

The Huon Valley Municipal Area By-law

Narration Script

Huon Valley Council | Candidate and Councillor Knowledge Series

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Slide 1 — Title — The Huon Valley Municipal Area By-law

Welcome to The Huon Valley Municipal Area By-law, part of the Huon Valley Council Candidate and Councillor Knowledge Series.

A by-law is the only law a council makes itself. Everything else Council does is under powers given to it by Parliament.

This module covers what by-laws are, how they are made, what they cannot do, and a brief background to the Huon Valley Municipal Area By-law.

Slide 2 — Before You Begin

A by-law is local law. Council makes it, it binds the public, and breaching it is an offence carrying a fine. It is the strongest regulatory tool Council has, which is why the Act hedges it with limits.

The module comes in two halves. The first deals with by-laws generally. The second deals with the Council's By-law in particular.

The making process appears here in outline, and is also covered in the community engagement module as an example of statutory consultation.

The Huon Valley Municipal Area By-law commenced on the first of July 2026, replacing four separate by-laws with one.

And councillors will be asked about it — often about what it does not cover. Being able to explain the limits of a by-law is as useful as knowing its contents.

Slide 3 — What a By-law Is

Section 145 gives Council power to make by-laws in respect of any act, matter or thing for which it has a function or power under any Act.

The power is tied to Council's functions. It is not open-ended — if Council has no function or power over something, it cannot make a by-law about it, however strongly the community feels.

A by-law is subordinate legislation. It is published in the Gazette, it can be disallowed by Parliament, and it sits below State law, never above it.

It is flexible in reach — it may apply to the whole municipal area or separately to parts of it, and differently according to time or circumstance.

Council's own approach is restraint. The Framework provides that Council uses existing legislation where it can, and considers a by-law only where there is a deficiency or a particular governance issue — complementing existing law rather than duplicating it.

Slide 4 — How a By-law Is Made

The process of making a by-law is deliberately demanding. Council is making law, so the Act makes it work for it.

It starts with Council — a motion of intention passed by absolute majority, without which the by-law is invalid. And it ends with Council, because a by-law may only be made under the common seal.

In between sits independent scrutiny. A regulatory impact statement goes to the Director of Local Government, who must certify it before Council may commence public consultation.

Consultation follows the certificate: notice in a daily newspaper, on the website and in the public office, with at least twenty-one days. Any person may make a submission, and Council must consider every one properly made.

Then certification and publication. A legal practitioner certifies the by-law accords with law, and the Chief Executive Officer certifies it was made in accordance with the Act. A by-law not published in the Gazette is of no effect.

Amending is lighter. Amendments are made by another by-law, but a minor or technical amendment, or one that does not significantly alter purpose, effect or public impact, needs no regulatory impact statement.

Slide 5 — What a By-law Cannot Do

Section 150 sets hard limits, and subsection 2 makes the consequence plain: any provision that contravenes it is invalid. Not voidable, not arguable — invalid.

A by-law cannot look backwards. It must not apply retrospectively, and must not shift the burden of proof onto the accused unless an Act specifically provides for that.

It cannot conflict. A by-law must not be contrary to law, and must not conflict with any planning scheme in the municipal area. That limitation does more work than any other, because it means a by-law can never authorise something State legislation regulates.

It cannot restrict competition or significantly impact business unless justified in the public interest — which is why a regulatory impact statement is required.

And it cannot protect Council. A by-law cannot exempt anyone from prosecution for nuisance at common law, and cannot exempt Council from liability. Council does not get to legislate away its own exposure.

Slide 6 — What a By-law May Provide For

A by-law without consequences is just a sign. The Act sets out the enforcement tools a by-law is permitted to create.

Contravention may be made an offence, with a fine of up to twenty penalty units, and a further two penalty units for each day a continuing offence continues.

Expenses a council incurs as a result of a contravention may be made recoverable as a debt — so the cost of repairing damage need not fall on ratepayers.

Infringement notices may be allowed, carrying a monetary penalty payable as an alternative to prosecution. The by-law must specify the amount, who may issue a notice, to whom it is paid, and the period for payment.

Employees may be authorised to remove a person reasonably believed to be offending, and to remove anything left without approval. Police may be authorised to do the same and in addition to arrest. Either may require a person's name and address.

And separately, a council must place notices advising of any by-law affecting the conduct of the public, setting out its purpose, effect and penalty — though failure to do so is not a defence.

Slide 7 — The Huon Valley Municipal Area By-law

So to the Council's own By-law.

The Huon Valley Municipal Area By-law is made under section 145 for the control and management of the properties and infrastructure Council owns or controls, the regulation of specified Council services, and particular environmental issues.

Its purpose is to provide a single legal source for that control and management. In the case of services, that means waste management facilities and the kerbside collection service.

What it sets out to achieve falls into seven areas: management and control of Council assets; environmental health, public health and safety; peaceful and equitable enjoyment; waste management; a permit system; standards and compliance; and enforcement.

