



*By-Law Made Under the Local Government Act 1999*

## **FORESHORE BY-LAW 2019**

### **By-law No. 6 of 2019**

*For the management of local government land comprising the beach and foreshore under the control of the Council.*

#### **Part 1 – Preliminary**

##### **1. Short Title**

This by-law may be cited as the *Foreshore 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 **authorised person** has the same meaning as in the *Local Government Act 1999*;
- 3.2 **boat** includes a raft, pontoon, jet ski, personal watercraft or any other similar device;
- 3.3 **camp** includes setting up a camp, or causing a tent, caravan or motor home to remain on the foreshore for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the foreshore;
- 3.4 **effective control** means a person exercising effective control of an animal either:
  - 3.4.1 by means of a physical restraint; or
  - 3.4.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 3.5 **foreshore** means the area between the low water mark on the seashore and the nearest boundary of:

- 3.5.1 a road;
- 3.5.2 a section;
- 3.5.3 a public reserve; or
- 3.5.4 land comprised in a land grant, Crown Land or Crown License;
- 3.6 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.7 **low water mark** means the lowest meteorological tide;
- 3.8 **open public water** means any stream, river, creek or sea within the foreshore;
- 3.9 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

## Part 2 – Management of Foreshore

### 4. Activities Requiring Permission

A person must not without permission on the foreshore:

#### 4.1 Advertising

display any sign for the purpose of commercial advertising other than a moveable sign displayed in accordance with the Council's Moveable Signs By-law 2019;

#### 4.2 Aircraft

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

#### 4.3 Amplification

use an amplifier or other mechanical or electrical device for the purpose of broadcasting sound, or magnifying sound, to an audience;

#### 4.4 Attachments

attach anything to a tree, plant, equipment, fence, post, structure or fixture on the foreshore;

#### 4.5 Charge Admission

charge admission or seek payment for entering any part of the foreshore;

#### 4.6 Fireworks

ignite or discharge any fireworks;

#### 4.7 Missiles

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

**4.8 Model Aircraft, Boats and Cars**

fly or operate a model or drone 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 foreshore or detract from or be likely to detract from another person's lawful use of and enjoyment of the foreshore;

**4.9 Pontoons**

install or maintain a pontoon or jetty in any open public water;

**4.10 Removal of Sand**

remove, clear or destroy any sand, seaweed, soil, rocks, minerals, vegetation or shells;

**4.11 Trading**

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

4.11.2 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;

**4.12 Vehicles and Vessels**

4.12.1 repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown;

4.12.2 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;

**4.13 Weddings, Functions and Special Events**

4.13.1 hold, conduct or participate in a marriage ceremony, funeral or special event;

4.13.2 erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event;

4.13.3 hold or conduct any filming where the filming is for a commercial purpose.

**5. Activities Requiring Permission in Declared Areas**

A person must not without permission on any part the foreshore that the Council has resolved that the sub-paragraph applies:

**5.1 Alcohol**

consume or possess or be in charge of any liquor;

## 5.2 Animals

- 5.2.1 cause or allow any animal to swim or bathe in any open public water to the inconvenience, annoyance or danger of any other person bathing or swimming; or
- 5.2.2 take, drive or ride any horse, or allow it to remain, on the foreshore or to bathe in any open public water except between the hours of midnight and 9.00am and then only if the horse remains under effective control;

## 5.3 Bathing

swim or bathe in any open public water at a time when swimming or bathing in that place has been prohibited as indicated by a sign or signs displayed on or near the foreshore;

## 5.4 Boats

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

## 5.5 Boat Ramps

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

- 5.5.1 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;
- 5.5.2 in respect of a permit issued under sub-paragraph 5.5.1:
- 5.5.2.1 the Council shall prescribe a fee at least once in each financial year for permits to use a boat ramp;
- 5.5.2.2 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;
- 5.5.2.3 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;
- 5.5.2.4 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; and
- 5.5.2.5 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;

**5.6 Camp**

erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation for the purposes of camping or remaining for more than 48 hours;

**5.7 Fires**

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

5.7.1 in a place provided by the Council for that purpose; or

5.7.2 in a portable barbecue, as long as the barbecue is used in an area that is clear of flammable material for a distance of four metres;

**5.8 Fishing**

cast or keep in the water any fishing line, net or trap to catch fish or other water creatures in any area, bridge, pontoon or jetty;

**5.9 Vehicles**

drive or propel a vehicle except on an area of the foreshore set aside by the Council for that purpose and identified by means of signs, devices or fencing.

