Permits and Penalties By-law 2015*, published in the *Gazette* on 3 September 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect held on the _____ day of _____ 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer



By-law made under the Local Government Act 1999

MOVEABLE SIGNS BY-LAW 2022

By-law No. 2 of 2022

To set standards for moveable signs on roads, to provide conditions for and the placement of such signs, to protect public safety and to protect or enhance the amenity of the area of the Council.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Moveable Signs By-law 2022*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

In this by-law:

- 3.1 **banner** means a moveable sign constituted of a strip of cloth, plastic or other material hung or attached to a pole, fence or other structure;
- 3.2 **footpath** means:
 - 3.2.1 a footway, lane or other place made or constructed for the use of pedestrians; or
 - 3.2.2 that part of road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;
- 3.3 **moveable sign** has the same meaning as the *Local Government Act 1999*;
- 3.4 **road** has the same meaning as in the *Local Government Act 1999*;
- 3.5 **road related area** has the same meaning as in the *Road Traffic Act 1961*.

Part 2 – Provisions Applicable to Moveable Signs

4. Design and Construction

A moveable sign displayed on a road must:

- 4.1 be constructed so as not to present a hazard to any member of the public;
- 4.2 be constructed so as to be stable when in position and to be able to keep its position in adverse weather conditions;
- 4.3 not be unsightly or offensive in appearance;
- 4.4 not contain flashing or moving parts;
- 4.5 be not more than 1 metre high, 60 centimetres in width or 60 centimetres in depth;
- 4.6 not have a display area on any side exceeding 1m²;
- 4.7 in the case of an 'A' frame or sandwich board sign:
 - 4.7.1 be hinged or joined at the top;
 - 4.7.2 be of such construction that its sides can be and are securely fixed or locked in position when erected;
- 4.8 in the case of an inverted 'T' sign, contain no struts or members than run between the display area of the sign and the base of the sign.

5. Placement

A moveable sign displayed on a road must:

- 5.1 not be placed anywhere except on the footpath;
- 5.2 not be placed on a footpath that is less than 2.1 metres wide;
- 5.3 not be placed on a sealed footpath, unless the sealed part is wide enough to contain the sign and still leave a clear thoroughfare at least 1.2 metres wide;
- 5.4 not be placed on a footpath, unless there is at least 2 metres between the sign and any structure above the sign;
- 5.5 be placed at least 40 centimetres from the kerb (or if there is no kerb, from the edge of the roadway);
- 5.6 not be placed on a landscaped area, other than on landscaping that comprises only lawn;
- 5.7 not be placed on a designated parking area or within 1 metre of an entrance to any premises; and
- 5.8 not be fixed, tied or chained to, leaned against or placed closer than 2 metres to any other structure, object or plant (except another moveable sign);
- 5.9 not be fixed, tied or chained to, leaned against or placed closer than 2 metres to another moveable sign;
- 5.10 not be placed in a position that puts the safety of any person at risk;

- 5.11 not be placed on a median strip, traffic island or on a carriageway;
- 5.12 within 10 metres of an intersection of a road.

6. **Restrictions**

A moveable sign displayed on a road must:

- 6.1 only contain material which advertises a business being conducted on commercial premises adjacent to the sign, or the goods and services available from that business;
- 6.2 be limited to one per business premises;
- 6.3 not be displayed unless the business to which it relates is open to the public;
- 6.4 be securely fixed in position such that it cannot be blown over or swept away;
- 6.5 not be displayed during the hours of darkness unless it is clearly visible.

7. **Appearance**

A moveable sign displayed on a road must:

- 7.1 be painted or otherwise detailed in a competent and professional manner;
- 7.2 be legible and simply worded to convey a precise message;
- 7.3 be of such design and contain such colours that are compatible with the architectural design of the premises adjacent to the sign and are compatible with the townscape and overall amenity of the locality in which the sign is situated;
- 7.4 contain a combination of colours and typographical styles that blend in with and reinforce the heritage qualities of the locality and the buildings in which the sign is situated;
- 7.5 not have any balloons, flags, streamers or other things attached to it.

