



TASMANIAN GOVERNMENT GAZETTE

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Notices to Creditors

MONA GLADYS BUGG late of 28 Haywoods Lane Somerset in Tasmania retired pulp worker/home duties married deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Mona Gladys Bugg who died on the fourth day of June 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ANN SCOTT, Trust Administrator.

BEULAH ETHEL CHUGG late of 10 Cross Street Bridport in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Beulah Ethel Chugg who died on the twenty-sixth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

REBECCA SMITH, Trust Administrator.

SANTA CONTARINO late of 260 Redwood Road Kingston in Tasmania divorced deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Santa Contarino who died on the first day of February 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ALISON ROSSETTO, Trust Administrator.

Tasmanian Government Gazette

Text copy to be sent to Print Applied Technology Pty Ltd.
Email: govt.gazette@thepat.com.au Fax: (03) 6216 4294
Mail: 123 Collins Street, Hobart TAS 7000

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Enquiries

Subscription and account enquiries phone (03) 6233 3148
Gazette Notice enquiries phone (03) 6233 6110

Out of Hours Special Gazette Notification

Out-of-hours notification for Special Gazettes phone (03) 6233 2690

NORMAN LITTLEJOHN CRICHTON late of Unit 2/13 St Andrews Drive Devonport in Tasmania retired motor mechanic/trades teacher married deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Norman Littlejohn Crichton who died on the thirty-first day of March 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

MIKALA DAVIES, Trust Administrator.

BETTY MARGARET HOLMES late of 64 Village Drive Kingston in Tasmania widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Betty Margaret Holmes who died on the fifth day of June 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ALISON ROSSETTO, Trust Administrator.

PEGGY ROSE LIPSCOMBE late of 33 Beach Road Margate in Tasmania widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Peggy Rose Lipscombe who died on the fifteenth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

LAURA ALLEN, Trust Administrator.

FRANK ALBERT MARSH late of Rosary Gardens 85 Creed Road New Town in Tasmania widower deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Frank Albert Marsh who died on the sixth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

CHELSEA COHEN, Trust Administrator.

MALCOLM KEITH MATHEWSON late of 45 Sandown Road Norwood in Tasmania married deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Malcolm Keith Mathewson who died on the third day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

REBECCA SMITH, Trust Administrator.

RAYMOND CHARLES McKAY late of 55 Auburn Road Kingston in Tasmania married deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Raymond Charles McKay who died on the twenty-eighth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ALISON ROSSETTO, Trust Administrator.

DAVID HENRY O'NEILL late of Medea Park Nursing Home St Helens in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased David Henry O'Neill who died on the twenty-sixth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

REBECCA SMITH, Trust Administrator.

ALBIN SIRONICH (ALSO KNOWN AS ALVIN SIRONICH) late of 22 Andrew Street Brighton in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Albin Sironich (also known as Alvin Sironich) who died between the fourteenth day of May 2011 and the eighteenth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ALISON ROSSETTO, Trust Administrator.

ALICE MARY STONE late of 30a West Goderich Street Deloraine in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Alice Mary Stone who died on the eighth day of June 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

REBECCA SMITH, Trust Administrator.

WILLIAM ALFRED TREGONING late of Mount St Vincent Home Ulverstone in Tasmania retired forklift driver widower deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased William Alfred Tregoning who died on the fifth day of June 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ANN SCOTT, Trust Administrator.

JOHN DOUGLAS WATSON late of 14 Packers Road Huonville in Tasmania widower deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased John Douglas Watson who died on the thirteenth day of May 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

CHELSEA COHEN, Trust Administrator.

HENRY ARTHUR WOOLLEY (ALSO KNOWN AS HARRY WOOLLEY) late of 4/23 Berega Street Howrah in Tasmania widower deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Henry Arthur Woolley (also known as Harry Woolley) who died on the twenty-third day of April 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this tenth day of August 2011.

ALISON ROSSETTO, Trust Administrator.

NORA MARJORIE FYFE (also known as MARJORIE FYFE) late of 374 Park Street New Town in Tasmania widow deceased: Creditors next of kin and others having claims or holding assets in respect of the Estate of the deceased who died on the twenty-seventh day of June 2011 at 374 Park Street New Town in Tasmania are required by the Executors James Benson Walker of 368 Huon Road South Hobart in Tasmania and Neil Robert Readett of 25 Talune Street Lindisfarne in Tasmania to send particulars to Clerk Walker Lawyers of 51 Davey Street Hobart in Tasmania on or before the tenth day of September 2011 after which date the Executors may distribute the assets having regard only to the claims of which they then had notice.

Dated this tenth day of August 2011.

CLERK WALKER, Solicitors for the Estate.

NEVILLE JOHN BANTOFT late of 13 Vernon Avenue Montrose in Tasmania fitter and turner/single man who died on the eighteenth day of December 2010: Creditors next of kin and others having claims in respect of the property of the abovenamed deceased are required by the Executor John Henry Bantoft care of Blissenden Lawyers of 120 Main Road Moonah in Tasmania to send particulars to the said Executor on or before the tenth day of September 2011 after which date the Executor may distribute the assets having regard only to the claims of which the Executor then has notice.

Dated the fifth day of August 2011.

BLISSENDEN LAWYERS, Solicitors to the Estate.

NOTICE is hereby given that the Public Trustee has filed in the office of the Registrar of the Supreme Court at Hobart an election to administer the estate(s) of

MARGARET ELSIE ROSE RENNIE late of 14 Eaves Court Old Beach in Tasmania Home Duties/Married Woman deceased

EILEEN DEAR late Coroneagh Park Home Penguin in Tasmania Retired Seamstress/Widow deceased

GERTRUDE ELIZABETH MACMICHAEL late of Glenara Lakes Nursing Home 390 Hobart Road Youngtown in Tasmania No Occupation/Widow deceased

Dated this tenth day of August 2011.

PETER MALONEY, Chief Executive Officer, Public Trustee.

Administration and Probate

ADMINISTRATION AND PROBATE ACT 1935

Notice of Intention to Apply for Letters of Administration

NOTICE is hereby given that after the expiration of fourteen days from the publication hereof application will be made to the Supreme Court of Tasmania in its Ecclesiastical Jurisdiction that Letters of Administration of the Estate of NOEL FREDRICK DOEPEL late of 5 Garthfield Avenue Cygnet in Tasmania single man sculptor shipwright and toolmaker deceased intestate may be granted to Cindy Nicole Vickers Hill of 35 Elphinstone Road Mount Stuart in Tasmania single woman teacher the statutory guardian of Fynn Derek Hill-Doepel an infant and Amanda Louise Ducker of 9 Corby Avenue West Hobart in Tasmania single woman journalist the nominated co-administrator of the said deceased.

Dated this tenth day of August 2011.

SHIELDS HERITAGE, Solicitors for the Applicants.

ADMINISTRATION AND PROBATE ACT 1935

Notice of Intention to Apply for Letters of Administration

NOTICE is hereby given that after the expiration of fourteen days from the publication hereof application will be made to the Supreme Court of Tasmania in its Ecclesiastical Jurisdiction that Letters of Administration of the Estate of KEVIN VIVIAN LEEDHAM late of 62a Richardson Street St Marys in Tasmania groundsman/married deceased may be granted to Valerie Jean Leedham of 62a Richardson Street St Marys in Tasmania home duties/widow of the said deceased.

Dated the third day of August 2011.

PHILLIP JOHN LEBSKI, Solicitor.
RAE & PARTNERS, Lawyers.

ADMINISTRATION AND PROBATE ACT 1935

Notice of Intention to Apply for Letters of Administration

NOTICE is hereby given that after the expiration of fourteen days from the publication hereof application will be made to the Supreme Court of Tasmania in its Ecclesiastical Jurisdiction that Letters of Administration of the Estate of TERENCE MALCOLM HAZELWOOD late of 33 Malcombe Street Longford in Tasmania musician/married deceased intestate may be granted to Patricia Dawn Hazelwood of 33 Malcombe Street Longford in Tasmania widow of the said deceased.

Dated the third day of August 2011.

PHILLIP JOHN LEBSKI, Solicitor.
RAE & PARTNERS, Lawyers.

Government Notices

EMERGENCY MANAGEMENT ACT 2006

APPOINTMENT OF MUNICIPAL EMERGENCY MANAGEMENT COORDINATOR

NOTICE is hereby given that in accordance with Section 23 of the *Emergency Management Act 2006*, the following appointment has been made for a period of five (5) years commencing on the date of this Notice.

Mr Greg French, Municipal Emergency Management Coordinator, Glenorchy City Council.

Dated this first day of August 2011.

DAVID O'BYRNE, MP,
Minister for Police and Emergency Management.

EMERGENCY MANAGEMENT ACT 2006

APPOINTMENT OF DEPUTY MUNICIPAL EMERGENCY MANAGEMENT COORDINATOR

NOTICE is hereby given that in accordance with Section 23 of the *Emergency Management Act 2006*, the following appointment has been made for a period of five (5) years commencing on the date of this Notice.

Mr Stuart Lovell, Deputy Municipal Emergency Management Coordinator, Glenorchy City Council.

Dated this first day of August 2011.

DAVID O'BYRNE, MP,
Minister for Police and Emergency Management.

Mental Health

MENTAL HEALTH ACT 1996

NOTICE is hereby given that in accordance with Section 12 of the *Mental Health Act 1996*, the undermentioned person has been appointed as an approved medical practitioner.

Dr Kwai Mei Siew

Dated the twenty-sixth day of July 2011.

DR JOHN CRAWSHAW,
Chief Executive Officer,
Statewide and Mental Health Services,
Delegate of the Minister for Health.

MENTAL HEALTH ACT 1996

NOTICE is hereby given that in accordance with Section 12 of the *Mental Health Act 1996*, the undermentioned person has been appointed as an approved medical practitioner.

Dr Adam Jon Deacon

Dated the twenty-sixth day of July 2011.

DR JOHN CRAWSHAW,
Chief Executive Officer,
Statewide and Mental Health Services,
Delegate of the Minister for Health.

Drainage Areas/Trusts/ Water Districts

EGG LAGOON DRAINAGE TRUST

Annual General Meeting

THE Annual General Meeting of the above Trust is to be held on Wednesday, 24 August 2011 at 40 Scotts Road, Egg Lagoon at 8 p.m. All Trust members are welcome to attend.

Dated this tenth day of August 2011.

M. VIVIAN, Secretary.

Local Government

LOCAL GOVERNMENT ACT 1993

AERODROME FEES ACT 2002

KING ISLAND COUNCIL as operator of the King Island Aerodrome advises that effecting November 1st 2011 the following fee applies for the landing of an aircraft.

- Regular Passenger Transport Flights (RPT): \$19.60/tonne on maximum take-off weight.
- Non Regular Passenger, Transport, Freight, Charter and Itinerant users: \$19.60/tonne on maximum take-off weight.

These fees have been fixed by King Island Council in accordance with the *Local Government Act 1993* and the *Aerodrome Fees Act 2002*.

MARK GOODE, General Manager.

Land Use Planning

LAND USE PLANNING AND APPROVALS ACT 1993

PART 2A – PLANNING DIRECTIVES

I, BRYAN ALEXANDER GREEN, being the Minister for the State of Tasmania administering the *Land Use Planning and Approvals Act 1993* (the Act) do hereby give notice, pursuant to section 13(2)(b) of the Act that I have issued Planning Directive No. 3 - Single Dwelling in Residential Zone.

This planning directive takes effect on the date of the publication of this notice.

The planning directive is available on the Tasmanian Planning Commission's website: www.planning.tas.gov.au.

Inquiries concerning the planning directive may be made by phoning (03) 6233 2795, facsimile (03) 6233 5400, or email enquiry@planning.tas.gov.au.

BRYAN GREEN MP, Minister for Planning.

LAND USE PLANNING AND APPROVALS ACT 1993

PART 2A – PLANNING DIRECTIVES

I, BRYAN ALEXANDER GREEN, being the Minister for the State of Tasmania administering the *Land Use Planning and Approvals Act 1993* (the Act) do hereby give notice, pursuant to section 13(2)(b) of the Act that I have issued Planning Directive No. 4 - Standards for Single Dwellings in (current) planning schemes.

In pursuance of section 13 of the Act specify that the planning directive takes effect on 29 August 2011.

A copy of the planning directive is available from the Tasmanian Planning Commission, 144 Macquarie Street, Hobart or by phoning (03) 6233 2795, facsimile (03) 6233 5400, or email enquiry@planning.tas.gov.au.

BRYAN GREEN MP, Minister for Planning.

LAND USE PLANNING AND APPROVALS ACT 1993

PART 2A – PLANNING DIRECTIVES

I, BRYAN ALEXANDER GREEN, being the Minister for the State of Tasmania administering the *Land Use Planning and Approvals Act 1993* (the Act) do hereby give notice, pursuant to section 13(2)(b) of the Act that I have issued Planning Directive No. 4 - Standards for Single Dwellings in interim planning schemes.

This planning directive takes effect on the date of the publication of this notice.

The planning directive is available on the Tasmanian Planning Commission's website: www.planning.tas.gov.au.

Inquiries concerning the planning directive may be made by phoning (03) 6233 2795, facsimile (03) 6233 5400, or email enquiry@planning.tas.gov.au.

BRYAN GREEN MP, Minister for Planning.

LAND USE PLANNING AND APPROVALS ACT 1993

NOTICE OF DISPENSING OF REQUIREMENTS AND ISSUE OF
MODIFIED PLANNING DIRECTIVE

I, BRYAN ALEXANDER GREEN, the Minister for Planning-

(a) having prepared a modification, to the planning directive entitled "Planning Directive No 4 – Standards for Single Dwellings in (current) planning schemes" (which planning directive is, in this instrument, referred to as "the original planning directive") and being satisfied that the modification is for the purpose of clarifying the original planning directive and that the public interest will not be prejudiced –

(i) in pursuance of section 16 of the *Land Use Planning and Approvals Act 1993*, dispense with the requirements of section 10, 11 and 12 of the Act in relation to the modification; and

(ii) in pursuance of section 16 of the *Land Use Planning and Approvals Act 1993* and with reference to section 13 of the Act, give notice of the issue of the modified planning directive, entitled "Planning Directive – Standards for Single Dwellings in current planning schemes", which consists of the original planning directive as modified in accordance with the modification; and

(b) in pursuance of section 13 of the *Land Use Planning and Approvals Act 1993*, specify that the modified planning directive takes effect on 29 August 2011.

Dated this tenth day of August 2011.

BRYAN GREEN MP, Minister for Planning.

Nomenclature

INTENTION TO ASSIGN PLACE NAMES

NOTICE is hereby given pursuant to section 20F of the *Survey Co-ordination Act 1944*, that it is the intention of the Nomenclature Board to assign the following place names in Tasmania.

Assignments List No. 500							
Reg No.	Name (Feature)	Easting*	Northing*	Map**	Location	Decision No	
40519J	Dakins Road	600140	5392500	6039	Off Elephant Pass Road, Gray and St Marys	21816	
41780Y	Disappointment Bay Road	239585	5611435	2361	Off Cape Wickham Road, Wickham	21817	
41762L	Jackson Bend Track	521265	5248465	5224	Locality of Wellington Park	21818	
41777W	Oak Farm Rise	525195	5267400	5226	Off Baskerville Road, Old Beach	21819	
35901M	Pennington Drive ¹	545640	5263485	5246	Off Weston Hill Road, Sorell	21820	
41779X	Snodgrass Park	231165	5574990	5227	Off Edwards Street, Curry	21821	
33345W	Southern Outlet	525395	5245850	5224	Off Macquarie Street, Hobart to Algona Road, Kingston	21822	
23860D	Springfield Forest Park	542080	5431350	5443	Locality of South Springfield	21823	

¹ The assignment of Pennington Drive is subsuming Pennington Drive West as the roads are now joined.

INTENTION TO ALTER PLACE NAMES

NOTICE is hereby given pursuant to section 20F of the *Survey Co-ordination Act 1944*, that it is the intention of the Nomenclature Board to alter the following place names.

Alterations List No. 501							
Reg No.	Name (Feature)	Easting*	Northing*	Map**	Location	Decision No	
41784B	New Town Bay Golf Course	525720	5256805	5225	formerly Zinc Works Golf Course , Risdon Road, Lutana	16251	
3990B	East Tamar Highway	502240	5432050	5042	altered extent due to realignment	3087	
9614H	Yarlington Road	525905	5289595	5229	altered extent due to extension	7574	

Objections

Any objections to the proposed assignments or alterations of place names must be lodged with the Secretary of the Nomenclature Board, GPO Box 44, Hobart 7001, within one calendar month from the date of this publication, in accordance with Section 20G of the Act. Any objection shall be in writing, setting out the grounds of the objection

OMMISSION OF PLACE NAME DECISIONS

NOTICE is hereby given pursuant to section 20D(1)(g) of the *Survey Co-ordination Act 1944*, that the Nomenclature Board has resolved to omit the following place names and recorded details.

Omission Notice No. 100							
Reg No.	Name	Easting*	Northing*	Map**	Year Named	Location	Decision No
39273G	Pennington Drive West	545470	5263600	5246	2009	Overlayed by Pennington Drive, Sorell	21688

¹ Pennington Drive West is subsumed by Pennington Drive as the roads are now joined.

Easting* **Northing*** **Map**** are spatial references. Eastings & Northings are coordinates expressed in metres on the **Australian Map Grid (AMG) Zone 55**. To convert to MGA coordinates in harmony with the Geocentric Datum of Australia of 1994 (GDA94) increase Eastings by 112 metres and Northings by 184 metres. Map Numbers are the reference numbers of the Tasmap 1:25,000 Topographical Map Series. **Spatial references are indicative only, not intended to define the precise extent or location of features.**

This notice along with recent past notices are available at the Nomenclature Board's Web Page www.dpipwe.tas.gov.au/nomenclature

Dated this 10th August 2011

Peter David Bakes Chairman, Nomenclature Board

Cities/Councils

KINGBOROUGH COUNCIL

HEALTH AND ENVIRONMENTAL SERVICES BY-LAW

BY-LAW 3 OF 2011

BY-LAW MADE UNDER SECTION 145
OF THE LOCAL GOVERNMENT ACT 1993FOR THE PURPOSE OF REGULATING MATTERS OF HEALTH AND
ENVIRONMENTAL SERVICES IN THE MUNICIPAL AREA**PART 1 - PRELIMINARY****Short Title**

- 1 — This By-law may be cited as the Health and Environmental Services By-Law.

Interpretation

- 2 — In this By-law:

"approved container" in relation to the disposal of sharps, means any container which is impervious, rigid, durable, tamper resistant, clearly labeled and which is able to be securely fastened;

"authorised officer" means an employee of the Council authorised by the Council or General Manager for the purposes of this By-law or a police officer of the Tasmania Police Service;

"barbecue" means any device, structure, or equipment used, designed or adapted for cooking food in the open air for human consumption;

"builder" means:

- (a) a person engaged by the owner of a building to manage or carry out building work on the building; or
- (b) if such a person does not exist or is unable to be found, the owner of that building;

"building work" means work relating to:

- (a) erecting, re-erecting, constructing, altering, repairing, underpinning, demolishing or removing a building; and;
- (b) adding to a building; and
- (c) excavating or filling incidental to an activity referred to in paragraph (a) or (b); and

Health and Environmental Services By-Law

(d) any other prescribed work;

"building site" means a place where building work is carried out;

"caravan" means any object or structure having the general characteristics of a caravan, a house or dwelling on wheels, a covered van or trailer, and any vehicle used or adapted for human habitation or occupation, whether the wheels or axles are removed or not and whether it is resting directly on the ground or is placed on blocks or other supports, and any structure, awning, verandah, lean-to, car-port or other enclosed or partly enclosed area used or capable of being used in connection with or appurtenant to any caravan but does not include a building or temporary structure for which a permit is required under the *Building Act 2000*;

"Council" means the Kingborough Council;

"General Manager" means the General Manager appointed by the Council;

"incinerator" includes any outside fireplace, construction or container outside a building, which:

- (a) is used for the purpose of disposal of waste by combustion;
- (b) is not permitted under a condition of an environment protection notice under the *Environmental Management and Pollution Control Act 1994* or under the conditions of a permit granted under the *Land Use Planning and Approvals Act 1993*; and
- (c) does not include a barbecue, whilst being used in connection with the cooking of food for human consumption;

"kept" and **"keep"** includes the provision of food or shelter;

"municipal area" means the area of land under the control of the Council and defined in section 16 of the *Local Government Act 1993*;

"on-site wastewater management system" means an on-site system for the management of waste water that is:

- (a) a disposal or treatment system servicing one or more blocks; or
- (b) an on-site composting toilet or system; or
- (c) an on-site incinerating toilet;

"occupier" includes any person having the care, control or management of any land or premises;

Health and Environmental Services By-Law

"occupy" includes reside or live in or use any caravan for entertainment, sleeping, resting, cooking, eating, commercial or retail activities or for any similar use whether temporary or permanent;

"open air fire" means a fire burning in the outside environment and not housed or contained;

"owner" means any person who, whether jointly or severally, is seized or possessed of, or entitled to, any estate or interest in land;

"poultry" includes ducks, fowl, geese, guinea fowl, peacocks, turkeys, pheasants, pigeons or game bird or any other birds kept in an aviary or structure, especially as a source of food;

"premises" includes land or any part of any premises or land;

"prescribed work" has the same meaning as "prescribed work" under the *Building Act 2000* and the *Building Regulations 2004*;

"residential zone" means a zone defined in a planning scheme applicable to the municipal area as being for a residential zone;

"sharps" includes objects or devices having acute rigid corners, edges, points or protuberances capable of cutting or penetrating the skin and includes hypodermic needles, intravenous sets, Pasteur pipettes, lancets, scalpel blades, and other similar objects or devices used in medical, dental, veterinary and nursing applications;

"toilet" includes an enclosed facility which has a seat and a removable pan, a water closet or a portable toilet;

"urinal" means a facility used solely for the receipt of human urine;

"waste" includes, without limitation, domestic refuse, hazardous waste, trade waste, recyclables, and any other garbage, rubbish, debris, litter, or vegetation that is the result or product of mowing, trimming, pruning, weeding, or any other similar matter;

"waste facility" means any area set aside by the Council as a waste facility, disposal area, waste transfer station, resource recovery facility, recycling centre, or landfill.

*Health and Environmental Services By-Law***PART 2 - DISPOSAL OF REFUSE****Times for use of disposal areas**

- 3** — A person must not deposit, place or drop or allow any person to deposit, place or drop any waste in or on any waste facility except on the days and within the periods of time fixed by the Council.

Penalty: Fine not exceeding 3 penalty units.

Directions for deposit of refuse

- 4** — (1) For the purposes of this Part an "authorised officer" includes a person, firm or organisation contracted by the Council for the purposes of administering or managing a waste facility.
- (2) An authorised officer may give directions to any person within a waste facility.
- (3) Any person depositing refuse at a waste facility must:
- (a) obey any direction given by an authorised officer in a waste facility;
 - (b) obey any direction on any sign in a waste facility.

Penalty: Fine not exceeding 2 penalty units.

Prohibitions in the disposal area

- 5** — A person must not in a waste facility:
- (a) light any fire or feed or extend any fire which is already burning;
 - (b) remove any article or thing deposited on the disposal area without the consent of the Council; or
 - (c) deposit any material capable of becoming airborne without first securing it from being scattered by the wind.

Penalty: Fine not exceeding 5 penalty units

Refusal to accept refuse at a disposal site

- 6** — An authorised officer may refuse to accept any waste at a waste facility which in the opinion of the authorised officer may not be accepted under the conditions of an environment protection notice issued under the *Environmental Management and Pollution Control Act 1994* or under the conditions of a permit granted under the *Land Use Planning and Approvals Act 1993*.

*Health and Environmental Services By-Law***PART 3 – HOUSEHOLD REFUSE & RECYCLING****Kerbside refuse collection**

- 7 —** (1) For the purposes of this Part, “notice” means a notice approved by the Council or the General Manager that is displayed or set up in a public place within the municipal area, or in a daily newspaper circulated in the municipal area, or forwarded by the Council, General Manager or an authorised officer to a person to whom this By-law applies.
- (2) The Council will provide a kerbside collection service for domestic waste only within an area designated by the Council.
- (3) The General Manager may determine by notice classes of materials as being recyclables for the purpose of kerbside collection.
- (4) The General Manager may determine by notice the management and control of the storage, collection, transport and disposal of waste within the municipal area.
- (5) Every tenement within a designated kerbside collection area will, upon request, be provided with a mobile garbage bin for the storage and collection of household waste and a mobile recycling bin for the storage and collection of recyclables.
- (6) Bins provided in accordance with sub-clause (5) remain the property of the Council.
- (7) The Council may impose a charge for the replacement or repair of any mobile garbage or recycling bin.
- (8) The Council or its agent or contractors will only collect household waste that is contained within a mobile garbage bin with the lid closed that has been provided by or purchased from the Council for that purpose, or nominated recyclables that are wholly contained within a mobile recycling bin with the lid closed provided by or purchased from the Council for that purpose.
- (9) No person other than the Council or its agent or contractor is to collect recyclables placed in a mobile recycling bin for collection by Council’s recycling collection service.

Penalty: Fine not exceeding 2 penalty units

*Health and Environmental Services By-Law***General Provisions**

- 8** —A person within the designated area entitled to receive the kerbside collection service is to:
- (a) store the mobile garbage bin and mobile recycling bin wholly within their property boundaries unless otherwise authorised by the Council, except when the bins are placed on the kerbside for collection in accordance with the General Manager's notice relating to collections;
 - (b) keep the mobile garbage and recycling bins in good repair and in a clean and sanitary condition;
 - (c) clean and disinfect the mobile garbage and recycling bins if required to do so by the General Manager or an authorised officer;
 - (d) keep the lid of the mobile garbage bin and recycling bin closed except when matter is being placed in them; and
 - (e) leave the mobile garbage and recycling bins for collection on a day and in a manner and location approved by the General Manager at least once per fortnight, or empty the mobile garbage bin at a waste facility at least once per fortnight, or whenever required to do so by the General Manager or an authorised officer;
 - (f) ensure that the contents of the mobile garbage bin do not exceed 50 kilograms;
 - (g) not place in any Council mobile recycling bin any matter except recyclables in accordance with the General Manager's notice under clause 7(3);
 - (h) remove the mobile garbage and recycling bins from the kerbside as soon as practicable after collection of their contents.

Penalty: Fine not exceeding 2 penalty units.

Dangerous substances

- 9** —The owner or occupier of any premises must not place in any mobile garbage or recycling bin which is placed for Council collection any thing or substance which:
- (a) is hot;
 - (b) may, or is likely to explode;
 - (c) may interact with other substances in the bin and generate toxic or poisonous gases or fumes;

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- (d) is corrosive;
- (e) contains sharps or potentially infectious waste;
- (f) is in any other way dangerous;
- (g) is defined as a controlled waste within the *Environmental Management and Pollution Control (Waste Management) Regulations 2010*.

Penalty: Fine not exceeding 5 penalty units

PART 4 - CONTROL OF ANIMALS AND POULTRY

Keeping of hooved animals

- 10**—The occupier or owner of a property must not allow any hooved animal to be kept on a property having an area of less than 2000 square metres.

