



*By-law made under the Local Government Act 1999*

## **LOCAL GOVERNMENT LAND BY-LAW 2012**

### **By-law No. 4 of 2012**

*For the management and regulation of the use of and access to all land vested in or under the control of the Council including the prohibition and regulation of particular activities on local government land.*

#### **1. Definitions**

In this by-law, unless the contrary intention appears:

- 1.1 **animal** includes birds and insects but does not include a dog;
- 1.2 **authorised person** has the same meaning as in the *Local Government Act 1999*;
- 1.3 **camp** includes setting up a camp, or causing a tent, caravan or motorhome to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 1.4 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 1.5 **emergency worker** has the same meaning as in the *Australian Road Rules* and the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 1999*;
- 1.6 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 1.7 **local government land** means all land vested in or owned by the Council or under the care, control and management of the Council (except roads);
- 1.8 **open container** means a container which:

- 1.8.1 after the contents thereof have been sealed at the time of manufacture and:
- 1.8.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
- 1.8.1.2 being a can, it has been opened or punctured;
- 1.8.1.3 being a cask, has had its tap placed in a position to allow it to be used;
- 1.8.1.4 being any form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to the contents thereof; or
- 1.8.2 is a flask, glass or mug or other container used for drinking purposes;
- 1.9 **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 1.10 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council.

## 2. **Activities Requiring Permission**

A person must not without permission on any local government land:

### 2.1 **Advertising**

display, paint or erect any sign or hoarding for the purpose of commercial advertising or any other purpose;

### 2.2 **Aircraft**

Subject to the *Civil Aviation Act 1988*, land any aircraft on, or take off any aircraft from the land;

### 2.3 **Athletic and Ball Sports**

2.3.1 to which this sub-paragraph applies, promote, organise or take part in any organised athletic sport;

2.3.2 to which this subparagraph applies, play or practice the game of golf;

### 2.4 **Amplification**

use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound or broadcasting announcements;

### 2.5 **Animals**

2.5.1 cause or allow any animal to stray into or depasture therein;

2.5.2 cause or allow an animal to enter, swim, bathe or remain in any waters located on the land;

2.5.3 allow any animal to damage any flower bed, garden plot, tree, lawn or other item or place;

**2.6 Bees**

place a hive of bees on such land, or allow it to remain thereon;

**2.7 Boat Ramps**

subject to the provisions of the *Harbors and Navigation Act 1993*:

2.7.1 use or launch a boat or other object from any boat ramp or in any area except where a sign or signs are displayed by the Council requiring the purchase of a permit prior to launch;

2.7.2 in respect of a permit issued under sub-paragraph 2.7.1:

2.7.2.1 the Council shall prescribe a fee at least once in each financial year for permits to use a boat ramp;

2.7.2.2 a permit may be purchased for a fee to which conditions of use shall be attached and applicable;

2.7.2.3 upon request of an Authorised Person, any person about to use (unless they have not yet had the opportunity to purchase a ticket) using or having used a boat ramp, must produce a permit purchased prior to the request in compliance with this by-law;

2.7.2.4 the Council, or such other person as the Council may authorise by resolution for that purpose, may exempt organisations involved in search and rescue at sea from the requirement to purchase a permit;

2.7.2.5 the Council may, by resolution and the erection of a sign or signs, restrict the use of special areas or boat ramps to either commercial or recreational use, or prohibit their use entirely; and

2.7.2.1 this sub-paragraph 2.7 will only apply to such parts of the Council's area and at such times as the Council may by resolution determine from time to time;

2.7.3 allow any vehicle, boat, yacht or other seagoing craft to remain stationary on any boat ramp longer than is necessary to launch or retrieve a boat;

**2.8 Bridge Jumping**

jump or dive from any bridge;

**2.9 Burials and Memorials**

2.9.1 bury, inter or spread the ashes of any human or animal remains;

2.9.2 erect any memorial;

**2.10 Camping**

camp or remain overnight, provided that this clause does not apply to a person where the person camps:

2.10.1 in a caravan or motorhome; and

2.10.2 within 200m of a sign displayed by the Council indicating that camping in a caravan or motorhome is permitted on that land;

**2.11 Closed Lands**

enter or remain on any part of the land:

2.11.1 at any time during which the Council has declared that the part shall be closed to the public, and which is indicated by a sign adjacent to the entrance to that part;

2.11.2 where the land is enclosed with fences and/or walls, and gates have been closed and locked; or

