



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2019

By-law No. 4 of 2019

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.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Local Government Land By-law 2019*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

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

- 3.1 **animal** includes birds and insects but does not include a dog;
- 3.2 **authorised person** has the same meaning as in the *Local Government Act 1999*;
- 3.3 **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;
- 3.4 **e-cigarette** means:
 - 3.4.1 a device that is designed to generate or release an aerosol or vapour for inhalation by its user in a manner similar to the inhalation of smoke from an ignited tobacco product; or
 - 3.4.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;

- 3.5 **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;
- 3.6 **emergency worker** has the same meaning as in the *Australian Road Rules and the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.7 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.8 **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);
- 3.9 **motor vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 3.10 **open container** means a container which:
- 3.10.1 after the contents thereof have been sealed at the time of manufacture and:
- 3.10.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
- 3.10.1.2 being a can, it has been opened or punctured;
- 3.10.1.3 being a cask, has had its tap placed in a position to allow it to be used;
- 3.10.1.4 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
- 3.10.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.11 **tobacco product** has the same meaning as in the *Tobacco and E-Cigarette Products Act 1997*;
- 3.12 **smoke** means:
- 3.12.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
- 3.12.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use; or
- 3.13 **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 3.14 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council;
- 3.15 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961* but also includes any vehicle that is an electric personal transporter for the purposes of that Act.

Part 2 – Management of Local Government Land

4. Activities Requiring Permission

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

4.1 Advertising

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

4.2 Aircraft

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

4.3 Alteration of Local Government Land

make an alteration to the land, including:

- 4.3.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property; or
- 4.3.2 erecting or installing a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over the land; or
- 4.3.3 changing or interfering with the construction, arrangement or materials of the land; or
- 4.3.4 changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings or other objects) associated with the land; or
- 4.3.5 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land;

4.4 Amplification

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

4.5 Animals

- 4.5.1 cause or allow any animal to stray into or depasture therein;
- 4.5.2 cause or allow an animal to enter, swim, bathe or remain in any waters located on the land;
- 4.5.3 allow any animal to damage any flower bed, garden plot, tree, lawn or other item or place;

4.6 **Athletic and Ball Sports**

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

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

4.7 **Bees**

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

4.8 **Boat Ramps**

subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

4.8.1 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;

4.8.2 in respect of a permit issued under sub-paragraph 4.8.1:

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

4.8.2.2 a permit may be purchased for a fee from the Council or its duly authorised agent, or a ticket vending machine installed and maintained by the Council;

4.8.2.3 the Council may attach conditions of use to the permit which must be complied with by the permit holder;

4.8.2.4 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;

4.8.2.5 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;

4.8.2.6 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

4.8.2.7 this sub-paragraph 4.8.2 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;

4.8.3 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;

4.9 Bridge Jumping

jump or dive from any bridge;

4.10 Burials and Memorials

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

4.10.2 erect any memorial;

4.11 Camping

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

4.11.1 in a caravan or motorhome; and

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

4.12 Canvassing and Preaching

preach, canvass, harangue or otherwise solicit for religious purposes except on any land or part thereof where the Council has, by resolution, determined this restriction shall not apply;

4.13 Closed Lands

enter or remain on any part of the land:

4.13.1 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;

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

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

4.14 Depositing Soil

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

4.15 Distribution

give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person;

4.16 Donations

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

4.17 Entertaining

- 4.17.1 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;
- 4.17.2 conduct or hold a concert, festival, show, circus, performance or similar activity;

4.18 Fauna

- 4.18.1 take, interfere with or disturb any animal or bird or the eggs or young of any animal or bird;
- 4.18.2 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird; or
- 4.18.3 use, possess or have control of any device for the purpose of killing or capturing any animal or bird;

4.19 Filming

conduct or participate in any filming where the filming is for a commercial purpose;

4.20 Fires

subject to the *Fire and Emergency Services Act 2005*; light any fire except:

- 4.20.1 in a place provided by the Council for that purpose; or
- 4.20.2 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 metres;

4.21 Fireworks

use, discharge or explode any fireworks;

4.22 Flora

subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

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

4.23 Games

- 4.23.1 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;
- 4.23.2 to which this sub-paragraph applies, play any organised competition sport, as distinct from organised social play;

4.24 Marine Life

introduce any marine life to any waters;

4.25 Model Aircraft, Boats and Cars

subject to the *Civil Aviation Act 1988*:

- 4.25.1 fly or operate a model aircraft or drone aircraft, boat or remote control vehicle in a manner which may cause injury or discomfort to a person on or in the vicinity of local government land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 4.25.2 fly or operate a model aircraft or drone aircraft, boat or remote control vehicle on any local government land to which the Council has resolved this subparagraph applies;

