



NOTICE OF MEETING

**Notice is hereby given that a Meeting of the
Hearings Panel
will be held in the Council Chamber,
First Floor, Civic Theatre,
88 Tay Street, Invercargill on
Tuesday 4 March 2025 at 9.30 am**

Cr D J Ludlow (Chair)
Cr R I D Bond
Cr P M Boyle

MICHAEL DAY
CHIEF EXECUTIVE

Hearing Panel - Objection to Bylaw Notice

Council Chambers - Civic Theatre - 88 Tay Street

04 March 2025 09:30 AM - 10:30 AM

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A5788378

BEFORE THE HEARINGS COMMITTEE

IN THE MATTER of the Invercargill City Council Environmental
Health Bylaw 2024

BETWEEN **Karen Arnold**
Appellant

AND **INVERCARGILL CITY COUNCIL**
Respondent

**IN RESPECT OF AN APPEAL TO A BYLAW NOTICE REQUIRING REMOVAL OF
OVERGROWN VEGETATION, LONG GRASS AND NOXIOUS PLANTS (GORSE)**

Held in the Council Chambers, Civic Theatre
4 March 2025

A5788378

Appellant	Karen Arnold, the property owner
Location	[REDACTED]
Inspection Date	23 October 2024
Responsible Officer	Victoria Naboka, Environmental Compliance Officer is a warranted officer pursuant to Section 177 of the Local Government Act 2002, and an Authorised Officer pursuant to Section 174 of the Local Government Act 2002, Warrant No. 2025/025.
Reporting Officer	Gillian Cavanagh, Manager – Environmental Services is a warranted officer pursuant to Section 177 of the Local Government Act 2002, and an Authorised Officer pursuant to Section 174 of the Local Government Act 2002, Warrant No. 2025/016.
Process	<p>[REDACTED] is a vacant section.</p> <p>It is on council's bi-annual overgrown section inspection programme as a result of previous complaints. Properties on this programme are inspected in Spring and Autumn each year for compliance. Council has completed inspections throughout 2022, 2023 and 2024 as a result of overgrown section complaints and as part of the bi-annual overgrown section programme</p> <p>23 October 2024 – Bi-annual Inspection of the property, failed inspection due the presence of noxious plants.</p> <p>10 December 2024 – Bylaw Notice issued requiring the clearance and removal of all long grass and noxious plants (gorse) within 60 days.</p>
Appeal	<p>On 10 December 2024, the appellant responded to the bylaw notice lodging an objection.</p> <p>On 16 December 2024, the appellant lodged a formal appeal to the bylaw notice.</p> <p>To enable the Hearings Panel to consider an appeal under section 1.7 of the Bylaw, the appellant must inform the Hearings Panel of the specifics of any defence or mitigation to support the appeal and what redress is being sought.</p>

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1. The Issue

The property [REDACTED] failed a bi-annual inspection under Section 5, Untidy Private Properties and Disused Materials, of the Environmental Health Bylaw 2024. As per standard procedure a bylaw notice was issued requiring the clearance and removal of all long grass and noxious plants (gorse).

2. Breaches of the Invercargill City Council Environmental Health Bylaw 2024

The following breach has occurred:

- The appellant has failed to keep their property free from noxious plants (gorse), and/or overgrown vegetation and/or long grass.
- This has resulted in council receiving complaints regarding the overgrown nature of the property and failed inspections.

An inspection completed by the Environmental Compliance Officer on 23 October 2024 found the property predominantly covered in gorse.

[REDACTED] is a back section located directly behind [REDACTED]. On each side of [REDACTED] is a long driveway, the driveway for [REDACTED] (a back section directly behind [REDACTED]); and the driveway to access [REDACTED] and [REDACTED]. The inspection photos (Appendix 2) were taken from the street looking down each of the driveways.

3. The Appeal

On 16 December 2024 the Council received correspondence from the appellant (Appendix 3) appealing the bylaw notice.

The particulars of the appeal are:

1. The notice fails to inform what date the appeal period against the notice ends.
2. The notice gives a date that the remedial work is required to be completed but fails to factor in the four public holiday and general Christmas/New Year business shutdown.
3. The notice doesn't describe how the property is in breach of the bylaw.
4. The remedy required – the total removal and disposal of all vegetation – is unreasonable because under councils own bylaw long grass is allowed subject to conditions.
5. The notice is not signed.

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Council's response to the particulars:

1. The letter and bylaw notice are both dated 10 December 2024. The Appeal of Notice section of the Bylaw Notice states the right to appeal within seven days of service of a Notice or Decision. The notice was served by email on 10 December 2024, the appellants initial response was also dated 10 December 2024.
2. Standard procedure is for a Bylaw notice to be issued with 28 days to complete the required work. The definition section of the bylaw is explicit that a notice has an expiry date of 28 days after service of the notice. This notice was issued with 62 days to complete the work, requiring compliance by 9 February 2025. It is acknowledged the notice does not specifically state this is an extension of 34 days due to the Christmas/New Year break. Staff determined the additional time was adequate to complete the work allowing for the statutory holidays in December, January and February.
3. The notice includes a general statement that "the activity is in breach of the Invercargill City Council Bylaw 2024 – Environmental Health", see point 6 of the notice.
4. The notice states the appellant must "cut down, remove, and generally clear the land from all Long Grass and Noxious Plants (Gorse)". This is considered a reasonable requirement given overgrown nature of the property.
5. The letter and notice are signed by the Environmental Compliance Officer, this has been the Officers signature for many years.