Penalty: Fine not exceeding 5 penalty units

Keeping of poultry

- 11**—(1) A person must not allow any structure for the keeping of poultry to be within 2 metres of a property boundary or within 5 metres of a dwelling.

Penalty: Fine not exceeding 5 penalty units

- (2) A person must not keep more than 6 birds which fall within the definition of poultry on premises within or partly within a residential zone.

Penalty: Fine not exceeding 5 penalty units

- (3) A person must not keep a rooster on premises within or partly within a residential zone.

Penalty: Fine not exceeding 5 penalty units

- (4) If a person keeps a rooster on premises other than those within or partly within a residential zone it must be kept and housed in such a manner to ensure it does not create a nuisance.

Penalty: Fine not exceeding 5 penalty units

Maintenance of premises used by animals or poultry

- 12**—The occupier or owner of any premises where an animal or poultry is kept must:

- (a) maintain any structures, buildings, enclosures or areas to which the animal or poultry has access so that they are clean and sanitary;

Health and Environmental Services By-Law

- (b) not allow the animal or poultry to cause any nuisance, including through smell, noise, rodents or flies;
- (c) abate any nuisance that may arise as a result of keeping of the animal or poultry.

Penalty: Fine not exceeding 5 penalty units

PART 5 - BUILDING SITE SANITATION

General duty of the builder

- 13**—A builder must ensure that toilets and/or urinals in accordance with this Part are provided on the building site, or within 100 metres of the building site, prior to the commencement of any building work on the building site.

Penalty: Fine not exceeding 5 penalty units

Number of toilets provided

- 14**—The builder is to provide 1 toilet for every 10 people or part thereof on the building site.

Penalty: Fine not exceeding 5 penalty units

Location of toilets and urinals

- 15**—The builder must comply with any directions given by an authorised officer about the location of the toilets or urinals.

Penalty: Fine not exceeding 5 penalty units

Toilet design and construction –

- 16**— (1) A portable toilet installed on a building site must be installed in accordance with the following requirements:

- (a) the toilet must be provided with a plentiful supply of toilet paper and, where appropriate, must be provided with sanitary disposal units that are regularly serviced;
- (b) if required by the Council or General Manager, the portable toilet is to be connected to the sewerage system or temporary on-site system;
- (c) the toilet must have a suitable and appropriately sized hand wash basin supplied with running water, soap and paper towel.

Penalty: Fine not exceeding 5 penalty units

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- (2) The builder must comply with any direction given by an authorised officer about the provision of, and/or, the design and installation of a portable toilet.

Penalty: Fine not exceeding 5 penalty units

Emptying and cleanliness of portable toilets

- 17 — (1) The builder must ensure that any portable toilet provided on the building site is emptied:

- (a) regularly; and
- (b) whenever required by an authorised officer; and
- (c) in any manner required by an authorised officer.

Penalty: Fine not exceeding 5 penalty units

- (2) The builder must ensure that any portable toilet provided on the building site is maintained in a clean and sanitary condition.

Penalty: Fine not exceeding 5 penalty units.

PART 6 - CONTROL OF INCINERATORS, OPEN AIR BURNING AND WOOD HEATERS**Property size and zoning for burning**

- 18 — (1) Except as provided in sub-clause (2) a person must not light an incinerator or open air fire or allow an incinerator or open air fire to be lit or remain alight on any premises:

- (a) having an area of less than 2000 square metres; or
- (b) within or partly within a residential zone.

Penalty: Fine not exceeding 5 penalty units

- (2) A person may burn unpainted, untreated and uncontaminated wood, pellet fuel, a briquette, paper, coal, charcoal or peat in an incinerator or open air fire where:

- (a) the fire is for cooking food, heating liquids or warming human beings; and
- (b) an exemption has been granted by the General Manager.

Construction of incinerators

- 19 — A person must not install an incinerator unless it is constructed of a suitable non-combustible material such as brick, metal or concrete and is in accordance with applicable Australian Standards.

Penalty: Fine not exceeding 5 penalty units

*Health and Environmental Services By-Law***Maintenance of incinerators**

20—The owner or occupier of premises on which an incinerator is located must maintain the incinerator in good repair and in a manner which promotes efficient combustion.

Penalty: Fine not exceeding 5 penalty units

Incinerator lid

21—All incinerators must be fitted with a lid and a spark arrester in accordance with the relevant Australian Standards to prevent ash or other particles from escaping.

Penalty: Fine not exceeding 5 penalty units

Position of incinerators and open air fires

22—A person must position an incinerator or an open air fire:

- (a) not less than 5 metres from any boundary of the property; and
- (b) not less than 30 metres from any dwelling not on the property; and
- (c) clear of any overhanging foliage or other combustible material.

Penalty: Fine not exceeding 5 penalty units

Burning not to be a nuisance or dangerous

23— (1) A person must not burn any matter or allow any waste, material or substance to be burned in a manner or to an extent which causes a nuisance, is unsafe, or is dangerous to health.

Penalty: Fine not exceeding 5 penalty units

- (2) A person who is burning any waste, material, or substance which in the opinion of an authorised officer contravenes any clause of Part 6 of this By-law, must extinguish the fire if instructed to do so by an authorised officer.

Penalty: Fine not exceeding 5 penalty units

- (3) The Council may extinguish the fire if the person fails to comply with the instructions given in accordance with sub-clause (2) within a reasonable time.
- (4) In addition to a penalty imposed under sub-clause (2), an expense incurred by the Council in consequence of that failure or contravention is recoverable by the Council as a debt payable by the person so failing to comply or contravening.

*Health and Environmental Services By-Law***Access to water supply**

24—A person must not light an incinerator or open air fire or allow an incinerator or open air fire to be lit or to remain alight unless:

- (a) a water supply, or another suitable means of fire extinguishment, is provided; and
- (b) a person aged 18 years or older is in attendance at all times.

Penalty: Fine not exceeding 5 penalty units

PART 7 – TREES ON PRIVATE PROPERTY**Removal of trees on private property**

25— (1) In this Part –

“**high conservation value tree**” means a tree that is of a species that is listed in the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* and/or which provide habitat for a threatened species listed in either of those acts.

“**offset**” means an offset under the Council's Policy 6.10 *Biodiversity Offset* Policy as amended from time to time, or in the absence of any current Council policy, an action the Council requires a person to take that aims to compensate for an environmental impact that results in a loss of biodiversity caused by the person. An offset can include active management, a financial contribution and other actions that demonstrate a conservation benefit for a particular natural value.

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- (2) A person must not cut down, top, lop, remove, ringbark, injure or wilfully destroy any tree which:
- (a) has a trunk circumference of greater than 80cm at 1.5 m or more above ground level, unless authorised by a permit to do so; or
 - (b) is listed on a register of significant trees applicable to the municipal area, unless authorised by a permit to do so; or,
 - (c) is protected under an agreement under Part 5 of the *Land Use Planning and Approvals Act 1993* or covenant on the title.

Penalty: Fine not exceeding 15 penalty units

- (3) Sub-clause (2) does not apply to:
- (a) an environmental weed as listed in a planning scheme applicable to the land on which the environmental weed is located;
 - (b) a declared weed under relevant State weed legislation;
 - (c) an exotic species (including non-Tasmanian natives) not listed on a register of significant trees applicable to the municipal area; or,
 - (d) a tree whose removal is approved under a permit in respect of a use or development that is issued under the *Land Use Planning and Approvals Act 1993*.
- (4) Where a permit is granted under sub-clause (2) the Council may require an offset if the tree that is the subject of the permit is listed on a register of significant trees applicable to the municipal area or is a high conservation value tree.

PART 8 – CARAVANS

Structures treated as caravans

Exemptions

26— This By-law does not apply to a caravan that is:

- (a) situated in a caravan park;
- (b) used by a travelling show person in the ordinary course of their business;

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- (c) used by Council employees or contractors involved in performing duties for and on behalf of the Council, the Federal Government or the State Government;
- (d) situated at a person's principal residence and used solely for the purpose of storage;
- (e) the subject of a permit or licence granted or issued under any other By-law of the Council.

Permit

- 27 —(1) Unless authorised by a permit to do so, a person who is the owner of any land must not use, permit or allow the land to be used to set up a caravan or caravans which are being used on the land for human habitation or occupation for more than fourteen days in a calendar year.

Penalty: Fine not exceeding 2.5 penalty units

- (2) For the purpose of reckoning time in (1), each day that any caravan is set up and being used on the land for human habitation or occupation is to be counted. If multiple caravans are set up and being used on the land for human habitation or occupation, the cumulative time for which they are set up and being used on the land for human habitation or occupation must not exceed fourteen days in a calendar year.

Application for permit

- 28 — An owner of land on which a caravan is to be set up may apply in writing to the Council for a permit to set up a caravan.

Refusal of permit

- 29 — In deciding whether or not to grant a permit, the Council may have regard to the following:-

- (a) whether the use of the caravan will adversely affect or is likely to adversely affect the amenity of the neighbourhood in which the caravan is to be set up;
- (b) whether the caravan has sufficient or satisfactory facilities for the supply of water or disposal of sewage available to the occupants;
- (c) whether the occupation of the caravan is likely to cause a health hazard;

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- (d) any relevant policy of the Council;
- (e) any other relevant matter.

Occupation of a caravan

30—A person must not occupy a caravan unless the owner of the land on which the caravan is set up is the holder of a valid permit.

Penalty: Fine not exceeding 1 penalty unit and in the case of a continuing offence, a further daily penalty of 0.5 penalty unit

Fee for occupation of a caravan

31—A person must not accept any fee or reward from any person in return for the occupation of any caravan set up on private property unless the property is registered as a caravan park.

Penalty: Fine not exceeding 5 penalty units

PART 9 – ON-SITE WASTEWATER MANAGEMENT SYSTEMS**Installation**

32—(1) The owner of premises on which an on-site wastewater management system is installed must ensure that an appropriately trained and accredited service agent carries out maintenance and reporting in relation to the on-site wastewater management system in accordance with the manufacturer's specifications for the system.

Penalty: Fine not exceeding 5 penalty units

(2) The owner of premises on which an on-site wastewater management system is installed must ensure that the Council is notified in writing within 14 days of the completion of each inspection, maintenance operation, or other action, that is required to be carried out by the manufacturer's specifications for the system.

Penalty: Fine not exceeding 5 penalty units

Maintenance

33—(1) For the purposes of this clause, an "authorised agent" includes any person and any company by its servants or agents authorised or engaged by the Council to inspect, monitor or maintain an on-site wastewater management system.

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- (2) An on-site wastewater management system installed within the municipal area is subject to inspection by the Council or its employee or authorised agent in accordance with the specifications of the manufacturer and the requirements of the Council.
- (3) For the purposes of sub-clause (2), an employee or authorised agent of the Council may enter upon the land upon which an on-site wastewater management system is situated in accordance with any relevant requirements of the *Local Government Act 1993* and the *Building Act 2000*.
- (4) The Council may carry out in relation to an on-site wastewater management system any other inspection or maintenance operation, or other action, that is authorised by law, or in the opinion of the General Manager, is appropriate.
- (5) The owner of premises on which an on-site wastewater management system is installed must ensure that the wastewater disposal area and/or irrigation area for the premises on which an on-site wastewater management system within the municipal area is installed is maintained to the satisfaction of the General Manager.

Penalty: Fine not exceeding 5 penalty units

PART 10 - PERMITS AND APPROVALS

Applications

34—Any application for a permit pursuant to this By-law should be made to the Council and be accompanied by the following:

- (a) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant;
- (b) a scaled drawing showing the location and extent of the proposed occupation or activity;
- (c) a safety management plan or a description of any necessary safety measures that are appropriate for the proposed activity; and such other information as the Council may reasonably require.

Factors to be considered when granting a permit

35—In deciding whether or not to grant a permit pursuant to this Part the Council may have regard to the following:

- (a) the potential for damage to Council infrastructure

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- (b) public amenity and safety;
- (c) public access in the area;
- (d) the maintenance of public order in the area;
- (e) the movement of traffic in the area;
- (f) the manner of any proposed advertising;
- (g) the nature, size, shape, extent and location of any proposed road furniture;
- (h) the availability of suitable parking for motor vehicles in the area;
- (i) representations made by a police officer;
- (j) any other relevant matters.

Conditions of permit or approval

36—A permit or approval issued under this By-law may be subject to such conditions as the Council considers appropriate.

Compliance with terms and conditions

37—The holder of a permit issued under this By-law must comply with the terms and conditions thereof.

Penalty: Fine not exceeding 5 penalty units

Permits generally

38—Every permit granted pursuant to this By-law is to:

- (a) be in writing and may be in the form of a letter;
- (b) bear the date on which it was issued;
- (c) include such terms and conditions as the Council may consider necessary;
- (d) remain in force for the period for which it was issued, unless it is cancelled, suspended or surrendered;
- (e) be carried by the permit holder at all times while undertaking the activity approved under the permit; and
- (f) be surrendered to the Council if it is cancelled or suspended or when it is due for renewal.

Cancellation and suspension of permits

39—(1) The Council may cancel or suspend a permit if a permit holder fails to comply with or offends against this By-law or any condition of a permit.

(2) The Council may cancel a permit if the permit holder is:

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- (a) convicted of any offence involving dishonesty; or
- (b) convicted of any offence involving a breach of public order.
- (3) To cancel or suspend a permit the Council is to serve a notice on the permit holder stating that the permit is cancelled or suspended and the reason for that cancellation or suspension.
- (4) Cancellation or suspension of any permit is effective from the day the notice is served on the permit holder or the date specified in the notice whichever is the later.
- (5) Nothing in this clause is to be construed as preventing or prohibiting the Council from cancelling or suspending a permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.
- (6) Notwithstanding, sub-clauses (3) and (4), the Council may cancel or suspend a permit by any communication conveyed to the permit holder by any means including notice by radio or television in emergency situations or in a situation considered appropriate by the Council.

Production of the permit

40— A permit holder must produce the permit immediately when requested to do so by an authorised officer.

Penalty: Fine not exceeding 5 penalty units

Assignment of permit

41— A permit must not be assigned to any person except with the written consent of the Council.

Referral to Council

42— No provision of this By-law is to be construed as preventing the General Manager from referring any application for approval or a permit to the Council.

PART 11 – ENFORCEMENT, FEES AND CHARGES**Supply of name and address**

43— (1) An authorised officer may require a person to give his or her name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law,

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- (2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

- (3) A police officer making a request under sub-clause (1) may arrest a person who is on land owned by, or under the control of, the Council and whom the police officer reasonably believes is offending against sub-clause (1).

*Health and Environmental Services By-Law***Abuse or obstruction of an authorised officer**

44 — (1) A person must not:

- (a) threaten, intimidate or use abusive language to an authorised officer in or on land owned by or under the control of the Council while the officer is acting in the course of his or her duties; or
- (b) assault, resist or obstruct an authorised officer in the execution of his or her duty.

Penalty: Fine not exceeding 10 penalty units.

Enforcement and removal of articles

45 — (1) An authorised officer may:

- (a) refuse to admit a person to any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law;
- (b) direct any person to leave any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law;
- (c) remove anything which is on any land owned by, or under the control of the Council without the approval of the Council;
- (d) remove any person from any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.

- (2) A person who fails to comply with a direction under sub-clause (1)(b) is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units

Removed articles

- 46 —** (1) If an article is not claimed by the owner or person on behalf of the owner within 48 hours following its removal under this Part, the General Manager is to give notice to the owner of the article.

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- (2) A notice is to give the following details -
 - (a) a description of the article and any distinguishing features;
 - (b) the place from where it was removed;
 - (c) the date on which it was removed;
 - (d) the place from which the article may be claimed;
 - (e) the fees, costs and charges payable in respect of the removal, maintenance and storage of the article.
 - (f) that if not claimed within 14 days that the article may be disposed of by the Council.
- (3) A notice is to be given in writing.
- (4) If the owner of the removed article cannot be ascertained or found, and if the General Manager is of the opinion that the value of the article warrants the cost of advertising, the General Manager is to publish on at least one occasion a notice containing the particulars specified in sub-clause (2) in a newspaper circulating in the municipal area.

Fees, Costs and Charges

- 47 —** (1) The owner of any article is liable to pay:
- (a) any fees, costs and charges specified in a notice given under clause 46; and
 - (b) any further fees, costs and charges incurred in the storage and further maintenance of an article removed under this Part.
- (2) Any unpaid fees, costs and charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until any fees, costs and charges specified in a notice are paid.

Disposal of unclaimed articles

- 48 —** (1) The Council may dispose of an article if:
- (a) the article is not claimed within 14 days of the issue of a notice given under clause 46;
 - (b) any fees, costs and charges specified in a notice have not been paid within 14 days of that notice.

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- (2) An article may be disposed of under sub-clause (1) –
 - (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
 - (b) in such manner as the General Manager determines if –
 - (i) the General Manager is of the reasonable belief that the article has a value that does not warrant the costs of a tender or a public auction; or
 - (ii) no tender is received or no bid is made at a public auction.
- (3) If an article is disposed of under this clause the General Manager must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If the owner of the article so requests, then the proceeds obtained from the disposal or sale of the article must be paid to the owner, less any fees that are due to the Council, advertising costs, and any other costs incurred by the Council in the removal and disposal of the article.

Article required for prosecution

- 49 — (1) Where an article is required by the Council for the prosecution of an offence under this By-law, the article is to be released to the owner following the completion of the prosecution proceedings and on payment of any relevant fees, costs and charges unless otherwise directed by a court.
- (2) The Council may, under clause 48, dispose of an article required under sub-clause (1) which is not claimed by the owner, or in relation to which fees, costs and charges have not been paid, within 30 days of the completion of court proceedings.

PART 12 – NOTICES**Notices and directions generally**

- 50 — (1) A notice given under this by-law is to be given in writing, which may be in the form of a letter, and is to be given in accordance with section 29AB(1)(a) of the *Acts Interpretation Act 1931*.
- (2) A direction given under this By-law may be given verbally or in writing and may be in the form of a letter.

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- (3) A notice or direction given under this By-law may be subject to such conditions and requirements and allow such period for action as the Council, General Manager or authorised officer may determine.
- (4) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (5) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work be in or of such materials, carried out within the periods, and carried out in the manner the Council or an employee or agent of the Council directs or be done only by a person with a specified appropriate qualification.
- (6) The Council may require the person carrying out the work to pay to the Council, or enter into a bond for payment to the Council of, an amount it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

Non compliance with notice or direction

- 51 — (1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction within the time period specified in the notice or direction.

Penalty: Fine not exceeding 10 penalty units

- (2) The Council may undertake any work required to be carried out in a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.

PART 13 - INFRINGEMENT NOTICES AND RECOVERY OF DEBTS

Infringement Notices

- 52 — (1) In this clause —

"**specified offence**" means an offence against a clause specified in Column 1 of Schedule 1.

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- (2) 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.
- (3) Payment of the monetary penalty set out in an infringement notice must be made to the Council.
- (4) The monetary penalty set out in an infringement notice must be paid within 28 days of the service of the infringement notice, after which time the infringement notice may be referred to the Director, Monetary Penalties Enforcement Service.
- (5) The General Manager or an authorised officer may:
 - (a) issue an infringement notice to a person who the General Manager or authorised officer believes on reasonable grounds has committed a specified offence; and
 - (b) issue a single infringement notice in respect of more than one specified offence.
- (6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

Debt Due

- 53**—All monies payable to the Council under this By-law are a debt due to the Council and recoverable at law.

Offences

- 54**—A person who contravenes or fails to comply with a provision of this by-law is guilty of an offence and is liable on conviction to a penalty as specified in this by-law in respect of such an offence.

Failure to Comply

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

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SCHEDULE 1
INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY (Penalty Units)
Clause 3	Deposit matter at waste facility outside time	1
Clause 4(3)	Disobey direction of authorised officer or direction sign	1
Clause 5	Prohibitions in the disposal area	1
Clause 7(9)	Remove articles from mobile recycling bin	1
Clause 8	Proper use of mobile garbage and recycling bins	1
Clause 9	Placement of dangerous substances in mobile bins	2
Clause 10	Keeping of hooved animal on land less than 2000m ²	1
Clause 11(1)	Keeping of poultry too close to boundary or house	1
Clause 11(2)	Keeping of more than 6 poultry	1
Clause 11(3)	Keeping of rooster in residential area	1
Clause 11(4)	Fail to house rooster in proper manner	1
Clause 12	Maintenance of housing for poultry	1
Clause 13	Fail to provide sanitary facility on building site	1.5
Clause 14	Fail to provide sufficient sanitary facilities	1.5
Clause 15	Fail to obey direction of authorised officer	1
Clause 16	Fail to provide sanitary facility to appropriate standard	1
Clause 17(1)	Fail to empty sanitary facility	1
Clause 17(2)	Fail to keep sanitary facility clean	1
Clause 18(1)	Light an incinerator or open fire in residential area	1

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Clause 19	Incorrect construction of incinerator	1
Clause 20	Fail to keep incinerator in good order	1
Clause 21	Fail to fit lid and spark arrestor	2
Clause 22	Site incinerator too close to dwelling or boundary	1
Clause 23(1)	Burn matter hazardous to health or nuisance	2
Clause 23(2)	Fail to extinguish fire	2
Clause 24	Light an incinerator or fire with water supply or supervision	2
Clause 25(2)	Remove tree without permit	2
Clause 27(1)	Set up caravan for occupation for more than 14 days	1
Clause 30	Occupy caravan without a permit	1
Clause 31	Receive fee for occupation of caravan	1.5
Clause 32(1)	Ensure maintenance carried out	1
Clause 32(2)	Fail to notify Council of inspection	0.5
Clause 33(5)	Fail to maintain on-site aerated wastewater treatment system	1
Clause 37	Fail to comply with conditions of permit	1
Clause 40	Fail to produce permit	1
Clause 43(2)	Fail to supply name and address	1
Clause 44	Abuse or obstruction of authorised officer	2
Clause 45(2)	Fail to comply with direction to leave land	1
Clause 51(1)	Fail to comply with notice or direction	2

Health and Environmental Services By-Law

Certified as being in accordance with the law by:

P. White, Solicitor

Dated this *3rd* day of *August*, 2011 at Hobart

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

P. White, General Manager

Dated this *4th* day of *August*, 2011 at Hobart

The Common Seal of Kingborough Council was hereunto affixed in the presence of:



[Signature], Mayor / Councillor

P. White, General Manager.

KINGBOROUGH COUNCIL

PARKS, RECREATION AND NATURAL AREAS BY-LAW

BY-LAW 2 OF 2011

BY-LAW MADE UNDER SECTION 145
OF THE LOCAL GOVERNMENT ACT 1993FOR THE PURPOSE OF REGULATING CONDUCT ON COUNCIL LAND AND
RECREATIONAL FACILITIES IN THE KINGBOROUGH MUNICIPAL AREA**PART 1 - PRELIMINARY****Short Title**

- 1 — This By-law may be cited as the *Parks By-Law 2011*.

Application

- 2 — (1) This By-law applies to the municipal area of the Kingborough Council.
- (2) This By-law does not apply to a councillor or an employee of the Council or a contractor or agent of the Council where such person is carrying out activities in or on any Council land or recreational facility in the course of their duties for and on behalf of the Council.
- (3) This By-law does not apply to any Council land or recreational facility which is the subject of a lease from the Council to a person under Division 1 of Part 12 of the *Local Government Act 1993*.

Interpretation

- 3 — In this By-law:
- “**Act**” means the *Local Government Act 1993*;
- “**alcohol free area**” is an area declared in accordance with clause 46;
- “**animal**” has the same meaning as in the *Animal Health Act 1995*;
- “**article**” means anything that has been removed under clause 62 of this By-law.
- “**authorised officer**” means an employee of the Council authorised by the Council or the General Manager for the purposes of this By-law or a police officer of the Tasmania Police Force;

"caravan" means any object or structure having the general characteristics of a caravan, a house or dwelling on wheels, a covered van or trailer, and any vehicle used or adapted for human habitation or occupation, whether the wheels or axles are removed or not and whether it is resting directly on the ground or is placed on blocks or other supports, and any structure, awning, verandah, lean-to, car-port or other enclosed or partly enclosed area used or capable of being used in connection with or appurtenant to any caravan but does not include a building or temporary structure for which a permit is required under the *Building Act 2000*;

"children's playground" means any area under the management or control of the Council in which children's play equipment is installed and extends for a distance of 5 metres in all directions from the play equipment, or to the fence surrounding the play equipment, whichever is the greater.

"Council" means the Kingborough Council;

"Council land" means any land owned, or managed by, or under the control of the Council and includes part of that land and a natural area and a park, but does not include a road or local highway under the control and management of the Council;

"declared weed" has the same meaning as a declared weed under the *Weed Management Act 1999*;

"General Manager" means the General Manager appointed by the Council;

"electoral sign" means a sign erected for the purpose of advertising that a person is standing as a candidate in an Australian Government, State Government or Local Government election;

"guide dog" means a guide dog as defined in the *Dog Control Act 2000*;

"hall" means a building owned or controlled and managed by the Council and designated by the Council as a hall together with any toilets, change rooms, kiosk, surrounding grounds, or other area associated with the hall;

"hearing dog" means a hearing dog as defined in the *Dog Control Act 2000*;

"hirer" means a person, club, association, body corporate or organisation who hires or uses any Council land or recreational facility pursuant to a user agreement;

"liquor" has the same meaning as under the *Police Offences Act 1935*;

"meeting" includes a parade, performance, rally, public speaking, preaching, march or demonstration;

"municipal area" means the area of land under the control of the Council and defined in section 16 of the Act;

"natural area" means any natural bushland area under the control of the Council whether a public reserve or acquired for other purposes which the public have a right to enter;

"owner" includes:

- (a) in the case of a vehicle:
 - (i) a joint owner or part owner;
 - (ii) a person who has the use of the vehicle under a hiring or a hire purchase agreement;
 - (iii) a person in whose name as owner the vehicle is registered under the *Vehicle and Traffic Act 1999* or any corresponding enactment of a State or Territory of the Commonwealth;
 - (iv) a person who is in charge of the vehicle at the time at which there was a contravention of this By-law associated with the vehicle;
- (b) in the case of a watercraft:
 - (i) a joint owner or part owner;
 - (ii) master, charterer, occupier, licensee, agent;
 - (iii) the person in charge of the watercraft.