4.26 Mooring

- 4.26.1 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
- 4.26.2 obstruct any boat, raft or other water craft or any mooring place, or any access to any boat, raft, object (either floating or sunk);

4.27 No Liquor

- 4.27.1 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*;
- 4.27.2 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*;

4.28 Obstructions

- 4.28.1 erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a

thoroughfare on the land or footway, water-channel, or watercourse in the land;

- 4.28.2 lock, affix, place or park a bicycle or other personal mobility device on the land where the bicycle or device may cause an obstruction or unreasonable hazard, other than on a structure or space specifically designed and set aside by the Council for that purpose;

4.29 **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;

4.30 **Picking Fruit etc**

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

4.31 **Playing Area**

use or occupy a playing area:

- 4.31.1 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);
- 4.31.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 4.31.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

4.32 **Pontoons**

install or maintain a pontoon or jetty in any waters;

4.33 **Rubbish and Rubbish Dumps**

- 4.33.1 interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on local government land;
- 4.33.2 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;

4.34 **Swimming**

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

4.35 **Tents**

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

4.36 Trading

- 4.36.1 carry on the business of selling or offering or exposing for sale any goods, merchandise, commodity, article or thing; or
- 4.36.2 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;

4.37 Use of Boats

subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*, hire out a boat or otherwise use a boat for commercial purposes;

4.38 Vehicles

- 4.38.1 drive or propel a motor 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;
- 4.38.2 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;

4.39 Wheeled Recreational Devices

use a wheeled recreational device on land to which the Council has resolved this subparagraph applies;

4.40 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.

5. Prohibited Activities

A person must not on any local government land:

5.1 Animals

- 5.1.1 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;
- 5.1.2 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;

5.2 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;

5.3 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;

5.4 Glass

wilfully break any glass, china or other brittle material;

5.5 Missiles

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

5.6 Smoking

smoke tobacco or any other substance:

5.6.1 in any building or part of any building; or

5.6.2 on any land to which this subparagraph applies;

5.7 Toilets

in any public convenience:

5.7.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

5.7.2 smoke tobacco or any other substance;

5.7.3 deposit anything in a pan, urinal or drain that is likely to cause a blockage;

5.7.4 use it for a purpose for which it was not designed or constructed;

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

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

5.7.5.2 to provide assistance to a person with a disability;

5.8 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;

5.9 Waste

deposit any domestic or commercial waste or other rubbish emanating from domestic or commercial premises in any Council rubbish bin unless permitted by a sign or signs installed by the Council.

Part 3 – Miscellaneous

6. Removal of Animals And Directions to Persons

Animals & Objects

- 6.1 If any animal or object is found on part of local government land in breach of a by-law any person in charge of the animal or object shall forthwith remove it from that part on the request of any authorised person.
- 6.2 An authorised person may remove the animal or object if a person fails to comply with the request, or if no person is apparently in charge of the animal or object.

Directions

- 6.3 A person on local government land must comply with a reasonable direction from an authorised person relating to:
- 6.3.1 that persons use of the land;
 - 6.3.2 that persons conduct and behaviour on the land;
 - 6.3.3 that persons safety on the land; or
 - 6.3.4 the safety and enjoyment of other persons on the land.
- 6.4 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

- 6.5 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 as a debt.

7. Removal of Encroachment or Interference

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

8. Council May Do Work

If a person fails to remove an encroachment, interference or alteration on local government land in accordance with a request of an authorised person pursuant to Clause 7 of this by-law, then the Council may:

- 8.1 undertake the work itself; and
- 8.2 recover the cost of doing so from that person as a debt.

9. Exemptions

- 9.1 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 performing emergency duties.
- 9.2 The restriction in subparagraph 4.19 does not apply to any filming conducted for the purposes of gathering or reporting the news.
- 9.3 The restrictions in clause 4.1, 4.3, 4.4, 4.12, 4.15 and 4.16 of this by-law do not apply to:
 - 9.3.1 electoral matters authorised by a candidate and which relate to a Commonwealth or State election that occurs during the period commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day; or
 - 9.3.2 electoral matters authorised by a candidate and which relate 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
 - 9.3.3 related to, and occurs during the course of and for the purpose of a referendum.

10. Application of Paragraphs

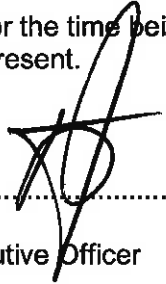
Any of sub-paragraphs 4.6, 4.8.2, 4.12, 4.23.2, 4.25.2, 4.27, 4.34, 4.39, 5.1 and 5.6.2 of this by-law shall apply only in such portion or portions of the area and at such times as the Council may by resolution direct in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

11. Revocation

Council's *By-law No. 4 – Local Government Land*, published in the *Gazette* on 19 July 2012, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Wattle Range Council held on the 27th day of August 2019 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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Ben Gower
Chief Executive Officer

