

LA TROBE UNIVERSITY

**EXPLANATORY MEMORANDUM FOR THE UNIVERSITY GROUNDS
STATUTE 2009**

Council is invited to make the attached **University Grounds Statute 2009** (the new Statute).

The new Statute is intended to replace Statute 35 – The Control of University Grounds Generally and of Traffic and Parking, Noise and Litter and all of the regulations made under that Statute (there are currently 4 different regulations made under Statute 35).

The new Statute deals with the following matters—

- littering;
- bringing dogs and other animals onto a campus;
- the erection of unauthorised structures on a campus;
- alcohol-free zones and events on campuses;
- enforcement.

The new Statute does not deal with traffic and parking. The Bundoora and Bendigo Campuses are subject to Victorian State laws concerning traffic and parking. Most of the other University campuses are small and typically occupy buildings or blocks in built-up areas and so lack extensive road ways or parking facilities of their own. Regarding any other campus of the University which ought to be subject to laws regarding traffic and parking, it is recommended that the University request the State Government of Victoria to make an order under the *Road Safety Act 1986* to bring those campuses under the jurisdiction of State laws. Doing this would remove the need for the University to develop its own Statute or regulations concerning traffic and parking and bring traffic and parking rules on University campuses into line with State law.



LA TROBE UNIVERSITY
UNIVERSITY GROUNDS STATUTE 2009

The Council of La Trobe University makes this Statute under section 30 of the *La Trobe University Act 1964*.

PART 1—PRELIMINARY

1. Name and commencement

- (1) This Statute is the **University Grounds Statute 2009**.
- (2) This Statute comes into full force and effect on 1 July 2009.

2. Interpretation

- (1) In this Statute—

authorised officer means an authorised officer appointed under section 16;

campus includes a receptacle, vehicle, watercourse, lake or pond on a campus;

commencement day means the day on which this Statute comes into full force and effect;

deposit, in relation to litter, means the act of parting with the possession of the litter;

Executive Director means the Executive Director, Infrastructure and Operations or another person nominated to act in that role for the purposes of this Statute by the Vice-Chancellor;

litter includes any solid or liquid domestic or commercial waste, refuse, debris or rubbish and, without limiting the generality of the above, includes any waste glass, metal, plastic, paper, fabric, wood, food, soil, sand, concrete or rocks, abandoned vehicles, abandoned vehicle parts and garden remnants and clippings;

Old Statute means the following, as in force immediately before the commencement day—

- (a) Statute 35 – The Control of University Grounds Generally and of Traffic and Parking, Noise and Litter;
- (b) Regulation 35.3 – Control of Litter on University

Grounds;

- (c) Regulation 35.4 – Structures Erected on University Grounds;

penalty notice means a penalty notice issued under section 17;

receptacle means a receptacle provided, or a place set aside, for the depositing of litter;

structure means any temporary or permanent structure, whether fixed to the land or not, and includes, without limitation, any structure affording shelter from the weather.

- (2) A reference in this Statute to a vehicle parked on a campus includes a reference to bicycle or similar conveyance left at a bike rack or anywhere else on a campus.
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PART 2—LITTERING

3. Littering

- (1) Subject to this section, a person must not deposit any litter on a campus other than in a receptacle suitable for the depositing of litter of that size, shape, nature or volume.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the depositing of the litter is an unavoidable consequence of a lawful activity;
 - (b) the depositing of the litter is accidental and the person who deposited it does everything reasonably possible to retrieve the litter; or
 - (c) an authorised officer has given permission for the litter to be deposited in the place where it is deposited.
- (3) For the purposes of subsection (2)(a), a consequence is unavoidable if there is no reasonably practicable way of avoiding the consequence.

4. Litter deposited from vehicles

- (1) Subject to subsection (2), if litter is deposited from a vehicle in contravention of section 3, the person who owns the vehicle is taken to be guilty of an offence against section 3.
- (2) A person referred to in subsection (1) is not guilty of an offence against section 3 if, within 14 days after receipt of a penalty notice relating to the offence, the person gives a statutory declaration that complies with this section.
- (3) A statutory declaration complies with this section if the person making it declares in it—
- (a) that he or she did not deposit the litter;
 - (b) that he or she saw another person deposit the litter;
 - (c) that he or she knows the person;
 - (d) what he or she believes to be the person's address; and
 - (e) any other thing which he or she believes to be relevant.