"park" includes gardens, beaches, cycleways and any children's playground or park under the management or control of the Council;

"party" means a social gathering, as of invited guests for conversation, refreshments or entertainment;

"permit" means a permit granted under Part 4 of this By-law;

"permit holder" means a person to whom a permit is granted under Part 4 of this By-law;

"reception" means a function or occasion when persons are formally received;

"recreation area" means a recreation ground and areas appurtenant to that ground and any change rooms, club rooms, club house, buildings, grandstands and other structures associated with the use of that recreation ground;

“recreation ground” means the playing area of a sports field, court or similar facility and the area between the boundary of the sports field, court or similar facility to a fence or barrier surrounding the sports field, court or similar facility or, if there is no fence or barrier, a distance of 5 metres from the boundary;

“recreational facility” means a sports centre, hall, recreation area, recreation ground and includes part of that facility;

“road” includes a road or part of a road with a constructed surface suitable for the use of vehicles, and an area set aside by the Council for parking vehicles;

“Senior Environmental Health Officer” means the Senior Environmental Health Officer appointed by the General Manager;

“sharps” means objects or devices having acute rigid corners, edges, points or protuberances capable of cutting or penetrating the skin and includes hypodermic needles, intravenous sets, Pasteur pipettes, lancets, and scalpel blades used in medical, dental veterinary and nursing applications;

“sign” means any board, sign, or banner which in any way makes an announcement or is an advertisement for any restaurant, shop, place of business, product, ware or any other thing and which is not permanently attached to any building or other structure;

“smoke” has the meaning given to it under section 3 of the *Public Health Act 1997*;

“sports centre” means a building owned or controlled and managed by the Council as a sports centre and any sports courts, sports facilities, toilets, change rooms, kiosk or other area associated with the sports centre;

“stall” includes any table, wagon, trailer, wheelbarrow or transportable structure used by any person to sell and distribute goods and/or services to the public, solicit donations and/or sell raffle or lottery tickets;

“toilet” means a toilet owned or controlled and managed by the Council for use by the public;

“stock” includes cattle, sheep and goats, but does not include horses;

“user agreement” means an agreement entered into for the hire or use of any Council land or recreational facility under clause 5 and Part 4 of this By-law;

“vehicle” means a vehicle as defined by the *Vehicle and Traffic Act 1999*;

“wares” includes any subscription, good, thing, article, or matter, and any food or article of food within the meaning of the *Food Act 2003*;

“watercraft” means a vessel or craft capable of being used as a means of conveyance or movement across, through on or in water, whether propelled by sail, motor, oars or otherwise.

“wildlife” means any living creature other than:

- (a) a dog or cat;
- (b) domestic stock;
- (c) fish, within the meaning of the *Living Marine Resources Act 1995*;
- (d) an animal that:
 - (i) is being farmed under and in accordance with the *Animal Farming (Registration) Act 1994*;
 - (ii) has been so farmed and is legally in the possession of any persons.

PART 2 - MANAGEMENT OF PUBLIC LAND AND RECREATIONAL FACILITIES

DIVISION 1 – NOTICES

Use of Council land and recreational facilities

- 4 —** (1) The General Manager may by notice make rules for and regulate the management, control and use of any Council land or recreational facility.
- (2) A notice under sub-clause (1) may be placed on a sign on or at the Council land or recreational facility in respect of which the notice applies.
- (3) A person on or in any Council land or recreational facility must obey the terms and conditions of any notice given under sub-clause (1).
- Penalty: Fine not exceeding 5 penalty units.

DIVISION 2 – HIRING OF PUBLIC LAND AND RECREATIONAL FACILITIES

Hire of Council land and recreational facilities

- 5 —** (1) A person, club, association, body corporate or organisation may, by permit, hire any Council land or recreational facility.
- (2) The Council may require a person, club, association, body corporate or organisation to sign a user agreement prior to hiring any Council land or recreational facility in place of granting a permit.
- (3) The Council may impose such terms and conditions in a permit or user agreement as the Council determines.
- (4) The Council may under this clause confer upon a permit holder or hirer, the right to –
- (a) make charges for admission to the Council land or recreational facility or to any grandstands, pavilion, building or enclosure on the Council land or recreation facility to which the permit or user agreement applies;
- and
- (b) exclude any person from the land or recreational facility to which the permit or user agreement applies who does not pay such charge.

Security Bond

- 6 — The Council may require a permit holder or hirer to pay a bond to the Council in such sums as the Council may determine to ensure the performance of that person's obligations and requirements under a permit or user agreement.

Right to recover costs

- 7 — If the hirer or permit holder defaults in carrying out any obligations and requirements of a permit or user agreement, the Council may carry out the obligations and requirements and may deduct the cost of the works from the bond paid under clause 6, or the Council may recover in a court of competent jurisdiction from the hirer or permit holder any expenses incurred by it in so doing less the amount of the bond paid by the hirer or permit holder for that purpose, if any, as a debt due to it.

Closure of Council land or a recreational facility

- 8 — (1) The General Manager may close any Council land or recreational facility to members of the public for such periods as the General Manager may determine.
- (2) A person must not, without a permit, user agreement or other written consent from the General Manager, enter or remain on or in any Council land or recreational facility if it is closed to the public.
- Penalty: Fine not exceeding 5 penalty units.

PART 3 - GENERAL OFFENCES***DIVISION 1 – USE*****Function**

- 9 — Unless authorised by a permit to do so, a person must not conduct, arrange or participate in a meeting, party or reception at which more than 25 people are present, in or on any Council land or recreational facility.
- Penalty: Fine not exceeding 5 penalty units.

Admission charges

- 10** — Unless authorised by a permit or user agreement to do so, a person must not charge admission or collect money for admission from any person in, or who is about to enter, any Council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Entry into Council land or a recreational facility

- 11** — (1) A person must not enter any Council land or recreational facility during the period in which it is hired to any other person unless authorised to do so by the hirer.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person must not remain in or on any Council land or recreational facility where an entry fee is payable unless they have paid the correct fee.

Penalty: Fine not exceeding 10 penalty units.

DIVISION 2 – PROTECTION OF NATURAL AREAS AND PROPERTY**Protection of vegetation**

- 12** — (1) Unless authorised by a permit to do so, a person must not, by any act, wherever performed, cut, pluck, destroy or injury any tree, shrub, flower or other vegetation growing in or on any Council land, or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

- (2) Unless authorised by a permit to do so, a person must not remove any wood or timber from any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Declared weeds

- 13** — Unless authorised by a permit to do so, a person must not bring into, or leave, or be in possession of, any declared weed in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Protection of soil

- 14**—Unless authorised by a permit to do so, a person must not dig, cut or remove any soil, turf, loam, sand, gravel, stone or other material on or from any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Protection of wildlife

- 15**—(1) Unless authorised by a permit to do so, a person must not take any wildlife or products of wildlife from any Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

- (2) Unless authorised by a permit to do so, a person must not lay or set any trap or deposit any substance likely to injure or harm any wildlife, on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

- (3) Unless authorised by a permit to do so, a person must not interfere with the nest, breeding place or habitation of any wildlife on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

- (4) Unless authorised by a permit to do so, a person must not intentionally disturb any wildlife on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Climbing of trees, natural features and other objects

- 16** Unless authorised by a permit or user agreement to do so, a person must not climb a tree, shrub, building, roof, seat, cliff, escarpment or fence in or on any Council land, or recreational facility, except for play equipment installed in a children's playground.

Penalty: Fine not exceeding 5 penalty units.

General Offences

- 17**—(1) Unless authorised by a permit to do so, a person must not make or mark out a track or route on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

- (2) Unless authorised by a permit to do so, a person must not erect a cairn or memorial on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Fires

- 18—Unless authorised by a permit to do so, a person must not light or maintain any fire in or on any Council land, or recreational facility unless in a place designated for that purpose.

Penalty: Fine not exceeding 10 penalty units.

Damage to Council land or recreational facility

- 19—(1) Unless authorised by a permit to do so, a person must not remove or damage Council property on or in any Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

- (2) Unless authorised by a permit to do so, a person must not mark, write on, paint or in any way deface any Council property, Council land, or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Damage to relics

- 20—A person must not remove, damage, deface or disturb any brick, glass, coin, masonry, ceramics, aboriginal relic or any other object of cultural, architectural, historical or scientific interest in or on any Council land, or recreational facility.

Penalty: Fine not exceeding 20 penalty units.

Buildings and structures

- 21—Unless authorised by a permit to do so, a person must not place, leave, build or set up any building, structure or obstruction of any kind in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Storage of watercraft

- 22—Unless authorised by a permit to do so, a person must not leave or abandon a watercraft on any Council land.

Penalty: Fine not exceeding 5 penalty units.

Children's playgrounds

23— A person must not do any of the following in a children's playground:

- (a) fail to comply with directions of an authorised officer;
- (b) play any ball games;
- (c) misuse or damage any children's playground equipment; or
- (d) use any children's playground equipment unless the person is 12 years of age or less unless the Council has erected a sign authorising the use of the equipment by a person older than 12 years of age.

Penalty: Fine not exceeding 5 penalty units.

Creation of an entrance to Council land or a recreational facility

24— (1) Unless authorised by a permit to do so, a person who owns or occupies land adjoining any Council land or recreational facility must not create an entrance to that Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

- (2) The General Manager may by notice require a person who owns or occupies land adjoining any Council land or recreational facility to close any entrance that accesses the Council land or recreational facility.

DIVISION 3 – ANIMALS, VEHICLES, BICYCLES, SKATEBOARDS**Use of vehicle and horses**

25— Unless authorised by a permit or user agreement to do so, a person must not drive any vehicle, or ride or lead any horse in or on any Council land, or recreational facility except on a constructed road or track which the Council has authorised to be used for vehicles or horses.

Penalty: Fine not exceeding 5 penalty units.

Parking in Council land or recreational facility

26— Unless authorised by a permit to do so, a person must not park or leave any vehicle in or on any Council land or recreational facility except within an area set aside by the Council as a parking area.

Penalty: Fine not exceeding 5 penalty units.

Washing, dismantling and repair of vehicle

27 — Unless authorised by a permit to do so, a person must not in or on any Council land or recreational facility dismantle, paint, wash or repair a vehicle unless it is necessary to enable the vehicle to be moved from the Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Use of skates and cycles

28 — Unless authorised by a permit to do so, a person must not in or on any Council land or recreational facility ride, drive or use a bicycle, tricycle, scooter, quad bike, skateboard or in-line skates or other similar conveyance except -

- (a) on roads, paths, tracks or area provided for this purpose; and
- (b) where signs or notice boards indicate that it is allowed.

Penalty: Fine not exceeding 5 penalty units.

Safety gear

29 — (1) A person using a skate board, in-line skates or scooter in or on a specifically designed facility in accordance with clause 28 is to wear such safety gear as may be deemed appropriate by the General Manager.

(2) The Council may display signs in or near a specifically designed facility setting out appropriate safety gear that is to be worn by persons using a skateboard in or on that facility.

(3) A person must comply with a direction displayed in a sign under sub-clause 2.

Penalty: Fine not exceeding 2 penalty units.

(4) A person riding a bicycle in or on any Council land or recreational facility must wear an approved bicycle helmet as required by and defined in the *Road Rules 2009*.

Penalty: Fine not exceeding 2 penalty units.

Animals in Council land or recreational facility

30 — Unless authorised by a permit to do so, a person must not permit or allow any horse or stock to be in, graze or stray onto or into any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

DIVISION 4 – PUBLIC ORDER**Peaceable use of Council land or recreational facility**

31 — A person in or on any Council land or recreational facility must not do any act or thing which interferes, or is likely to interfere with the reasonable peaceable use by the public of that land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Signs and handbills

32 — (1) Unless authorised by a permit to do so, a person must not erect, exhibit, or display a notice, sign, or electoral sign on or in any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

(2) Unless authorised by a permit to do so, a person must not give out, distribute, scatter or throw down a sign, handbill, notice, placard, advertisement, book, paper or pamphlet on or in any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Use of fireworks, projectiles or missiles

33 — Unless authorised by a permit to do so, a person must not fire or discharge any projectile or missile, or use, fire or discharge any fireworks, in or on any Council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Conduct of certain activities

34 — (1) Unless authorised to do so by a permit or user agreement, a person must not conduct any amusement or entertainment for financial reward in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

(2) Unless authorised to do so by a permit or user agreement, a person must not organise or participate in a meeting, or similar activity on or in Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

(3) Unless authorised to do so by a permit or user agreement, a person must not take up a collection of money in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

- (4) Sub-clause (3) does not apply to a person acting on behalf of an organisation if that person or organisation is approved for soliciting under the *Collections for Charities Act 2001*.

Sports

- 35 —** (1) Unless authorised to do so by a permit or user agreement, a person must not organise, administer, or operate any organised sport, contest, training or game on or in any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

- (2) A person must not enter onto a recreation ground while an organised sport, contest, training or game is in progress without permission from the organiser of the sport, contest, training or game, the permit holder or hirer of that recreation ground, the Council, or an authorised officer.

Penalty: Fine not exceeding 10 penalty units.

- (3) A person must not play or practice golf or allow any person to play or practice golf in or on any Council land or recreational facility except where the Council land or recreational facility has been designated by the Council for that purpose.

Penalty: Fine not exceeding 5 penalty units.

Use of change rooms and public toilets

- 36 —** (1) A person who is over the age of 10 years must not enter a change room or toilet in or on any Council land or recreational facility that is designated for the use of the opposite sex except to help someone who is injured, elderly or disabled.

Penalty: Fine not exceeding 10 penalty units.

- (2) Sub-clause (1) does not apply to a toilet that is designated as a unisex toilet.

Loitering

- 37 —** (1) A person must not loiter in a change room or toilet in or on any Council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

Sale of liquor and intoxicated liquor

38— (1) Unless authorised by a permit or user agreement to do so, a person must not sell liquor to any person in or on any Council land or recreational facility.

Penalty: Fine not exceeding 10 penalty units.

(2) A person must not be in or on any Council land or any recreational facility in an intoxicated condition.

Penalty: Fine not exceeding 10 penalty units.

Sale of goods, chattels or property

39— Unless authorised to do so by a permit or user agreement, a person must not set up a stall, sell or offer for sale any goods, chattels or property in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

Leasing

40— Unless authorised to do so by a permit or user agreement, a person must not let or hire any goods, chattels, or property in or on any Council land or recreational facility.

Penalty: Fine not exceeding 5 penalty units.

DIVISION 5 – HEALTH**Camping**

41— Unless authorised by a permit to do so, a person must not camp or set up any caravan in or on any Council land or recreational facility except in an area designated for that purpose and if any applicable fee is paid.

Penalty: Fine not exceeding 10 penalty units.

No smoking

42— A person must not smoke in a children's playground, hall, sports centre, toilet or other building owned or managed by, or under the control of, Council in or on any Council land or recreational facility.

Penalty: Fine not exceeding 20 penalty units.

Pollution of Council land or a recreational facility

43— A person must not urinate or defecate on or in any Council land or recreational facility except in a place provided for that purpose.

Penalty: Fine not exceeding 10 penalty units.

Deposit or discharge noxious matter

44 — (1) A person must not deposit the dead body or part of the body of an animal on or in any Council land or recreational facility.

Penalty: Fine not exceeding 20 penalty units.

(2) A person must not deposit, discharge or leave any faecal matter, offal, filth or other noxious or polluting matter or thing, on or in any Council land or recreational facility.

Penalty: Fine not exceeding 20 penalty units.

Syringes and sharps

45 — A person must not place, leave or drop any used or unused syringe or another other sharps in or on any Council land or recreational facility unless in facilities provided for that purpose.

Penalty: Fine not exceeding 20 penalty units.

DIVISION 6 – GENERAL AND MISCELLANEOUS PROVISIONS**Alcohol free areas**

46 — (1) The Council may declare an area in any Council land or recreational facility to be an alcohol free area:

- (a) during any specified hours or periods or both; or
- (b) at all times.

(2) The Council may revoke or amend any declaration under sub-clause (1), whether or not any specified period has expired.

(3) For the purposes of sub-clause (4) an area of Council land or recreational facility is an alcohol free area if:

- (a) has been declared an alcohol free area under sub-clause (1);
and
- (b) the area is identified as being an alcohol free area by a sign within it or in its close proximity; and
- (c) the sign indicates that the possession or consumption of liquor is prohibited within that area; and
- (d) where the area is alcohol free only during specified hours or periods:
 - (i) the sign states those hours or periods; and
 - (ii) the action occurs during those hours or period.

(4) Unless authorised by a permit or user agreement to do so, a person must not in an alcohol free area:

- (a) have any liquor in their possession or control; or
- (b) consume any liquor.

Penalty: Fine not exceeding 10 penalty units.

Power to stop vehicles

- 47—**(1) An authorised officer may require the driver of a vehicle in or on any Council land or recreational facility to stop the vehicle if the authorised officer believes on reasonable grounds that the driver or an occupant of the vehicle has committed an offence under this By-law.
- (2) The driver of a vehicle must stop the vehicle when required by an authorised officer to do so under sub-clause (1).

Penalty: Fine not exceeding 5 penalty units.

PART 4 - PERMITS

Application for Permit

- 48—**Any application for a permit pursuant to this By-law should be made to the Council and be accompanied by the following:
- (a) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant;
 - (b) a scaled drawing showing the location and extent of the proposed occupation or activity;
 - (c) a safety management plan or a description of any necessary safety measures that are appropriate for the proposed activity; and
 - (d) such other information as the Council may reasonably require.

Factors to be considered when granting a permit

- 49—**In deciding whether or not to grant a permit pursuant to this Part the Council may have regard to the following:
- (a) the potential for damage to Council infrastructure
 - (b) public amenity and safety;
 - (c) public access in the area;
 - (d) the maintenance of public order in the area;
 - (e) the movement of traffic in the area;
 - (f) the manner of any proposed advertising;
 - (g) the nature, size, shape, extent and location of any proposed road furniture;

- (h) the availability of suitable parking for motor vehicles in the area;
- (i) representations made by a police officer;
- (j) any other relevant matters.

Conditions of permit or approval

50—A permit or approval issued under this By-law may be subject to such conditions as the Council considers appropriate.

Compliance with terms and conditions

51—The holder of a permit issued under this By-law must comply with the terms and conditions thereof.

Penalty: Fine not exceeding 5 penalty units.

Grant and conditions of permit

52—(1) A permit or user agreement may require the permit holder or hirer to obtain insurance cover as directed by the Council.

(2) The Council may require a person to sign a user agreement in place of granting a permit under this clause.

(3) The Council may impose such terms and conditions in a user agreement as the Council determines.

(4) A hirer is to comply with the terms and conditions in a user agreement.

Penalty: Fine not exceeding 5 penalty units.

Competing applications

53—(1) If there are competing applications for a permit for the use of any particular Council land or recreational facility, the Council may determine which application for a permit is to be granted, if any.

(2) The Council may determine that a prior or later application for a permit to use the same Council land or recreational facility is to be granted in preference to any other application for that place.

Permits generally

54—Every permit granted pursuant to this By-law is to —

- (a) be in writing and may be in the form of a letter;
- (b) bear the date on which it was issued;
- (c) include such terms and conditions as the Council may consider necessary;

- (d) remain in force for the period for which it was issued, unless it is cancelled, suspended, or surrendered;
- (e) be carried by the permit holder at all times while undertaking the activity approved under the permit;
- (f) be surrendered to the Council if it is cancelled or suspended or when it is due for renewal.

Cancellation of permits and user agreements

- 55**—(1) The Council may cancel or suspend a permit or user agreement if a permit holder or hirer fails to comply with or offends against this By-law or any condition of a permit or user agreement.
- (2) The Council may cancel a permit or user agreement if the permit holder or hirer is –
- (a) convicted of any offence involving dishonesty; or
 - (b) convicted of any offence involving a breach of public order.
- (3) To cancel or suspend a permit or user agreement the Council is to serve a notice in writing on the permit holder or hirer stating that the permit or user agreement is cancelled or suspended and the reason for that cancellation or suspension.
- (4) Cancellation or suspension of any permit or user agreement is effective from the day the notice is served on the permit holder or hirer or the date specified in the notice whichever is the later.
- (5) Nothing in this clause is to be construed as preventing or prohibiting the Council from cancelling a permit or user agreement if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.
- (6) Notwithstanding, sub-clauses (3) and (4), the Council may cancel or suspend a permit or user agreement by any communication conveyed to the permit holder or hirer by any means including notice by radio or television in emergency situations or in a situation considered appropriate by the Council.

Production of permit

56 — A permit holder must produce the permit immediately when requested to do so by an authorised officer.

Penalty: Fine not exceeding 10 penalty units.

Assignment of permit

57 — A permit must not be assigned to any person except with the written consent of the Council.

PART 5 - ENFORCEMENT**Ban**

58 — (1) The General Manager may, by notice, ban a person who he reasonably believes is offending or has offended against this By-law from entering any Council land or recreational facility for such period of time as the General Manager determines.

(2) A person who has been banned from entering any Council land or a recreational facility under sub-clause (1) must not enter upon that Council land or recreational facility for the period during which the ban applies.

Penalty: Fine not exceeding 10 penalty units.

(3) The General Manager may withdraw a ban made under sub-clause (1).

Supply of name and address

59 — (1) An authorised officer may require a person to give his or her name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law.

(2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

(3) A police officer making a request under sub-clause (1) may arrest a person who is on land owned by, or under the control of, the Council and whom the police officer reasonably believes is offending against sub-clause (1).

Abuse or obstruction of an authorised officer

60 — (1) A person must not:

- (a) threaten, intimidate or use abusive language to an authorised officer in or on land owned by or under the control of the Council while the officer is acting in the course of his or her duties; or
- (b) assault, resist or obstruct an authorised officer in the execution of his or her duty.

Penalty: Fine not exceeding 10 penalty units.

Enforcement and removal of articles

61 — (1) An authorised officer may:

- (a) refuse to admit a person to any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law;
- (b) direct any person to leave any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law;
- (c) remove anything which is on any land owned by, or under the control of the Council without the approval of the Council;
- (d) remove any person from any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.

- (2) A person who fails to comply with a direction under sub-clause (1)(b) is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

Removed articles

- 62 — (1)** If an article is not claimed by the owner or person on behalf of the owner within 48 hours following its removal under this Part, the General Manager is to give notice to the owner of the article.

- (2) A notice is to give the following details -
 - (a) a description of the article and any distinguishing features of it;
 - (b) the place from which it was removed;
 - (c) the date on which it was removed;
 - (d) the place from which the article may be claimed;
 - (e) the fees, costs and charges payable in respect of the removal, maintenance and storage of the article.
 - (f) that if not claimed within 14 days that the article may be disposed of by the Council.
- (3) A notice is to be given in writing.
- (4) If the owner of the removed article cannot be ascertained or found, and if the General Manager is of the opinion that the value of the article warrants the cost of advertising, the General Manager is to publish on at least one occasion a notice containing the particulars specified in sub-clause (2) in a newspaper circulating in the municipal area.

Fees, Costs and Charges

- 63 —** (1) The owner of any article is liable to pay:
- (a) any fees, costs and charges specified in a notice given under this Part; and
 - (b) any further fees, costs and charges incurred in the storage and further maintenance of an article removed under this Part.
- (2) Any unpaid fees, costs and charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until any fees, costs and charges specified in a notice are paid.

Disposal of unclaimed articles

- 64 —** (1) The Council may dispose of an article if:
- (a) the article is not claimed within 14 days of the issue of a notice given under this Part.
 - (b) any fees, costs and charges specified in a notice under this Part have not been paid within 14 days of that notice.

- (2) An article may be disposed of under sub-clause (1) —
 - (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
 - (b) in such manner as the General Manager determines if —
 - (i) the General Manager is of the reasonable belief that the article has a value that does not warrant the costs of a tender or a public auction; or
 - (ii) no tender is received or no bid is made at a public auction.
- (3) If an article is disposed of under this clause the General Manager must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If the owner of the article so requests, then the proceeds obtained from the disposal or sale of the article must be paid to the owner, less any fees that are due to the Council, advertising costs, and any other costs incurred by the Council in the removal and disposal of the article.

Article required for prosecution

- 65 — (1) Where an article is required by the Council for the prosecution of an offence under this By-law, the article is to be released to the owner following the completion of the prosecution proceedings and on payment of any relevant fees, costs and charges unless otherwise directed by a court.
- (2) The Council may, under clause 64, dispose of an article required under sub-clause (1) which is not claimed by the owner, or in relation to which fees, costs and charges have not been paid, within 30 days of the completion of court proceedings.

Notices and directions generally

- 66 — (1) A notice given under this By-law is to be given in writing, which may be in the form of a letter, and is to be given in accordance with section 29AB(1)(a) of the *Acts Interpretation Act 1931*.
- (2) A direction given under this By-law may be given verbally or in writing and may be in the form of a letter.

- (3) A notice or direction given under this By-law may be subject to such conditions and requirements and allow such period for action as the Council, General Manager or authorised officer, where applicable, may determine.
- (4) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (5) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work be in or of such materials, carried out within the periods, and carried out in the manner the Council or an employee or agent of the Council directs or be done only by a person with a specified appropriate qualification.
- (6) The Council may require the person carrying out the work to pay to the Council, or enter into a bond for payment to the Council of, an amount it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

Non compliance with notice or direction

- 67—** (1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction within the time period specified in the notice or direction. .

Penalty: Fine not exceeding 10 penalty units.

- (2) The Council may undertake any work required to be carried out in a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.

PART 7 - INFRINGEMENT NOTICES

Infringement Notices

- 68—** (1) In this clause –

“specified offence” means an offence against a clause specified in Column 1 of Schedule 1.

