

MAKING BY-LAWS (2)

STEPS IN MAKING A BY-LAW

GOOD PRACTICE GUIDELINES
AUGUST 10

Note: This information sheet should be read in conjunction with the other information sheets in this series:

- **Making By-laws (1):** Part 11 of the *Local Government Act 1993*
- **Making By-laws (2):** Steps in making a by-law
- **Making By-laws (3):** Regulatory Impact Statements Section 156A *Local Government Act 1993*
- **Making By-laws (4):** Penalties and Infringement Notices - The *Monetary Penalties Enforcement Act 2005*
- **Making By-laws (5):** Tabling a by-law in parliament & the requirements of the Standing Committee on Subordinate Legislation
- **Making By-laws (6):** Making a by-law for which a Regulatory Impact Statement is not required

Steps in making a by-law

1. Consider the need for regulation, in the context of existing regulation, and with regard to the alternatives to making a by-law.
2. Prepare a draft by-law.
3. Undertake initial consultation on the by-law with key stakeholders. This may include inviting comments or submissions and holding meetings or workshops.
4. Adjust the by-law to reflect comments received during initial consultation process.
5. Council passes a formal resolution (by an absolute majority) of its intention to make a by-law. This can occur at any stage in the process up to this point. However, at this point the by-law consultation draft should be finalised and the council may wish to see it.
6. Council prepares a draft Regulatory Impact Statement (RIS) if required (see Section 156A of the Act or information sheet (3)).
7. The RIS and by-law are referred to the Director of Local Government for consideration.
8. If satisfied that the RIS meets all statutory requirements, the Director will issue a certificate of approval to the council.
9. Council gives notice of the proposed by-law and carries out its public consultation.
10. Notice of the proposed by-law is advertised in print media.

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11. Copies of the RIS and by-law are to be made available for public inspection/purchase, and displayed on the council's website, as required under Section 158 of the Act.
12. Submissions are invited from the community and key stakeholders. Section 159 of the Act requires that all submissions are to be considered by the council.
13. If required, alterations to the draft by-law are to be made only by an absolute majority. If the alteration substantially changes the purpose of the proposed by-law, or its effect on the public, the council will provide public notice.
14. Council makes the by-law under its common seal.
15. The by-law is certified by a legal practitioner and the general manager of the council.
16. The by-law must be published in the *Tasmanian Government Gazette* within 21 days of being made by the council and be titled with reference to the municipal area, subject matter and the year in which it is made.
17. The general manager of the council is to make the by-law available for purchase and should put it on the council's website.
18. The by-law is submitted to the Subordinate Legislation Committee as required within seven working days of publication in the Gazette.
19. The by-law is tabled in parliament within 10 sitting days of publication in the Gazette, as required under Section 47 of the *Acts Interpretation Act 1931*.
20. Council sends the Director of Local Government a sealed copy of the by-law, the certifications under Section 162 of the Act and a statement explaining:
 - the purpose and effect of the by-law
 - the outcomes of public consultations in respect of the by-law.

Disclaimer: Information on legislation contained in this document is intended for information and general guidance only. Such information is not professional legal opinion.