

**THE BAROSSA COUNCIL**

By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2021**By-Law No. 4 of 2021**

For the management and regulation of the use of and access to local government 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 2021*.

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:

- 3.1 **aquatic life** means any animal or plant living or growing in water including but not limited to yabbies, fish, insects, insect pupa or larvae and water plants;
- 3.2 **authorised person** has the same meaning as in the *Local Government Act 1999*;
- 3.3 **camp** includes setting up a camp, or cause a tent, caravan, motorhome or other vehicle 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*;
- 3.6 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;

- 3.7 **inflatable castle** includes a bouncy castle, jumping castle and any other inflatable structure used for recreational purposes;
- 3.8 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 3.9 **local government land** and **land** means all land owned by the Council or under the Council's care, control and management other than roads;
- 3.10 **model aircraft** includes a drone;
- 3.11 **moveable sign** has the same meaning as in the *Local Government Act 1999*;
- 3.12 **park** has the same meaning as in the *Local Government Act 1999*;
- 3.13 **public place** has the same meaning as in the *Local Government Act 1999*;
- 3.14 **reserve** has the same meaning as in the *Local Government Act 1999*;
- 3.15 **road** has the same meaning as in the *Local Government Act 1999*;
- 3.16 **smoke** means:
- 3.16.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
- 3.16.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.17 **vehicle** has the same meaning as in the *Australian Road Rules*;
- 3.18 **waters** includes any body of water including a pond, lake, river, creek or wetland under the care, control and management of the Council;
- 3.19 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

Part 2 – Management of Local Government Land

4. Activities Requiring Permission

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

4.1 Admission Charges

impose any charge for admission onto the land;

4.2 Advertising

display any sign for the purpose of commercial advertising;

4.3 Aircraft

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

4.4 **Alteration to Local Government Land**

make an alteration to the land, including:

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

4.5 **Amplification**

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

4.6 **Animals**

to which the Council has resolved this paragraph shall apply:

- 4.6.1 cause or allow any animal to stray onto, move over, graze or be left unattended except where the Council has set aside a track or other area for use by or in connection with an animal of that kind;
- 4.6.2 cause or allow any animal to enter, swim, bathe or remain in any waters;
- 4.6.3 lead or drive a horse, cattle or sheep, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind;

4.7 **Aquatic Life**

take, interfere with, disturb, or introduce any aquatic life in any waters to which the Council has resolved this paragraph shall apply;

4.8 **Attachments**

attach, suspend, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture;

4.9 **Bees**

place or allow any beehive to remain;

4.10 Boats

- 4.10.1 launch, propel, float or otherwise use any boat, raft, pontoon or watercraft or other object or device on or in any waters;
- 4.10.2 launch or retrieve a boat to or from any waters;
- 4.10.3 offer for hire or allow to be hired a boat, raft, pontoon or watercraft or similar device or otherwise use such device for commercial purposes, except in an area in which the Council has by resolution permitted such an activity and in accordance with any applicable conditions;
- 4.10.4 offer for hire a boat on or from part of any waters;

4.11 Bridge Jumping

- jump from or dive from a bridge;

4.12 Burials and Memorials

- 4.12.1 bury, inter or spread the ashes of any human or animal remains;
- 4.12.2 erect any memorial;

4.13 Camping and Tents

- 4.13.1 camp or sleep overnight; or
- 4.13.2 pitch, erect or construct any tent or other structure of calico, canvas, plastic or any similar material; or
- 4.13.3 use, occupy, or cause, suffer or permit any other person to use or occupy any caravan, motorhome or other vehicle as a place of habitation;

on any park, reserve or other local government land except where a sign or signs erected by the Council indicate that camping on the land is permitted or where the person is in a caravan park on local government land, the proprietor of which has been given permission to operate the caravan park on that land;

4.14 Cemeteries

comprising a cemetery:

- 4.14.1 bury or inter any human or animal remains; or
- 4.14.2 erect any memorial;

4.15 Closed Lands

enter or remain on any part of the land:

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

4.15.2 where the land is enclosed with fences and/or walls and gates, at any time when the gates have been closed and locked;

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

4.15.4 where that person has been requested by an officer, employee or agent of the Council or a Council subsidiary to leave that land;

4.16 **Distributing of Bills**

give out or distribute to any bystander or passer-by any handbill, book, notice, or other printed matter;