SCHEDULE 1
INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE GENERAL DESCRIPTION OF OFFENCE	Column 3 PENALTY (Penalty Units)
4(3)	Fail to obey terms and condition of notice	1
8(2)	Enter or remain in Council land/recreational facility closed to the public	1
9	Conduct function in Council land/recreational facility	1
10	Charge admission to Council land/recreational facility	2
11(1)	Enter closed or hired Council land/recreational facility without a ticket	2
11(2)	Remain on Council land/recreational facility without paying correct fee	2
12(1)	Damage vegetation on Council land/recreational facility	1
12(2)	Remove wood from Council land/recreational facility	1
13	Possession of declared weed on Council land/recreational facility	1
14	Remove materials from Council land/recreational facility	1
15(1)	Take wildlife or wildlife products from Council land/recreational facility	2
15(2)	Lay/set trap/lay poison on Council land/recreational facility	2
15(3)	Interfere with breeding/habitation of wildlife on Council land or recreational facility	2
15(4)	Intentionally disturb wildlife on Council land/recreational facility	2
16	Climb tree/natural feature/other object on Council land/recreational facility	1
17(1)	Mark route/track on Council land/recreational facility	1
17(2)	Erect cairn/memorial on Council land/recreational facility	1
18	Light or maintain a fire on Council land/recreational facility	2
19(1)	Damage/remove Council property on Council land/recreational facility	2
19(2)	Defacement of Council property	1
20	Damage/removal/deface relics on Council land/recreational facility	2

21	Place/leave/build a structure or obstruction on Council land/recreational facility	1
22	Leave or abandon watercraft on Council land	2
23	Misuse or damage children's play equipment in children's playground	1
24(1)	Creation of entrance on Council land/recreational facility	1
25	Use of vehicles or riding horses on Council land/recreational facility	1
26	Park outside designated parking area in Council land/recreational facility	1
27	Wash/dismantle/repair vehicle in Council land/recreational facility	1
28	Use skates/bicycles or other similar conveyance outside permitted areas in Council land/recreational facility	1
29(3)	Fail to wear safety gear as directed in Council land or recreational facility	1
29(4)	Fail to wear helmet when riding bicycle in Council land or recreational facility	1
30	Permit animals or stock in Council land/recreational facility	1
31	Unreasonably interfere with peaceable enjoyment of Council land or recreational facility	1
32(1)	Erect or display signage on Council land or recreational facility	1
32(2)	Distribute notices and pamphlets in Council land or recreational facility	1
33	Use of firearms/projectile/fireworks in Council land or recreational facility	2
34(1)	Conduct entertainment for financial reward on Council land or recreational facility	1
34(2)	Organise/participate in assembly in Council land or recreational facility	1
34(3)	Take up collection of money in Council land or recreational facility	1
35(1)	Participating in sport in Council land or recreational facility	2
35(2)	Enter onto recreation ground whilst sport being played	3
35(3)	Playing or practising golf outside designated area on Council land or recreational facility	1
36(1)	Use of change room or toilet of opposite sex on Council land or recreational facility	2
37(1)	Loiter in change room or toilet on Council land or recreational facility	2
38(1)	Sale of liquor in Council land or recreational facility	2

38(2)	Be intoxicated on Council land or recreational facility	2
39	Sale of goods on Council land or recreational facility	1
40	Let or hire goods on Council land or recreational facility	1
41	Camping/set up caravan on Council land or recreational facility	1.5
42	Smoking in recreational facility or Council building	2
43	Urinate or defecate outside place provided on Council land or recreational facility	2
44(1)	Deposit carcass on Council land or recreational facility	1.5
44(2)	Deposit faecal or similar matter on Council land or recreational facility	1.5
45	Place/leave/drop syringes/sharps outside facility provided on Council land or recreational facility	2
46(4)	Possess or consume alcohol outside area identified on Council land or recreational facility	1.5
47(2)	Fail to stop in vehicle when directed on Council land or recreational facility	1
51	Compliance with terms and conditions of a permit	1
52(4)	Hirer fail to comply with terms and conditions in user agreement	1
56	Fail to produce permit if requested	1
58(2)	Enter land in breach of ban	2
59(1)	Fail to supply name and address	1
60(1)	Threaten/obstruct/abuse authorised officer in Council land or recreational facility	2
61(2)	Fail to comply with direction to leave land	1
67(1)	Non compliance with notice or direction	2

Certified as being in accordance with the law by:

 , Solicitor

Dated this 3rd day of August, 2011 at Hobart

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

 , General Manager

Dated this 4th day of August, 2011 at Hobart

The Common Seal of Kingborough Council was hereunto affixed in the presence of:



 , Mayor / Councillor

 , General Manager

KINGBOROUGH COUNCIL

ROADS, PARKING AND STORMWATER BY-LAW

BY-LAW 4 OF 2011

BY-LAW MADE UNDER SECTION 145
OF THE LOCAL GOVERNMENT ACT 1993

FOR THE PURPOSE OF REGULATING CONDUCT AND ACTIVITIES ON
ROADS AND HIGHWAYS, WITHIN PARKING AREAS AND RELATING TO
STORMWATER MANAGEMENT IN THE KINGBOROUGH MUNICIPAL AREA

PART 1 - PRELIMINARY**Short Title**

- 1 — This By-law may be cited as the *Roads, Parking and Stormwater By-Law 2011*.

Application

- 2 — (1) This By-law applies to the municipal area of the Kingborough Council.
(2) This By-law does not apply to a councillor or an employee of the Council or a contractor or agent of the Council where such person is carrying out activities on the road or highway in the course of their duties for and on behalf of the Council

Interpretation

- 3 — In this By-law:-

"**Act**" means the *Local Government Act 1993*;

"**authorised officer**" means an employee of the Council authorised by the Council or the General Manager for the purposes of this By-law or a police officer of the Tasmania Police Service;

"**bank**" means the sides of a watercourse from the adjacent land surface to the bed;

"**Council**" means the Kingborough Council;

"**crossing**" means that part of a road constructed in or over a footpath, kerb, gutter, drain, culvert, pavement or nature strip that is designed for or used as a means of access by vehicles, bicycles or trailers from a road to land;

"event" means an assembly of people and includes a parade, performance, spectacle, entertainment, exhibition, rally, march, demonstration or other event which causes or is likely to cause people to assemble on a road or parking area or part of a road or parking area or for any purpose which excludes the public's normal use of that road or parking area;

"furniture" includes chairs, fortables, barriers, panels and umbrellas, plus other chattels used in the preparation or service or consumption of food and drink;

"General Manager" means the General Manager appointed by the Council;

"material" includes stones, clay, earth, cement, concrete, glass, filth, dust, ashes, oil, liquid and animal droppings or other offensive or noxious substances;

"municipal area" means the area of land under the control of the Council and defined in section 16 of the Act;

"nature strip" means that part of the road reservation between the kerb and gutter (or the edge of the constructed road formation) and the front boundary of, or footpath in front of, the adjoining property;

"occupy" includes to place on a road, footpath or nature strip any wares, goods, chattels, items, tables and chairs, or structure to enable the service and/or sale of food or beverages or for any other purpose or to fence off or obstruct any part of the road to exclude members of the public;

"park" in relation to a vehicle, means to stop the vehicle or allow it to remain in a place where the driver or person in charge of the vehicle intends it to remain stationary, otherwise than –

- (a) because the stopping of traffic prevents movement; or
- (b) for so long only as is required to set down or take up passengers or goods without waiting;

"parking area" includes any area owned by the Council or under the delegated control of the Council and designated for the parking of vehicles and all buildings, equipment, signs, access ways, land, fences, chattels and structures used or connected in any way with the parking area;

"parking meter" means a device installed adjacent to a parking space for the measuring time on the insertion of a coin or coins of the name or value shown on the device;

"parking space" means a space within a parking area or a space controlled by a parking meter, indicated by lines or other marks on the ground or indicated by any other method, of sufficient clear space to accommodate a vehicle within that space;

"parking voucher" or **"voucher"** means a document issued by a voucher machine;

"penalty unit" means a sum provided for under the provisions of the *Penalty Units and Other Penalties Act 1987*;

"permit" means a permit granted under Part 5 of this By-law;

"permit holder" means a person who has obtained a permit from the Council for any purpose under this By-law;

"premises" means any premises registered by the Council pursuant to the requirements of the *Public Health Act 1997* or the *Food Act 2003*;

"reserved parking area" means an area designated by the Council for long term parking;

"reserved parking space" means a parking space designated by the Council for long term parking;

"road" includes a part of a road, road reservation, footpath, or walkway or nature strip which are wholly or partly maintained by Council or under the control of Council;

"roadside vendor" means any person who, in the course of a business, profession, trade or calling, sets up a stall in or on any road to sell wares to the public;

"sale" includes to sell, agree to sell, offer or expose for sale, or keep in possession for sale;

"shared installation" means a stormwater installation to more than one property on separate land titles and which is owned by the owners of the land the subject of the connection;

"sign" means any board, sign, plaque or banner which in any way makes an announcement or is an advertisement which is not permanently attached to any building or other structure;

"skip bin" means a receptacle not owned by the Council or supplied by the Council to residents of the municipal area for depositing waste or refuse, particularly larger refuse often associated with building work or garden refuse;

"specified offence" means an offence against a clause specified in Column 1 of Schedule 1 of this By-law;

"stormwater branch" means that portion of a stormwater system owned and maintained by Council and connecting a stormwater installation to a stormwater main;

"stormwater installation" means an installation owned and maintained by the property owner comprising of discharge pipes, drains, fixtures, appliances and associated components used to convey stormwater from a property to a stormwater branch or other approved disposal system;

"stormwater main" means any pipe or open channel owned or managed by the Council which is used or designated for the purpose of conveying stormwater from properties in the area;

"stormwater system" means the stormwater installations, stormwater mains and stormwater branches that together make up a system for the disposal of stormwater;

"street dining" means the consumption of food and or beverages by customers seated in an area of the road external to the business providing and selling the food or beverages;

"street rubbish bins" means rubbish bins installed by Council on the footpath or nature strip;

"terms" includes conditions, whether imposed pursuant to this By-law, a permit issued under this By-law, or by virtue of a provision of any Act;

"vehicle" means a vehicle as defined in section 3(1) of the *Vehicle and Traffic Act 1999*;

"voucher machine" is a device installed by or for Council that, on the insertion of a coin or coins of the name or value shown on the device or on a notice in the vicinity of the machine, issues a document or documents –

(a) bearing, with or without other words, words indicating that the holder is entitled to park a vehicle in a place specified on the voucher and the name of the corporation for which the document or documents is or are issued; and

(b) bearing an imprint indicating the date and time of issue;

"water course" means a natural channel into or through which water flows, whether permanently or intermittently;

PART 2 – ROADS

DIVISION 1 – USE OF ROADS

Occupation of Road

- 4 —(1) Unless authorised by a permit to do so, a person must not for any purpose hold or conduct an event on, place any obstruction on or enclose or occupy a road or part of a road.

Penalty: Fine not exceeding 5 penalty units

- (2) A person may apply to the Council at any time under Part 5 of this By-law for a permit to occupy a portion of a road.
- (3) A permit authorising occupation of the road may include occupation by landscaping or vegetating a nature strip if the person is the owner of land that is contiguous with the nature strip.

Roadside sales

- 5 —Unless authorised by a permit to do so, a person must not park a vehicle or leave any other article on a road for the purpose of advertising it for sale.

Penalty: Fine not exceeding 5 penalty units

Placing of objects or mixing substances on the road

- 6 —(1) Unless authorised by a permit to do so, a person must not use any road for placing or mixing any concrete, lime concrete, asphaltic concrete, cement, cement mortar, lime mortar, tar, soil, sand, stone, firewood, or other material.

Penalty: Fine not exceeding 5 penalty units

- (2) Unless authorised by a permit to do so, a person must not place any object on any road for the purposes of preventing or inhibiting parking.

Penalty: Fine not exceeding 5 penalty units

- (3) The Council may grant a permit for any of the purposes listed in subclause (1) or subclause (2), subject to any conditions which the Council may consider appropriate.
- (4) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to clean up or remove any material.

- (5) If a person who has received a notice or direction under sub-clause (4) fails to comply with the notice or direction within a reasonable time, or any

time provided in the notice or direction, the Council may clean up or remove the material and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Dismantling or repair of vehicles

- 7 — Unless authorised by a permit to do so, a person must not dismantle, paint or repair any vehicle on a road, unless it is necessary in order to enable the vehicle to be removed from the road.

Penalty: Fine not exceeding 5 penalty units

Parking on footpaths and nature strips

- 8 — (1) Unless authorised by a permit to do so, a person must not park a vehicle or trailer wholly or partly on a footpath, kerb, gutter or nature strip.

Penalty: Fine not exceeding 3 penalty units

- (2) Notwithstanding sub-clause (1), a person is permitted to stop on a nature strip if the person is the owner or occupier of a property that is contiguous with the nature strip and the vehicle when stopped does not unreasonably obstruct other road users.
- (3) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to remove the vehicle or trailer from the footpath, kerb, gutter or nature strip.
- (4) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may remove the vehicle and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Parking of skip bins, caravans and trailers on roads

- 9 — (1) Unless authorised by a permit to do so, person must not place a skip bin on a road.

Penalty: Fine not exceeding 5 penalty units

- (2) Approval may be given for a skip bin to be placed on the road temporarily if the skip bin is provided with flashing lights and adequate reflectorised tape is applied to the bin.
- (3) Unless authorised by a permit to do so, a person must not park a caravan or trailer on a road.

Penalty: Fine not exceeding 3 penalty units

- (4) An authorised officer may give a notice or direction to a person who has contravened this clause requiring that person to remove the skip bin or caravan or trailer from the road.
- (5) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may remove the skip bin or caravan or trailer and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

DIVISION 2 – DAMAGE TO ROADS

Dropping materials on roads

10—Unless authorised by a permit to do so, a person must not deposit or drop any material or allow any material to flow, fall, be dropped or in any other way be deposited on any road.

Penalty: Fine not exceeding 5 penalty units

Wheels of vehicles to be cleaned

11—A person must not drive any vehicle or permit any vehicle to be driven into, over or on any road unless the wheels of that vehicle are first cleaned of any material adhering to those wheels.

Penalty: Fine not exceeding 3 penalty units

Damaging or opening of road surface

12—(1) Unless authorised by a permit to do so, a person must not open up or damage the surface of any road.

Penalty: Fine not exceeding 5 penalty units

(2) A person who intends to open up, or does open up, the road surface to lay underground services under the road must comply with the reasonable directions of the General Manager or an authorised officer.

(3) If a person who has opened up the road surface fails to repair the road to the reasonable satisfaction of the Council, the Council may repair the road and recover the cost of the repairs from the person as a debt to it.

Removal of vegetation

13—Unless authorised by a permit to do so, a person must not wilfully destroy, cut, pluck, remove or injure any tree, shrub, flower or other vegetation growing on a road.

Penalty: Fine not exceeding 5 penalty units

DIVISION 3 – CROSSING OF FOOTPATHS, GUTTERS AND KERBS**Crossings**

- 14 —** (1) A person must not construct or lay down a crossing without a permit.

Penalty: Fine not exceeding 5 penalty units

- (2) The General Manager may give notice to the owner of any land which is contiguous to a road requiring that person to remove or repair a crossing.
- (3) If the General Manager gives notice under this clause requiring a crossing to be removed, the footpath, kerb, gutter, nature strip and road must be repaired in a proper and workmanlike manner by the person to whom the notice was given.

Penalty: Fine not exceeding 5 penalty units

Driving vehicle over footpaths, kerbs and gutters

- 15 —** (1) A person must not cause or allow to be caused any damage to a footpath, kerb, gutter or nature strip.

Penalty: Fine not exceeding 5 penalty units

- (2) Unless the owner of the land is authorised by a permit to do so, a person must not drive a vehicle or allow a vehicle to be driven over a footpath, kerb, gutter or nature strip of any road to or from any land other than over a designated crossing.

Penalty: Fine not exceeding 5 penalty units

- (3) The General Manager may give notice to a person who has contravened this clause requiring that person to repair any damage occasioned to a road as a result of the contravention.
- (4) The Council may recover the costs incurred in repairing any damage occasioned as a result of a breach of this clause from the person committing the breach as a debt due to it.

DIVISION 4 – SIGNS**Signs on roads and footpaths**

16 — (1) Unless authorised by a permit to do so, a person must not place, erect, construct or display or cause to be placed, erected, constructed or displayed a sign on a road.

Penalty: Fine not exceeding 5 penalty units

- (2) A person who places a sign on a road must comply with the terms and conditions of any permit, and with any directions of the General Manager or an authorised officer.
- (3) In considering an application for a permit under sub-clause (1), the Council will consider:
- (a) the dimensions and construction of the sign;
 - (b) whether the sign is to be placed on the area of the footpath which is contiguous with the boundary of the land owned or occupied by the person seeking to place the sign;
 - (c) whether more than one sign is appropriate where the land owned or occupied by the person seeking to place the sign is a corner site;
 - (d) whether the sign is located as close as practicable to the boundary of the land owned or occupied by the person seeking to place the sign, or whether some other location is more appropriate;
 - (e) whether the sign is to be removed during hours of darkness or when any business operating on the land is not open to the public;
 - (f) whether the sign is secured to the satisfaction of the Council.

DIVISION 5 – STREET DINING**Permit for street dining**

- 17 —** (1) The owner or manager of a business may apply to the Council for a permit for the purpose of street dining within the road.
- (2) The Council may grant a permit for the purpose of providing a street dining service to a person on such terms and conditions as it thinks fit.
- (3) A permit may only authorise street dining on an area of the road immediately outside the land to which the permit relates.
- (4) The Council may cancel a permit immediately if a permit holder breaches Clause 19(3) of this By-law.

Street dining without a permit

18—(1) Unless authorised by a permit to do so, a person must not cause or permit any furniture to be placed on a road for the purpose of encouraging or permitting street dining.

Penalty: Fine not exceeding 5 penalty units

- (2) An authorised officer may remove furniture that is placed on a road in contravention to sub-clause (1) and store it in a safe location until any penalty or fine that may be payable under this Division has been paid to the Council.
- (3) An authorised officer intending to remove any furniture pursuant to this clause must give at least two (2) days written notice of the intention to remove the furniture.
- (4) Any costs incurred by the Council due to the removal and/or storage of furniture pursuant to sub-clause (2) are recoverable from the person who caused or permitted the furniture to be placed on the road as a debt due to the Council.

Conditions for street dining

19—(1) The permit holder must:

- (a) ensure that the street dining area and the area immediately adjacent to it is clean, tidy and in a sanitary condition at all times;
- (b) regularly empty waste bins;
- (c) wash the area that is subject to the permit every day on which the street dining area is used;
- (d) as soon as a table is vacated, clean and wash away any liquid, food, debris, broken glass, cigarette butts or waste from the area.

Penalty: Fine not exceeding 3 penalty units

- (2) A permit holder must not use existing street rubbish bins for the disposal of table waste.

Penalty: Fine not exceeding 3 penalty units

- (3) An applicant for a permit for street dining must have public liability insurance and product liability insurance that covers the area designated for street dining before the applicant is issued with a permit. The insurance cover is to be for the minimum sum of \$10 million and be in a form acceptable to Council.

- (4) A permit holder must produce a Certificate of Currency of the insurance referred to in sub-clause (3) if requested by an authorised officer.
- (5) The Council may terminate a permit immediately if a permit holder has refused to allow an authorised officer to view a relevant certificate of insurance or if the insurance cover lapses during the term of the permit.

PART 3 – PARKING

Entry and exit of parking areas

20—A person driving a vehicle must not enter or leave a parking area except by an access point designated by a Council sign.

Penalty: Fine not exceeding 3 penalty units

Driving of vehicles in a parking area

21—A person must not drive a vehicle in a parking area at more than 20 kilometres per hour or at an unsafe speed.

Penalty: Fine not exceeding 5 penalty units

Parking of vehicles

22—A person must park a vehicle wholly within one parking space and in a manner which does not obstruct the entry or exit of a vehicle to another parking space.

Penalty: Fine not exceeding 3 penalty units

Payment of parking fee

23—A person must not park a vehicle in a parking area without payment of the fee required by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

Penalty: Fine not exceeding 3 penalty units

Parking vouchers

24—A person must not park a vehicle in a parking area controlled by a voucher machine unless that person has clearly displayed on the driver's side of the vehicle's dashboard an unexpired voucher.

Penalty: Fine not exceeding 3 penalty units

Parking longer than the maximum period

25—A person must not allow a vehicle to remain parked in a parking area for a longer period than is allowed by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

Penalty: Fine not exceeding 3 penalty units

Parking longer than the maximum period

25—A person must not allow a vehicle to remain parked in a parking area for a longer period than is allowed by the conditions of entry to that parking area, which conditions are indicated by signs displayed in the parking area.

Penalty: Fine not exceeding 3 penalty units

Reserved spaces

26—(1) The General Manager may create reserved parking areas and spaces on land owned by or under the control of Council.

(2) A person must not park or leave a vehicle in a parking space or parking area which is designated “Reserved” unless authorised to do so.

Penalty: Fine not exceeding 3 penalty units

Damage to Council property

27—(1) A person must not remove or damage Council property within any parking area.

Penalty: Fine not exceeding 10 penalty units

(2) A person must not mark, write on or in any other way deface Council property within any parking area.

Penalty: Fine not exceeding 5 penalty units

Unauthorised removal of infringement notice

28—A person other than the registered owner or person in charge of the vehicle must not remove or cause to be removed any infringement notice affixed to that vehicle.

Penalty: Fine not exceeding 5 penalty units

Washing, dismantling or repair of vehicles

29—A person must not dismantle, paint, wash or repair any vehicle in a parking area without the consent of the General Manager, unless it is necessary to enable the vehicle to be removed from the parking area.

Penalty: Fine not exceeding 5 penalty units

Use of skates and cycles

30—A person is not to ride a machine propelled by human power, which includes a skateboard, bicycle, scooter, in-line skates and roller skates, in a parking area during hours indicated by signs in that parking area.

Penalty: Fine not exceeding 2 penalty units

Obstruction

31—A person must not cause any obstruction to vehicular or pedestrian traffic in a parking area.

Penalty: Fine not exceeding 5 penalty units

Offensive and prohibited conduct

32—(1) An authorised officer may remove a person from land owned by, or under the control of Council whom they reasonably believe is offending against this By-law

(2) A person who does not obey the directions of an authorised officer is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units

Use of parking area for other purposes

33—(1) The Council may grant a permit for a parking area to be used for any purpose and may impose conditions on its use.

PART 4 – STORMWATER MANAGEMENT***DIVISION 1 – PROTECTION OF HYDRAULIC SYSTEMS*****Opening of ground**

34—(1) A person must not open any ground so that a stormwater main or stormwater branch is exposed unless the person has applied to the Council for a permit at least 2 working days prior to the commencement of work and has received a permit to carry out the work.

Penalty: Fine not exceeding 10 penalty units

(2) Unless authorised by a permit to do so, a person must not open the surface of any road so that a stormwater main or stormwater branch is exposed.

Penalty: Fine not exceeding 10 penalty units

Interfering with pipes

35—Unless authorised by a permit to do so, a person must not alter or interfere with a stormwater main or stormwater branch.

Penalty: Fine not exceeding 10 penalty units

Structures over Council's services

36—(1) Unless authorised by a permit to do so, a person must not construct any structure, fence, or carry out other works that alters or interferes with a stormwater main.

Penalty: Fine not exceeding 10 penalty units

- (2) The Council may direct any person contravening this clause to remove the structure, fence, or other works.
- (3) If a person who has received a direction under sub-clause (2) fails to comply with the direction within a reasonable time, or any time provided in the direction, the Council may remove the structure or fence or carry out diversion works and recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

Defective work or maintenance

37—(1) On receipt of a notice in writing from the General Manager, the owner or occupier of any premises is to replace, clean out or repair any leakage, blockage, or breakage in any stormwater installation or part thereof which in the opinion of the General Manager is, or has become, bad or defective.

- (2) An owner or occupier must comply with the notice within the time specified in the notice.

Penalty: Fine not exceeding 5 penalty units

- (3) The Council may undertake the work required in a notice issued under sub-clause (1) if the owner or occupier fails to comply with the notice within the time specified in the notice.
- (4) The Council may recover its expenses in undertaking work under sub-clause (3) from the person who fails to comply with a notice under sub-clause (1) as a debt due to it in addition to any penalty imposed under sub-clause (2).

Altering surface

38—Unless authorised by a permit to do so, the owner or occupier of any land on which any stormwater system is constructed must not alter the ground level in the immediate vicinity of any Council service or main by the addition or removal of fill, top soil or other materials.

Penalty: Fine not exceeding 5 penalty units

DIVISION 2 – STORMWATER AND LAND DRAINAGE PROVISIONS**Connection to Council's stormwater system**

39 — Unless authorised by a permit to do so, a person is not to connect any drain or pipe to make any entry into, remove part of, or otherwise interfere with a stormwater system including any drain, pipe, fitting, or fixture connected to the system.

Penalty: Fine not exceeding 5 penalty units

Property connected to a shared house connection

40 — The owner of any property to which the stormwater installation is connected by a shared installation, must within 30 days of service of a notice from the General Manager, or such other time as the General Manager may approve, disconnect from the shared installation and connect to the Council's stormwater branch as indicated in the notice.

Penalty: Fine not exceeding 5 penalty units

Provision of a stormwater branch

41 — (1) Where a stormwater branch is permitted in accordance with statutory requirements a single separate branch is permitted from the stormwater main to inside the title boundary of a property upon payment of the fee or estimate as determined by Council.

(2) Unless authorised by a permit to do so, more than one separate branch per property is not permitted.

Discharge of appropriate stormwater

42 — A person who is the occupier of any land which is connected to a stormwater main of any kind must discharge into the stormwater main all matter which, in accordance with the *Drains Act 1954* and the *Plumbing Regulations 2004*, is appropriate to be discharged into the stormwater system.

Penalty: Fine not exceeding 5 penalty units

Drainage nuisance abatement

43—(1) If, in the opinion of the General Manger, water from constructed ponds, empoundments, paved or unpaved land surfaces is being concentrated other than within a natural watercourse or otherwise causing a nuisance, the Council may serve a notice on the owner or occupier, requiring that provision be made for the satisfactory drainage of the concentrated water to an approved disposal point within the time specified in the notice.

- (2) A person who fails to comply with a notice issued under sub-clause (1) commits an offence.

Penalty: Fine not exceeding 5 penalty units

- (3) The Council may undertake the work required in a notice issued under sub-clause (1) if the owner or occupier fails to comply with the notice within the time specified in the notice.

- (4) The Council may recover its expenses in undertaking work under sub-clause (3) from the person who fails to comply with a notice under sub-clause (1) as a debt due to it in addition to any penalty imposed under sub-clause (2).

Erosion and sediment control

44—(1) If, in the opinion of the General Manager, natural stormwater runoff has been contaminated with concentrations of sediments or suspended solids or other materials that exceed the statutory limitations, the Council may serve a notice on the owner or occupier, requiring a reduction in the concentrations of sediments or suspended solids or other materials to a level that complies with statutory limitations within the time specified.

- (2) A person who fails to comply with a notice issued under sub-clause (1) commits an offence.

Penalty: Fine not exceeding 10 penalty units

- (3) The Council may undertake the work required in a notice issued under sub-clause (1) if the owner or occupier fails to comply with the notice within the time specified in the notice.

- (4) The Council may recover its expenses in undertaking work under sub-clause (3) from the person who fails to comply with a notice under sub-clause (1) as a debt due to it in addition to any penalty imposed under sub-clause (2).

Works in watercourses

45—Unless authorised by a permit to do so, a person must not alter the bed, banks, or flood plains of a watercourse.

Penalty: Fine not exceeding 20 penalty units

PART 5 – PERMITS**Applications**

46—Any application for a permit pursuant to this By-law should, where applicable, be made to the Council and be accompanied by the following:

- (a) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant;
- (b) a scaled drawing showing the location and extent of the proposed occupation or activity;
- (c) a safety management plan or a description of any necessary safety measures that are appropriate for the proposed activity; and
- (d) such other information as the Council may reasonably require.

Factors to be considered when granting a permit

47—In deciding whether or not to grant a permit pursuant to this Part the Council may have regard to the following:

- (a) the potential for damage to Council infrastructure
- (b) public amenity and safety;
- (c) public access in the area;
- (d) the maintenance of public order in the area;
- (e) the movement of traffic in the area;
- (f) the manner of any proposed advertising;
- (g) the nature, size, shape, extent and location of any proposed road furniture;
- (h) the availability of suitable parking for motor vehicles in the area;
- (i) representations made by a commissioned police officer;
- (j) any other relevant matters.

Conditions of permit or approval

48—A permit or approval issued under this By-law may be subject to such conditions as the Council considers appropriate.

Compliance with terms and conditions

49 — The holder of the permit issued under this By-law must comply with the terms and conditions thereof.

Penalty: Fine not exceeding 5 penalty units

Permits generally

50 — Every permit granted pursuant to this By-law is to:

- (a) be in writing and may be in the form of a letter;
- (b) bear the date on which it was issued;
- (c) include such terms and conditions as the Council may consider necessary;
- (d) remain in force for the period for which it was issued, unless it is cancelled or surrendered;
- (e) be carried by the permit holder at all times while undertaking the activity approved under the permit; and
- (f) be surrendered to the Council if it is cancelled or when it is due for renewal.

Cancellation and suspension of permits

- 51** — (1) The Council may cancel a permit if a permit holder fails to comply with or offends against this By-law or any condition of a permit.
- (2) The Council may cancel a permit if the permit holder is:
- (a) convicted of any offence involving dishonesty; or
 - (b) convicted of any offence involving a breach of public order.
- (3) To cancel or suspend a permit, the Council is to serve a notice on the permit holder stating that the permit is cancelled or suspended and the reason for that cancellation or suspension.
- (4) Cancellation or suspension of any permit is effective from the day the notice is served on the permit holder or the date specified in the notice whichever is the later.
- (5) Nothing in this clause is to be construed as preventing or prohibiting the Council from cancelling a permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.