8. **Banners**

A banner must:

- 8.1 only be displayed on a road, footpath or road related area;
- 8.2 be securely fixed to a pole, fence or other structure so that it does not hang loose or flap;
- 8.3 not be attached to any building, structure, fence, vegetation or other item owned by the Council on a road, or other improvement to a road owned by the Council;
- 8.4 not be displayed more than one month before and two days after the event it advertises;

- 8.5 not be displayed for a continuous period of more than one month and two days in any twelve month period;
- 8.6 not exceed 3m² in size.

Part 3 – Enforcement

9. Removal of Unauthorised Moveable Signs

- 9.1 If:
- 9.1.1 a moveable sign has been placed on any road or footpath in contravention of this by-law or of section 226 of the *Local Government Act 1999*, an authorised person may order the owner of the sign to remove the moveable sign from the road or footpath;
- 9.1.2 the authorised person cannot find the owner, or the owner fails to comply immediately with the order, the authorised person may remove and dispose of the sign;
- 9.1.3 a moveable sign is removed under subparagraph 9.1.2 of this by-law and is not claimed within 30 days of such removal the authorised person may sell, destroy or otherwise dispose of the moveable sign as the authorised person thinks fit.
- 9.2 Any person who displays an unauthorised moveable sign or who is the owner of an unauthorised moveable sign which has been removed under subparagraph 9.1 of this by-law must pay the Council any reasonable costs incurred in removing, storing or attempting to dispose of the moveable sign before being entitled to recover the moveable sign.

10. Removal of Authorised Moveable Signs

A moveable sign must be removed or relocated by the person who placed the moveable sign on a road or footpath or the owner of the sign, at the request of an authorised person if:

- 10.1 in the opinion of the authorised person, and notwithstanding compliance with this by-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or
- 10.2 so required by the authorised person for the purpose of special events, parades, road or footpath works or any other circumstances which, in the opinion of the authorised person, requires relocation or removal of the moveable sign.

Part 4 – Miscellaneous

11. Specified Exemptions

- 11.1 This by-law does not apply to a moveable sign which:
- 11.1.1 is a moveable sign that is placed on a public road pursuant to an authorisation under the *Local Government Act 1999* or another Act;

- 11.1.2 directs people to the open inspection of any land or building that is available for purchase or lease;
 - 11.1.3 directs people to a garage sale that is being held on residential premises;
 - 11.1.4 directs people to a charitable function;
 - 11.1.5 is related to a State or Commonwealth election and is displayed during the period commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day;
 - 11.1.6 is related to a referendum and is displayed during the course and for the purpose of that referendum;
 - 11.1.7 is displayed with permission of the Council and in accordance with any conditions attached to that permission; or
 - 11.1.8 is a sign of a class prescribed in regulations.
- 11.2 Paragraphs 6.2 and 6.3 of this by-law do not apply to a flat sign containing only the banner or headlines of a newspaper or magazine.
- 11.3 Paragraphs 4, 6.2, 6.3 and 7 of this by-law do not apply to a directional sign to an event run by a charitable body.

12. Revocation

Council's *Moveable Signs By-law 2015*, published in the *Gazette* on 3 September 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect held on the _____ day of _____ 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2022

By-law No. 3 of 2022

For the management and regulation of the use of and access to all land vested in or under the control of the Council including the prohibition and regulation of particular activities on local government land.

Part 1 – Preliminary

1. **Short Title**

This by-law may be cited as the *Local Government Land By-law 2022*.

2. **Commencement**

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. **Definitions**

In this by-law:

- 3.1 **animal** includes birds, insects and fish;
- 3.2 **aquatic reserve** means an area of local government land (including any waters) declared by the Council, by resolution, to be an aquatic reserve for the purposes of this by-law;
- 3.3 **boat** includes a raft, canoe, personal watercraft or any other similar device;
- 3.4 **camp** includes setting up a camp, or cause a tent, caravan or motorhome to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 3.5 **children's playground** means any enclosed area in which there is equipment, apparatus or other installed devices for the purpose of children's play (or within 5 metres of such devices if there is no enclosed area);
- 3.6 **community garden** means an area of land set aside by the Council for the purposes of being gardened collectively by a group of people;
- 3.7 **domestic animal** includes any duck, reptile or fish;