**6. Prohibited Activities**

A person must not on the foreshore:

**6.1 Annoyances**

do anything likely to offend or unreasonably interfere with any other person:

6.1.1 using the foreshore; or

6.1.2 occupying nearby premises,

by making a noise or creating a disturbance;

**6.2 Glass**

wilfully break glass, china or other brittle material;

**6.3 Interference with Permitted Use**

interrupt, disrupt or interfere with any other person's use of the foreshore for which permission has been granted;

#### 6.4 **Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs**

- 6.4.1 carry out any activity that may damage or threaten the integrity of sand dunes, pebble dunes, coastal slopes or cliffs; or
- 6.4.2 introduce non-indigenous flora or fauna or dump any material in a sand dune or pebble dune; or
- 6.4.3 destroy, remove or cause interference to any vegetation, whether living or dead, on or within a sand dune, coastal slope or coastal cliff;

#### 6.5 **Toilets**

in any public convenience:

- 6.5.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 6.5.2 deposit anything in a pan, urinal or drain that is likely to cause a blockage;
- 6.5.3 use it for a purpose for which it was not designed or constructed;
- 6.5.4 enter any toilet set aside for the use of the opposite gender except:
  - 6.5.4.1 a child under the age of five accompanied by an adult of that gender; and/or
  - 6.5.4.2 for the purpose of providing assistance to a disabled person;

#### 6.6 **Use of Equipment**

use any item of equipment and/or facilities or other Council property:

- 6.6.1 other than for the purpose and in the manner for which it was designed or set aside; and
- 6.6.2 where any nearby sign states the conditions of use, except in accordance with those conditions;

#### 6.7 **Waste**

- 6.7.1 deposit or leave thereon:
  - 6.7.1.1 anything obnoxious or offensive;
  - 6.7.1.2 any offal, dead animal, dung or filth; or
  - 6.7.1.3 any mineral, mineral waste, industrial waste or by-products;
- 6.7.2 deposit any rubbish other than in receptacles provided by the Council for that purpose;
- 6.7.3 deposit in any receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

**Part 3 – Miscellaneous****7. Orders and Directions**

- 7.1 Every person shall comply with any reasonable direction or request from an authorised person relating to:
- 7.1.1 that person's use of the foreshore;
  - 7.1.2 that person's conduct and behaviour on the foreshore;
  - 7.1.3 that person's safety on the foreshore; and
  - 7.1.4 the safety and enjoyment of the foreshore by other persons.
- 7.2 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.

**8. Removal of Animals and Objects**

If any animal or object is found on any part of the foreshore in breach of a by-law:

- 8.1 any person in charge of the animal or object shall forthwith remove it from that part on the request of an authorised person; and
- 8.2 any authorised person may remove the animal or object if the person fails to comply with the request, or if no person is apparently in charge of the animal or object.

**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 restrictions in paragraphs 4.1, 4.3 and 4.4 of this by-law do not apply to electoral matter:
  - 9.2.1 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
  - 9.2.2 authorised by a candidate and which is 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

9.2.3 related to, and occurs during the course of and for the purpose of a referendum.

**10. Application of Paragraphs**

Any of sub-paragraphs 4.5, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8 and 5.9 of this by-law shall apply only in such portion or portions of the foreshore as the Council may be resolution direct in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

**11. Revocation**

Council's *By-law No. 6 – Foreshore*, published in the *Gazette* on 24 January 2013, 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 27<sup>th</sup> 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