4. Property History

Records show the following requests for service (RFS) complaints and inspection history for the property.

RFS Data

Complaints regarding the overgrown section were received on:

21 February 2022

25 July 2024

4 October 2024

Inspection Data

Inspection Date	Outcome
3 March 2022	Fail
5 May 2022	Fail
30 May 2022	Fail
30 September 2022	Fail
8 November 2022	Fail
15 February 2023	Pass
11 May 2023	Pass
20 December 2023	Fail
9 August 2024	Fail
23 October 2024	Fail

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The property passed inspections on 15 February 2023 and 11 May 2023 after council contractors cleared the property as a result of non-compliance with a bylaw notice issued on 6 October 2022.

The appellant purchased the property [REDACTED] in 2019.

The property previously known as [REDACTED] was purchased by the previous owners in 2012. In 2022, while looking into the issues surrounding [REDACTED] staff contacted the previous owner. The previous owner advised they were granted resource consent for separate titles in 2018. The sections [REDACTED] and [REDACTED] were all sold in 2019. The previous owner stated all sections were clean and tidy at the time they were sold, they advised they had invested significant time spraying and clearing the entire property of gorse.

Staff have also had conversations with the owners of [REDACTED] [REDACTED] and [REDACTED]. The owners advise they have spent considerable time and effort to remove gorse from their properties, this has at times included removing gorse on their boundary with [REDACTED].

5. Consideration of the Invercargill City Council Environmental Health Bylaw 2024

Section 5 of the Environmental Health Bylaw 2024 sets out council's requirements for untidy private properties and disused materials.

The inspection of [REDACTED] on 23 October 2024 found the property failed to meet the requirements of section 5.2 (a) (ii) of the bylaw.

5.2 (a) The Owner(s) and/or Occupier(s) of any private property must:
(ii) maintain their property to be free from Overgrown Vegetation, Long Grass and/or Noxious Plants that may harbor vermin or cause Nuisance.

The bylaw includes the following key definitions:

EXPIRY DATE: Means 28 days after the date of the service of the notice or any such other date as may be specified by Council in any notice served.

LONG GRASS: Means grass that is over 25 cm long and is unkempt (unless it is within the Rural Zone).

NUISANCE means:

- (a) The same meaning given by section 29 of the Health Act 1956; and
- (b) Includes a person, animal, thing, or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place; but
- (c) Does not include impacts to visual amenities.

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NOXIOUS PLANT: Means plants contained under the [Southland Regional Pest Management Plan - Environment Southland](#). It also includes all species under the genus Bambusa (Bamboo).

6. Recommendation

It is my recommendation that the bylaw notice is upheld.

The reasons for my recommendation are:

1. The overgrown nature of the property is a breach of section 5.2 (a) (ii) of the Environmental Health Bylaw 2024.
2. The overgrown nature of the property causes a nuisance to neighboring properties as reflected in the complaints received.



Gillian Cavanagh
MANGER ENVIRONMENTAL SERVICES

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Appendices

1. Appeal
2. Bylaw Notice
3. Inspection photos
4. Environmental Health Bylaw 2024

A5789360

Gillian Cavanagh

Subject: FW: Attn: Manager - Environmental Services/Notice issued under Bylaw 2024 - Environmental Health

From: Karen Arnold [REDACTED]

Sent: Monday, 16 December 2024 3:35 pm

To: Customer Services <Customer.Service@icc.govt.nz>

Cc: Michael Morris <Michael.Morris@icc.govt.nz>; Michael Day <michael.day@icc.govt.nz>; Tony Irvine <tony@scholefield.co.nz>

Subject: Attn: Manager - Environmental Services/Notice issued under Bylaw 2024 - Environmental Health

I refer to the notice received via email on 10 December 2024, on behalf of Hinahina Trust, with regards to [REDACTED].

As per the previous notice issued on 21 December 2023, which was cancelled by council chief executive Michael Day, this notice is defective. This is despite acknowledgement from Michael Morris that the notice of 2023 breached the NZ Bill of Rights and despite assurances from Michael Day, that improvements have been made.

In particular:

1. The notice fails to inform what date the appeal period against the notice ends
2. The notice gives a date that the remedial work is required to be completed but fails to factor in the four public holidays and general Christmas/New Year business shutdown
3. The notice doesn't describe how the property is in breach of the bylaw
4. The remedy required - the total removal and disposal of all vegetation - is unreasonable because under councils own bylaw long grass is allowed subject to conditions
5. The notice is not signed

Please accept this email as my appeal against the notice.

Regards

Karen Arnold



10 December 2024

Karen Arnold and Scholefield Trustees Limited



Tēnā Koe

**ENVIRONMENTAL HEALTH BYLAW UNTIDY SECTION INSPECTION PROGRAMME -
[REDACTED] - NOTICE UNDER THE ENVIRONMENTAL HEALTH
BYLAW 2024**

Recently an inspection of the above property was undertaken as part of the Environmental Health Bylaw inspection programme. This inspection found the above property is non-compliant with Section 5 of the Environmental Health Bylaw, see ICC website for full bylaw.

The Council is therefore issuing you with a Notice under the Environmental Health Bylaw 2024, which requires you to undertake the necessary work.

For your information I have attached to this letter a list of the contractors currently on the Invercargill City Council Contractor Panel. You can engage a contractor (at your own cost) from the panel directly to complete the required work, saving yourself council administration costs.