- (6) Notwithstanding, sub-clauses (3) and (4), the Council may cancel or suspend a permit by any communication conveyed to the permit holder by any means including notice by radio or television in emergency situations or in a situation considered appropriate by the General Manager.

Production of the permit

- 52 —** (1) A permit holder must produce the permit immediately when requested to do so by an authorised officer.

Penalty: Fine not exceeding 5 penalty units

Assignment of permit

- 53 —** A permit must not be assigned to any person except with the written consent of the Council.

PART 6 – ENFORCEMENT**Supply of name and address**

- 54 —** (1) An authorised officer may require a person to give his or her name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law.
- (2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.
- Penalty: Fine not exceeding 5 penalty units.

Abuse or obstruction of an authorised officer

- 55 —** A person must not:
- (a) threaten, intimidate or use abusive language to an authorised officer in or on land owned by or under the control of the Council while the officer is acting in the course of his or her duties; or
 - (b) assault, resist or obstruct an authorised officer in the execution of his or her duty.
- Penalty: Fine not exceeding 10 penalty units.

Enforcement and removal of articles

- 56 —** (1) An authorised officer may:
- (a) refuse to admit a person to any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.

- (b) direct any person to leave any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.
- (c) remove anything which is on land owned by, or under the control of the Council without the approval of the Council;
- (d) remove any person from any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.
- (2) A person who fails to comply with a direction under (1)(b) is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

Removed articles

57 — (1) If an article is not claimed by the owner or person on behalf of the owner within 48 hours following its removal under clause 56, the General Manager is to give notice to the owner of the article.

- (2) A notice is to give the following details:
 - (a) a description of the article and any distinguishing features;
 - (b) the place from where it was removed;
 - (c) the date on which it was removed;
 - (d) the place from which the article may be claimed;
 - (e) the fees, costs and charges payable in respect of the removal, maintenance and storage of the article;
 - (f) that if not claimed within 14 days that the article may be disposed of by the Council.
- (3) A notice is to be given in writing.

- (4) If the owner of the removed article cannot be ascertained or found, and if the General Manager is of the opinion that the value of the article warrants the cost of advertising, the General Manager is to publish on at least one occasion a notice containing the particulars specified in sub-clause (2) in a newspaper circulating in the municipal area.

Fees costs and charges

58 — (1) The owner of any article is liable to pay:

- (a) any fees, costs and charges specified in a notice under clause 57;

- (b) any further fees incurred in the storage and further maintenance of an article removed under this Part.
- (2) Any unpaid fees, costs and charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until any fees, costs and charges specified are paid.

Disposal of unclaimed articles

59 — (1) The Council may dispose of an article if:

- (a) the article is not claimed within 14 days of notice being under clause 57;
- (b) any fees, costs and charges specified in a notice have not been paid within 14 days of that notice.
- (2) An article may be disposed of under sub-clause (1):
 - (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
 - (b) in a manner as the General Manager determines if:
 - (i) the General Manager is of the opinion that the article has a value that does not warrant the costs of a tender or a public auction; or
 - (ii) no tender is received or no bid is made at a public auction.
- (3) If an article is disposed of under this clause the General Manager must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If the owner of the article so requests, then the proceeds obtained from the disposal or sale of the article must be paid to the owner, less any fees that are due to the Council, advertising costs, and any other costs incurred by the Council in the removal and disposal of the article.

Article required for prosecution

- 60** — (1) Where an article is required by the Council for the prosecution of an offence under this By-law, the article is to be released to the owner following the completion of the prosecution proceedings and on payment of any relevant fees, costs and charges unless otherwise directed by a court.
- (2) The Council may, under clause 59, dispose of an article required under subclause (1) which is not claimed by the owner or in relation to which fees, costs and charges have not been paid within 30 days of the completion of court proceedings.

Notices and directions generally

- 61** — (1) A notice given under this By-law is to be given in writing, which may be in the form of a letter, and is to be given in accordance with section 29AB(1)(a) of the *Acts Interpretation Act 1931*.
- (2) A direction given under this By-law may be given verbally or in writing and may be in the form of a letter.
- (3) A notice or direction given under this By-law may be subject to such conditions and requirements and allow such period for action as the General Manager or authorised officer may determine.
- (4) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (5) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work be in or of such materials, carried out within the periods, and carried out in the manner the Council or an authorised officer directs, or be done only by a person with a specified appropriate qualification.
- (6) The Council may require the person carrying out the work to pay the Council, or enter into a bond for payment to the Council of an amount it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

Non compliance with notice or direction

- 62** — (1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction within the time period specified in the notice or direction.
- Penalty: Fine not exceeding 10 penalty units
- (2) The Council may undertake any work required to be carried out in a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.

PART 7 - INFRINGEMENT NOTICES

Infringement Notices

63—(1) In this clause:

“**specified offence**” means an offence against a clause specified in Column 1 of Schedule 1.

- (2) 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.
- (3) Payment of the monetary penalty set out in an infringement notice must be made to the Council.
- (4) The monetary penalty set out in an infringement notice must be paid within 28 days of the service of the infringement notice, after which time the infringement notice may be referred to the Director, Monetary Penalties Enforcement Service.
- (5) The General Manager or an authorised officer may:
 - (a) Issue an infringement notice to a person who the General Manager or authorised officer believes on reasonable grounds has committed a specified offence; and
 - (b) issue a single infringement notice in respect of more than one specified offence.
- (6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

Debt due

64—All monies payable to the Council under this By-law are a debt due to the Council and recoverable at law.

Offences

65—A person who contravenes or fails to comply with a provision of this By-law is guilty of an offence and is liable on conviction to a penalty as specified in this By-law in respect of such an offence.

Failure to comply

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

SCHEDULE 1

INFRINGEMENT NOTICE OFFENCES

Column 1 CLAUSE	Column 2 OFFENCE	Column 3 PENALTY
	GENERAL DESCRIPTION OF OFFENCE	Penalty Units
4(1)	Occupation of road	1
5	Roadside sales	1
6(1)	Placing of objects on road	1
6(2)	Placing objects on road to inhibit parking	1
7	Dismantling and repairing vehicles on road	1
8(1)	Parking on footpaths and nature strips	1
9(1)	Parking of skip bin on road	1
9(3)	Parking of caravan or trailer on road	1
10	Dropping materials on road	1
11	Wheels of vehicles to be cleaned	1
12(1)	Damaging or opening of road surface	1
13	Removal of vegetation	1
14(1)	Unauthorised construction of crossing	1
14(3)	Repair following removal of crossing	1
15(1)	Damage to footpaths, kerbs and gutters	1
15(2)	Designated crossings to be used	1
16(1)	Signs on roads or footpaths	1
18(1)	Street dining without a permit	1
19(1)	Permit holder not keeping street dining area clean	1
19(2)	Permit holder using street rubbish bins	1
20	Enter or leave parking area by designated access	1
21	Speeding in a parking area	1
22	Parking of vehicle within parking space	1
23	Payment of parking fee	1
24	Display of parking voucher	1
25	Parking longer than the maximum period	1
26(2)	Parking in a reserved parking space	1
27(1)	Damaging Council property in a parking area	1

27(2)	Defacing Council property	1
28	Unauthorised removal of infringement notice	1
29	Washing, dismantling or repair of vehicle in parking area	1
30	Use of skates and cycles during prohibited times	1
31	Obstructing vehicles and foot traffic in parking area	1
32(2)	Obeying the directions of an authorised officer	1
34(1)	Opening of ground to expose stormwater main	2
34(2)	Opening of road to expose stormwater main	2
35	Interfering with pipes	2
36(1)	Structure erected over stormwater mains	2
37(2)	Defective work or maintenance	1
38	Altering surface depth above stormwater main	1
39	Connection to Council's stormwater system	1
40	Disconnection of shared house installation	1
42	Discharge of appropriate waste	1
43(2)	Drainage nuisance abatement	1
44(2)	Erosion and sediment control	1
45	Works in water courses	2
49	Compliance with terms and conditions of permit	1
52	Production of permit	1
54(2)	Fail to supply name and address	2
55	Abusing or obstructing an authorised officer	2
56(2)	Fail to comply with direction to leave land	1
62(1)	Non-compliance with notice or direction	2

Certified as being in accordance with the law by:

P. M. M. M.

Solicitor

Dated this *3rd* day of *August*, 2011 at Hobart

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

General Manager

Dated this *4th* day of *August*, 2011 at Hobart

The Common Seal of Kingborough Council was hereunto affixed in the presence of:

[Signature] Mayor.

[Signature] General Manager.



Electricity Supply Industry

ELECTRICITY SUPPLY INDUSTRY (CONTESTABLE CUSTOMER) REGULATIONS 2005**PUBLICATION OF APPROVED 'DRAFT PRO-FORMA CONTRACTS' PROPOSED BY AURORA ENERGY PTY LTD**

I, THE REGULATOR, hereby publish a copy of the two approved 'pro-forma default contracts', submitted by Aurora Energy Pty Ltd, pursuant to sub-regulation 17C(7) of the *Electricity Supply Industry (Contestable Customer) Regulations 2005*:

- 1) Pro-forma Default Customer-Distributor Contract; and
- 2) Pro-forma Default Retailer-Distributor Contract.

The approved 'draft pro-forma contracts' take effect from the date of publication in the *Gazette*.

The Regulator's Notice of Approval is available from the Economic Regulator's web-site at:

<http://www.economicregulator.tas.gov.au>.

GLENN APPLEYARD, Chairman, Tasmanian Economic Regulator

[10 August 2011]

Pro Forma Default Aurora-Contestable Customer Connection Contract

PREAMBLE

This contract is about the services which cover connection of your site to our distribution system, and the electricity supplied to the site. These services are called "customer connection services".

In addition to this contract, we are required to comply with electricity laws and other consumer laws in our dealings with you.

You also have a separate contract with your retailer dealing with the sale of electricity to the site.

This contract is between us, and you, for the supply of electricity to your site, being a site identified by us or the Jurisdictional Regulator as being, or becoming, contestable in accordance with the Contestable Customer Regulations.

More information about this contract and other matters is on our website at <http://www//auroraenergy.com.au>.

1. THE PARTIES

This contract is between:

Aurora Energy Pty Ltd ABN 85 082 464 622 in its capacity as a distribution network service provider who provides you with customer connection services at the site (in this contract referred to as "we", "our" or "us"; and

You, the customer to whom this contract applies (in this contract referred to as "you" or "your").

2. DEFINITIONS AND INTERPRETATION

- (a) Terms used in this contract have the same meanings as they have in the National Energy Retail Law and the National Energy Retail Rules ('the Rules') as if the National Energy Retail Law and the Rules were in force in Tasmania as at the date this contract comes into effect. However, for ease of reference, a simplified explanation of some terms is given at the end of this contract. Where the simplified explanations in Schedule 1 differ from the definitions in the National Energy Retail Law and the Rules, the definitions in the National Energy Retail Law and the Rules prevail.
- (b) Other additional terms are also defined at the end of this contract or are given the meaning applicable under the tariff appropriate to your supply of electricity.
- (c) To the extent of any inconsistency, the following order of precedence applies:
 - (1) The National Energy Retail Law and the Rules;
 - (2) The tariff which applies to the supply of electricity to your site; and
 - (3) This contract.

Pro Forma Default Aurora-Contestable Customer Connection Contract

3. WHAT IS THE TERM OF THIS CONTRACT?

3.1 When does this contract start?

If your site is connected to our distribution system, this contract starts at midnight on the date at which your site becomes contestable pursuant to Part 2 of the Contestable Customer Regulations and a relevant contractual relationship exists between you and your electricity retailer under regulation 17B of those Regulations, without the need for the parties to sign or execute any document.

3.2 When does this contract end?

(a) This contract ends:

- (i) If your retailer notifies us that the supply of electricity to the site is to be disconnected (a 'termination notice') – subject to paragraph (b), on a date specified by us, of which we will give you at least 5 but no more than 20 business days notice even if you have vacated the site earlier; or
- (ii) If you start receiving supply of electricity for the site under a different customer connection contract – on the date that contract starts; or
- (iii) If a different customer starts receiving supply of electricity for the site – on the date the connection contract of that customer starts; or
- (iv) If we both agree to a date to end the contract – on the date that is agreed; or
- (v) 10 business days after we disconnect the site under the Rules, if you have not within that period asked your retailer to reconnect the site and met the requirements in the Rules for reconnection.

(b) If your retailer gives us a termination notice but you do not give safe and unhindered access to your site to conduct a final meter reading (where relevant), this contract will not end under paragraph (a)(i) until a final meter reading is carried out.

(c) Rights and obligations accrued before the end of this contract continue despite the end of this contract.

4. SCOPE OF THIS CONTRACT

4.1 What is covered by this contract?

- (a) Under this contract we agree to provide customer connection services at the site. We also agree to meet other obligation set out in this contract and to comply with the electricity laws.
- (b) Charges for customer connection services will be billed under your contract with your retailer.

Pro Forma Default Aurora-Contestable Customer Connection Contract

4.2 Sale of electricity not covered by this contract

This contract does not cover the sale of electricity to your site. This is the role of your retailer.

4.3 Services and your connection point

- (a) We must provide, install and maintain equipment for the provision of customer connection services at your site safely and in accordance with the electricity laws.
- (b) Our obligations extend up to the connection point where electricity is to be supplied to the site (as defined by us) and not beyond.
- (c) You must ensure that:
 - (1) your electrical installation and associated equipment complies with all relevant electricity laws; and
 - (2) your electrical installation does not adversely impact our electricity distribution network.
- (d) Each party is responsible for the compliant operation and maintenance of their connection equipment.

4.4 Guaranteed service levels

- (a) We are required to meet certain guaranteed service levels. These requirements are set out in the Guideline issued by the Jurisdictional Regulator and available at:

[http://www.gpoc.tas.gov.au/domino/otter.nsf/LookupFiles/Guaranteed%20Service%20Level%20Scheme%20Guideline%20Version%202.pdf/\\$file/Guaranteed%20Service%20Level%20Scheme%20Guideline%20Version%202.pdf](http://www.gpoc.tas.gov.au/domino/otter.nsf/LookupFiles/Guaranteed%20Service%20Level%20Scheme%20Guideline%20Version%202.pdf/$file/Guaranteed%20Service%20Level%20Scheme%20Guideline%20Version%202.pdf).

If we do not meet a relevant guaranteed service level and you are entitled to a payment under this Guideline, we will make a payment to you in accordance with the relevant laws.

- (b) Nothing in this contract limits our obligations to make payments in accordance with the applicable GSL scheme.

5 YOUR GENERAL OBLIGATIONS

5.1 Full information

You must give us any information we reasonably require for the purposes of this contract. The information must be correct, and you must not mislead or deceive us in relation to any information provided to us.

5.2 Updating information

You must promptly:

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- (a) Inform your retailer of any change to your contact details; and
- (b) Inform your retailer of any change that you are aware of that materially affects access to your meter or to other equipment involved in providing customer connection services at the site; and
- (c) Inform us of any proposed change that you are aware of in plant or equipment, including metering equipment, or any change to the capacity or operation of connected plant or equipment that may affect the quality, reliability, safety or metering of the supply of electricity to the site or the site of any other person; and
- (d) Inform either your retailer or us of any permanent material change to the electricity load or pattern of usage at the site.

5.3 Your obligation to comply with electricity laws and our requirements

You must comply with:

- (a) The electricity laws relating to the provision of customer connection services we provide to your site under this contract; and
- (b) Our reasonable requirements under the electricity laws, including our service and installation rules and the provisions of Chapter 8 of the TEC to the extent that they apply to customers, including, but not limited to, s8.6.2 of the TEC. This includes a requirement that you provide and maintain at your site any reasonable or agreed facility required by us to provide customer connection services to the site, including (if required) a substation and associated equipment.

5.4 Life support equipment

- (a) If a person living at your site requires life support equipment, you must register the site with your retailer or with us. To register, you will need to give written confirmation from a registered medical practitioner of the requirement for life support equipment at the site.
- (b) You must tell us or your retailer if the life support equipment is no longer required at the site.
- (c) If the site are registered as having life support equipment, we must give you:
 - (i) General advice that there may be a planned or unplanned interruption to the supply of electricity to the site; and
 - (ii) At least 4 business days notice in writing of any planned interruptions to the supply of electricity to the site; and
 - (iii) Information to assist you to prepare a plan of action in case of an unplanned interruption; and
 - (iv) An emergency telephone contact number.

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5.5 Obligations if you are not an owner

If you cannot meet an obligation relating to your site under this contract because you are not the owner, you will not be in breach of the obligation if you take all reasonable steps to ensure that the owner or other person responsible for the site fulfils the obligation.

5.6 Micro generators including solar panels

- (a) If you have a micro generator connected to our distribution system at the site, you must comply with the applicable standards in operating and maintaining the generator when you start to take supply of electricity under this contract.
- (b) If you no longer want to keep a micro generator at the site connected to our distribution system, you must apply to us for a connection alteration so that any necessary alterations to the connection can be made.
- (c) If you want to connect a micro generator at the site to our distribution system for the purpose of exporting electricity (for example, a solar panel), you must apply for a connection alteration under the National Electricity Rules. We will provide you with a copy of the relevant additional terms and conditions at the time when we make our connection offer.

5.7 Insurance

Unexpected fluctuations in, or interruptions to, your electricity supply may cause damage to your equipment or property, or cause your equipment to malfunction. It is therefore recommended that you maintain an appropriate insurance policy, or install appropriate devices to protect your equipment and property when these fluctuations or interruptions occur.

6. WRONGFUL AND ILLEGAL USE OF ELECTRICITY**6.1 Illegal use of electricity or interference**

You must not and must take reasonable steps to ensure others do not:

- (a) Illegally use electricity supplied to the site; or
- (b) Interfere or allow interference with any of our equipment at the site, except as may be permitted by law; or
- (c) Use the electricity supplied to your site or any electrical equipment in a manner that:
 - (i) Unreasonably interferes with the connection or supply of electricity to another customer; or
 - (ii) Causes damage or interference to any third party; or
- (d) Use customer connection services provided by us in a way that is not permitted by law or this contract; or
- (e) Tamper with, or permit tampering with, any meters or associated equipment.

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6.2 Consequences for wrongful or illegal use

If you do not comply with clause 7.1 above, we may, in accordance with the electricity laws take any or all of the following actions:

- (a) Estimate the amount of electricity obtained wrongfully or illegally and take debt recovery against you for that amount; and
- (b) Undertake (or agree that you undertake) any necessary rectification work at your cost; and
- (c) Arrange for the immediate disconnection of the site.

7. OUR LIABILITY

- (a) The quality and reliability of your electricity supply is subject to a variety of factors that may be beyond our control, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution system and the acts of other persons, including at the direction of a relevant authority.
- (b) To the extent permitted by law, we give no condition, warranty or undertaking, and we make no representation to you, about the condition or suitability of electricity, its quality, fitness for purpose or safety, other than those set out in this contract.
- (c) Unless we have acted in bad faith or negligently, the National Energy Retail Law excludes our liability for any loss or damage you suffer as a result of the total or partial failure to supply electricity to your site, which includes any loss or damage you suffer as a result of the defective supply of electricity.
- (d) To the maximum extent permitted by law, our liability under this contract is limited to your physical loss or damage only. Liability for indirect, special or consequential loss or damage (including but not limited to loss of revenue, loss of profits, loss of opportunity, loss of goodwill, loss of production, loss of business reputation, future reputation or publicity, and any other indirect, remote, abnormal or unforeseeable loss or damage) is specifically excluded.¹

8. ACCESS TO THE SITE**8.1 Your obligations**

Under the electricity laws, you must provide us and our authorised representatives (together with all necessary equipment) safe and unhindered access to the site, including taking appropriate action to prevent menacing or attack by animals at the site, at any reasonable time to allow us to:

- (a) Read, test, maintain, inspect or alter any metering installation at the site; and

¹ This subclause will cease to have effect from the time the National Energy Retail Law and the National Energy Retail Rules take effect in Tasmania.

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- (b) Calculate or measure electricity supplied or taken at the site; and
- (c) Check the accuracy of metered consumption at the site; and
- (d) Replace meters, control apparatus and other electricity equipment of ours; and
- (e) Connect or disconnect the site; and
- (f) Examine or inspect an electrical installation at the site; and
- (g) Inspect, make safe, operate, change, maintain, remove, repair or replace any of our works at the site; and
- (h) Undertake repairs, testing or maintenance of the distribution system; and
- (i) Clear vegetation from the distribution system including any equipment owned by us; and
- (j) Take action to determine the appropriate tariff or changing category for the site; and
- (k) Perform services requested by you or your retailer.

8.2 Our obligations

If we or our representatives seek access to the site under Clause 8.1 above, we will:

- (a) Comply with all relevant requirements under the electricity laws; and
- (b) Carry or wear official identification; and
- (c) Show the identification if requested.

8.3 Survival of obligations

Your obligations under Clause 8.1 above continue for a period of 6 months after termination of this contract.

9. INTERRUPTION TO SUPPLY

9.1 Distributor may interrupt supply

We may interrupt the supply of electricity to your site where permitted under the electricity laws, including for a planned interruption or where there is an unplanned interruption or in accordance with the conditions for any applicable tariff.

9.2 Planned interruptions (maintenance, repair, etc)

- (a) We may make planned interruptions to the supply of electricity to the site under the Rules for the following purposes:
 - (i) For the maintenance, repair or augmentation of the transmission system or the distribution system, including maintenance of metering equipment; or
 - (ii) For the installation of a new connection or a connection alteration to another customer.

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- (b) If your electricity supply will be affected by a planned interruption, we will give you at least 4 business days notice by mail, letterbox drop, press advertisement or other appropriate means.

9.3 Unplanned interruption

- (a) We may interrupt the supply of electricity to your site in circumstances where we consider that a customer's electrical installation or the distribution system poses and immediate threat of injury or material damage to any person, property or the distribution system, including:
- (i) For unplanned maintenance or repairs;
 - (ii) For health or safety reasons;
 - (iii) In an emergency;
 - (iv) As required by a relevant authority;
 - (v) To shed demand for electricity because the total demand at the relevant time exceeds the total supply available; or
 - (vi) To restore supply to a customer.
- (b) If an unplanned interruption is made, we will use our best endeavours to restore electricity supply to the site as soon as possible.
- (c) We will make information about unplanned interruptions (including the nature of any emergency and, where reasonably possible, and estimate of when electricity supply will be restored) available on a 24 hour telephone information service.

9.4 Your right to information about interruption

- (a) If you request us to do so, we will use our best endeavours to explain:
- (i) An interruption to the supply of electricity to the site; or
 - (ii) A supply of electricity to the site of a quality in breach of any relevant standards under the electricity laws.
- (b) If you request an explanation be in writing we must, within 10 business days of receiving the request, give you either:
- (i) The written explanation; or
 - (ii) An estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.

10. OUR CHARGES**10.1 Payment**

The amounts you are billed under your contract with your retailer include our charges for customer connection services.

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10.2 Determination of our charges

We will determine our charges for a billing cycle in accordance with the electricity laws.

10.3 Compliance with tariff requirements

- (a) If there are any conditions that are relevant to any tariff or charging category that applies to you for the supply of electricity to your site we must advise your retailer of those conditions.
- (b) You must comply with any conditions referred to in paragraph (a).
- (c) If you do not comply with the conditions referred to in paragraph (a), we may change the tariff that applies to you.

11. DISCONNECTION OF SUPPLY

11.1 When can we disconnect?

Subject to us satisfying the requirements in the Rules, we may disconnect your site, if:

- (a) Your retailer informs us that it has a right to arrange for disconnection under your contract with your retailer and requests that we disconnect the site; or
- (b) You use electricity supplied to the site wrongfully or illegally in breach of Clause 6; or
- (c) If you fail to pay any direct charges (where relevant) to us under this contract; or
- (d) If you provide false information to us or your retailer such that you would not have been entitled to be connected if you had not provided the false information; or
- (e) If you do not provide and maintain space, equipment, facilities or anything else you must provide under the electricity laws or this contract in order for us to provide customer connection services; or
- (f) If you fail to give us safe and unhindered access to the site as required by Clause 8 or any requirement under the electricity laws; or
- (g) In an emergency or for health and safety reasons; or
- (h) If required to do so at the direction of a relevant authority; or
- (i) If we are otherwise permitted by the electricity laws to disconnect the site.

Note: The electricity laws allow distributors and other authorised people to disconnect or arrange the disconnection of site in circumstances additional to those set out above.

11.2 Notice and warning of disconnection

We may disconnect your site under Clauses 11.1(c), 11.1(d), 11.1(e) or 11.1(f) only if:

- (a) We have sent you a disconnection warning notice that:

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- (i) Requires you to rectify, within 6 business days after the date of issue on the notice, the issue that could lead to disconnection; and
 - (ii) Carries a warning of the consequences of failing to comply with the notice; and
- (b) In relation to safe and unhindered access only, we have used our best endeavours to contact you to arrange an appointment with you for access to your site in addition to providing a disconnection warning notice; and
- (c) You fail to comply with the disconnection warning notice within 6 business days after the date of issue.

11.3 Life support equipment

We must not disconnect your site if it is registered as having life support equipment, except in an emergency.

11.4 When we must not disconnect

- (a) Subject to paragraph (b), and otherwise in accordance with the Rules, we must not disconnect the site during the following times ('the protected period');
- (i) On a business day before 8.00am or after 3.00pm; or
 - (ii) On a Friday or the day before a public holiday; or
 - (iii) On a weekend or a public holiday; or
 - (iv) On the days between 20 December and 31 December (both inclusive) in any one year; or
 - (v) If you are being disconnected for a failure to pay, during an extreme weather event.
- (b) Your site may be disconnected within the protected period:
- (i) For reasons of health and safety; or
 - (ii) In an emergency; or
 - (iii) As directed by a relevant authority; or
 - (iv) If you are in breach of Clause 6 which deals with wrongful and illegal use of electricity; or
 - (v) If your retailer makes such a request on your behalf; or
 - (vi) If your site contain a commercial business that only operates within the protected period and where access to the site is necessary to effect disconnection; or
 - (vii) Where the site are not occupied.

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11.5 Our rights after disconnection

The disconnection of the site does not limit or waive any of the parties' rights and obligations under this contract arising before disconnection, including any of your obligations to pay amounts to us or your retailer.

11.6 Disconnection fee

If you have not complied with a disconnection warning notice and we arrive at the site to disconnect the site but do not do so because you rectify the matter referred to in the disconnection warning notice, you will be liable to pay a reasonable fee for our attendance at the site.

12. RECONNECTION AFTER DISCONNECTION

12.1 Where we must reconnect

(a) We must arrange for reconnection of the site if, within 10 business days of your site being disconnected:

- (i) Where your retailer asked for the disconnection – if we are asked by your retailer to reconnect the site; or
- (ii) In other circumstances – if:
 - (A) You ask us to arrange for reconnection of your site; and
 - (B) You rectify the matter that led to the disconnection; and
 - (C) You pay any reconnection charge.

