



COUNCIL REPORT

Agenda Item Number:	14.02.01
Report Title:	Drafting Instructions – Litchfield Public Places By-laws
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Recommending Officer:	Daniel Fletcher, Chief Executive Officer
Meeting Date:	14/12/2021
Attachments:	A: Draft Table of By-law Instructions

Executive Summary

This report seeks Council's endorsement of the draft By-law instructions, at Attachment A.

Recommendation

THAT Council endorse the draft table of By-law Instructions, at Attachment A, subject to minor editorial changes by the Chief Executive Officer.

Background

By-laws are used to respond to issues and community need within a local government area. By-laws are subordinate legislation of the NT Local Government Act and complement responsibilities and powers under both state and federal law. Council by-laws apply to activities on government land as well as Council land.

By-laws should be fit for purpose and reflect community standards, expectations and Council operations.

Without by-laws Council needs to rely on the provisions of the local Government Act, such as the issuing of regulatory orders. This is the process used for a current issue with the continual stacking and storing of goods on the verge, creating a nuisance that is a costly and time-consuming process which allows many avenues of appeal against Council actions.

Council currently manages signs on Council controlled roadside verges through the care and control facilities in section 271 of the Local Government Act and as such removes signs, however it has no control over signage on NT controlled roads. Other than removing signs from its road reserves Council has no power to take any further action.

There are Council decisions to develop by-laws for signage, roadside vans or events on Council owned land and Public Place By-laws.

Council currently has comprehensive dog management by-laws administered by a team of three rangers, supported by a business services support officer. The dog management program only operates Monday to Friday and during normal Council hours. Any additional by-laws will bring an expectation of enforcement and require increased staff resources.

The parliamentary counsel is responsible for development of by-laws for all councils in the NT and endeavours where possible to develop model by-laws that can be adapted for individual council circumstances.

In line with existing decisions and current issues the areas identified for potential additional by-laws are:

- stacking and storing of goods in a public place;
- camping without a permit;
- litter including illegal dumping;
- signs in public places (public places to include NTG roads and land);
- restricting access to public facilities; and
- behaviour in a public library.

The attached table provides draft drafting instructions for consideration by Council.

Parliamentary Council recently developed draft by-laws for City of Darwin in which most of the issues identified as Litchfield issues are included. However, those draft by-laws contain a requirement that Council must first issue a Show Cause letter before issuing an enforcement notice and that any infringement notice issued is a reviewable decision under the Local Government Act. City of Darwin has not adopted these by-laws. If by-law decisions were to be reviewable decisions they would be unworkable for a small council like Litchfield.

Council has been advised that if it does not wish by-law infringements to be reviewable decisions it can elect to not have this included. As a result, the proposed drafting instructions include a provision that by-law offences not be considered reviewable decisions.

There will be additional costs associated with the introduction of additional by-laws.

Links with Strategic Plan

A Well-Run Council - Good Governance

Legislative and Policy Implications

The Local Government Act (2019) S.275 gives Council the power to make by-laws.
July 2020 – Council adoption of NT Government Election Signage Policy
Litchfield Dog Management By-laws (2017).

Risks



Service Delivery

There is a community expectation that Council enforces its policies and by-laws. Having by-laws that are not enforced or able to be enforced affects Council's reputation in the community.

Financial

There are costs associated with regulation of public place activities, whether through by-laws or regulatory orders. Introduction of additional by-laws will require additional regulatory resources.

Community

Once Council has received any draft by-laws public consultation is required. Section 278 of Local Government Act 2019 spells out the time frames and requirement for public consultation once Council has draft by-laws.

Community Engagement

Not applicable at this stage.

Drafting Instructions – Litchfield Public Places By-laws

Draft By-laws Headings	Comment
1. Stack and store goods	<p>Create an offence for a person, without an authorisation, to place goods in, on or over public land, or outside premises adjoining public land, whether or not the goods are for sale or cause an obstruction.</p> <p>Allow an authorised person (e.g., a Litchfield Council ranger) to seize goods that are found abandoned on public land and identify the reasonable steps to be taken to enable a person to recover their goods within 14 days.</p> <p>Allow uncollected goods to be sold, destroyed or otherwise disposed of as the Council CEO sees fit after 14 days.</p>
2. Library	<p>Ability for a library officer to exclude a person from the library.</p> <p>Requirement for children under 10 years old to be supervised at all times by a capable adult or other person who, in the opinion of the library officer, is capable of supervising the child when they are in a public library.</p> <p>Requirement that any person using a public library or inside a public library must comply with the code of conduct</p>
3. Food vans and the like	Create an offence for a person to conduct a business from a roadside van without a Council permit.
4. Camping	Create an offence to camp or sleep in a public place. Include parking a motor vehicle, erecting a tent or other shelter or placing gear or equipment for the purpose of camping or sleeping anytime between sunset and sunrise, except in a designated caravan park or camping area or in accordance with a permit.
5. Unsightly allotments	Create an offence not to maintain a property such that it does not become unsightly, overgrown or in a condition that is likely to constitute a danger to health or property – e.g., nuisance, weeds, potential cyclone hazards, harbouring vermin. Allow Council to enter the property to undertake the works after a required time frame and to recover the costs of the works.
6. Erection of structures	Create an offence for a person to erect or construct a structure or anything else whether temporary or otherwise on footpath, road or public land without a permit.
7. Access to facilities	Create an offence to obstruct or intimidate another member of the public from using a public shelter, ablution facility, water supply, barbecue or fireplace.
8. Litter	Create an offence for a person to deposit litter or engage in illegal dumping.

Draft By-laws Headings	Comment
9. Council signs	Create a requirement that a person must comply with any sign erected in a public place by Council. (e.g., no camping; alcohol consumption conditions; no vehicles etc).
10. Outdoor advertising signs	<p>Create an offence to erect an outdoor advertising signs in public places within the municipality without authorisation from Council - outdoor advertising to include signs, writing, images, pictures, symbols, objects or illumination. Outdoor advertising must not cause visual clutter or disorder by having too many signs in one location or by signs obscuring each other. Outdoor advertising should not offend the public because of its design, location or message.</p> <p>Period for existing signs to be compliant.</p>
Infringement notices not to be reviewable decisions	Infringement notices under Litchfield Council by-laws not to be reviewable decisions under S18.1 of the Local Government Act.