Your property will be re-inspect after 9 February 2025. Please contact me at the Council by emailing compliance@icc.govt.nz, if you require any clarification with regard to this notice.

Ngā mihi

A handwritten signature in black ink, appearing to read "Victoria Naboka".


Victoria Naboka
ENVIRONMENTAL COMPLIANCE OFFICER



NOTICE UNDER INVERCARGILL CITY COUNCIL – BYLAW 2024 ENVIRONMENTAL HEALTH

TO: Karen Arnold and Scholefield Trustees Limited



1. The Invercargill City Council gives Notice that you must take the following actions:
Cut down, remove, and generally clear the land from all Long Grass and Noxious Plants (Gorse)
2. The location in respect of which this Notice applies is:

3. You must comply with this Notice within the following period:
Within 60 days from the date of this notice. This means that you must comply by 9 February 2025
4. This Notice imposes the following further conditions:
All waste is to be disposed of at an appropriate waste disposal facility
5. This Notice is issued under Clause 5.3 of the Invercargill City Council Bylaw 2024 – Environmental Health.
6. The reasons for this Notice are:
The activity is in breach of the Invercargill City Council Bylaw 2024 – Environmental Health.

If you do not comply with this Notice, action may be taken under clause 5.4 & 5.5 of Invercargill City Council Bylaw 2024 (unless you appeal and the Notice is stayed as explained below).

Appeal of Notice

An owner(s) or occupier(s) have the right to appeal under this bylaw within seven days of service of a Notice or Decision. Appeals are required to be made in writing and either emailed, posted or delivered to the Te Hīnaki Civic Building or Bluff Service Centre. All appeals should include the appellant's contact information, specifics of what is being appealed, specifics of any defence or mitigation to support the appeal and what redress is

being sought. If applicable, there is a Hearing Lodgement Fee that you may be required to pay before the appeal can be heard. Please refer to Council's [Fees and Charges](#) for further information.

Email to: service@icc.govt.nz, attention Manager – Environmental Services

Post or deliver: Manager – Environmental Services
Invercargill City Council
101 Esk Street
Private Bag 90104
Invercargill 9840

Deliver: Manager – Environmental Services
Invercargill City Council – Bluff Service Centre
98 Gore Street
Bluff

In the event of an objection, the matter will be referred to Council's Hearings Panel for determination.

The Invercargill City Council has authorised Victoria Naboka to issue this Notice.

The Enforcement Officer is acting under the following authorisation:

Warrant appointing Victoria Naboka an Enforcement Officer pursuant to Section 177 of the Local Government Act 2002, and an Authorised Officer pursuant to Section 174 of the Local Government Act 2002, this warrant is under the seal of the Invercargill City Council and expires on 31 January 2025