- 3.8 **e-cigarette** means:
- 3.8.1 a device that is designed to generate or release an aerosol or vapour for inhalation by its user in a manner similar to the inhalation of smoke from an ignited tobacco product; or
- 3.8.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;
- 3.9 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 3.10 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.11 **funeral ceremony** means a ceremony only (ie a memorial service) and does not include a burial;
- 3.12 **inflatable castle** includes a bouncy castle, jumping castle and any other inflatable structure used for recreational purposes;
- 3.13 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.14 **local government land** has the same meaning as in the *Local Government Act 1999*, but does not include any road;
- 3.15 **model aircraft** includes a drone;
- 3.16 **open container** means a container which:
- 3.16.1 after the contents thereof have been sealed at the time of manufacture and:
- 3.16.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
- 3.16.1.2 being a can, it has been opened or punctured;
- 3.16.1.3 being a cask, has had its tap placed in a position to allow it to be used;
- 3.16.1.4 being any form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to the contents thereof; or
- 3.16.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.17 **personal watercraft** means a device that:
- 3.17.1 is propelled by a motor; and
- 3.17.2 has a fully enclosed hull; and

- 3.17.3 is designed not to retain water if capsized; and
- 3.17.4 is designed to be operated by a person who sits astride, stands, or kneels on the device,
- and includes the device commonly referred to as a jet ski;
- 3.18 **smoke** means:
- 3.18.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
- 3.18.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.19 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*;
- 3.20 **variable message sign** includes a permanent, portable or vehicle mounted electronic sign (except when the sign is used as a traffic control device);
- 3.21 **waters** means any body of water including a pond, lake, river, creek or wetlands under the care, control and management of Council;
- 3.22 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

Part 2 – Management of Local Government Land

4. Activities Requiring Permission

A person must not on any local government land, without the permission of Council:

4.1 Advertising & Signage

- 4.1.1 display any sign for the purpose of commercial advertising;
- 4.1.2 erect, install, place or display a variable message sign;

4.2 Aircraft

subject to the *Civil Aviation Act 1988* (Cth), land or take off any aircraft on or from the land;

4.3 Alteration to Local Government Land

make an alteration to the land, including:

- 4.3.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property; or
- 4.3.2 erecting or installing a structure (including pipes, wires, cables, pavers, fixtures, fittings and other objects) in, on, across, under or over the land; or

- 4.3.3 changing or interfering with the construction, arrangement or materials of the land; or
- 4.3.4 changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings or other objects) associated with the land; or
- 4.3.5 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land;
- 4.4 **Amplification**
- use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound;
- 4.5 **Animals on local government land**
- 4.5.1 cause or allow any animal to stray onto, move over, graze or be left unattended;
- 4.5.2 cause or allow any animal under his or her control to enter, swim or bathe in any waters where the Council has, by resolution, determined this restriction will apply;
- 4.5.3 release or leave any domestic animal;
- 4.6 **Attachments**
- attach anything to a tree, plant, structure or fixture on local government land;
- 4.7 **Bees**
- place, or allow to remain, any bee hive;
- 4.8 **Boats**
- 4.8.1 hire or offer for hire a boat, raft, pontoon or other watercraft;
- 4.8.2 launch or retrieve a boat, raft, pontoon, model boat or other watercraft to or from any waters to which the Council has resolved this subparagraph will apply;
- 4.8.3 propel, float or otherwise use any boat, raft, pontoon, model boat or other watercraft on any waters to which the Council has resolved this subparagraph will apply;
- 4.9 **Bridge Jumping**
- jump from or dive from a bridge;
- 4.10 **Buoys etc.**
- place any buoy, cable, chain, hawser, rope or net in or across any waters;

4.11 Buildings & Structures

- 4.11.1 erect or install a building;
- 4.11.2 use a building or structure other than for its intended purpose;

4.12 Camping

- 4.12.1 erect any tent or other structure of calico, canvas, plastic or similar material as a place of habitation;

- 4.12.2 camp or sleep overnight;

except where a sign or signs erected by the Council indicate that camping on the land is permitted or where the person is in a caravan park (the proprietor of which has been given permission to operate the caravan park on that land);

4.13 Cemeteries

Comprising a cemetery:

- 4.13.1 bury or inter any human or animal remains;
- 4.13.2 erect any memorial;

4.14 Closed lands

enter or remain on any part of the land:

- 4.14.1 at any time during which the Council has declared that it shall be closed to the public, and which is indicated by a sign to that effect; or
- 4.14.2 where the land is enclosed with fences and/or walls and gates, at any time when the gates have been closed and locked; or
- 4.14.3 where admission charges are payable, without paying those charges;

4.15 Distribution

give out or distribute to any bystander or passer-by any handbill, book, notice, or other printed matter;

4.16 Donations

ask for or receive or indicate that he or she desires a donation of money or any other thing;

4.17 Fires

light any fire except:

- 4.17.1 in a place provided by the Council for that purpose; or

4.17.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four metres; and

4.17.3 in accordance with the *Fire and Emergency Services Act 2005*;

4.18 Fireworks

discharge any fireworks;

4.19 Fishing

4.19.1 fish in any waters on local government land to which the Council has resolved this subparagraph shall apply; or

4.19.2 fish from any bridge or other structure on local government land to which the Council has resolved this subparagraph shall apply;

4.20 Flora fauna and other living things

subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

4.20.1 except in a community garden, damage, pick, or interfere with any plant, fungi or lichen thereon; or

4.20.2 tease, remove or cause harm to any animal or bird or the eggs or young of any animal or bird or aquatic creature;

4.20.3 use, possess or have control of any device for the purpose of killing or capturing any animal or bird;

4.21 Funerals and scattering ashes

conduct or participate in a funeral ceremony, or scatter ashes on land to which the Council has resolved this subparagraph will apply;

4.22 Golf

play or practice golf on any land to which the Council has resolved this subparagraph will apply;

4.23 Lighting

4.23.1 use or operate any fixed floodlight;

4.23.2 use or operate any portable floodlight between sunrise and sunset on land to which this subparagraph applies;

4.24 Model aircraft and cars

4.24.1 subject to the *Civil Aviation Act 1988*, fly or operate a model aircraft;

4.24.2 operate a model car;

4.25 No liquor

4.25.1 consume, carry or be in possession or charge of any liquor on any local government land to which the Council has resolved this subparagraph will apply (provided the land constitutes a park or reserve);

4.25.2 excepting sealed containers, consume, carry or be in possession or charge of any liquor in an open container on any local government land to which the Council has resolved this subparagraph will apply (provided the land constitutes a park or reserve);

4.26 Obstructions

obstruct:

4.26.1 any path or cycle track;

4.26.2 any door, entrance, stairway or aisle on any building; or

4.26.3 any gate or entrance to the land;

4.27 Picking of fruit, nuts or berries

except in any community garden, pick fruit, nuts, seeds or berries from any plant;

4.28 Playing Area

use or occupy any playing area:

4.28.1 in such a manner as is likely to or does damage the surface of the playing area and/or infrastructure (above or below ground level);

4.28.2 in any manner contrary to the purpose for which the playing area was intended to be used or occupied; or

4.28.3 contrary to the directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

4.29 Preaching and Canvassing

preach, canvass, harangue or otherwise solicit for religious purposes except on any land or part thereof where the Council has, by resolution, determined this restriction shall not apply;

4.30 Public Exhibitions and Displays

4.30.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;

4.30.2 conduct or hold any concert, festival, show, public gathering, circus, performance or any other similar activity;

4.30.3 erect or inflate any inflatable castle;

4.30.4 cause any public exhibitions or displays;

4.31 Pontoons

install or maintain a pontoon, fixed floating jetty, or other jetty;

4.32 Removing

carry away or remove any earth, rocks, minerals, plant material (dead or living), animal remains (including shells and fossils) or any part of the land;

4.33 Selling

sell anything or display anything for sale;

4.34 Swimming

swim, bathe or enter any waters to which the Council has resolved this subparagraph will apply;

4.35 Vehicles

4.35.1 drive or propel a motor vehicle thereon, unless on an area or road constructed or set aside by the Council for the parking or travelling of motor vehicles;

4.35.2 except on an area properly constructed for the purpose, promote, organise or take part in any race, test or trial of any kind in which motor vehicles, motor cycles, motor scooters or bicycles take part;

4.36 Weddings

conduct or participate in a marriage ceremony on land to which the Council has resolved this subparagraph will apply;

4.37 Working on vehicles

perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle, except for running repairs in the case of breakdown.