(b) We may terminate this contract 10 business days following disconnection if the requirements in paragraph (a) are not met.

12.2 Timeframe for reconnection

If at the time of the request for reconnection:

- (a) You or your retailer have made arrangements for payment of the relevant reconnection charge; and
- (b) You have complied with our requirements under the relevant electricity laws; and
- (c) The necessary infrastructure to re-energise the site remains in place; and
- (d) You provide safe and unhindered access to the site,

we must re-energise the site by no later than the next business day, unless you request a later time.

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12.3 Wrongful disconnection

If we disconnect the site where we did not have a right to do so, we must reconnect the site as on as possible and without charge.

13. NOTICES AND BILLS

- (a) Notices and bills (where relevant) under this contract must be sent in writing, unless this contract or the Rules say otherwise.
- (b) A notice or bill sent under this contract is taken to have been received by you or by us (as relevant):
 - (i) on the date it is handed to the party, left at the party's site (in your case) or one of our offices (which excludes depots) (in our case) or successfully faxed to the party (which occurs when the send receives a transmission report to that effect); or
 - (ii) on the date two business days after it is posted; or
 - (iii) on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent electronically and the use of electronic communication has been agreed between us.

14. PRIVACY ACT NOTICE AND ACCESS TO INFORMATION**14.1 Privacy of personal information**

We will comply with all relevant privacy legislation in relation to your personal information. You can find a summary of our privacy policy on our website. If you have any questions, you can contact our privacy officer.

14.2 Access to information

Upon request, we must give you information about your electricity consumption or our charges for customer connection services. We may charge you a reasonable fee for information requested more than once in any 12 month period.

15. COMPLAINTS AND DISPUTE RESOLUTION**15.1 Complaints**

If you have a complaint relating to the supply of electricity to the site, or this contract generally, you may lodge a complaint with us in accordance with our standard complaints and dispute resolution procedures.

Note: Our standard complaints and dispute resolution procedures are published on our website.

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15.2 Our obligation in handling complaints or disputes

If you make a complaint, we must respond to your complaint within the required timeframes in our standard complaints and dispute resolution procedures and inform you:

- (a) Of the outcome of your complaint and the reasons for our decision; and
- (b) That, if you are not satisfied with our response, you have a right to refer the complaint to the Energy Ombudsman, telephone 1800 001 170.

16. FORCE MAJEURE

16.1 Effect of force majeure event

If, either you or we cannot meet an obligation under this contract because of an event outside the reasonable control of the party ('a force majeure event'):

- (a) The obligation, other than an obligation to pay money (including, in our case, a payment for failure to meet a guaranteed service level), is suspended to the extent it is affected by the event for so long as the event continues; and
- (b) The affected party must use its best endeavours to give the other prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which its obligations are affected and the steps taken to remove, overcome or minimise those effects.

16.2 Deemed prompt notice

If the effects of a force majeure event are widespread we will be taken to have given you prompt notice if we make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.

16.3 Obligation to overcome or minimise effect of force majeure event

A party that claims a force majeure event must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

16.4 Settlement of industrial disputes

Nothing in this clause requires a party to settle an industrial dispute that constitutes a force majeure event in any manner other than the manner preferred by that party.

17. APPLICABLE LAW

The laws of Tasmania govern this contract.

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18. GENERAL**18.1 Our obligations**

Some obligations placed on us under this contract may be carried out by another person. If an obligation is placed on us to do something under this contract, then:

- (a) We are taken to have complied with the obligation if another person does it on our behalf; and
- (b) If an obligation is not complied with, we are still liable to you for the failure to comply with this contract.

18.2 GST

- (a) Amounts specified in the standing offer prices from time to time and other amounts payable under this contract may be stated to be exclusive or inclusive of GST. Paragraph (b) applies unless an amount payable under this contract is stated to include GST.
- (b) Where an amount paid by you or by us under this contract is payment for a "taxable supply" as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed on to the recipient of that taxable supply.

18.3 Amending this contract

- (a) This contract may only be amended from time to time in accordance with the procedures set out in the National Energy Retail Law.
- (b) We must inform you of any material amendments to this contract as required by the National Energy Retail Law. We may do this by publishing the amendments on our website and through the three daily newspapers published in Tasmania, and those amendments will take effect from the date of such publication.

Simplified explanation of terms

Billing cycle – means the regular recurrent period for which we charge for customer connection services;

Business day – means a day other than a Saturday, a Sunday or a public holiday;

Connection alteration service means an alteration to an existing connection, including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration that would change your load at the site or the capacity of your connection point to import or export electricity from or to our distribution system, and includes the provision of any equipment required to provide such a service;

Connection point – means the point at which a distribution system connects to an electrical installation or equipment that services the site of one or more customers;

Contestable Customer Regulations means the Electricity Supply Industry (Contestable Customer) Regulations 2005;

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Customer – means a person who buys or wants to buy electricity from a retailer;

Customer connection services - include services relating to the flow of electricity to your site, including connection and disconnection, but does not include a connection alteration service;

Disconnection - means an action to prevent the flow of electricity to the site, but does not include an interruption;

Emergency – means an emergency due to the actual or imminent occurrence of an event that in any way endangers or threatens to endanger the safety or health of any person, or normal operation of the distribution system or transmission system, or that destroys or damages, or threatens to destroy or damage, any property;

Electricity laws – means national and State and Territory laws and rules relating to electricity, including but not limited to the ESI Act, the TEC, and the legal instruments made under those laws and rules;

ESI Act means the Electricity Supply Industry Act 1995 (Tas);

Force majeure event - means an event outside the reasonable control of a party;

GSL scheme – has the meaning given in the National Energy Retail Law;

GST – has the meaning given in the GST Act (A New Tax System (Goods and Services Tax) Act 1999 (Cth));

Interruption – means a temporary unavailability or temporary curtailment of the supply of electricity from a distribution system to a customer, but does not include disconnection;

Jurisdictional Regulator means the Office of the Tasmanian Economic Regulator;

Life support equipment means any equipment determined to be life support equipment pursuant to a determination under regulation 30(6)(b) of the Electricity Supply Industry (Tariff Customers) Regulations 1998 (Tas);

Micro generator – means an inverter system connected to our electricity network, with a rating of up to 10kVA (single phase) or 30kVA (three phase);

National Energy Retail Law – means the Law of that name that is applied by each participating State and Territory;

National Electricity Rules – means the rules made under the National Electricity Law;

Public holiday means a statutory holiday under the Statutory Holidays Act 2000 (Tas) and any other holiday observed in each Australian state and territory;

Relevant authority – means any person or body who has the power under law to direct us, including the Australian Energy Markets Operator, the Jurisdictional Regulator and State or Federal Police;

Retailer – means a person that is authorised to sell electricity to customers;

Rules – means the National Energy Retail Rules made under the National Energy Retail Law;

Site – means the address at which customer connection services are provided to you and, to avoid doubt, may include your electrical or gas installation;

Standard connection contract – means a contract on the terms and conditions and in the form of this document; and

TEC means the Tasmanian Electricity Code established under section 49A of the ESI Act.

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RECITALS

- A. *Aurora* holds the *licence* issued under the *ESI Act*, is registered and a Distribution Network Service Provider under the *National Electricity Rules*, and is permitted to operate its *distribution system* to distribute electricity within mainland Tasmania.
- B. The *Retailer* holds a *retail licence* and sells electricity to *customers*.
- C. This *contract* applies to *Aurora* and the *Retailer* in respect of each and every *customer* with whom the *Retailer* has a *relevant contractual relationship* in respect of the *customer's site*.
- D. This *contract* arises out of the existence of that *relevant contractual relationship*, and without the need for either *Aurora* or the *Retailer* to sign any document or this *contract*.
- E. This *contract* sets out:
- (a) the respective rights and obligations of *Aurora* and the *Retailer* concerning the discharge by one *party* of certain of the other *party's* functions and obligations to each *customer* under the *applicable law*: and
 - (b) the communication protocols between *Aurora* and the *Retailer* which apply in respect of their functions and obligations in respect of *customers*.

1. THE PARTIES

- 1.1 *Aurora Energy Pty Ltd* ABN 85 082 464 622 of Level 2, 21 Kirksway Place, Hobart Tasmania 7000 ("**Aurora**"); and
- 1.2 the *Retailer*.

2. DEFINITION AND INTERPRETATION

2.1 Defined Terms

- 2.1.1 In this *contract*, unless the context otherwise requires, defined terms are italicised as follows:

AEMO means the Australian Energy Market Operator Limited ABN 94 072 010 327;

AER means the Australian Energy Regulator;

applicable law means the *National Electricity Law*, the *ESI Act* and any other legislation, industry codes, authorities, or regulations with which *Aurora* or the *Retailer* must comply in relation to:

- (a) the *customer's connection* to the *distribution system*;
- (b) the maintenance of that *connection*;
- (c) the supply of electricity to the *customer* via a *connection point*; or

- (d) the sale of electricity by the *Retailer* to that *customer*;

Aurora means Aurora Energy Pty Ltd ABN 85 082 464 622 in its capacity as a *Distribution Network Service Provider*;

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* (Cth);

Authority means the *Jurisdictional Regulator* or the *AER*;

B2B Procedures means the procedures under the *National Electricity Rules* or as otherwise agreed between the *parties*, prescribing the content of, the processes for, and the information to be provided to support communications between *Aurora* and the *Retailer* relating to the *customer* or supply of electricity to the *customer*;

bank bill rate in respect of any day means:

- (a) the Bank Bill Swap Reference Rate for thirty (30) days on that day (or if not a *business day*, then the previous *business day*) published in the *Australian Financial Review*;
- (b) if the Bank Bill Swap Reference Rate referred to in paragraph (a) is not available, the rate percent per annum agreed by the *parties* in good faith to be the appropriate rate having regard to comparable indices then available in the then current bill market, and in default of *contract* within fourteen (14) days, the rate determined in accordance with the procedure in clause 17;

base amount has the meaning given by clause 23.3.1;

billing period means a calendar month or as otherwise agreed by the *parties*;

business day means a day other than a Saturday, a Sunday or a *public holiday*;

CATS means Consumer Administration and Transfer Solution operated by *AEMO* and forming part of *MSATS*;

Claim means a claim, action, proceeding, loss, liability, cost or expense whether arising in contract, tort (including negligence), equity or otherwise in respect of an event occurring after the date of this *contract*;

Code means the Tasmanian Electricity Code as issued by the *Jurisdictional Regulator* pursuant to subsection 6(1) and section 49A of the *ESI Act*;

commencement date means the date of the commencement of this *contract* pursuant to clause 3.1;

Confidential Information has the meaning given in clause 22.1.1;

connect, reconnect means the making of a *connection* in order to allow the flow of electricity to the *site*;

connection alteration means an alteration to an existing *connection point*, including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration that would change the *customer's load* or the capacity of the *connection point* to import or export electricity, and includes the provision of the

equipment required to provide such service;

connection alteration services means a service or the equipment required to perform a *connection alteration*;

connection and supply contract has the same meaning as contained in, and for the purposes of, the *Electricity Supply Industry (Contestable Customer) Regulations 2005 (Tas)*;

connection point means the point at which a *distribution system* connects to an *electricity installation* or equipment that serves the *site* of one or more *customers*, and includes the *metering equipment*;

connection, connected means the physical link between a *distribution system* and a *site* to allow the flow of electricity;

contract means this document, entitled Pro-Forma Default Retailer-Distributor Contract;

customer connection services means services which cover the distribution of electricity to the *customer* at the *site*, and includes a service relating to the ongoing supply of electricity to the *site*, including the *connection* or *disconnection* of the *site*, but does not include a *connection alteration*;

customer means a contestable customer within the meaning of, and for the purposes of, the *Electricity Supply Industry (Contestable Customer) Regulations 2005 (Tas)*;

daylight savings time means the period of daylight savings time in the State of Tasmania as prescribed by the *Daylight Savings Regulations 2008*;

default event has the same meaning given in 3.15.21(a) of the *National Electricity Rules*;

default rate means, at any time, the *bank bill rate* plus 2 per cent per annum;

disclosing party has the meaning given by clause 22.1.2;

disconnect means the isolation from supply of a *connection* in order to prevent the flow of energy to the *site*, but does not include an *interruption*;

dispose means assign, transfer, lease, sub-lease, licence or otherwise dispose of any legal or equitable estate (either in whole or in part) whether by sale, lease, licence, declaration or creation of trust or otherwise;

disputed amount has the meaning given in clause 8.5.1(a);

distribution system means the distribution system operated by *Aurora* under its *licence*;

distributor charges means the GST inclusive charges:

- (a) set out in the *tariff* from time to time; or
- (b) that *Aurora* may otherwise recover under *applicable law* or the relevant *connection and supply contract*, in relation to the *customer* for the provision of *customer connection services*, but excludes any amount payable by that *customer* to *Aurora* on account of a *connection alteration*;

Economic Regulator means the Office of the Tasmanian Economic Regulator, or any successor in law;

electricity installation means any electrical equipment that is fixed (or to be fixed) to the *site*, but does not include:

- (a) any of *Aurora's distribution system*;
- (b) any electrical equipment:
 - (i) that is fixed to the *site* and owned or occupied by *Aurora*; and
 - (ii) that is not used:
 - (A) for the consumption of electricity at the *site*;
 - (B) solely for purposes incidental to that consumption;
- (c) any connections to the *customer's* terminals for the purpose of providing *customer connection services*; or
- (d) any *metering equipment* owned by *Aurora*.

emergency means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or normal operation of the *distribution system* or transmission system, in the state of Tasmania or which destroys or damages, or threatens to destroy or damage, any property in the state of Tasmania;

employee means an employee of *Aurora* or any subsidiaries, or an agent or contractor of *Aurora*, as the context requires;

ESI Act means the *Electricity Supply Industry Act 1995 (Tas)* and all regulations, notices, orders and other statutory instruments made or issued under the *ESI Act* from time to time;

fallback contract has the same meaning as contained in, and for the purposes of, the *Electricity Supply Industry (Contestable Customer) Regulations 2005 (Tas)*;

financially responsible has the same meaning as in the *National Electricity Rules*;

force majeure event means, with respect to any *party*, any event or circumstances which are not within the reasonable control of that *party*;

GST has the meaning it has in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

GST law has the meaning it has in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

Guaranteed Service Levels or **GSL** has the same meaning given in clause 1.2 of the *GSL Guideline*;

GSL Guideline means the Guideline - Guaranteed Service Level Scheme issued by the *Jurisdictional Regulator*, dated December 2007, or any successor to that guideline or scheme;

inadequate distribution arrangements has the same meaning as contained in, and for the purposes of, the *Electricity Supply Industry (Contestable Customer)*

Regulations 2011;

indemnified party has the meaning given in clause 15.2.1;

indemnity amount has the meaning given by clause 23.2.1;

interrupt, interruption means a temporary unavailability or temporary curtailment of the supply of electricity from a *distribution system* to the *customer*, but does not include *disconnection*;

Jurisdictional Regulator means the Office of the Tasmanian Economic Regulator, or any successor in law;

licence means *Aurora's* Electricity Supply Industry Distribution Licence issued pursuant to the *ESI Act*;

life support equipment means any of the following:

- (a) an oxygen concentrator;
- (b) an intermittent peritoneal dialysis machine;
- (c) a kidney dialysis machine;
- (d) a chronic positive airways pressure respirator;
- (e) crigler najjar syndrome phototherapy equipment;
- (f) a ventilator for life support;
- (g) in relation to a particular *customer* - any other equipment that a registered medical practitioner certifies is required for a person residing at the *customer's site* for life support; and
- (h) includes any device or equipment as determined by the *Jurisdictional Regulator*;

metering data means the data recorded by a *customer's* meter in respect of their production or consumption of electrical energy;

Minister means the Minister having charge of the portfolio of energy in the State of Tasmania;

MSATS means the Market Settlements and Transfer Solution system operated by AEMO

National Electricity Law means:

- (a) the *National Electricity (South Australia) Act 1996* (SA) and enabled in Tasmania in accordance with the *Electricity - National Scheme (Tasmania) Act 1999* (Tas);
- (b) the *Rules*, made pursuant to the *National Electricity (South Australia) Act 1996* (SA) and enabled in Tasmania pursuant to the *Electricity - National Scheme (Tasmania) Act 1999* (Tas);
- (c) the *National Electricity Retail Rules* made pursuant to the *National Electricity (South Australia) Act 1996* (SA) and enabled in Tasmania; and

(d) the *NERL*;

National Electricity Rules means the National Electricity Rules given force and effect pursuant to the *National Electricity Law*;

NEM Representative means a related body corporate of the *Retailer* which is registered as a *market customer* with AEMO and which, directly or indirectly, on sells electricity to the *Retailer* for sale to *customers*, as notified by the *Retailer* to *Aurora* from time to time under clause 6.5.

NERL means the National Energy Retail Law made pursuant to the *National Electricity (South Australia) Act 1996* (SA) and enabled in Tasmania;

NMI means the unique ten (10) character National Metering Identifier assigned by *Aurora* to identify the *metering installation*;

Operational Requirements and Costs means the procedure as published from time to time by *Aurora* detailing the operational parameters for processes and interactions which are to be adopted by *Aurora* and the *Retailer* to give effect to the *parties'* obligations under the *contract*, any *Service Order Requests*,. and *customer details and reconciliations*

party means one of the *parties* set out in clause 1 of this *contract*;

payee has the meaning given by clause 23.2.1;

payer has the meaning given by clause 23.2.1;

public holiday means:

- (a) New Years Day, Australia Day, Eight (8) Hour Day, Good Friday, Easter Saturday, Easter Monday, Easter Tuesday, ANZAC Day, Birthday of the Sovereign, Christmas Day and Boxing Day;
- (b) The local statutory holidays referred to in section 5 and Schedule 1 of the *Statutory Holidays Act 2000* (Tas), in the manner prescribed by that section and Schedule. Those provisions set out:
 - (i) when a municipal area, or a particular part of Tasmania has a statutory holiday, specific only to that municipal area or part; and
 - (ii) whether such a statutory holiday is a full day, or a part day (from 11.00am).

recipient has the meaning given by clause 22.1.2;

related body corporate has the same meaning as in the *Corporations Act 2001* (Cth).

relevant contractual relationship has the same meaning as contained in, and for the purposes of, the *Electricity Supply Industry (Contestable Customer) Regulations 2011*;

required secured obligations amount has the meaning given in clause 12.4;

responsible party has the meaning given in clause 15.2.1;

retail contract means a contract for the sale of electricity between a *Retailer* and

a *customer*;

retail licence means a licence to sell electricity issued to a *Retailer* under the *ESI Act*;

Service Order Request means the *Retailer's* service request raised in accordance with:

- (a) the "B2B Procedures (Service Order Process)" as applicable to Tasmania, or
- (b) any *contract* between the *parties* in accordance with clause 7.2A.4(k) of the *National Electricity Rules*;

site means the address and *NMI* at which *customer connection services* are provided to the *customer* and, to avoid doubt, includes the *customer's electricity installation*;

statement of charges means a statement (which may be electronic) prepared by *Aurora* for the *Retailer* under clause 7.1;

supplier has the meaning given by clause 23.3.1;

tariff means a schedule, approved by the *Jurisdictional Regulator* and published by *Aurora* from time-to-time, setting out the prices and conditions for *distributor charges*, including the various classes of *customers*, as amended from time-to-time;

Tax Invoice has the meaning given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

Taxable Supply has the meaning given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

2.2 National Electricity Rules Definitions

2.2.1 In this *contract*, unless the context otherwise requires words appearing in italics (but not including words appearing in italics as Act titles) and not defined in clause 2.1 of this *contract* have the meaning given to them in the *National Electricity Rules*.

2.3 Interpretation

2.3.1 In this *contract*, unless the context otherwise requires:

- (a) although parts of this contract deal only with the *Retailer's* and *Aurora's* obligations in respect of a singular *customer*, parts of this contract do apply to dealings with all *customers*;
- (b) a reference to any *applicable law* includes any consolidations, modifications (statutory or otherwise) or re-enactment of, or any regulatory provision substituted for, that *applicable law*;
- (c) a reference to any *party* to this *contract* includes that *party's* successors and permitted assignees;
- (d) words indicating the singular include the plural and vice versa and words importing one gender include all other genders;

- (e) other grammatical forms of words or phrase defined in this *contract* will have a corresponding meaning;
- (f) headings are for convenience only and do not affect the interpretation of this *contract*;
- (g) a reference to a person includes a firm, body corporate, unincorporated association or authority whether or not it comprises a separate legal entity;
- (h) a reference to a clause is a reference to a clause of this *contract*;
- (i) a reference to a contract, agreement, or document (including a reference to this *contract*) is to the *contract* or document as amended, supplemented, novated or replaced, except to the extent prohibited by this *contract* or that other *contract* or document, and includes the recitals and schedules and annexures to that *contract* or document;
- (j) a reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail;
- (k) a reference to a *party* to this *contract* or another contract or document includes the *party's* successors, permitted substitutes and permitted assigns (and, where applicable, the *party's* legal personal representatives);
- (l) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (m) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (n) a reference to a *contract* includes any undertaking, deed, *contract* and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an *contract* (as so defined) in writing and any certificate, notice, instrument and document of any kind;
- (o) a reference to *dollars* and \$ is to Australian currency;
- (p) mentioning anything after *includes*, *including*, *for example*, or similar expressions, does not limit what else might be included;
- (q) nothing in this *contract* is to be interpreted against a *party* solely on the ground that the *party* put forward this *contract* or a relevant part of it; and
- (r) a reference to time is a reference to Tasmania time, and is a reference to *daylight savings time* if applicable.

2.4 Consents or approval

- 2.4.1 If the doing of any act, matter or thing under this *contract* is dependent on the consent or approval of a *party* or is within the discretion of a *party*, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the *party* in its absolute discretion.

2.5 Inconsistency with applicable law

- 2.5.1 In the event of any inconsistency between the provisions of this *contract* and the provisions of any *applicable law*, the provisions of that *applicable law* will prevail to the extent of that inconsistency.

3. TERM**3.1 Commence to apply**

- 3.1.1 This *contract* will commence to apply on the commencement of a *relevant contractual relationship* between the *customer* and the *Retailer* in respect of the *site*.

3.2 Cease to apply

- 3.2.1 This *contract* will cease to apply in respect of the *customer* and the *site* on the earlier of the date on which:

- (a) the *Retailer* and *Aurora* enter into a contract (other than this *contract*) in relation to the obligations of *Aurora* to supply electricity to the *site*; or
- (b) the electricity supply to the *site* is disconnected:
 - (i) at the request of the *customer*;
 - (ii) because the *customer* has failed to comply with the *customer's retail contract* or the *connection and supply contract* between the *customer* and *Aurora*; or
 - (iii) because the *customer* has committed an offence in relation to the supply of electricity to the *site*;

and:

- (c) the *customer's retail contract* with the *Retailer* for that *site* ends and is not replaced with another *retail contract*;
- (d) *Aurora* is notified through *CATS* that the *Retailer* or its *NEM Representative* ceases to be *financially responsible* for the *customer's site*; or
- (e) the *connection and supply contract* between *Aurora* and *customer* ends and is not replaced with another *connection and supply contract*.

4. OBLIGATIONS CONCERNING SERVICE ORDER REQUESTS**4.1 Parties to Comply**

- 4.1.1 The *parties* must comply with any obligations under *applicable law* and the *B2B Procedures* related to the initiation and completion of *Service Order Requests*.
- 4.1.2 The *parties* must comply with any obligations under *Aurora's Operational Requirements and Costs* procedure that governs the specifics of the *Service Order Requests* processes.

4.2 Inaccuracies

- 4.2.1 The *Retailer* will use reasonable endeavours to ensure that accurate information is provided by the *Retailer* to *Aurora* for the purposes of *Aurora* carrying out a *Service Order Request*.

4.3 Refusal to Sell or Connect

- 4.3.1 Neither *party* will be liable to the other as a consequence of refusing to sell electricity to the *customer* or *connect* or *reconnect* the *customer's connection point* to the *distribution system* if the preconditions either *party* is entitled to impose under *applicable law*, the *customer's connection and supply contract* or the *customer's retail contract*, have been communicated to the other *party* or the *customer* and those preconditions have not been satisfied.

4.4 Attempt to Carry Out a Service Order Request

- 4.4.1 If *Aurora* attempts to carry out a *Service Order Request* as requested by the *Retailer*, but through any act or omission of the *customer* is unable to complete the *Service Order Request*, *Aurora* will still be entitled to charge the fee associated with the *Service Order Request*.

4.5 Method of de-energisation

- 4.5.1 The method by which *Aurora* *disconnects* or de-energises a *customer's site* is at the sole discretion of *Aurora*.

5. PROVISION OF INFORMATION TO CUSTOMERS

- 5.1 If *Aurora* or *Retailer* receives a request from the *customer* for documentation or information required to be provided by the other *party* under any *applicable law*, the *party* receiving the request must promptly:

- (a) refer the *customer* to the other *party*; or
- (b) notify the other *party* of the *customer's* request.

6. COMMUNICATIONS REGARDING CUSTOMERS AND SYSTEMS DATA

6.1 Answering Fault Calls

- 6.1.1 Subject to clauses 6.1.3, 6.1.5 and 6.1.6, if the *customer* contacts the *Retailer* by telephone about a fault or an unplanned *interruption* in *Aurora's distribution system*, the *Retailer* must:

- (a) transfer the *customer* to *Aurora's* fault telephone number if communication systems are technically capable of identifying the area from which the telephone call was made by the *customer* upon transfer of the call; or
- (b) if 6.1.1(a) does not apply, refer the *customer* to *Aurora's* fault telephone number.

- 6.1.2 The *Retailer* must not handle, deal with or advise on the *customer* enquiry regarding a fault other than to the extent that it is permitted to provide information to the *customer* in the circumstances described in clause 6.1.3.

6.1.3 If the *Retailer*:

- (a) is informed by the *customer* that the *customer* has been unable to contact *Aurora* through *Aurora*'s fault telephone number; or
- (b) believes on reasonable grounds that *Aurora*'s fault telephone number is not properly functioning,

then the *Retailer* may provide the *customer* with the information regarding the fault that has been made available to the *Retailer* by *Aurora* in accordance with clause 6.1.2. The *Retailer* must not provide any other information regarding the fault to the *customer*.

6.1.4 In circumstances where the *Retailer* provides information to the *customer* in accordance with clause 6.1.3, the *Retailer* must request the *customer* to contact *Aurora* regarding the fault or unplanned *interruption*, to facilitate its timely resolution.

6.1.5 *Aurora* will provide to the *Retailer* a contact telephone number which the *Retailer* must publish on its *customers*' accounts as the fault telephone number.

6.1.6 *Aurora* will provide to the *Retailer* a contact telephone number for *emergencies* which the *Retailer* must publish on its *customers*' accounts as the emergency number. If the fault identified by the *customer* relates to an *emergency*, the *Retailer* must transfer the *customer* to the telephone number provided by *Aurora* to the *Retailer* for *emergencies*.

6.1.7 Nothing contained in this clause affects the particular arrangements between *Aurora*, the *Retailer* and any *customer* regarding notification of and dealing with faults and *interruptions* and in particular, the *Retailer* must not submit a *Service Order Request* in relation to faults and *emergencies*.