4.17 **Donations**

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

4.18 **Entertainment and Busking**

4.18.1 sing, busk or play any recording or use any musical instrument so as to appear to be for the purpose of entertaining other persons or receiving money;

4.18.2 conduct or hold any concert, festival, show, circus, performance or any other similar activity;

4.18.3 erect or inflate any inflatable castle;

4.19 **Fires**

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

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

4.19.2 in a portable barbeque as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four metres;

4.20 **Fireworks**

use, discharge or ignite any fireworks;

4.21 **Fishing**

4.21.1 fish in any waters on local government land to which the Council has resolved this subparagraph shall apply;

4.21.2 fish from any bridge or other structure on local government land to which the Council has resolved this subparagraph shall apply;

4.22 **Flora and Fauna**

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

- 4.22.1 damage, pick, disturb, interfere with or remove any tree, shrub or other vegetation;
- 4.22.2 lead or drive any animal, or stand or walk, on any flower bed or garden plot;
- 4.22.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 4.22.4 take, interfere with, tease, harm or disturb any animal, bird or marine creature or the eggs or young of any animal, bird or marine creature;
- 4.22.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries, flowers or native seeds;
- 4.22.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 4.22.7 collect or take any timber or dead wood;
- 4.22.8 allow any animal to damage any flower bed, garden plot, tree, lawn or other item or place;

4.23 **Games**

- 4.23.1 participate in, promote or organise any game, recreation or amusement which involves the use of a ball, missile or other object; or
- 4.23.2 fly any model aircraft or operate any power model boat; or
- 4.23.3 play or practice any game which involves kicking, hitting or throwing a ball or other object on any local government land to which this subparagraph applies;

in circumstances which 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; or

- 4.23.4 promote, organise or take part in any organised competition sport or organised athletic sport, as distinct from organised social play on any local government land to which this subparagraph applies;

4.24 **Golf**

except on a properly constructed golf course or practice fairway, play or practice the game of golf on any local government land to which this paragraph applies;

4.25 **Obstruction**

obstruct:

- 4.25.1 any path or cycle track;
- 4.25.2 any door, entrance, stairway or aisle on any building; or
- 4.25.3 any gate or entrance to the land;

4.26 Objects on Local Government Land

- 4.26.1 erect, place, use or allow to remain any object including, but not limited to any planter box, table, chairs, display stand, hoarding, crane, cherry picker, elevated platform vehicle, scaffolding, stage, ladder, trestle, appliance or other equipment; or
- 4.26.2 tie any rope, rug or article to any tree, stake, plant or other object;

4.27 Playing Area

use or occupy any playing area:

- 4.27.1 in such a manner as is likely to or does damage the surface of the playing area and/or infrastructure (above or below ground level);
- 4.27.2 in any manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 4.27.3 contrary to the directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

4.28 Preaching and Canvassing

preach, canvass, harangue, tout for business or conduct any survey or opinion poll except on any land or part thereof where the Council has, by resolution, determined that this restriction shall not apply;

4.29 Rubbish and Rubbish Dumps

- 4.29.1 interfere with, remove or take away any rubbish that has been discarded at any rubbish dump;
- 4.29.2 remove, disperse or interfere with any rubbish that has been discarded in a bin, or placed on the land for collection by the Council or its agents; or
- 4.29.3 deposit in any Council rubbish bin any rubbish emanating from domestic, commercial or trade purposes, unless permission is designated by a sign;

4.30 Swimming and Aquatic Activity

enter, swim or bathe, or allow any animal to enter or swim, or engage in any aquatic activity, in or on any waters located on any local government land to which this paragraph applies except:

- 4.30.1 waters that the Council has set aside for that purpose; or
- 4.30.2 in an area where a nearby sign states that such activity is allowed and in accordance with any conditions stated on the sign;

4.31 Times of Sport

play or practice any game or sport other than at the times indicated on a sign applicable to such area and displayed by the Council;

4.32 Trading

- 4.32.1 carry on the business of buying, selling, offering or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing;
- 4.32.2 set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the apparent purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing;

4.33 Vehicles Generally

- 4.33.1 drive or propel a motor vehicle, except on any land constructed or set aside by the Council for the parking or travelling of vehicles;
- 4.33.2 except on a properly constructed area for the purpose, promote, organise or take part in any race, test or trial of any kind in which motor vehicles, motor cycles, motor scooters, or bicycles take part;

4.34 Vehicle Repairs

perform the work of repairing, washing, painting, panel beating or other work of any nature on any vehicle, provided that this paragraph shall not extend to running repairs in the case of accidental break down;

4.35 Weddings, Funerals or Special Events

conduct or participate in a marriage ceremony, funeral or special event on any park or reserve.