5. Prohibited Activities

A person must not, on any local government land:

5.1 Animals

5.1.1 cause or allow any animal to enter, swim, bathe or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming;

- 5.1.2 cause or allow an animal in that persons control, charge or ownership to damage Council property;

5.2 **Annoyances**

unreasonably annoy or interfere with any other person's use of the land by making a noise or creating a disturbance that has not been authorised by the Council;

5.3 **Children's playgrounds**

use any device, equipment or apparatus installed in a children's playground if that person is of or over the age indicated by sign or notice as the age limit for using such equipment, apparatus or other installed device;

5.4 **Interference with Permitted Use**

interrupt, disrupt or interfere with any other person's use of local government land which is permitted or for which permission has been granted;

5.5 **Playing games**

5.5.1 play or practice a game in any area where a sign indicates that the game is prohibited;

5.5.2 promote, organise or take part in any organised athletic sport in any area to which the Council has resolved this subparagraph will apply;

5.5.3 play any organised competition sport, as distinct from organised social play, in any area to which the Council has resolved this subparagraph will apply;

5.6 **Smoking**

smoke:

5.6.1 in any building or part of any building; or

5.6.2 on any local government land;

to which the Council has resolved this subparagraph will apply;

5.7 **Toilets**

in any public convenience:

5.7.1 urinate other than in a urinal or pan or defecate other than in a pan provided for that purpose;

5.7.2 smoke tobacco or any other substance;

5.7.3 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

5.7.4 use it for a purpose for which it was not designed or constructed;

5.8 Use of equipment

use any item of equipment or property belonging to the Council other than in the manner and for the purpose for which it was designed or set aside;

5.9 Wheeled Recreational Devices

subject to the *Road Traffic Act 1961* and the *Local Government Act 1999*, ride a wheeled recreational device on any local government land to which the Council has resolved this subparagraph will apply.

Part 3 – Miscellaneous

6. Directions

A person must comply with any reasonable direction or request from an authorised person relating to:

- 6.1 that person's use of the land;
- 6.2 that person's conduct and behaviour on the land;
- 6.3 that person's safety on the land;
- 6.4 the safety and enjoyment of the land by other persons.

7. Removal of Animals and Exclusion of Persons

- 7.1 If any animal is found on local government land in breach of this by-law:
 - 7.1.1 any person in charge of the animal shall forthwith remove it from that land on the request of an authorised person; and
 - 7.1.2 any authorised person may remove any animal from the land if the person fails to comply with the request, or if no person is in charge of the animal.
- 7.2 An authorised person may direct any person who is considered to be committing, or has committed, a breach of this by-law to leave local government land.

8. Exemptions

- 8.1 The restrictions in this by-law do not apply to any Police Officer, Council Officer or Council employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer, or to an emergency worker performing emergency duties.
- 8.2 The restrictions in paragraph 4.3.2, 4.6, 4.15, 4.29, 4.30.1, 4.30.2 and 4.30.4 of this by-law do not apply to:

- 8.2.1 electoral matters authorised by a candidate and which relate to a Commonwealth or State election that occurs during the period commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 8.2.2 matters which relate to, and occur during, the course of and for the purpose of a referendum.

9. **Application**

Any of paragraphs 4.5.2, 4.8.2, 4.8.3, 4.19, 4.21, 4.22, 4.23.2, 4.25, 4.34, 4.36, 5.5.2, 5.5.3, 5.6 and 5.9 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct from time to time in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

10. **Revocation**

Council's *Local Government Land By-law 2015*, published in the *Gazette* on 3 September 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect held on the _____ day of _____ 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer



By-law made under the Local Government Act 1999

ROADS BY-LAW 2022

By-law No. 4 of 2022

For the management of public roads.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Roads By-law 2022*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

In this by-law, unless the contrary intention appears:

- 3.1 **adjacent land** has the same meaning as in the *Australian Road Rules*;
- 3.2 **animal** includes birds and poultry but does not include a dog;
- 3.3 **camp** includes setting up a camp, or causing a tent, caravan or motorhome to remain on the road for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 3.4 **dog** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 3.5 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 3.6 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;

Part 2 – Management of Roads

4. Activities Requiring Permission

A person must not on any road, without the permission of the Council:

4.1 Advertising

display any sign for the purpose of commercial advertising, other than a moveable sign which is displayed on a public road in accordance with the Council's *Moveable Signs By-law 2022*;

4.2 Amplification

use an amplifier or other device whether mechanical or electrical for the purposes of amplifying sound;

4.3 Animals

4.3.1 cause or allow any animal, to stray onto, graze, wander on or be left unattended on any road;

4.3.2 lead, drive or exercise any animal in such a manner as to endanger the safety of any person;

4.4 Bridge Jumping

jump from or dive from a bridge;

4.5 Camping

4.5.1 erect any tent or other structure of calico, canvas, plastic or similar material as a place of habitation;

4.5.2 camp or sleep overnight;

4.5.3 camp or sleep overnight in a motorhome, except where a sign or signs erected by the Council indicate that camping on the road in such a vehicle is permitted;

4.6 Donations

ask for or receive or indicate that he or she desires a donation of money or any other thing;

4.7 Driving on Formed Surface

drive a motor vehicle other than on a portion of the road that has been formed or otherwise set aside by the Council for the driving of motor vehicles, unless it is not reasonably practical to do so;

4.8 Fishing

fish from any bridge or other structure on a road to which the Council has resolved this subparagraph shall apply;

4.9 Preaching

preach or harangue;

4.10 Public Exhibitions and Displays

- 4.10.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;
- 4.10.2 conduct or hold any concert, festival, show, public gathering, circus, meeting, performance or any other similar activity;
- 4.10.3 cause any public exhibitions or displays;

4.11 Working on vehicles

perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle, except for running repairs in the case of breakdown.

5. Prohibited Activities

A person who owns or is in charge of any horse or cattle must, if the horse or cattle defecates on a road, immediately remove the faeces and dispose of them in a lawful and suitable manner.

Part 3 – Miscellaneous**6. Directions**

A person must comply with any reasonable direction or request from an authorised person relating to:

- 6.1 that person's use of the road;
- 6.2 that person's conduct and behaviour on the road;
- 6.3 that person's safety on the road;
- 6.4 the safety and enjoyment of the road by other persons.

7. Removal of Animals

If any animal is found on a road in breach of this by-law:

- 7.1 any person in charge of the animal shall forthwith remove it from that land on the request of an authorised person; and
- 7.2 any authorised person may remove any animal from the road if the person fails to comply with the request, or if no person is in charge of the animal.

8. Exemptions

- 8.1 The restrictions in this by-law do not apply to any Police Officer, Council Officer or Council employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer, or to an emergency worker performing emergency duties.

- 8.2 The restrictions in paragraph 4.9 and 4.10 of this by-law do not apply to:
- 8.2.1 electoral matters authorised by a candidate and which relate to a Commonwealth or State election that occurs during the period commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day; or
 - 8.2.2 matters which relate to, and occur during the course of and for the purpose of a referendum.
- 8.3 Paragraph 4.7 of this by-law does not apply to a motor vehicle being driven to or from adjacent land by the shortest practical route.

9. **Revocation**

Council's *Roads By-law 2015*, published in the *Gazette* on 3 September 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect held on the _____ day of _____ 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer



*By-law made under the Local Government Act 1999
and the Dog and Cat Management Act 1995*

DOGS BY-LAW 2022

By-law No. 5 of 2022

For the management and control of dogs within the Council's area.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Dogs By-law 2022*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

In this by-law:

- 3.1 **approved kennel establishment** means a building, structure or area approved by the relevant authority, pursuant to the *Development Act 1993* or *Planning, Development and Infrastructure Act 2016* for the keeping of dogs on a temporary or permanent basis;
- 3.2 **assistance dog** means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled and includes a dog undergoing training of a kind approved by the Board for assistance dogs;
- 3.3 **children's playground** means any enclosed area in which there is equipment, apparatus or other installed devices for the purpose of children's play (or within 5 metres of such devices if there is no enclosed area);
- 3.4 **control**, in relation to a dog, includes the person having ownership, possession or charge of, or authority over, the dog;
- 3.5 **dog** has the same meaning as in the *Dog and Cat Management Act 1995* but does not include a dog that is under 3 months of age;
- 3.6 **effective control** means a person exercising effective control of a dog either:
 - 3.6.1 by means of a physical restraint;

- 3.6.2 by command, the dog being in close proximity to the person, and the person being able to see the dog at all times;
- 3.7 **keep** includes the provision of food or shelter;
- 3.8 **leash** includes any chain, cord or leash;
- 3.9 **local government land** has the same meaning as in the *Local Government Act 1999*;
- 3.10 **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 3.11 **premises** includes:
- 3.11.1 land;
- 3.11.2 a part of any premises or land;
- 3.12 **public place** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 3.13 **wetland area** includes any park, reserve, scrub, trail or other land adjacent to a wetland.