2.11.3 where admission charges are payable, for that person to enter that part without paying those charges;

**2.12 Depositing Soil**

deposit any soil, clay, gravel, sand, timber, stones, pebbles or any other matter on the land;

**2.13 Donations**

ask for or receive or indicate that he or she desires a donation of money or any other thing;

**2.14 Entertaining**

2.14.1 sing, busk or play any recording or upon any musical instrument so as to appear to be for the purpose of entertaining other persons whether or not receiving money;

2.14.2 conduct or hold a concert, festival, show, circus, performance or similar activity;

**2.15 Fauna**

2.15.1 take, interfere with or disturb any animal or bird or the eggs or young of any animal or bird;

2.15.2 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird; or

2.15.3 use, possess or have control of any device for the purpose of killing or capturing any animal or bird;

**2.16 Fires**

light any fire except:

- 2.16.1 in a place provided by the Council for that purpose; or
- 2.16.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of four (4) metres;

**2.17 Fireworks**

use, discharge or explode any fireworks;

**2.18 Flora**

- 2.18.1 take, uproot or damage any plant;
- 2.18.2 remove, take or disturb any soil, stone, wood, tender or bark;
- 2.18.3 collect or take any dead wood or timber for the purpose of using the same to make or maintain a fire; or
- 2.18.4 ride or drive any vehicle or allow an animal to run, stand or walk on any flowerbed or garden plot;

**2.19 Games**

- 2.19.1 participate in any game recreation or amusement which involves the use of a ball, missile or other object which by the use thereof may cause or be likely to cause injury or discomfort to any person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land;
- 2.19.2 to which this sub-paragraph applies, play any organised competition sport, as distinct from organised social play;

**2.20 Marine Life**

introduce any marine life to any waters;

**2.21 Model Aircraft, Boats and Cars**

fly or operate a model aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land;

**2.22 Mooring**

- 2.22.1 moor any boat, house boat, raft or other water craft on or to local government land or in any area that the Council has not set aside for the mooring of any boat, raft or other water craft; or
- 2.22.2 obstruct any boat, raft or other water craft or any mooring place, or any access to any boat, raft, object (either floating or sunk);

**2.23 No Liquor**

2.23.1 to which this subparagraph applies consume, carry or be in possession or charge of any liquor (provided the land constitutes a park or reserve) save and except on premises in respect of which a licence is in force pursuant to the *Liquor Licensing Act 1997*;

2.23.2 to which this subparagraph applies, except in sealed containers, consume, carry, be in possession or charge of any liquor in an open container (provided the land constitutes a park or reserve) save and except on premises in respect of which a licence is in force pursuant to the *Liquor Licensing Act 1997*;

**2.24 Overhanging Articles**

suspend or hang any article or thing from any building, verandah, pergola, post or other structure where it might present a nuisance or danger to any person using local government land;

**2.25 Picking Fruit etc,**

pick fruit, nuts or berries from any trees or bushes thereon;

**2.26 Playing Area**

use or occupy a playing area:

2.26.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);

2.26.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

2.26.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

**2.27 Pontoons**

install or maintain a pontoon or jetty in any waters;

**2.28 Posting of Bills**

post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on local government land or in a public place;

**2.29 Removing Soil etc,**

carry away or remove any soil, clay, gravel, sand, timber, stones, pebbles or any part of the land;

**2.30 Rubbish and Rubbish Dumps**

2.30.1 interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on local government land;

2.30.2 remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a Council rubbish bin on local government land;

**2.31 Swimming**

to which this subparagraph applies, swim or bathe in any pond or lake;

**2.32 Smoking**

to which this subparagraph applies, smoke tobacco or any other substance;

**2.33 Tents**

(except with the Council or other Government authority) erect any tent or other structure of calico, canvass, plastic or similar material as a place of habitation;

**2.34 Trading**

2.34.1 carry on the business of selling or offering or exposing for sale any goods, merchandise, commodity, article or thing; or

2.34.2 set up a van or other vehicle or stall or other structure, tray, carpet or device for the purpose of buying or selling any goods, merchandise, commodity, article or thing;

**2.35 Use of Boats**

subject to the provisions of the *Harbors and Navigation Act 1993*, hire out a boat or otherwise use a boat for commercial purposes;

**2.36 Vehicles**

2.36.1 drive or propel a vehicle except on an area or road constructed and identified by the Council for that purpose, by means of signs, devices or fencing and the like;

2.36.2 promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose;