6.2 **Information Concerning Faults and Unplanned Interruptions**

6.2.1 *Aurora* must make available to the *Retailer* information regarding faults or unplanned *interruptions* which *Aurora* is required to provide to the *customer* under the *pro-forma distributor customer contract* within the same time period as the information is required to be provided by *Aurora* to the *customer* under its *connection and supply contract*.

6.2.2 Any information described in clause 6.2.1 is not required to distinguish between faults affecting the *customer* and faults affecting *customers* of other *Retailers*.

6.3 **Information for Planned Interruptions**

6.3.1 The notification which *Aurora* sends out to the *customer*, notifying that *customer* of any planned *interruptions*, must bear *Aurora*'s contact details and should state that any enquiries regarding planned *interruptions* should be directed to *Aurora*.

6.3.2 *Aurora* must make available to the *Retailer* information which *Aurora* is required to provide to the *customer* under *applicable law* in respect of planned *interruptions* within the same time period as the information is to be provided by *Aurora* to the *customer* under *applicable law*.

6.3.3 If the *customer* contacts the *Retailer* about a planned *interruption* requested or proposed by *Aurora*, the *Retailer* must:

- (a) subject to paragraph 6.3.3(b), refer the *customer* to *Aurora*; or

- (b) where the *customer* informs the *Retailer* that it declines to contact or (where appropriate) be transferred to *Aurora*, deal with the *customer* itself.

6.3.4 Any information made available to the *Retailer* in accordance with clause 6.3.2 in respect of planned *interruptions*:

- (a) must include information regarding the area in which the planned *interruption* is to occur; and
- (b) is not required to distinguish between planned *interruptions* affecting the *customer* and planned *interruptions* affecting *customers* of other *Retailers*.

6.4 **Other information**

6.4.1 If the *customer* contacts the *Retailer* about an issue relating to the *distribution system* or the *customer connection services*, the *Retailer* must refer the *customer* to *Aurora*.

6.4.2 If the *customer* of the *Retailer* contacts *Aurora* about an issue relating to the sale of electricity, *Aurora* must refer the *customer* to the *Retailer*.

6.5 **NEM Representative**

6.5.1 If the *Retailer* is not a *market customer*, it must notify *Aurora* of its *NEM Representative*. The *Retailer* must notify *Aurora* of any change in the identity of its *NEM Representative* as soon as practicable after the change.

6.6 **Customer Site Details Notification**

6.6.1 The *Retailer* will comply with all obligations contained within the *Operational Requirements and Costs* procedure and the B2B Customer Site Details Notification Procedure, including readiness to conduct a bulk reconciliation twice each year.

6.7 **Increase in customer consumption above large customer threshold**

6.7.1 In this subclause 6.7, *Meter Data Agent*, *metering installation*, and *Responsible Person*, all have the same meaning as contained within the *National Electricity Rules*, and

- (a) **small customer** means a *customer* who consumes electricity below the *consumption threshold*;
- (b) **large customer** means a *customer* who consumes electricity at or above the *consumption threshold*; and
- (c) **consumption threshold** means 150MWH per annum.

6.7.2 If *Aurora* notifies the *Retailer* that one of the *Retailer's small customers* has increased their consumption of electricity, such that the *small customer* has or will become a *large customer*, the *Retailer* must immediately decide whether to become the *Responsible Person* in respect of that *customer*.

6.7.3 If the *Retailer* resolves to become the *Responsible Person* in respect of that *customer*, the *Retailer* must arrange for the *customer's* meter to be upgraded to a Type 4 meter.

6.7.4 If the *Retailer* resolves not to become the *Responsible Person* in respect of that *customer*, *Aurora* will arrange for

- (a) the *customer's* meter to be upgraded to a Type 4 meter; and
- (b) organise a *Meter Data Agent* to commence reading the *customer's* upgraded meter.

6.7.5 The *Retailer* will be responsible for all charges incurred by *Aurora* and/or the *Retailer* in the execution of this subclause 6.7.

7. BILLING

7.1 Billing protocol

7.1.1 *Aurora* and the *Retailer* will comply with the New South Wales B2B Process Specification: Network Billing, including charging arrangements and format of transaction files.

7.2 Billing notice

7.2.1 Unless otherwise agreed between the *parties*, *Aurora* will issue to the *Retailer* a *statement of charges* by no later than the tenth (10th) *business day* of each *billing period* in respect of the previous *billing period*. The *statement of charges* will contain:

- (a) *distributor charges* for the *customer connection services*:
 - (i) provided to the *Retailer's customers* under their respective *connection and supply contracts* with *Aurora*;
 - (ii) that the *customer* has requested and for which the *customer* has agreed, either impliedly by operation of law or explicitly, to pay;
- (b) any interest or other charges that *Aurora* may recover from the *Retailer* under this *contract* or from the *customer* under *applicable law* or the relevant *connection and supply contract*; and
- (c) the information required by *applicable law*, the *connection and supply contract* and such other information agreed between the *parties*.

7.3 Metering data

7.3.1 Where *distributor charges* are to be determined by reference to *metering data* or other metering information, *Aurora* shall use:

- (a) *metering data* or other metering information; or
- (b) if *metering data* or other metering information is not available, an estimating system established in accordance with the *applicable law*, in respect of each *customer's connection point* for the *billing period*.

7.4 Contents of statement of charges

7.4.1 Subject to the *applicable law* and the availability of *metering data*, a *statement of charges* issued by *Aurora* to the *Retailer* will be a single invoice for the *billing period* stating the amounts payable by the *Retailer* and may:

- (a) be in respect of all or some of the *Retailer's customers*;
- (b) be for one or more *customer connection services*;
- (c) include an amount based on any transmission connection or use of system charges incurred in accordance with *applicable law* and other amount charged to the *customer* by *Aurora* in accordance with *applicable law* or the relevant *connection and supply contract*;
- (d) be in respect of the whole or part of one or more *billing periods* depending upon when the *customer* first started to buy electricity from the *Retailer*; and
- (e) be in respect of a claim that has previously been made, to reflect revised information, substituted data, or other adjustments.

7.5 **Applicable prices**

7.5.1 *Aurora* must provide to the *Retailer* and publish in the public domain, its *tariff* applying at the *commencement date* and thereafter whenever it is changed. *Aurora* shall provide the *Retailer* with notice:

- (a) of any proposed structural changes to the *tariff*, at the time an application for structural change is made to the *Economic Regulator*; and
- (b) of any other changes to the *tariff*; which notice must be reasonable taking into account the nature and scope of those changes.

7.5.2 In any event, *Aurora* shall provide the *Retailer* with notice no later than two (2) days after approval of the changes by the *Economic Regulator*.

7.6 **Network Tariff Codes**

7.6.1 The *Retailer* may apply to *Aurora* for a change to the network tariff code assigned to a *NMI* for which the *Retailer* is *financially responsible*. If *Aurora*, acting reasonably, agrees that the network tariff code proposed by the *Retailer* is applicable to the *NMI*, *Aurora* will make the necessary change in accordance with CATS Procedures within MSATS. *Aurora* will provide the *Retailer* with a reason for any rejection of an application to change the network tariff code applicable to a *NMI*.

7.6.2 Subject to clause 7.7, a *Retailer* may not make another request to change the network tariff code assigned to a *NMI* until a period of twelve (12) months has elapsed from the previous request.

7.7 **Information from customers**

7.7.1 A *party* must notify the other *party* as soon as possible if it:

- (a) receives a request from the *customer* to transfer from one network or retail tariff code to another; or
- (b) is informed by the *customer* of a change in use of the *premises* or pattern of usage at the *premises*,

which may result in the *customer* no longer satisfying the conditions relating to the current network or retail tariff code applying to that *customer* or which may result in a change to any metering equipment installed at the *premises*.

- 7.7.2 *Aurora* must inform the *Retailer* within five (5) *business days* of issuing or receiving such notice, of action taken in relation to the notice including whether or not it has transferred the *customer's* network tariff code to another network tariff code.

7.8 **Provide all information**

- 7.8.1 *Aurora* must provide to the *Retailer* all necessary billing information and data that the *Retailer* reasonably requests, to comply with its obligations under *applicable law*, relating to:

- (a) the issuing of bills;
- (b) the contents of bills;
- (c) the provision of billing data to *customers*.

7.9 **Sufficient information**

- 7.9.1 Each *statement of charges* issued by *Aurora* to the *Retailer* must contain sufficient information so as to enable the *Retailer* to either:

- (a) include that information in the *Retailer's* next bill to a particular *customer*; or
- (b) reconcile the *statement of charges* with the amounts included in a *Retailer's* bill to a particular *customer*.

8. **PAYMENT**

8.1 **Pay statement of charges**

- 8.1.1 Subject to clause 8.5, and unless otherwise agreed between the *parties*, the *Retailer* must pay *Aurora* the amount set out in *Aurora's* statement of charges by 5:00pm on the tenth (10th) *business day* after the receipt by the *Retailer* of a *statement of charges* issued under clause 7.2.

8.2 **No set-off**

- 8.2.1 Subject to clauses 8.5, 10.3, 10.4 and 10.5, the *Retailer* must make payments under this clause 8 without set-off or counterclaim. All payments due by the *Retailer* to *Aurora* under this *contract* must be made in cleared funds to a bank account nominated in writing by *Aurora* to the *Retailer* from time to time.

8.3 **Interest for late payment**

- 8.3.1 Subject to clause 8.5.1(h), if the *Retailer* fails to pay an amount owing under this *contract* when due, *Aurora* may charge the *Retailer* interest on that amount.

8.3.2 Interest will:

- (a) accrue daily at the *default rate* for each day from the day on which the amount became due and payable until it is paid;
- (b) be calculated on actual days elapsed and a three-hundred-and-sixty-five (365) day year; and

- (c) be included on the next *statement of charges* from *Aurora* to the *Retailer* and payable on the due date of that *statement of charges*.

8.4 **Obligations unaffected**

- 8.4.1 The *Retailer's* obligation to pay an outstanding amount on the date it becomes due is not affected by clause 8.3.

8.5 **Billing disputes**

- 8.5.1 Unless protocols for the management of network billing disputes are otherwise provided for through a business to business network billing process specification agreed between the *parties*, the following apply:

- (a) If the *Retailer* disputes its obligations under this *contract* to pay all or part of a *statement of charges* (the "**disputed amount**") and intends to withhold all or some of the disputed amount, the *Retailer* must notify *Aurora* before the due date for payment of a *statement of charges* under clause 8.1 that it disputes its obligation under this *contract* to pay the *disputed amount*.
- (b) If the *Retailer* notifies *Aurora* of a *disputed amount* in accordance with clause 8.5.1(a):
 - (i) the *Retailer* is not required to pay the *disputed amount* by the date due for payment of that *statement of charges*; but
 - (ii) the *Retailer*, unless another reasonable amount is agreed by the *parties*, is required to pay the greater of:
 - (A) the balance of the amount due under that *statement of charges* (after deduction of the *disputed amount*); and
 - (B) the lesser of eighty (80) percent of the amount of the previous undisputed *statement of charges* from *Aurora*, and the full amount of the *statement of charges*, by the date due for payment of that *statement of charges*; and
 - (iii) the *parties* will submit that dispute for resolution in accordance with clause 17.
- (c) The payment of all or part of an amount set out in a *statement of charges* will not preclude the *Retailer* from subsequently challenging its liability to pay that amount.
- (d) If the *Retailer* disputes an amount paid by it in accordance with a *statement of charges*, and the dispute is not resolved within ten (10) *business days*, the *parties* will submit that dispute for resolution in accordance with either of Chapter 8 of the *National Electricity Rules*, or clause 17.
- (e) If, on the completion of the dispute resolution process contained in either of Chapter 8 of the *National Electricity Rules*, or clause 17, it is determined that the amount of that *statement of charges* should have been:
 - (i) less than the amount already paid by the *Retailer* on account of that *statement of charges*, then *Aurora* must pay to the *Retailer* the difference between the amount already paid and the amount determined as being properly due together with, subject to clause

8.5.1(h), interest on the difference at the *default rate* for each day after the date the amount was paid by the *Retailer*, up to and including the date the difference is paid; or

- (ii) more than the amount already paid by the *Retailer* but less than the amount of the *statement of charges*, then the *Retailer* must pay to *Aurora* the difference between the amount already paid and the amount determined as being properly due together with interest, subject to clause 8.5.1(h), on the difference at the *default rate* for each day after the date that *statement of charges* was due to be paid, up to and including the date the difference is paid; or
- (iii) equal to or more than the amount of that *statement of charges*, the *Retailer* must pay to *Aurora*:
 - (A) the difference between the amount already paid and the amount determined as being properly due; and
 - (B) subject to clause 8.5.1(h) interest on the amount of the difference between the amount already paid and the *statement of charges* at the *default rate* for each day after the date that *statement of charges* was due to be paid, up to and including the date the difference is paid.
- (f) An amount payable under clause 8.5.1(e) will fall due three (3) *business days* after the determination of the *dispute*.
- (g) A notice given by the *Retailer* under clause 8.5.1(a) must contain sufficient information and supporting detail to enable *Aurora* to determine the nature of the *Retailer's dispute* concerning that *statement of charges*.
- (h) For the avoidance of doubt, the *parties* acknowledge that no interest on amounts in *dispute* under this clause 8.5, either at the *default rate* or the *bank bill rate*, will be owed or payable where that amount is genuinely in *dispute*.
- (i) The *parties* further acknowledge that the *Jurisdictional Regulator*, appointed and acting pursuant to clause 17, may determine whether an amount is genuinely in dispute, for the purposes of clause 8.5.1(h).

8.6 **Obligation to Pay**

- 8.6.1 Subject to clause 10.5, the obligation of the *Retailer* to pay the *statement of charges* issued by *Aurora* in accordance with this clause 8, will not be affected by any failure of the *customer* to pay the *charges* payable by that *customer* to the *Retailer*.

8.7 **Clauses that do not apply**

- 8.7.1 Clauses 7, 8, and 10.1 do not apply in relation to the *customer* to the extent that the *parties* have the ability pursuant to the *applicable law* and have agreed with the relevant *customer* to issue separate bills to that *customer*.
- 8.7.2 The *Retailer* acknowledges that *Aurora* may, in accordance with its *connection and supply contract* with the *customer*, agree with the *customer*, or otherwise elect, to bill the customer directly for *customer connection services*. *Aurora* will

notify the *Retailer* in circumstances where it agrees or elects to bill the *customer* directly for *customer connection services*.

8.8 Supply of Money

- 8.8.1 The *parties* acknowledge their mutual understanding that because a payment made by the *Retailer* to *Aurora* under this clause is a supply of money, and is not consideration for any *Taxable Supply* by *Aurora* to the *Retailer*, clause 23 does not apply to any such payment.

9. GSL PAYMENTS

9.1 Retailer Reimbursement

9.1.1 If:

(a) the *Retailer*:

- (i) receives notification of a matter relevant to *Aurora*'s compliance with a *GSL* and the *Retailer* delays or fails to pass on that information to *Aurora*; or
- (ii) requests a *disconnection*; and

(b) as a result of that delay, failure or request, *Aurora* is required to make a payment to the *customer* as a result of failing to satisfy a *GSL*,

then the *Retailer* must reimburse *Aurora* for that portion of the payment made to the *customer* which is attributable to the *Retailer*'s delay, failure or wrongful action in making a request.

- 9.1.2 A *Retailer* will not be liable to reimburse *Aurora* for a wrongful *disconnection GSL* where *Aurora*'s actions or omissions caused the *Retailer* to request the *disconnection* of the wrong *site* (for example, where the *Retailer* has relied on *MSATS* data in establishing the *NMI* which is used in the request for *disconnection*).

9.2 Notification

- 9.2.1 The *Retailer* must notify *Aurora* (or such *employee* of *Aurora* notified by *Aurora* to the *Retailer* from time to time) where it is aware that *Aurora* is required to provide a *GSL* payment to the *customer* under the *applicable law* or *GSL Guideline*.

10. ADJUSTMENT

10.1 General

- 10.1.1 As between the *parties*, the *Retailer* will, in accordance with the requirements of the *applicable law*, recover from *customers* amounts that are undercharged or pay to *customers* amounts that are overcharged, as a result of the *Retailer*'s or *Aurora*'s act or omission.

10.2 Undercharging

10.2.1 If the *customer* is undercharged as a result of the act or omission of the *Retailer* or *Aurora*, and the *Retailer* is prevented by the *applicable law* from recovering from the *customer* the full amount undercharged, then if:

- (a) the undercharging resulted from the *Retailer's* act or omission, the *Retailer* will pay to *Aurora* the amount of *Aurora charges* specified in a *statement of charges* undercharged to that *customer* which are not permitted to be recovered under the *applicable law* from that *customer*; or
- (b) the undercharging resulted from *Aurora's* act or omission, *Aurora* will repay or not recover from the *Retailer* the amount of the *Retailer's* charges undercharged to that *customer* which are not permitted to be recovered under the *applicable law* from that *customer* or which the *Retailer* using reasonable endeavours is unable to recover from the *customer*.

10.2.2 Each *party* must notify the other as soon as possible after it becomes aware that the *customer* has been undercharged as a result of its act or omission.

10.3 Overcharging

10.3.1 If the *customer* is overcharged as a result of *Aurora's* act or omission, the *Retailer* may, subject to clause 10.4, deduct an amount representing *Aurora's* proportion of that overcharged amount from the next payment due to *Aurora* under clause 8.

10.3.2 *Aurora* must notify the *Retailer* as soon as possible after it becomes aware that the *customer* has been overcharged as a result of *Aurora's* act or omission.

10.4 Steps before deduction

10.4.1 Before deducting any amount from payments due to *Aurora* under clause 10.3, the *Retailer* must give *Aurora* an opportunity to determine the cause of the overcharging.

10.5 Non-payment

10.5.1 If, due to a matter for which the *Retailer* may be indemnified under clause 14.1, the *customer* does not pay an account issued by the *Retailer* in full, the *Retailer* may off-set the amount of that shortfall from payments due to *Aurora* under clause 8, provided that the *Retailer* has:

- (a) promptly given *Aurora* details of the relevant *customer*, the amount outstanding, the reasons of the non-payment by the *customer*, and such other information as *Aurora* may reasonably request; and
- (b) been unable to recover the amount due from the *customer* within sixty (60) days, after using reasonable endeavours to do so.

10.6 Nothing in this clause limits *Aurora's* rights under clause 15.2 in relation to the *customer's* complaint or *Claim*.

11. DISCONNECTION

11.1 Failure to disconnect

11.1.1 Subject to clause 11.1.3, if *Aurora* does not *disconnect* the *customer* within the timeframe for completion for the *Service Order Request* or within such timeframes as may otherwise be agreed (or subsequently agreed) between *Aurora* and the *Retailer* on behalf of the *customer*, *Aurora*:

- (a) will from that time not include the related *distributor charges* in any *statement of charges*; and
- (b) will be liable to pay to the *Retailer*, at the *Retailer's* election, either:
 - (i) an amount representative of the costs incurred by the *Retailer* for the *customer's* energy consumption, calculated on the basis of the monthly average regional reference price as published by *AEMO* from time to time, for the region and month in which the energy consumption occurs; or
 - (ii) an amount representative of the actual costs incurred by the *Retailer* for the *customer's* energy consumption, provided that:
 - (A) this will not render *Aurora* the retailer of the *customer*; and
 - (B) the *Retailer* has exercised reasonable endeavours to recover the relevant *distributor charges* and consumption costs and has been unable to recover these costs directly from the *customer*.

11.1.2 If the *Retailer* subsequently recovers from the *customer* all or any part of any such amount, the *Retailer* must promptly pay that recovered amount to *Aurora*.

11.1.3 *Aurora* may refuse to *disconnect* the *customer's connection point* where:

- (a) *Aurora* has made reasonable endeavours to carry out the *disconnection* but is unable to access the *customer's connection point* or the *premises* as a result of the *customer's* action or inaction;
- (b) *Aurora* reasonably considers that such *disconnection* would be detrimental to the health or safety of any person (including the *customer*) or the *premises* are registered as having *life support equipment*;
- (c) the *Retailer* has raised a *Service Order Request* which does not comply with *applicable law*; or
- (d) the *disconnection* would result in *Aurora* not complying with its obligations under *applicable law*.

11.1.4 In the case of clause 11.1.3(b), *Aurora* will use reasonable endeavours to remove or mitigate the risk of detriment.

11.1.5 In each case under clause 11.1.3, *Aurora* must notify the *Retailer*, without delay, of the reason for its refusal to *disconnect*.

11.1.6 Where *Aurora* refuses to *disconnect* the *customer* on any of the grounds set out in clause 11.1.3, the *Retailer* will continue to be liable for *distributor charges* in respect of the use of the *distribution system* by the *customer* and the consumption of energy by the *customer*.

11.1.7 By providing a *Service Order Request*, the *Retailer* represents and warrants to *Aurora* that the *Retailer* is entitled to make a request for *disconnection* under its *retail contract* and under any *applicable law*, and it has complied with the procedures for *disconnection* prescribed in the relevant *retail contract* and any other procedures under any *applicable law*.

11.1.8 The *Retailer* will indemnify *Aurora* against all *Claims* incurred by *Aurora* as a consequence of the cessation of supply as a result of any *disconnection* by *Aurora* pursuant to a *Service Order Request*, except to the extent that the *Claim* arises from the negligent or reckless act or omission of *Aurora*, or from any breach or non-observance by *Aurora* of this *contract* or any *applicable law*.

11.2 **Distributor's right to disconnect**

11.2.1 *Aurora* may *disconnect* the *customer's connection point* where it is entitled to do so under the *connection and supply contract* or under an *applicable law*, or required to do so at the direction of State or Federal Police or the *Minister*, and must, subject to clause 11.3, send a notice to the *Retailer* of that *disconnection* within twenty-four (24) hours after the *disconnection*. Where possible *Aurora* will notify the *Retailer* in advance of the *disconnection*.

11.3 **Notice before disconnection**

11.3.1 Except in cases of *emergency* or where required to do so at the direction of State or Federal Police or the *Minister*, *Aurora* must not disconnect the *customer's connection point* where the *customer*:

- (a) fails to comply with its obligations under the *customer's connection and supply contract* to provide access to the *premises*; or
- (b) has provided false information; or
- (c) uses electricity illegally; or
- (d) interferes with the *electricity installation* or the *metering equipment*, in breach of the *applicable law* or the *customer's connection and supply contract* with *Aurora*;
- (e) uses electricity for a purpose not permitted by the *customer's tariff*, or
- (f) requests to be *disconnected*,

unless it has first notified the *Retailer*.

12. **CREDIT SUPPORT**

12.1 **National Electricity Rules**

12.1.1 This clause 12 applies in conjunction with, and supplementary to, Chapter 6B of the *National Electricity Rules*.

12.1.2 In the event of any inconsistency between this clause 12 and the *National Electricity Rules*, the *National Electricity Rules* will prevail.

12.2 Undertaking

12.2.1 *Aurora* may request the *Retailer* to procure an *undertaking* under clause 12.3 only if, immediately prior to the time of that request:

- (a) the *Retailer* cannot demonstrate:
 - (i) that it has a Standard & Poor's credit rating of at least BBB- or its equivalent from another recognised credit reporting agency reasonably acceptable to *Aurora* (an "**acceptable credit rating**"); or
 - (ii) that the performance of the *Retailer's* payment obligations are guaranteed (on terms acceptable to *Aurora* acting reasonably) by another entity who has an *acceptable credit rating*; or
- (b) within the previous twelve (12) months, including where those twelve (12) months includes a period prior to the *commencement date*, the *Retailer* has failed to pay in full:
 - (i) three (3) *statements of charges* within the required time limit for payment; or
 - (ii) two (2) consecutive *statements of charges* within the required time limit for payment; or
 - (iii) one (1) *statement of charges* within twenty-five (25) *business days* of the due date; or
- (c) a *default event* occurs in relation to the *Retailer* under the *National Electricity Rules*; or
- (d) the *Retailer* or its *NEM Representative* ceases to be registered with AEMO as a *market customer*; or
- (e) where the *Retailer* purchases energy under an agreement with a person registered with the AEMO and that person issues a notice of default to the *Retailer* under that *contract*,

provided that nothing in clause 12.2.1(b) shall permit *Aurora* to request an undertaking under clause 12.2 where the *Retailer* has failed to pay the *statement of charges* or a relevant part of the *statement of charges* due to a genuine dispute notified to *Aurora* pursuant to clause 8.5.

12.3 Provide undertaking

12.3.1 The *Retailer* must provide to *Aurora*, within ten (10) *business days* after request, an unconditional undertaking ("**undertaking**") in favour of *Aurora* in the form as set out in Schedule 6B.2 of the *National Electricity Rules*, issued by a bank or financial institution which is capable, to the reasonable satisfaction of *Aurora*, of paying on the *undertaking* in Hobart when demanded to secure the due and punctual performance of the *Retailer's* obligations to pay *Aurora* amounts owed under clauses 7, 8, and 9 (the "**secured obligations**").

12.3.2 The *Retailer* acknowledges that *Aurora* may disclose to its financiers, the *Regulator* or AEMO that it has required or called upon an *undertaking* provided by the *Retailer* under this clause.

- 12.3.3 The *Retailer* must notify *Aurora* within one (1) *business day* of the *Retailer* becoming aware that *Aurora* is eligible to request an *undertaking* issued under this clause 12.

12.4 **Amount of undertaking**

- 12.4.1 The *undertaking* procured by the *Retailer* under clause 12.3 must be for an amount requested by *Aurora*, not exceeding the required credit support amount calculated in accordance with the credit support rules in Chapter 6B of the *National Electricity Rules* (the “**required credit support amount**”).

12.5 **Variations in undertaking amounts**

- 12.5.1 If at any time during the term of this *contract* the uncalled aggregate amount of the *undertaking* held by *Aurora* pursuant to this clause 12 is less than ninety (90) per cent of the *required credit support amount*, the *Retailer* must, on request by *Aurora*, within ten (10) *business days*, increase the uncalled amount of the *undertaking* to the *required credit support amount*.
- 12.5.2 If at any time during the term of this *contract*, the uncalled aggregate amount of the *undertaking* held by *Aurora* in accordance with this clause 12 is more than one-hundred-and-ten (110) per cent of the *required credit support amount*, *Aurora* must upon request by the *Retailer* and in conjunction with the *Retailer*, do all things necessary to reduce the aggregate uncalled amount of the *undertaking* held by *Aurora* to the *required credit support amount*.

12.6 **Purpose of the undertaking**

- 12.6.1 *Aurora* may call on any one or more *undertakings* where:
- (a) the *Retailer* has failed to comply with any *secured obligations* at any time after three (3) *business days* of giving notice to the *Retailer* that it intends to do so; and
 - (b) there is no genuine *dispute* outstanding in accordance with clause 8.5 in relation to the *Retailer's* liability to pay those charges.

12.7 **No steps to seek injunction**

- 12.7.1 Subject to *Aurora* complying with the restrictions set out in clause 12.6, the *Retailer* must not take any steps to seek an injunction or otherwise restrain:
- (a) any issuer of the *undertaking* from paying *Aurora* pursuant to the *undertaking*;
 - (b) *Aurora* from taking any steps for the purposes of making a demand against the *undertaking*;
 - (c) *Aurora* using the money obtained in the calling of the *undertaking*, where *Aurora* has acted in accordance with this clause 12.