5. Unsolicited advertising material left in or on vehicles

A person must not deposit any unsolicited advertising material in or on a vehicle parked or left standing on a campus without the permission of the owner, or the person in charge, of the vehicle.

Penalty: 5 penalty units.

PART 3—CONTROL OF DOGS AND OTHER ANIMALS

6. Dogs to be restrained on campus grounds

A person in charge of a dog on a campus must ensure that the dog is adequately restrained and under the person's effective control.

Penalty: 5 penalty units.

7. Animals not to be taken into University buildings

- (1) Subject to subsection (2), a person must not take an animal into a University building.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply in respect of—

- (a) a person with a visual or hearing impairment who is using a guide dog as a guide dog;
- (b) a person with some other form of physical disability who is using an assistance dog as an assistance dog;
- (c) a person carrying out duties for a department or agency of the State or the Commonwealth who is using a dog in carrying out those duties; or
- (d) an animal that is being used, or is to be used, in an approved research project.

8. Animal excrement

A person in charge of an animal that excretes on a campus must immediately do everything reasonably possible to collect the excrement and deposit it in a receptacle.

Penalty: 5 penalty units.

PART 4—ERECTION OF UNAUTHORISED STRUCTURES

9. Erection of unauthorised structures prohibited

A person must not, without the prior written consent of the Executive Director, erect, construct or set up a structure on a campus.

Penalty: 5 penalty units.

10. Removal of structures

The Executive Director may direct one or more authorised officers to dismantle and remove a structure erected, constructed or set up in contravention of section 9.

11. Storage of dismantled and removed structures

- (1) The Executive Director must ensure that any structure dismantled and removed under section 10 is stored in the manner directed by the Executive Director.
 - (2) The Executive Director may return a dismantled and removed structure to its owner upon production of satisfactory proof of ownership and payment by the owner of all reasonable costs of storage.
 - (3) Anything stored under this Statute becomes the property of the University if it remains unclaimed for a period of 6 months after it is first stored.
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PART 5—ALCOHOL-FREE ZONES AND EVENTS

12. Alcohol-free zones and events

- (1) The Vice-Chancellor may, by written notice, declare a specified area or building, or area and building, of the University to be an alcohol-free zone—
 - (a) for a specified period; or
 - (b) until further notice.
- (2) At any time before an event is to be held at the University, the Vice-Chancellor may, by written notice, declare the event to be an alcohol-free event.
- (3) A written notice under this section must be displayed on an official notice board.

13. When declarations come into force

- (1) Subject to subsection (2), a declaration under section 12 comes into force—
 - (a) when the relevant written notice is first displayed on an official notice board; or
 - (b) if a time for the declaration coming into force is specified in the relevant written notice, at that time.
- (2) A declaration cannot come into force before the written notice for the declaration is displayed on an official notice board.

14. Alcohol not permitted in alcohol-free zones or events

- (1) While an alcohol-free zone declaration is in force under this Part, a person must not—
 - (a) bring any alcohol into the alcohol-free zone to which the declaration relates; or
 - (b) consume, display or offer for sale any alcohol in the alcohol-free zone.
- (2) While an alcohol-free event declaration is in force under this Part, a person must not—
 - (a) take any alcohol to the alcohol-free event to which the declaration relates; or

- (b) consume, display or offer for sale any alcohol at the alcohol-free event.
- (3) A person who contravenes a provision of this section is liable to a maximum penalty of 5 penalty units in respect of each contravention.

15. Authorised officers may direct persons to leave alcohol-free zones or events

- (1) An authorised officer may direct a person found consuming or in possession of any alcohol within an alcohol-free zone or at an alcohol-free event to leave the zone or event immediately.
- (2) An authorised officer may direct an intoxicated person who is within an alcohol-free zone or at an alcohol-free event to leave the zone or event immediately.
- (3) A person must comply with a direction of an authorised officer under this section.

Penalty: 5 penalty units.

- (4) For the purposes of this section, a person is intoxicated if his or her speech, balance, co-ordination or behaviour is noticeably affected and there are reasonable grounds for believing that this is the result of the consumption of alcohol.