10 December 2024

Signature of Enforcement Officer



INVERCARGILL CITY COUNCIL CONTRACTOR PANEL – PROPERTIES

Mr Green

Contact Ricky McLaren
Phone 0279269816
Email mclarenricky@gmail.com

Pro Cut

Contact Lynn Mckenzie
Phone 021842850
Email lynn@procutsouth.co.nz

Greenspace

Contact Christopher Rook
Phone 0212855998
Email chris@greenspacesouth.com

Southern Lawn Services

Contact Tim Chatfield
Phone 021868028
Email info@southernlawnservices.co.nz

WasteCo

Phone 0200 524 555
Phone 03 214 1214
Email admincw@wasteco.co.nz

K C Lawnmowing & Odd Jobs

Contact Martin Smith
Phone 021444109
Email martinsmith8@hotmail.com

Green Acres

Contact Cory
Phone 0272691488
Email candlventures1@kinect.co.nz

SFM

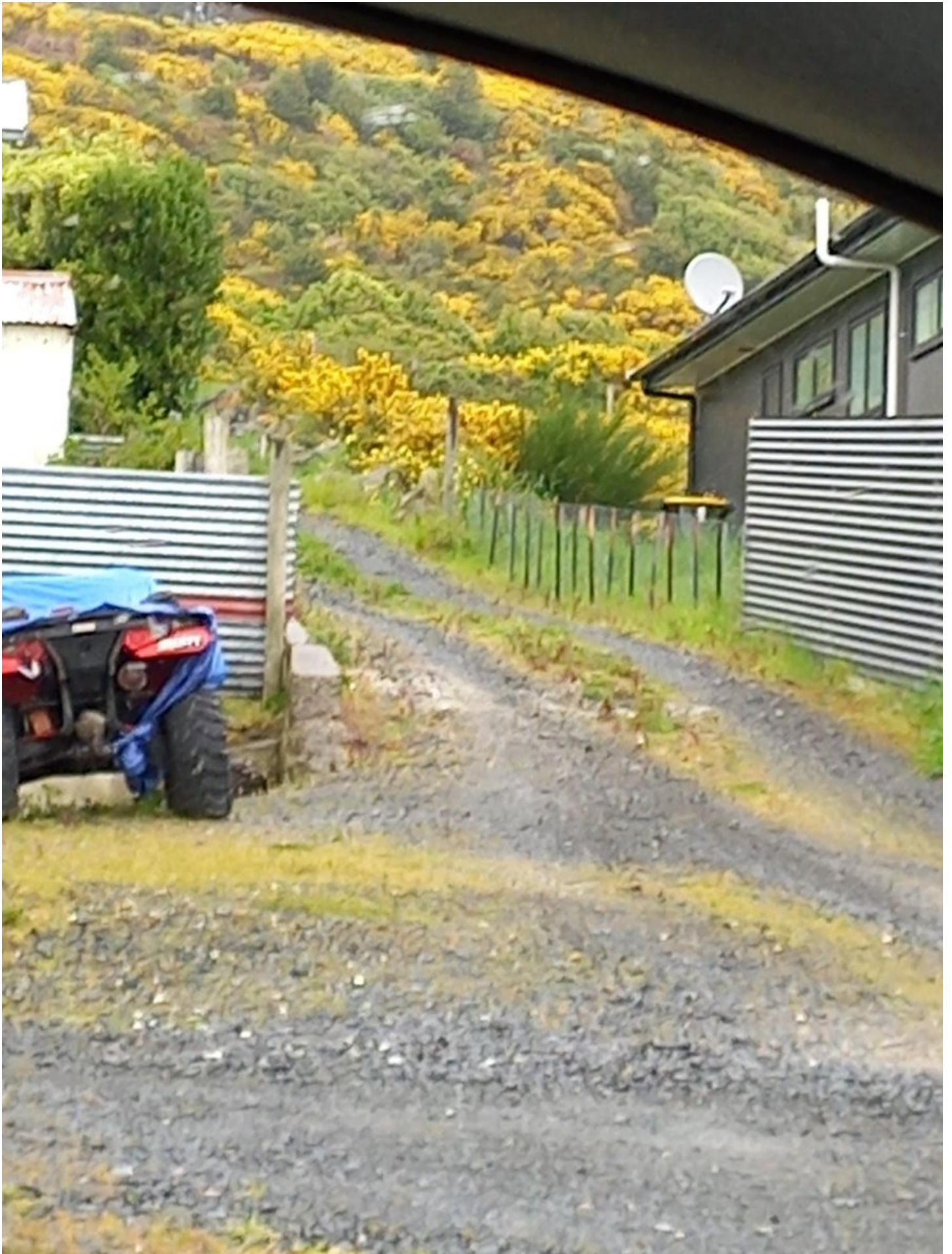
Contact Matt
Phone 0272691488
Email matt@sfmoffice.co.nz

Te Tapu o Tāne

Phone 03 973 0171
Email office@tetapuotane.org

Tree2ground

Contact Brendan
Phone 0273404413
Email tree2ground@xtra.co.nz





A5789368

INVERCARGILL CITY COUNCIL

ENVIRONMENTAL HEALTH BYLAW 2024

The following Bylaw was duly made by the Invercargill City Council by:

- Resolution to consult on the Draft Bylaw using the special consultative procedure on Tuesday 13 August 2024.
- Resolution to adopt the Bylaw on Tuesday 29 October 2024 and that it come into force on Friday 1 November 2024.
- Public Notice in The Southland Times on Thursday 29 August 2024.

THE COMMON SEAL of the INVERCARGILL
 CITY COUNCIL was hereto affixed to the following)
 Bylaw (Environmental Health Bylaw 2024))
 at the offices of and pursuant to the resolution)
 of the Invercargill City Council in the presence of:)



Mayor:
[Handwritten Signature]

Chief Executive:
[Handwritten Signature]

Invercargill City Council

Environmental
Health Bylaw

2024



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1. General Provisions

A Bylaw of the Invercargill City Council made in pursuance of the powers contained in the Health Act 1956 and the Local Government Act 2002. The primary purpose of the Bylaw is to enhance the safety and welfare of the public by minimising nuisance and adverse environmental health effects caused to the community, as far as is practicable through legislative means.

1.1 Short Title And Commencement

This Bylaw shall be known as the Invercargill City Council - Environmental Health 2024 and shall come into force on 1 November 2024, (includes amendments on 6 March 2019, 7 November 2019 and 1 November 2024).

This Bylaw replaces any other Environmental Health Bylaws created by Invercargill City Council.

1.2 Interpretation

In this Bylaw, unless the context otherwise requires:

AFFECTED AREA: Means all land in the Invercargill City District.

ALCOHOL: Means a substance:

- (a) that:
 - (i) is or contains a fermented, distilled or spirituous liquor; and
 - (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or
- (b) that:
 - (iii) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
 - (iv) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.

AUTHORISED OFFICER: Means any officer appointed by Council as an enforcement officer under Section 177 of the Local Government Act 2002 as an enforcement officer with powers of entry as prescribed by sections 171-174; the Sale and Supply of Alcohol Act 2012 or the Health Act 1956.

BUILDING: Means a temporary or permanent movable or immovable structure intended for the purpose of occupation by people, animals, machinery or chattels.

COUNCIL: Means the Invercargill City Council.

CITY: Means the City of Invercargill.

DISPOSE: Means to remove to a bona fide automotive dismantling or recycling facility or landfill or green waste facilities or business.

DISTRICT PLAN: Means the Invercargill District Plan pursuant to the Resource Management Act 1991.

EXPIRY DATE: Means 28 days after the date of the service of the notice or any such other date as may be specified by Council in any notice served.

HOME BASED BUSINESS: Means any commercial or non-commercial business or profession which is undertaken from the home(s) of any owner(s) and/ or occupier(s) and in keeping with the District Plan rules for Home based businesses that have limited street visibility.

LICENSED PREMISES: Means any premises for which a licence is held under the Sale and Supply of Alcohol Act 2012.

LICENSEE: Means a person and/or a company who holds a licence issued by Council but not limited to a mobile trading licence under this Bylaw and a person or an entity who holds a licence under the Sale and Supply of Alcohol Act 2012

LONG GRASS: Means grass that is over 25 cm long and is unkempt (unless it is within the Rural Zone).