5. Prohibited Activities

A person must not on any local government land:

5.1 Alcohol

consume, possess or be in charge of any Liquor on any park or reserve to which this subparagraph applies;

5.2 Annoyances

- 5.2.1 annoy or unreasonably interfere with any other person's use of the land or occupation of nearby premises by making a noise, being annoying, offensive, indecent or creating a disturbance that has not been authorised by the Council;
- 5.2.2 spit, urinate or defecate other than in provided toilet;

5.3 Climbing

climb on or over any fixture, fitting, plant, object or building other than in a playground or similar area that the Council has set aside for that purpose;

5.4 Defacing Property

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

5.5 Glass

wilfully break any glass, china or other brittle material;

5.6 Interference with Permitted Use

interrupt, disrupt or interfere with any other person's use of local government land which is permitted or for which permission has been granted;

5.7 Smoking

5.7.1 smoke tobacco or any other substance in any building on the land; or

5.7.2 smoke tobacco or any other substance on any land or part thereof that the Council has resolved this subparagraph shall apply;

5.8 Toilets

in any public convenience:

5.8.1 smoke tobacco or any other substance;

5.8.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

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

5.9 Use of Equipment

use or occupy any appliance, equipment, structure or property belonging to the Council:

5.9.1 other than for the purpose and in the manner for which it was designed, constructed or intended to be used; or

5.9.2 in such a manner as is likely to damage or destroy it;

5.10 Wheeled Recreational Devices

subject to the *Road Traffic Act 1961* and the *Local Government Act 1999*, ride a wheeled recreational device on any local government land to which this paragraph applies.

6. Removal of Animals, Objects and Directions to Persons

6.1 If any animal or object is found on any part of local government land in breach of this by-law:

6.1.1 any person in charge of the animal or object shall forthwith remove it from the land on the request of an authorised person;

- 6.1.2 an authorised person may remove and dispose of the animal or object from the land if the person in charge of it fails to comply with the request, or if no person is in charge of it; and
 - 6.1.3 the Council may recover the cost of doing so from the person in charge of the animal or object.
- 6.2 An authorised person may direct any person who is considered to be committing or has committed a breach of this by-law to leave that part of the local government land. Failure to comply with that direction forthwith is a breach of this by-law.

Part 3 – Miscellaneous

7. Directions

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

- 7.1 that person's use of any local government land;
- 7.2 that person's conduct and behaviour on local government land;
- 7.3 that person's safety on any local government land;
- 7.4 the safety and enjoyment of any local government land by another person; and/or
- 7.5 that person entering or remaining on premises on any local government land in circumstances where that person has been known to misbehave on those premises.

8. 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:

- 8.1 cease the encroachment or interference; and
- 8.2 remove the source of the encroachment or interference; and
- 8.3 reinstate the land to the same standard it was prior to the encroachment, interference or alteration.

9. 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 officer pursuant to paragraph 8 of this by-law, then an authorised person may:

- 9.1 undertake the work; and
- 9.2 recover the cost of doing so from that person.

10. Exemptions

- 10.1 The restrictions in this by-law do not apply to any Police Officer, emergency worker, 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 or authorisation of a Council Officer.

10.2 The restrictions in paragraphs 4.5, 4.16 and 4.28 do not apply to:

10.2.1 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

10.2.2 any electoral matter that is related to an election held under the *Local Government Act 1999* or the *Local Government (Elections) Act 1999* and is posted during the period commencing four (4) 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

10.2.3 any matter that is posted during the course of and for the purpose of a referendum.

11. Applications

Any of the subparagraphs 4.6, 4.7, 4.21, 4.23.3, 4.23.4, 4.24, 4.30, 5.1, 5.7.2 and 5.10 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

12. Revocation

Council's *By-law No. 4 – Local Government Land*, published in the *Gazette* on 9 January 2014, 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 Barossa Council held on the 21 day of SEPTEMBER 2021 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 Matt Elding
Acting Chief Executive Officer