**2.37 Working on Vehicles**

perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle, except for running repairs in the case of breakdown;

**3. Prohibited Activities**

A person must not on any local government land:

**3.1 Animals**

- 3.1.1 send, drive, lead, ride or take any animal or permit any animal to be sent, driven, led, ridden or taken on any land which the Council has, by resolution, declared to be prohibited for such purpose;
- 3.1.2 allow any animal to be let loose or left unattended on any land which the council has, by resolution, declared to be prohibited for such purpose;

**3.2 Annoyances**

annoy or unreasonably interfere with any other person's use of the land by making a noise or creating a disturbance that has not been authorised by the Council;

**3.3 Defacing Property**

deface, paint, write, cut names or make marks on any tree, rock, gate, fence, building, sign or other property of the Council therein;

**3.4 Directions**

fail to comply with any reasonable direction or request from an authorised person relating to:

- 3.4.1 that person's use of the land;
- 3.4.2 that person's conduct and behaviour on the land;
- 3.4.3 that person's safety on the land; or
- 3.4.4 the safety and enjoyment of the land by other persons;

**3.5 Glass**

wilfully break any glass, china or other brittle material;

**3.6 Missiles**

throw, roll or discharge any stone, substance or missile to the danger of any person or animal;

**3.7 Toilets**

in any public convenience:

- 3.7.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 3.7.2 smoke tobacco or any other substance;
- 3.7.3 deposit anything in a pan, urinal or drain that is likely to cause a blockage;
- 3.7.4 use it for a purpose for which it was not designed or constructed;



3.7.5 enter any toilet that is set aside for use of the opposite sex except where:

3.7.5.1 a child under the age of five years accompanied by an adult person; and/or

3.7.5.2 to provide assistance to a person with a disability;

### 3.8 Use of Equipment

use any form of equipment or property belonging to the Council other than in the manner and for the purpose for which it was designed or set aside;

## 4. Removal of Animals And Directions to Persons

### Animals

4.1 If any animal is found on part of local government land in breach of a by-law any person in charge of the animal shall forthwith remove it from that part on the request of any authorised person.

4.2 An authorised person may remove the animal if a person fails to comply with the request, or if no person is in charge of the animal.

### Directions

4.3 A person on local government land must comply with a reasonable direction from an authorised person relating to:

4.3.1 that persons use of the land;

4.3.2 that persons conduct and behaviour on the land;

4.3.3 that persons safety on the land; or

4.3.4 the safety and enjoyment of other persons on the land.

4.4 a person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this by-law must immediately comply with a direction of an authorised person to leave that part of local government land.

### Recovery

4.5 If a person fails to comply with an order of an authorised person made pursuant to section 262 of the *Local Government Act 1999* in respect of a breach of this by-law, the Council may recover its costs and expenses of any action taken under Section 262(3) of the *Local Government Act 1999* from the person to whom the order was directed.

## 5. Removal of Encroachment or Interference

Any person who encroaches onto or interferes with local government land contrary to this by-law must at the request in writing of an authorised person, cease the encroachment or interference and remove the source of the encroachment or interference, and reinstate the land to the same standard as the state of the land prior to the encroachment or interference.

## 6. Council May Do Work

If a person fails to remove an encroachment or interference on local government land in accordance with a request of an authorised person pursuant to Clause 4 of this by-law, then the Council may:

- 6.1 undertake the work itself; and
- 6.2 recover the cost of doing so from that person.

## 7. Exemptions

- 7.1 The restrictions in this by-law do not apply to any Police Officer, Council Officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer, or an emergency worker when driving an emergency vehicle while driving that vehicle in relation to an emergency situation as defined in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999* and the *Australian Road Rules*.
- 7.2 The restrictions in clause 2.1 and 2.28 of this by-law do not apply to electoral matter authorised by a candidate and which is:
  - 7.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
  - 7.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
  - 7.2.3 related to, and occurs during the course of and for the purpose of a referendum.

## 8. Application of Paragraphs

Any of sub-paragraphs 2.3, 2.11.1, 2.19.2, 2.23, 2.27, 2.31, 2.32 and 3.1 of this by-law shall apply only in such portion or portions of the area and at such times as the Council may by resolution direct in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

The foregoing by-law was duly made and passed at a meeting of the Wattle Range Council on the 10<sup>th</sup> day of JULY 2012 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

  
 .....  
 Mr F.N. (Frank) Brennan  
 Chief Executive Officer