MATERIAL OR THING: Means, but is not limited to:

- (a) Building material or equipment associated with building activities;
- (b) Household goods/furniture;
- (c) Litter (as defined in the Litter Act 1979);
- (d) Manure;
- (e) Paper and cardboard;
- (f) Metal;
- (g) Plastics;
- (h) Timber;
- (i) Tyres;
- (j) Vehicles; and/ or
- (k) Waste.

MIND ALTERING SUBSTANCE: Means any glue, solvent, drug or other substance whether synthetic or naturally occurring which alters consciousness, mood or emotions, intoxicates or induces pleasurable sensations (but does not include alcohol or nicotine) and may cause persons seeking those effects to behave in a disorderly manner or give the appearance of acting in a drunken manner.

MOBILE TRADING: Means a vehicle (whether self-propelled or not) from which goods and / or services are offered for sale.

NUISANCE means:

- (a) The same meaning given by section 29 of the Health Act 1956; and
- (b) Includes a person, animal, thing, or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place; but
- (c) Does not include impacts to visual amenities.

NOXIOUS PLANT: Means plants contained under the [Southland Regional Pest Management Plan - Environment Southland](#). It also includes all species under the genus Bambusa (Bamboo).

OCCUPIER(S): Means the occupier(s) is the person who is in possession of the land and exercises day to day control over it and includes tenants.

OWNER(S): Means the registered proprietor of the land.

OVERGROWN VEGETATION: Means overgrown vegetation on a private property and includes any vegetation that is impeding or spilling onto any public right-of-way, including streets, sidewalks, strips, alleys and road corridors.

PRIVATE PROPERTY: Means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s).

PUBLIC PLACE: Means a place:

- (a) That is under the control of Council; and/or
- (b) That is open to, or being used by, the public, whether or not there is a charge for admission; and
- (c) Includes a road, whether or not the road is under the control of Council and
- (d) Any part of a public place.

PUBLIC RIGHT OF WAY: Means public roads, footpaths and any other public access.

RESERVE: Means any park, garden, plantation, forest, open space or ground set aside for public recreation or enjoyment and which is controlled or administered by Council.

RURAL ZONE: Means the area defined as the Rural Zone in the Invercargill City District Plan.

1.3 Fees And Charges

All fees and charges under this Bylaw are prescribed in Council's Annual Plan or Long Term Plan.

1.4 Dispensing Power

It shall be lawful for the Group Manager - Consenting and Environment to dispense with any of the following requirements of this bylaw where, in the opinion of the Group Manager - Consenting and Environment, full compliance would needlessly cause harm, loss or inconvenience to any person or business without corresponding benefit to the community.

1.5 Name And Address To Be Supplied

If it appears that any person is committing or has committed any offence under the provisions of this Bylaw Council may require such person to desist from such offence and may require that that person supply their real name in full, and their residential address. If any person after being so required fails to supply such information or gives incorrect information that person commits a further offence against this Bylaw.

1.6 Licences Held Under Rescinded Bylaws

All licences issued under any provision of any Bylaw repealed shall after the coming into force of this Bylaw be deemed to have been issued under the corresponding provision of this Bylaw and be subject to its provisions, provided that Council may notify the holder of any licence of an earlier date of termination than would have applied had this Bylaw not been passed and may require the holder to reapply for a licence under the provisions of this Bylaw.

1.7 Appeals

An owner(s) or occupier(s) have the right to appeal under this bylaw within seven days of service of a Notice or Decision. Appeals are required to be made in writing and either emailed, posted or delivered to the Te Hīnaki Civic Building or Bluff Service Centre. All appeals should include the appellant's contact information, specifics of what is being appealed, specifics of any defence or mitigation to support the appeal and what redress is being sought. If applicable, there is a Hearing Lodgement Fee that you may be required to pay before the appeal can be heard. Please refer to Council's [Fees and Charges](#) for further information.

Email to: service@icc.govt.nz, attention Manager – Environmental Services

Post or deliver: Manager – Environmental Services
Invercargill City Council
101 Esk Street
Private Bag 90104
Invercargill 9840

Deliver: Manager – Environmental Services
Invercargill City Council – Bluff Service Centre
98 Gore Street
Bluff

In the event of an objection, the matter will be referred to Council's Hearings Panel for determination.

1.8 Offences And Penalties

Every person (s) who breaches this Bylaw is those who fail to comply with:

- (a) Any clauses, provisions, rules, restrictions, limitations, and/ or obligations set out in this Bylaw;
- (b) Part 2 of this Bylaw;
- (c) Section 4.2 of the Bylaw; and/ or
- (d) Section 5.3 of the Bylaw.

Is liable on conviction to a fine not exceeding \$20,000 under Section 242 of the Local Government Act 2002 and to a fine set out in Council's schedule of Fees and Charges.

2. Mobile Trading

2.1 Purpose Of Part 2

To licence and control mobile traders in public places under the control of Council.

2.2 Mobile Traders To Be Licensed

No person may engage in mobile trading without first obtaining a Mobile Trading Licence under this Bylaw. The holder of the licence shall observe and comply with all conditions recorded on the licence.