It commenced on the first of July 2026, and on commencement repealed the Council Land and Recreational Facilities By-law of 2017 — the only one of the four still in force by then.

Slide 8 — Why One By-law

Council had four by-laws running on four separate clocks. It now has one, and the reason is more practical than it first appears.

Every by-law expires ten years after it takes effect unless expressed to expire sooner. Waste expired in 2023, Roads in February 2025, Caravan in September 2025, and Council Land expires in May 2027.

Four by-laws meant four renewals, staggered across years, each needing its own regulatory impact statement, Director certification, consultation and Council decisions.

It also meant four sets of machinery. Each carried its own applications, permits, notices, directions and infringement notices — four ways of doing the same administrative task, for officers to administer and the public to navigate.

The alternatives were properly assessed. Doing nothing was not viable. Relying on other legislation was inadequate. Separate by-laws were less effective. And policy had insufficient legal authority, because a policy cannot be enforced.

One by-law streamlines all of it — one set of definitions, one permit pathway, one penalty structure, one process to learn. And a minor or technical amendment needs no regulatory impact statement.

Slide 9 — What Is In It

The By-law runs to seven Parts and a Schedule.

Part 1 is preliminary: title, commencement, repeal, application and a substantial set of definitions. Part 2 is administration and permissions — rules by notice, closures, hire, bans, delegation and permits.

Part 3 covers council property: peaceable use, closed and hired areas, events, signage, animals, camping, commercial activity and vehicles. Part 4 covers infrastructure — roads, crossings, works, materials and parking.

Part 5 is environmental: natural areas, waste management facilities, the kerbside collection service, bin management, and unapproved sewerage disposal.

Parts 6 and 7 are enforcement, and offences and infringement notices, with a Schedule listing every infringeable offence and its penalty.

And note what it does not apply to. Councillors, employees, contractors and agents acting in the course of their duties. Council property that is leased. And residences under the Retirement Villages Act.

Slide 10 — Permits and Permissions

The permit system is the engine of the By-law. It is how regulated activity is allowed rather than simply prohibited, and it is what stops the By-law being a list of bans.

Applications are made to Council in writing, with a statement of the proposed activity, a scaled drawing where location matters, and the fee. An approved electronic booking system can be used instead, which matters for things like hall bookings.

The By-law names the general manager throughout — known as the Chief Executive Officer at Huon Valley Council — and that needs explaining, because it makes it look as though one person does everything. Under the Act the Chief Executive Officer is the only position that is an employee of the Council; every other employee is appointed by the Chief Executive Officer. So the By-law names that office, then expressly allows those functions to be delegated.

In practice an application is assessed and determined by the Council employee responsible for the area it relates to. That is also who decides between competing applications for the same place, though in practice Council works with applicants to find alternatives rather than choosing between them.

The factors that may be considered are published in the By-law itself: whether the activity is lawful, amenity, safety and access, public order, Crown land approvals, traffic and parking, signage, effect on nearby land, environmental and health impact, and police representations.

And existing permissions carried over. Permissions under the Council Land and Recreational Facilities By-law of 2017, and works permits under the Roads By-law of 2014 where works were incomplete, became permits under the new By-law.

Slide 11 — Enforcement Under the By-law

The By-law gives Council a graduated set of tools, running from a quiet direction through to prosecution. Most matters are resolved at the first step.

Enforcement is by authorised officers appointed by the Chief Executive Officer. An appointment can cover the whole By-law or be limited to particular Parts, Divisions or clauses, which lets Council match authority to role.

An officer may remove a person reasonably believed to be offending, refuse to admit them, remove property left without approval, and ask a person to leave. Failing to obey a request to leave is itself an offence.

Notices and directions are the everyday tools. A notice is in writing and may be a sign or a letter; a direction may be given verbally. Either may carry conditions and a time period, and may require work be done by a qualified person.

If a notice or direction is not complied with, that is an offence — and Council may undertake the work itself, repair damage caused by a contravention, and recover its costs from the person responsible.

For repeat problems, a person who has offended may be banned from specified council property for up to twelve months, with a right of appeal under Council's Customer Service Charter. A police officer may exercise officer powers and may in addition arrest.

And infringement notices may be issued for the offences listed in the Schedule, with a reduced penalty where paid within fourteen days.

Slide 12 — Five Things to Remember

Five things to take away.

One. A by-law is tied to Council's functions. Section 145 allows a by-law only in respect of an act, matter or thing for which Council has a function or power under an Act.

Two. It cannot conflict with State law or with a planning scheme, and any provision that does is invalid.

Three. Making a by-law is hard and amending one need not be. Absolute majority, a regulatory impact statement certified by the Director, at least twenty-one days of consultation, certification and gazettal — but a minor or technical amendment needs no regulatory impact statement at all.

Four. By-laws expire after ten years. Four by-laws on four separate clocks have become one by-law on one clock, with consistent definitions, one permit pathway and one penalty structure.

Five. Permits are how activity is allowed rather than simply prohibited, assessed against factors published in the By-law by the employee responsible for that area.