Part 2 – Dog Management and Control

4. Dog Prohibited Areas

- 4.1 A person must not allow a dog in that person's control to be in, or remain in a dog prohibited area.
- 4.2 For the purposes of this paragraph, a **dog prohibited area** is any:
- 4.2.1 local government land or public place to which the Council has resolved this sub-paragraph applies; or
- 4.2.2 children's playground.
- 4.3 The restrictions in subparagraph 4.1 do not apply to any assistance dog.

5. Dog on Leash Areas

- 5.1 A person must not allow a dog under that person's control to be in, or remain in, a dog on leash area unless the dog is secured by a strong leash not exceeding two metres in length which is either:
- 5.1.1 tethered securely to a fixed object capable of securing the dog; or
- 5.1.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.
- 5.2 For the purposes of this paragraph, a **dog on leash area** is any:

- 5.2.1 local government land or public place to which the Council has resolved that this sub-paragraph applies;
- 5.2.2 park when organised sport is being played; or
- 5.2.3 wetland area.

6. Dog Off Leash Areas

- 6.1 Subject to paragraphs 4 and 5, a person may enter any dog off leash area for the purpose of exercising a dog under his or her control.
- 6.2 For the purposes of this paragraph, a **dog off leash area** is any:
 - 6.2.1 park; or
 - 6.2.2 local government land that the Council has resolved is a dog off leash area.
- 6.3 A person must ensure that any dog under their control remains under effective control while the dog is in a dog off leash area.

7. Limit on Dog Numbers

- 7.1 The limit on the number of dogs kept on any premises is two dogs.
- 7.2 A person must not, without permission, keep any dog on any premises where the number of dogs on the premises exceeds the limit unless the premises is:
 - 7.2.1 an approved kennel establishment;
 - 7.2.2 a veterinary practice;
 - 7.2.3 a pet shop;
 - 7.2.4 any premises that the Council has exempted from the requirements of this paragraph; or
 - 7.2.5 any business involving dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995*.

Part 3 – Miscellaneous

8. Application

- 8.1 The Council may from time to time, by resolution, identify local government land as a dog off leash area in accordance with subparagraph 6.2.2 of this by-law.
- 8.2 Any of paragraphs 4.2.1 and 5.2.1 of this by-law shall apply only in such portion or portions of the area as the Council may from time to time, by resolution, direct in accordance with Section 246 of the *Local Government Act 1999*.

- 8.3 Where the Council makes a resolution under either of subparagraphs 8.1 or 8.2, the Council's Chief Executive Officer must ensure that:
- 8.3.1 the area is denoted by signs erected by the Council; and
 - 8.3.2 information is provided to the public on the Council's website and in any other manner determined by the Council's Chief Executive Officer.

9. **Revocation**

Council's *Dogs By-law 2015*, published in the *Gazette* on 3 September 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect held on the day of 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer



By-law made under the Local Government Act 1999

WASTE MANAGEMENT BY-LAW 2022

By-law No. 6 of 2022

To regulate and control the removal of domestic, recyclable and green organic waste from premises, for the prevention and suppression of nuisances, and for regulating the management of property of the Council.

Part 1 – Preliminary

1. **Short Title**

This by-law may be cited as the *Waste Management By-law 2022*.