2.3 Applications

All applications for a Mobile Trading Licence shall be made on the form supplied by Council. Council will require the applicant to provide any/ all such information as is necessary for proper consideration of the application, including but not limited to:

- (a) Vehicle warrant of fitness and registration; and/ or
- (b) Electrical certificate; and/ or
- (c) Road user certificate; and/ or
- (d) LPG cylinder annual inspection certificate - from a registered craftsmangasfitter; and/ or
- (e) A copy of the applicant's public indemnity or liability insurance; and/ or
- (f) Food licence if the licence application involves food trucks.

2.4 Issue Of Licence

Each application will be evaluated on a case-by-case basis and Council may include conditions to applications as it views appropriate to prevent any potential creation of nuisance to public health and to ensure the safe and efficient operation of the transport network.

2.5 Duration Of Licences

Mobile Trading Licence(s) issued under this Bylaw shall be valid for not more than one year from their date of issue and, if not revoked, may be renewed by payment of a further annual fee, prescribed under Council's Fees and Charges.

The Mobile Trading Licence is not transferable to another person. If the business or vehicle is sold or transferred to another person, Council must be notified within 14 working days. The new owner will be required to apply for a licence and will not be permitted to use any mobile shop or food truck until a licence is issued by Council.

2.6 Licence To Be Carried

The Mobile Trading Licensee must carry the licence at all times while engaged in mobile trading and must show it to any Police Officer, or Authorised Officer on demand. The Mobile

Trading licence will only apply to the vehicle to which the registration number is specified on the licence. The use of any other vehicle that is not registered to a mobile trading licence will not be permitted without prior written consent from Council.

The Mobile Trading Licence is valid during the hours specified on the licence.

2.7 Nuisance, Annoyance Or Danger To Any Person

The licensee or operator shall operate any mobile trading approved by Council through a Mobile Trading licence, in such a manner as to avoid causing any nuisance, annoyance or danger to any person and/ or public.

2.8 Liability Insurance

The licensee shall carry insurance cover to cover the direct damage to vehicles and public liability (Third Party Insurance) in connection with the vehicles.

2.9 Name To Be Displayed

The name of the licensee and details of the products for sale shall be displayed on any stall or vehicle used in connection with the mobile trading.

2.10 Hazardous Substances

All LPG cylinders must be stored securely outside the mobile shop or food truck and total no more than 100kg LPG net content. If the mobile shop or food truck is likely to be unattended at any time while in a public place, the cylinders shall be secured against tampering.

2.11 Trading Limits

- (a) Mobile Trading is allowed only on successful completion of an application for mobile trading by Council.
- (b) Unless permission has been applied for and granted by the appropriate Council departments, Council prohibits all holders of Mobile Trading Licences from trading in the following areas:
 - (i) Any or all Parks or Reserve (including car parks and roads in Reserves, and Wachner Place), permission from Council's Manager - Parks and Reserves is required.
 - (ii) Any or all Roads (including State Highways), permission from Council's Manager - Strategic Asset Planning is required.
 - (iii) Restricted Areas including:
 - Within 100 metres of another permanent commercial business selling the same products, and
 - Within 50 metres of any intersection or pedestrian crossing where people visiting the site may be placed in danger.
- (c) Section 2.11(iii) does not refer to home based businesses.

- (d) The Licensee or operator of any Mobile Trading shall remain stationary as required for the transaction of business with customers and shall remain stationary on any site as permitted in their Mobile Trading licence issued by Council.
- (e) The Licensee or operator shall when requested by any Police Officer or Authorised Officer of Council, alter their position or move from place to place on any road or public place as directed.
- (f) Should the Licensee or operator fail to comply with the provisions of Conditions or if the Mobile Trading is left unattended on any road or Public Place it shall be lawful for any Police Officer or Authorised Officer mentioned in Section 2.11(e) to move the Mobile Trading to any safe position.

2.12 Pre Approved Locations For Food Trucks

Council have identified a list of locations that it views as most appropriate for food trucks. This section only applies to food trucks and not any other Mobile Trading.

The Mobile Trading Licensee who wishes to operate their food trucks in the pre-approved locations for food trucks must adhere to all provisions of Section 2 of this Bylaw, and to the appropriate conditions of the Roading and Traffic Bylaw 2022, the Footpath Management Policy, the Food Act 2014 and the Health Act 1956.

Council reserves the right to amend the list of pre-approved locations for food trucks from time to time as it sees appropriate. Any such amendment to the list of pre-approved locations will not be subject to a Special Consultative Procedure under Section 83 of the Local Government Act 2002, however, will be subject to appropriate public engagement in accordance with Council's Significance and Engagement Policy.

2.13 Litter

The Licensee or Operator must also provide refuse bins for the duration of service at the location of trading. The refuse bins and any litter in the surrounding area generated by the activities of their trading must be removed after service from the location in which they have undertaken the transaction of their business.

2.14 Licence May Be Revoked

A Mobile Trading Licence may be revoked by Council if:

- (a) Licensee in connection with Mobile Trading, permits a breach of any provision of this Bylaw or any other law, Bylaw and/ or any regulations.
- (b) Licensee fails to observe the conditions of the Mobile Trading Licence.
- (c) Permits any unlicensed person to operate as a trader in connection with the Mobile Trading usually carried out by the Licensee.
- (d) The complaints made on Mobile Trading have substantive impacts on public health determined by Council.
- (e) Any appeal can be made under Section 1.7

2.15 Sales From Boats Exempt

Nothing in this Bylaw shall apply to any sale of fish by the owner of a fishing vessel, provided

that the fishing boat is registered under Section 103 of the Fisheries Act 1996 and in respect of which a boat fishing permit is for the time being in force, where he, or a person appointed by him in that behalf, sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed, or beached or from a stall (including a vehicle used as a stall) within 450 metres of that place.

