



## **DISTRICT COUNCIL OF BARUNGA WEST**

### **PERMITS AND PENALTIES BY-LAW 2017**

#### **By-law No. 1 of 2017**

A By-law to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and to clarify the construction of Council By-laws.

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## PART 1 – PRELIMINARY

### 1. Title

This By-law may be cited as the *Permits and Penalties By-law 2017* and is By-law No. 1 of the District Council of Barunga West.

### 2. Authorising law

This By-law is made under section 246 of the Act.

### 3. Purpose

The objectives of this By-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1. creating a permit system for Council By-laws;
- 3.2. providing for the enforcement of breaches of Council By-laws and fixing penalties; and
- 3.3. clarifying the construction of Council By-laws.

### 4. Commencement, revocation and expiry

4.1. The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

4.1.1 By-law No.1 – Permits and Penalties 2010.<sup>2</sup>

4.2. This By-law will expire on 1 January 2025.<sup>3</sup>

#### Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

### 5. Application

5.1. This By-law applies throughout the Council's area.

### 6. Interpretation

In this By-law, unless the contrary intention appears;

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **Council** means District Council of Barunga West;
- 6.3. **person** includes a natural person, a body corporate, an incorporated association or an unincorporated association.

#### Note-

Section 14 of the *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

## 7. Construction of By-laws generally

- 7.1. Every By-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2. In any By-law of the Council, unless the contrary intention appears **permission** means permission of the Council, or such other person as the Council may authorise, granted in writing (including by way of the Council adopting a policy for this purpose) prior to the act, event or activity to which it relates.

## PART 2 – PERMITS AND PENALTIES

### 8. Permits

- 8.1. Where a By-law requires that permission be obtained any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2. The Council (or such other person as the Council may authorise) may attach such conditions as it thinks fit to a grant of permission, and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 8.3. A person granted permission must comply with every such condition. Failure to do so is an offence (to the extent that it gives rise to a contravention of a By-law).
- 8.4. The Council (or such other person as the Council may authorise) may suspend or revoke a grant of permission at any time by notice in writing to the person granted permission.

### 9. Offences and Penalties

- 9.1. A person who commits a breach of any By-law of the Council is guilty of an offence and may be liable to pay:
  - 9.1.1 the maximum penalty, being the maximum penalty referred to in the Act that may be fixed for any breach of a By-law; or
  - 9.1.2 subject to any resolution of the Council to the contrary, the expiation fee fixed by the Act for alleged offences against By-laws, being a fee equivalent to 25 per cent of the maximum penalty fixed for any breach of a By-law.
- 9.2. A person who commits a breach of a By-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a By-law for a breach of a By-law of a continuing nature.

#### Note-

The maximum penalty for a breach of a By-law is currently \$750.00, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50.00 – see section 246(3)(g) of the Act.

Pursuant to section 246(5) of the Act expiation fees may be fixed for alleged offences against by-laws either by a by-law or by resolution of the Council. However, an expiation fee fixed by the Council cannot exceed 25 per cent of the maximum penalty prescribed by the Act for a breach of a By-law.

This By-law was duly made and passed at a meeting of the District Council of Barunga West held on the 9<sup>th</sup> of May 2017 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

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ANDREW COLE  
Chief Executive Officer