2. **Commencement**

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. **Definitions**

In this by-law:

- 3.1 **carriageway** means that part of a road designed for and used by vehicular traffic (including bicycles) as distinct from that part of a road designed for and used by pedestrians;
- 3.2 **green organics** means any clean organic matter, free of any excess soil, consisting of lawn clippings, plants, vegetables, eggs, shells, bones, leaves, prunings, horse manure, pet waste, nesting material or other materials as specified by the Council;
- 3.3 **green organics container** means a container for the reception of green organics;
- 3.4 **hard rubbish** means any internal and external household items such as whitegoods, entertainment appliances, furniture and mattresses able to be lifted and carried by two persons but excludes any household waste;
- 3.5 **household waste** means any kind of domestic and kitchen waste generated from residences, but excludes liquids, metals (other than food containers), building materials, stones, bricks, soil, lead, acid batteries and any dangerous or toxic waste;

- 3.6 **household waste container** means a container for the reception of household waste;
- 3.7 **recyclables** means newspapers, magazines, paper, cardboard, plastic containers of a type specified by the Council, tins, cans, glass, milk and juice containers, solid plastic material and other materials as specified by the Council;
- 3.8 **recyclables container** means a container for the reception of recyclables.

Part 2 – Waste Collection

4. Provide Containers

- 4.1 An occupier of domestic premises must keep on his or her premises a household waste container and a recyclables container as approved by the Council.
- 4.2 An occupier of domestic premises may keep on his or her premises a green organics container as approved by the Council.

5. Management of Waste Collection Service

An occupier of premises must:

5.1 Household Waste

- 5.1.1 ensure that the household waste container kept on his or her premises is approved by the Council; and
- 5.1.2 ensure that the household waste container contains only household waste;

5.2 Recyclables

- 5.2.1 ensure that the recyclables container kept on his or her premises is approved by the Council; and
- 5.2.2 ensure that the recyclables container contains only recyclables;

5.3 Green Organics

- 5.3.1 ensure that the green organics container be a container that is approved by the Council; and
- 5.3.2 ensure that the green organics container contains only green organics;

5.4 Keep Container Clean

cause each container to be kept in a clean and sanitary condition, maintained in good order and repair, and kept waterproof at all times;

5.5 Sealing of Container

cause the lid of each container to continuously and securely cover the container body except when waste is being deposited in or removed from the container;

5.6 Damage

ensure that each container is maintained so that it is not damaged or worn to the extent that:

- 5.6.1 it is not robust;
- 5.6.2 the container body is not watertight;
- 5.6.3 it is unable to be moved on its wheels efficiently;
- 5.6.4 the lid does not seal on the container when closed;
- 5.6.5 its efficiency or use is otherwise impaired;

5.7 Collection Services

5.7.1 An occupier of premises must facilitate the collection and removal of household waste, recyclables or green organics from their premises by placing the relevant waste container out for collection in accordance with:

- 5.7.1.1 the **collection service requirements** specified in clause 5.7.2; or
- 5.7.1.2 the terms of any permit granted by the Council for the placement of waste containers; or
- 5.7.1.3 as otherwise approved by the Council.

5.7.2 The collection service requirements for the collection of household waste containers, recyclables containers and green organics containers are:

- 5.7.2.1 the container must be placed out for collection no earlier than 24 hours prior to the appointed collection time;
- 5.7.2.2 where there is a kerb, the container must be placed on the footpath, verge or nature strip directly adjacent the premises, as near as practicable to the kerb so that the side of the container on which the hinges of the lid are situated face the premises;
- 5.7.2.3 where there is no kerb, the container must be placed on the road verge directly adjacent the premises, abutting the edge of (but not on) the carriageway and positioned so that the side of the container on which the hinges of the lid are situated face the premises;
- 5.7.2.4 the container must not be placed within 1 meter of another waste container;
- 5.7.2.5 the container must not be placed under the overhanging branches of any tree;
- 5.7.2.6 the container must be removed from its position on the same day as the collection, after the collection has taken place.

6. **Interference With Garbage/Hard Rubbish**

A person must not remove, disturb or interfere with any recyclables or hard rubbish (including bottles, newspapers, cans, containers or packaging) that has been placed:

- 6.1 for disposal in or near a container; or
- 6.2 on a public street or road for collection by the Council, its agents or contractors, except with the permission of the Council or with the authority of the owner.

Part 3 – Miscellaneous

7. **Revocation**

Council's *Waste Management By-law 2015*, published in the *Gazette* on 1 October 2015, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Prospect on the _____ day of _____ 2022 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
Mr Chris White
Chief Executive Officer