PART 6—ENFORCEMENT

16. Authorised officers

- (1) The Executive Director may appoint an officer or employee of the University to act as an authorised officer under this Statute.
- (2) An authorised officer has the powers, functions or duties conferred under this Statute and all incidental powers necessary for the authorised officer to exercise or perform a power, function or duty conferred under this Statute.

17. Penalty notices

- (1) An authorised officer may, by issuing a penalty notice, impose a fine on a person who contravenes a provision of this Statute.
- (2) A penalty notice must—
 - (a) be in writing;
 - (b) specify the date and place of the alleged offence in respect of which the notice is issued;
 - (c) specify the provision of this Statute alleged to have been contravened;
 - (d) specify the amount of the fine imposed and the date by which it must be paid; and

Note:
A fine is due and payable within 28 days of the date on which it is imposed: see section 18(1) below.

 - (e) if the offence is an offence under section 4 (litter deposited from vehicles)—
 - (i) specify the registration number of the relevant vehicle; and
 - (ii) include a statement setting out the matters referred to in sections 4(2) and 4(3).
- (3) A penalty notice which fails to comply with any of the requirements of this section is invalid. An invalid penalty notice is void and of no effect.

18. The collection of fines

- (1) A fine imposed under this Statute is due and payable no later than 28 days after the day on which it is imposed.

Note:

Section 42A(1) of the Act provides that any fine imposed on a member of the staff or a student of the University pursuant to the Statutes and regulations shall be a civil debt recoverable summarily by the University in any court of competent jurisdiction. See also section 42A(2) of the Act.

- (2) For the avoidance of doubt, a student who fails to pay a fine by the date it is due under this section is guilty of general misconduct.

Note:

See section 4 of the **General Misconduct Statute 2008**.

- (3) While a fine imposed on a student, being a fine which is overdue, remains unpaid, the student may not, without the written consent of the Vice-Chancellor or the Executive Director—
- (a) enrol or re-enrol in any course, subject or unit;
 - (b) receive the results of any assessments;
 - (c) graduate or be given any academic award;
 - (d) receive a certificate or transcript of academic record.

19. Hindering or obstructing authorised officers prohibited

- (1) A person must not hinder or obstruct, or attempt to hinder or obstruct, an authorised officer—
- (a) acting in accordance with a direction of the Executive Director under section 10; or
 - (b) exercising a power, or performing a duty or function, under this Statute.
- (2) A person who contravenes a provision of subsection (1) is liable to a maximum penalty of 5 penalty units in respect of each contravention.
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PART 7—GENERAL

20. Revocation of earlier University legislation

The following Statute and regulations are **revoked**—

- (a) Statute 35 – The Control of University Grounds Generally and of Traffic and Parking, Noise and Litter;
- (b) Regulation 35.1 – The Control of Traffic and Parking;
- (c) Regulation 35.2 – The Control of Traffic and Parking – Bendigo Campus;
- (d) Regulation 35.3 – Control of Litter on University Grounds;
- (e) Regulation 35.4 – Structures Erected on University Grounds.

21. Transitional

- (1) Despite the coming into full force and effect of this Statute, the Old Statute continues to apply to—
 - (a) a penalty imposed under the Old Statute which, immediately before the commencement day, had yet to be paid; and
 - (b) a proceeding under the Old Statute which, immediately before the commencement day, had been commenced but not completed.
- (2) In subsection (1), *proceeding* means a proceeding in respect of a notice of a breach of the Old Statute, and includes an appeal to any committee, or other body or any officer, of the University with appellate jurisdiction under the Old Statute.

22. Regulations

- (1) The Council may make regulations—
 - (a) for or with respect to or providing for any matter or thing for the purposes of this Statute; and
 - (b) amending or revoking any regulations made under this Statute.
- (2) The Council must ensure that regulations made under this Statute are promulgated by having the regulations displayed on an official notice board of the University for a period of at least 14 days.
- (3) For the purposes of determining when regulations made under this Statute come into full force and effect within the meaning of

section 30(4) of the Act, the regulations are taken to have been promulgated in accordance with sub-section (2) at the start of the first day on which they are displayed on an official notice board of the University.

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Approved by the Council—

Approved by the Minister—