3. Alcohol Ban

3.1 Purpose Of Part 3

For better crowd control, public safety and the prevention of the consumption, possession and/ or bringing of alcohol in public places under the control of Council.

3.2 Operation

Council (subject to any licences or special licences that may be in force at any particular time) prohibits the consumption of, the bringing of and/ or the possession of alcohol in the Alcohol Ban Affected Area during the hours and days of operation of the Bylaw.

3.3 Alcohol Ban Affected Area

The public place is bounded by and inclusive of the following streets:

- (a) Herbert Street from the corner of Herbert Street and Dee Street to the corner of Herbert Street and Kelvin Street.
- (b) Kelvin Street from the corner of Herbert Street and Kelvin Street to the corner of Victoria Avenue and Kelvin Street but excluding Alice Street east of Kelvin Street.
- (c) Victoria Avenue from the corner of Victoria Avenue and Kelvin Street east along Victoria Avenue to its termination and thence in a straight line to Queens Drive (so as to include the Gala Street Reserve) and Queens Drive south onto the intersection of Queens Drive and Tay Street.
- (d) Elles Road from the intersection of Queens Drive and Tay Street to the corner of Elles Road and Tweed Street.
- (e) Tweed Street from the corner of Tweed Street and Elles Road to the corner of Tweed Street and Liddell Street.
- (f) Liddell Street from the corner of Liddell Street and Tweed Street to Leven Street, Leven Street on to Liffey Street.
- (g) Liffey Street to its intersection on Fox Street.
- (h) Fox Street from the corner of Fox Street and Liffey Street to the corner of Fox Street and Dee Street.
- (i) Dee Street from the corner of Dee Street and Fox Street to the corner of Dee Street and Herbert Street.

The Alcohol Ban Affected Area is to be adequately signposted to inform the community of their responsibilities.

3.4 Hours And Days Of Operation

The Alcohol Ban is in operation 24 hours of every day.

3.5 Temporary Alcohol Ban

Council may from time to time make a resolution:

- (a) Prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods:
 - (i) the consumption of alcohol in a public place; and/ or
 - (ii) the bringing of alcohol into a public place; and/ or
 - (iii) the possession of alcohol in a public place, and/ or
 - (iv) in conjunction with a prohibition relating to alcohol under paragraphs (i) to (iii) the presence or use of a vehicle in public places.
- (b) Within a specified public place or places.

3.6 Exemptions

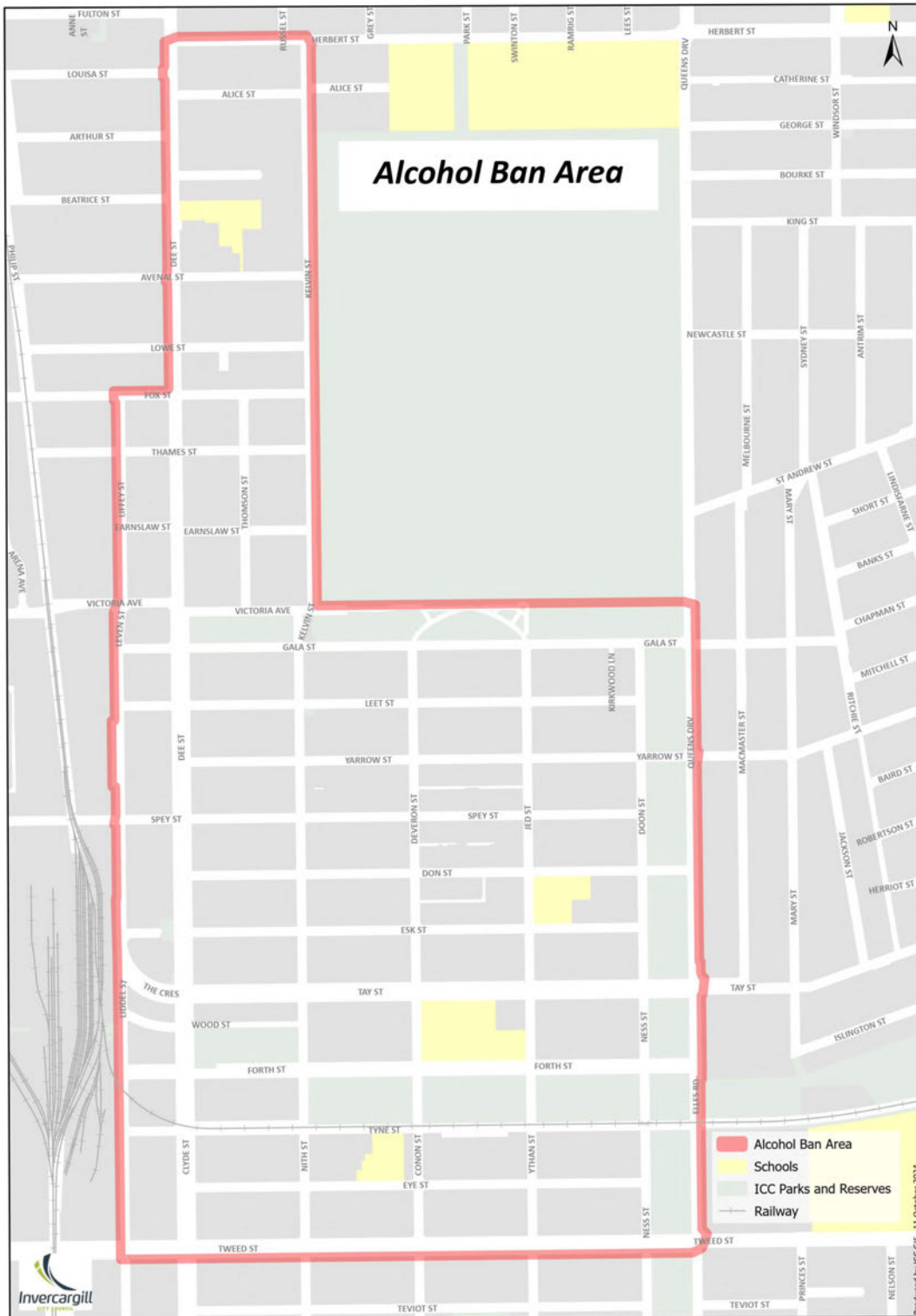
The exemptions set out in section 147(3) of the Local Government Act 2002 apply to this Bylaw. This Bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container:

- (a) The transport of that alcohol from licensed premises that adjoin a public place during any period when, under the Sale and Supply of Alcohol Act 2012, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
- (b) The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
- (c) The transport of that alcohol from outside a public place to premises that adjoin a public place:
 - (i) By, or for delivery to, a resident of those premises or by their bona fide visitors; or
 - (ii) From those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

3.7 Police Powers

Pursuant to this Bylaw the Police have the following powers:

- (a) The power to arrest without a warrant a person contravening the Bylaw; and/ or
- (b) The power to arrest without a warrant a person who refuses to leave a public place after being requested to do so; and/ or
- (c) The power to arrest without a warrant a person who refuses to surrender alcohol that is in their possession in breach of the Bylaw; and/ or
- (d) The ability to search without a warrant a vehicle in, entering or about to enter the public place subject to the Bylaw for the purpose of ascertaining whether or not the vehicle contains alcohol; and/ or
- (e) The ability to search a container in the possession of any person in, entering or about to enter the public place, subject to the Bylaw, for the purpose of ascertaining whether or not the container contains alcohol; and/ or
- (f) The ability to seize and remove alcohol and its container if the alcohol is in a public place in breach of the Bylaw.



4. Solvent Abuse

4.1 Purpose Of Part 4

For the prevention of harm to individuals and for public safety in public places under the control of Council.

4.2 Prohibition

No person shall knowingly in any public place, consume, inject, inhale or sniff any Mind Altering Substance, except as prescribed for that person for a medical condition, which may cause that person to behave in a disorderly manner or give the appearance of the person acting in a drunken manner.

5. Untidy Private Properties And Disused Materials

5.1 Purpose of Part 5

To promote and maintain public health and safety by protecting the public from nuisances caused by disused material or things, long grass, noxious plants, and overgrown vegetation likely to harbour vermin from untidy private properties.

5.2 Operational Provisions

- (a) The Owner(s) and/or Occupier(s) of any private property must:
 - (i) not allow any Material or Thing to be deposited, accumulated, used, processed, or stored under their control in a manner that may harbour or cause a Nuisance; and/ or
 - (ii) maintain their property to be free from Overgrown Vegetation, Long Grass and/ or Noxious Plants that may harbour vermin or cause Nuisance.
- (b) Owner(s) and/or Occupier(s) of land upon which overgrown vegetation, long grass and/ or noxious plants are situated and overhang and cause obstruction to Public Rights of Way including accessibility for people with disability, must trim and/ or remove the trees, shrubs or other plants so that they are a minimum of 2.5 metres from the public right of way.
- (c) Authorised Officers – all officers authorised under Section 174 or Section 177 or paragraph 32 of Schedule 7 of the Local Government Act 2002, shall possess and produce on request warrants of authority and evidence of identity.
- (d) An Authorised Officer may enter at any reasonable time any Private Property believed to contain elements that contravene or may contravene this Bylaw and may take any photographs or other evidence necessary to establish that a breach of the Bylaw has occurred.

5.3 Notice

Council may serve a notice upon the Owner(s) and/or Occupier(s) of any Private Property in breach of section 5.2 requiring the Owner(s) and/or Occupier(s) prior to the expiry date to:

- (a) Remove any material or things that are or may provide harbourage for vermin and cause nuisance; and/ or
- (b) Cut down, remove and generally clear the land from all Overgrown Vegetation, Long Grass and/or Noxious Plants; and/or
- (c) Trim any or all Overgrown Vegetation, Long Grass and/or Noxious Plants overhanging and causing obstruction to a Public Right of Way, so that the trees or shrubs or other plants are a minimum of 2.5 metres above the Public Right of Way; and/or
- (d) Remove any or all Overgrown Vegetation, Long Grass and/or Noxious Plants overhanging and causing obstruction to the Public Right of Way.

5.4 Council May Complete The Work

If any person on whom a Notice has been served under Section 5.3 fails or neglects to do any act or thing specified in the Notice prior to the expiry date, or fails or neglects to do any act or thing in such manner as may be so specified in the Notice prior to the expiry date, Council may without further notice to the person served will undertake the work.

5.5 Council May Recover Its Costs

If any work is carried out by Council or its agent on any land pursuant to 5.4 above then the full cost of undertaking any work including all labour, materials and other charges incurred shall be recovered from the registered proprietor of the land. Council may also register these costs as a charge upon the land pursuant to the Land Transfer Act 2017.