12.8 **Voluntary pay out**

- 12.8.1 If the issuer of an *undertaking* pays an amount to *Aurora* pursuant to that *undertaking* which amount was not called in accordance with clause 12.4, *Aurora* will hold that amount and will pay it to the *Retailer* (together with interest on that amount at the *default rate* from the date upon which that amount was received to the date upon which that amount is paid to the *Retailer*) when the *Retailer*

provides an *undertaking* in the form provided for under clause 12.3 to *Aurora* for an amount equal to the amount held.

12.9 Release of undertaking

- 12.9.1 At the end of six (6) months after the date on which the *undertaking* was originally provided under clause 12.3, and at the end of any six (6) month period thereafter (or as otherwise agreed by the *parties*), the *Retailer* may request the release of the *undertaking*, and *Aurora* must release the *undertaking*, if the *Retailer* shows that, at that date, none of the criteria in clause 12.1 apply.

13. TERMINATION

13.1 Termination events

- 13.1.1 A *party* may, by giving twenty-four (24) hours' notice in writing to the other *party* (the "**defaulting party**"), terminate this *contract* if the *defaulting party*'s:

- (a) *retail licence* or the *licence* (as the case may be); or
- (b) registration as a Market Customer or Network Service Provider (as the case may be) under the National Electricity Rules,

is terminated.

13.2 Aurora may terminate

- 13.2.1 *Aurora* may terminate this *contract* by giving the *Retailer* five (5) *business days*' notice if the *Retailer* fails to provide credit support as required under clause 12.1.1.

13.3 Notice to Regulator

- 13.3.1 The *party* exercising a right of termination under this clause must inform the *Regulator* of the termination within one (1) *business day* of the termination occurring.

13.4 Termination of any previous co-ordination contract

- 13.4.1 Any *contract* for the co-ordination of the *parties*' rights and obligations with respect to the *customer*, entered into or as otherwise may be required to be entered into under *applicable law*, that was in force between *Aurora* and the *Retailer* prior to the commencement of this *contract* is hereby terminated.

13.5 Existing rights

- 13.5.1 The *parties*' rights to terminate this *contract* will be without prejudice to the *parties*' rights to pursue relief by way of damages, injunction or specific performance in respect of a breach of this *contract*. Without limiting the foregoing, each *party* shall be entitled to render an invoice to the other *party* for services provided and not invoiced up to and including the date of termination, and any such invoice will be payable in accordance with clause 8.

13.6 Distribution Services after Termination

- 13.6.1 Notwithstanding the termination of this *contract*, *Aurora* and the *Retailer* acknowledge that *Aurora* may continue to provide *customer connection services* in respect of any *customer* of the *Retailer* until the first to occur of the events specified in clause 3.2. In respect of any such *customer connection service* provided after termination of this *contract*, all provisions of this *contract* which relate to the provision of *customer connection services* shall continue to apply.

14. INDEMNITY**14.1 Distributor's Indemnity**

- 14.1.1 To the extent provided in clauses 14.3 and 14.4, and subject to, and to the extent of, any loss suffered by *Aurora* caused by, or contributed to by, the *Retailer's* non-compliance with clauses 15.2, 15.3, or 15.4 of this *contract*, *Aurora* indemnifies the *Retailer* from and against any:

- (a) *Claim* by the *customer* against the *Retailer* relating to the quality of, or *interruptions* to, the *connection* and supply of electricity by *Aurora* (other than a *Claim* of the type referred to in clause 14.1.1(b), where *Aurora* would have been liable to that *customer* under its *connection and supply contract* had that *customer* claimed against *Aurora*, but only to the extent that *Aurora* would have been liable to that *customer* under its *connection and supply contract*;
- (b) *Claim* against the *Retailer* for breach by the *Retailer* of any conditions, warranties or terms implied by the *Australian Consumer Law* or any equivalent state legislation concerning the *connection* or supply of electricity by *Aurora* where:
 - (i) that breach has occurred as a result of the acts or omissions of *Aurora*; and
 - (ii) the *Retailer* has in its contract with the *customer* to which the *Claim* relates limited or excluded its liability to that *party* for breach of any of the conditions, warranties or terms implied by the *Australian Consumer Law* into that contract to the maximum extent permitted by that Act, or any equivalent state legislation;
- (c) *Claims* in connection with the wrongful *disconnection* of the *customer's connection point* by *Aurora*, other than *Claims* in connection with a *Service Order Request* under clause 11 that results in a wrongful *disconnection* of the *customer's connection point* by *Aurora*; or
- (d) *Claims* in connection with any failure by *Aurora* to comply with clause 15.

14.2 Retailer's Indemnity

- 14.2.1 Subject to *Aurora* complying with clauses 15.2, 15.3, or 15.4, the *Retailer* indemnifies *Aurora* from and against any *Claims* in connection with:

- (a) a failure to provide accurate information under clause 4.2;
- (b) a *Service Order Request* by the *Retailer* under clause 11 that results in a wrongful *disconnection* of the *customer's connection point* by *Aurora*; and

- (c) any failure by the *Retailer* to comply with clause 15.

14.3 Limit of liability

14.3.1 To the maximum extent permitted by law, the liability of either *party* to the other is:

- (a) in the case of *Claims* under clause 14.1.1(a), limited in the manner set out in that clause;
- (b) in the case of *Claims* under clause 14.1.1(b) limited to the amount of the *Retailer's* direct loss incurred in relation to such *Claims*;
- (c) in the case of *Claims* by *customers* for the matters set out in clause 14.1.1(c) or 14.2.1(b) limited to \$100,000 per *customer* per financial year for each *Claim* by the *customer*; and
- (d) in the case of *Claims* not covered by clause 14.1.1(a), 14.1.1(b), or 14.1.1(c), limited to \$250,000 per *Claim*.

14.3.2 Except to the extent provided for in this clause 14, or otherwise provided for expressly in this *contract*, neither *party* will (to the maximum extent permitted at law) be liable to the other for loss of profits, indirect or consequential loss.

14.3.3 *Aurora* is a party to this *contract* solely in its capacity as a distributor. *Aurora* will not in any circumstances bear any liability under this *contract* in any other capacity, including that of a *Retailer*.

14.4 Immunities provided by Applicable Laws

14.4.1 Except to the extent provided for in this clause 14, nothing in this *contract* affects the immunity provided by section 119 and section 120 of the *National Electricity Law*.

14.4.2 The Consumer Guarantees provided by the *Australian Consumer Law* do not apply to the supply of electricity. *Aurora* has no liability to the *customer* in this respect.

14.4.3 The *NERL* excludes *Aurora's* liability for any loss or damage the *customer* suffers as a result of the total or partial failure to supply electricity to the *site*, which includes any loss or damage the *customer* suffer as a result of the supply of electricity, unless *Aurora* has acted in bad faith or negligently.

15. ENQUIRIES, COMPLAINTS AND CLAIMS

15.1 Referral of enquiries and complaints

15.1.1 If a *party* receives an enquiry or a complaint from the *customer* that relates to the other *party's* *retail contract* or *connection and supply contract* with that *customer*, the receiving *party* must, as soon as possible after receiving the enquiry or complaint:

- (a) refer that *customer* to the other *party*; and
- (b) in the case of complaints, notify the other *party* in writing of the complaint and the *customer's* details (where such information is available).

15.2 Claims and demands

15.2.1 A *party* (the “**indemnified party**”) must notify the other *party* (the “**responsible party**”) of any *Claim* for which it may be indemnified under clause 14 and must:

- (a) permit the *responsible party*, entirely at the *responsible party*’s expense, to defend or settle the *Claim* as the *responsible party* sees fit, or, where the *responsible party* does not elect to defend or settle the *Claim*, to have a watching brief and be kept fully informed by the *indemnified party* of the progress of the *Claim*; and
- (b) provide the *responsible party*, at the *responsible party*’s expense, with such assistance in respect of the *Claim* as the *responsible party* may reasonably request.

15.2.2 If the *responsible party* elects to take over conduct of a *Claim* as contemplated in paragraph 15.2.1 the *responsible party* must:

- (a) use all reasonable endeavours to minimise the time taken to defend or settle the *Claim*;
- (b) consult with, and where reasonably possible, take account of the views of the *indemnified party* in relation to the progress of the *Claim*; and
- (c) if it becomes aware that the *indemnified party* may have some liability in respect of that *Claim* for which the *indemnified party* will not be indemnified under clause 14, notify the *indemnified party* of that fact, consult with and keep the *indemnified party* informed in respect of the progress of that *Claim* and comply with the provisions of clause 15.3 as if references in that clause to the *indemnified party* were to the *responsible party*, and vice versa.

15.3 No admissions

15.3.1 Except where required by a law to do so, the *indemnified party* must not, in relation to any of the matters referred to in clauses 15.1 or 15.2:

- (a) make any admission or representation prejudicial to the *responsible party*;
- (b) agree to any compromise or settlement;
- (c) do anything else that may be prejudicial to the *responsible party*, without the *responsible party*’s written consent.

15.4 No unauthorised representations

15.4.1 The *indemnified party* must not make any representations or warranties to a third party concerning any goods or services being provided by the *responsible party* to that third party (including any representation concerning the nature and quality of any goods or services being provided by the *responsible party* to the third party) which the *indemnified party* is not authorised by this *contract* or otherwise by the *responsible party* to make.

16. COMPLIANCE WITH APPLICABLE LAW**16.1 Compliance**

16.1.1 Each *party* will comply with the obligations imposed on that *party* by any *applicable law*.

16.2 Reasonable assistance

16.2.1 Each *party* will:

- (a) give to the other *party* all reasonable assistance; and
- (b) co-operate with the other *party*,

so as to allow that other *party* to comply with any obligations imposed upon that other *party* under an *applicable law* or this *contract*.

16.3 Limitation

16.3.1 Nothing in this *contract* will limit any right either *party* may have under an *applicable law* unless that right can be limited in accordance with the provisions of that *applicable law* by *contract* between the *parties* and this *contract* directly or indirectly limits that right.

17. RESOLUTION OF DISPUTES**17.1 National Electricity Rules disputes**

17.1.1 If any dispute, controversy or *Claim* ("**dispute**") arises between the *parties* under or in relation to this *contract*:

- (a) with respect to the application of the *National Electricity Rules*; or
- (b) in relation to which the dispute resolution regime provided for in clause 8.2 of the *National Electricity Rules* otherwise applies,

then the dispute resolution regime provided for in clause 8.2 of the *National Electricity Rules* will apply to that *dispute*.

17.2 Non-National Electricity Rules disputes — first stage dispute resolution

17.2.1 If a dispute under or in relation to this *contract*, other than a *dispute* referred to in clause 17.1, arises between the *parties*, a *party* may, by written notice, refer the *dispute* to resolution in accordance with this clause. The notice shall state that it is a notice under this clause and shall identify the *dispute* concerned and the clauses of this *contract* relevant to the *dispute*.

17.2.2 The *parties* will use their reasonable endeavours to resolve the *dispute* within a period of ten (10) *business days* from the service of the notice under clause 17.2.1.

17.2.3 If the *dispute* remains unresolved at the end of the period referred to in clause 17.2.2, then either *party* may require that the *dispute* be determined under clause 17.3.

17.3 Non National Electricity Rules Disputes — reference to Chief Executives or nominees

17.3.1 Where clause 17.2.3 applies, either *party* may, by written notice, refer the *dispute* to resolution by the respective Chief Executives (or the Chief Executive's nominee) of the *parties* whose resolution, if so reached, shall be binding in accordance with this clause.

17.3.2 The Chief Executives (or their nominees) will use their reasonable endeavours to resolve the *dispute* within a period of ten (10) *business days* from the service of the notice under clause 17.3.1.

17.3.3 If the *dispute* remains unresolved at the end of the period referred to in clause 17.3.2 then either *party* may require that the *dispute* be determined under clause 17.4.

17.4 Non National Electricity Rules Disputes — reference to the Jurisdictional Regulator

17.4.1 Where clause 17.3.3 applies, either *party* may require that the *dispute* be determined by the *Jurisdictional Regulator*, pursuant to Division 6 of Part 3 of the *ESI Act*.

17.5 Non-National Electricity Rules Disputes — obligations not suspended

17.5.1 Except as otherwise provided by this *contract*, no *party* is relieved from performance of an obligation during the investigation and determination of a *dispute* by the *Jurisdictional Regulator*.

17.6 Survival

17.6.1 This clause 17 survives the termination or expiration of this *contract*.

18. ASSIGNMENT AND DISPOSAL

18.1 General

18.1.1 Subject to clauses 18.3 and 18.4, a *party* ("**disposing party**") must not *dispose* of all or any part of its right, title and interest under this *contract* without the consent of the other *party* ("**consenting party**").

18.2 Consent

18.2.1 If a *disposing party* requests the *consenting party* to give its consent to a *disposal* under clause 18.1 then the *consenting party* must not unreasonably withhold or delay that consent or give that consent subject to unreasonable conditions.

18.3 Disposal by force of law

18.3.1 If, by force of a law in Tasmania, the right, title, interest and obligations (whether arising before or after the transmission, transfer, vesting or assumption referred to below) of the *disposing party* under this *contract* are, or are expressed to be, transmitted, transferred or vested in, or assumed by, an assignee, then that transmission, transfer, vesting or assumption (as the case may be) is effective and does not require the *consenting party's* consent under clause 18.1.

18.4 Other permitted disposals

18.4.1 A *disposing party* may, without the consent of the other *party*, *dispose* of any or all of its rights, obligations and interest under this *contract* to a person if that person:

- (a) is an entity to which all or a material part of the assets of the *disposing party* are transmitted, transferred or vested as part of a reconstruction or privatisation of the *disposing party*;
- (b) has all the licences, authorities, registrations and approvals necessary for that person to own, operate or control the relevant electricity business in Tasmania; and
- (c) executes and delivers to the *consenting party*, a deed prior to the *disposal* by which the assignee agrees to assume obligations (whether arising before or after the disposal) which are substantially equivalent to the *disposing party's* obligations under this *contract*.

18.5 Execute documents

18.5.1 Each *party* must execute all documents reasonably required to effect the *disposals* contemplated by clauses 18.1 to 18.4.

19. NOTICES**19.1 Method of Giving Notices**

19.1.1 A notice, consent, approval or other communication (in this clause 19 called a “**notice**”) given under this *contract*, shall be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by pre-paid mail; or
- (c) transmitted by facsimile or electronic mail,

to that person's address.

19.1.2 A *notice* given pursuant to clauses 6.2.1 or 6.2.2 may be given in any reasonable manner as notified from time to time by *Aurora* in *Aurora's Operational Procedures*.

19.1.3 The requirements of this clause 19.1 do not apply to communications between the *parties* under the *B2B Procedures*.

19.2 Time of Receipt

19.2.1 A *notice* given to a person in accordance with this clause 19 is treated as having been given and received:

- (a) if delivered, on the day of delivery if that day is a *business day*, or otherwise on the next *business day*;
- (b) if sent by pre-paid mail, on the second *business day* following posting; and

- (c) if transmitted by facsimile and a correct and complete transmission report is received, on the day of transmission if transmitted before 5.00 p.m. on a *business day*, otherwise on the next *business day*;
- (d) if transmitted by electronic mail, on the day of the transmission if transmitted before 5.00pm on a *business day*, otherwise on the next *business day* unless the sender receives notice or advice from the recipient's system that the transmission has failed.

19.3 Address for Notices

- 19.3.1 For the purposes of this clause 19, a *party* may take the address and facsimile number of the other *party* to be the last address or number notified to it by that other *party*.

20. CHANGES TO APPLICABLE LAW

20.1 Amendments to contract

- 20.1.1 If after the date this *contract* commences:

- (a) an *applicable law* is introduced or commences operation;
- (b) an *applicable law* is modified, re-enacted or substituted; or
- (c) the interpretation of an *applicable law* changes,

then, subject to clause 20.2, this *contract* will be interpreted (as far as possible) in such a way as to enable compliance with that *applicable law*.

20.2 Negotiation

- 20.2.1 If any of the events referred to in clause 20.1 has or will have a material effect on the position of either *party*, the *parties* will negotiate in good faith any amendments required to be made to this *contract* as a result of that event to return the *parties* substantially to their respective positions under this *contract* prior to event occurring. If the *parties* are unable to agree upon such amendments within twenty-eight (28) days of commencing negotiations, that dispute will be resolved in accordance with clause 17 of this *contract*.

21. GENERAL

21.1 Entire contract

- 21.1.1 This *contract* constitutes the entire *contract* of the *parties* on the subject matter. The only enforceable obligations and liabilities of the *parties* in relation to the subject matter are those that arise out of the provisions contained in this *contract*. All representations, communications and prior *contracts* in relation to the subject matter are merged in and superseded by this *contract*.

21.2 Waiver

- 21.2.1 A failure of a *party* at any time to require full or part performance of any obligations under this *contract* does not affect in any way the rights of that *party* to require that performance subsequently.

21.3 Variations to contract

- 21.3.1 No variation of this *contract* will be effective unless it is in writing and signed by the *parties*.

21.4 Severability

- 21.4.1 Any provision of this *contract* which is invalid or unenforceable may (without affecting any other provision) be read down so as to ensure it is valid and enforceable during that period without affecting the remaining provisions of this *contract*. If that provision cannot be so read down, then it will not operate between the *parties* until (if at all) it becomes valid and enforceable.

21.5 Remedies Cumulative

- 21.5.1 The rights and remedies provided in this *contract* do not exclude any rights or remedies provided by any *applicable law* or at common law.

21.6 Governing Law

- 21.6.1 This *contract* is governed by the laws of Tasmania and the *parties* submit to the jurisdiction of the courts of that State.

21.7 No Agency or Partnership

- 21.7.1 Except as provided for in clause 23.8, nothing in this *contract* constitutes any agency, partnership or joint venture relationship between the *parties*.

21.8 Costs

- 21.8.1 Subject to clause 21.8.2, each *party* will bear its own legal and other costs in relation to the negotiation, documentation and administration of this *contract*.
- 21.8.2 Each *party* will bear half of any stamp duty payable in respect of this *contract*.

22. CONFIDENTIALITY**22.1 General Obligation**

- 22.1.1 For the purposes of this *contract*, “**Confidential Information**” means:

- (a) the operations and dealings under this *contract*; and
- (b) all information exchanged between the *parties* under this *contract*,
but
- (c) excludes information which is in the public domain or which is lawfully obtained from another source.

- 22.1.2 Except as otherwise permitted in this *contract*:

- (a) each *party* (“**recipient**”) must treat as confidential all *Confidential Information* of the other *party* (“**disclosing party**”) in its possession;
- (b) a *recipient* may not disclose *Confidential Information* of the *disclosing party* to third parties without the prior written consent of the *disclosing party*; and

a *recipient* must take reasonable precautions to ensure that its representatives maintain the confidentiality of that *Confidential Information*.

- (c) A *recipient* may make such disclosures of *Confidential Information* as are required by law or by the rules of any recognised stock exchange or by an *Authority* having jurisdiction over the *recipient*.
- (d) Where the *recipient* of *Confidential Information* is a Government Owned Corporation, it may make such disclosures of *Confidential Information* as are required by its Shareholding Ministers or their advisors, provided that the recipient of the *Confidential Information* is advised of its confidential nature and requested also to hold the *Confidential Information* in confidence and that disclosure of that information does not result in a breach of any *applicable law*.
- (e) To the extent practicable, before disclosing *Confidential Information* in reliance on clauses 22.1.2(c) or 22.1.2(d), a *recipient* must give reasonable notice to the *disclosing party* that its *Confidential Information* is going to be disclosed, including in that *notice* reasonable details of the circumstances of the proposed disclosure.
- (f) A *recipient* may disclose *Confidential Information* to any of the undermentioned persons whose legitimate interests reasonably require disclosure and who have first agreed in writing with the *disclosing party* to be bound by the confidentiality obligations imposed upon the *recipient* under this *contract*:
 - (i) any financier, prospective financier or recognised ratings agency;
 - (ii) any employee or any professional adviser;
 - (iii) any assignee or bona fide prospective assignee;
 - (iv) any third *party* or their advisors in connection with the proposed *disposal* of the recipient, any of its substantial assets or all or a significant part of its business undertaking.

22.1.3 If this *contract* permits a *recipient* to disclose *Confidential Information* to another person for a purpose, the *recipient* shall use all reasonable endeavours to limit the disclosure to those matters which reasonably need to be disclosed in order to accomplish that purpose.

22.1.4 The rights and obligations contained in this clause 22 shall survive termination of this *contract*, and shall continue in full force and effect after such termination for five (5) years.

22.1.5 For the purposes of this *contract*, information is not generally and publicly available merely because it is known to AEMO, an *Authority*, another Network Service Provider, a generator, or another *Retailer*.

23. GST

23.1 Definitions

23.1.1 In this clause:

- (a) “**Adjustment Event**” and “**Adjustment Note**” have the meanings given in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (b) “**GST Charge**” has the meaning given in clause 23.3;
- (c) “**GST Rate**” means the rate at which GST is payable in respect of a *Taxable Supply* under the *GST law* from time to time;
- (d) “**Input Tax Credit**” has the meaning given in section 195-1 of the *A New Tax System (Goods And Services Tax) Act 1999 (Cth)*;
- (e) “**Recipient**” means the *party* who receives a *Taxable Supply* under this *contract*; ‘Supplier’ means the *party* who supplies a *Taxable Supply* under this *contract*.

23.2 **Effect of GST on Indemnities and Similar Payments**

23.2.1 If an amount of money is payable by one *party* (“**payer**”) to the other (“**payee**”) as an indemnity or reimbursement or otherwise calculated by reference to a loss, cost, expense or other amount paid or incurred by the *payee* (an “**indemnity amount**”) then:

- (a) the amount that would otherwise be payable must be reduced by the amount of any *Input Tax Credit* to which the *payee* is entitled in respect of the *indemnity amount*; and
- (b) the *payee* must, if required by the *payer*, provide reasonable substantiation of the amount of *Input Tax Credit* to which the *payee* is entitled, or of the fact that the *payee* is not entitled to *Input Tax Credits*, as the case may be.

23.3 **GST Charge for Taxable Supplies**

23.3.1 If and to the extent that any amount payable by one *party* (“**Recipient**”) to the other (“**Supplier**”) under this *contract* is consideration for a *Taxable Supply* by the *Supplier* then in addition to the amount that would be payable otherwise than under this sub-clause (“**base amount**”) the *Recipient* must, if the *Supplier* issues a valid *Tax Invoice* for the *base amount* and *GST Charge*, pay a *GST Charge* calculated by multiplying the *base amount* by the *GST Rate*.

23.4 **Non Monetary Consideration**

23.4.1 If a supply made under this *contract* is a *Taxable Supply* made for non-monetary consideration then:

- (a) the *Supplier* must provide the *Recipient* with a valid *Tax Invoice* which states the nature of the *Taxable Supply* and the nature and GST inclusive market value (within the meaning of the *GST law*) of the non-monetary consideration; and
- (b) the *Recipient* must pay the *Supplier* a *GST Charge* equivalent to the GST payable by the *Supplier* on the *Taxable Supply*.

23.5 **Time for Payment of GST Charge**

23.5.1 Subject to the *Recipient* having received a valid *Tax Invoice*, the *Recipient* must pay a *GST Charge* payable under this clause at the same time as the base payment or any part of the base payment is due and payable by the *Recipient*

23.6 Tax Invoices and Adjustment Notes

23.6.1 In respect of any *Taxable Supply* under this *contract*, the *Supplier* must provide to the *Recipient*:

- (a) a *Tax Invoice* when consideration is claimed or payable; and
- (b) an Adjustment Note in respect of any Adjustment Event.

23.7 Registration

23.7.1 Each *party* must be registered for *GST* purposes.

23.8 Agency arrangements for GST purposes

23.8.1 *Aurora* appoints the *Retailer* as its agent for *GST* purposes in order to bill and collect any *distributor charges* due from *customers* to *Aurora* under the relevant *connection and supply contracts* for those *customers*.

23.9 Scope of agency

23.9.1 To the extent that the *Retailer*, in issuing bills to *customers*, acts as *Aurora's* agent for *GST* purposes:

- (a) the *Retailer* must take all reasonable steps to ensure that acts done on behalf of *Aurora* comply with *Aurora's* obligations to *customers* under the *GST law*, and in particular that any bill issued to the *customer* is issued in the form and manner required by the *GST law* for a *Tax Invoice* or, as applicable, an *Adjustment Note*;
- (b) the *Retailer* is entitled to assume that any amount stipulated in *Aurora's statement of charges* in respect of the *customer* is the full amount chargeable by *Aurora* (including any amount which *Aurora* includes in its charges to cover *GST* obligations); and
- (c) *Aurora* must do all acts and execute all documents which are reasonably necessary to be done in order to permit the *Retailer* to comply with its obligations under clause 23.9(a), and the *Retailer* must inform *Aurora* of its requirement for such acts and documents.

23.10 Arrangement under s 153-B or other provision of the GST Law

23.10.1 The *parties* acknowledge that it is contemplated there may be a change in the *GST law* (a "**153-B amendment**") to the effect that where a *party* ("**agent**") who issues bills to and collects money from the *customer* on behalf of another *party* ("**principal**") in respect of *Taxable Supplies* made by the *principal* to the *customer*, subject to the *agent* and *principal* entering into an *contract* that complies with specified criteria ("**complying contract**") the law will deem that:

- (a) there is a *Taxable Supply* by the *principal* to the *agent*, and the money paid by the *agent* to the *principal* is consideration for the *Taxable Supply*; and
- (b) there is a *Taxable Supply* by the *agent* to the *customer*, and the money paid by the *customer* to the *agent* is consideration for the *Taxable Supply*.

23.10.2 If there is a *153-B amendment*, the *parties* must negotiate in good faith to enter into a *complying contract*, and to amend this *contract* accordingly.

24. FORCE MAJEURE**24.1 Suspension of obligations**

- 24.1.1 If a *party* is unable wholly or in part to perform on time as required any obligation under this *contract* (other than an obligation to pay money) by reason of the occurrence of a *force majeure event*, that obligation shall be suspended, without liability, so far as the *party's* ability to perform is affected by the *force majeure event*.

24.2 Mitigation of force majeure event

- 24.2.1 A *party* affected by a *force majeure event* shall use its best endeavours to remove the effect of such *force majeure event* affecting its performance of this *contract*, but nothing in this clause requires it to settle any industrial dispute otherwise than as that *party* in its absolute discretion sees fit.

24.3 Notice

- 24.3.1 Subject to clause 24.2, if a *party* reasonably considers that a circumstance has arisen which constitutes or is likely to constitute or result in a *force majeure event*, it shall as soon as reasonably practicable thereafter give to the other *party* notice containing full particulars of the *force majeure event* including its nature and likely duration, the obligations affected by it and the nature and extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.

25. INFORMATION EXCHANGE

- 25.1 To the extent permitted by law, and subject to any legislative, contractual or other obligations of confidentiality, each *party* must use its reasonable endeavours to provide the other *party* at no cost and in a timely manner any information or documentation which the other *party* reasonably requires to carry out its obligations under this *contract* or under *applicable law*.

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