



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

## **LOCAL GOVERNMENT LAND BY-LAW 2020**

### **By-law No. 2 of 2020**

*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 2020*.

##### **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 **animal** includes birds, insects and fish;
- 3.2 **boat** includes a raft, canoe, personal watercraft, pontoon or any other similar device;
- 3.3 **camp or camping** includes the occupation or placement of a sleeping bag, tent, vehicle, caravan or other makeshift structure as or for the purpose of temporary accommodation, but does not include a situation where a person is resting in a vehicle during a journey;
- 3.4 **children's playground** means any enclosed area in which there is equipment, apparatus or other installed devices for the purpose of children's play (or within 5 metres of such devices if there is no enclosed area);
- 3.5 **community garden** means an area of land set aside by the Council for the purposes of being gardened collectively by a group of people;
- 3.6 **domestic animal** includes any duck, reptile or fish;
- 3.7 **e-cigarette** means:

- 3.7.1 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
- 3.7.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;
- 3.8 **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;
- 3.9 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.10 **foreshore** means the area between the low water mark on the seashore and the nearest boundary of:
  - 3.10.1 a road;
  - 3.10.2 a section;
  - 3.10.3 a public reserve;
  - 3.10.4 land vested in fee simple in any person other than the Council or the Minister responsible for the administration of the *Harbors and Navigation Act 1993*;
- 3.11 **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 3.12 **inflatable castle** includes a bouncy castle, jumping castle and any other inflatable structure used for recreational purposes;
- 3.13 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.14 **local government land** has the same meaning as in the *Local Government Act 1999*, but does not include any road;
- 3.15 **open container** means a container which:
  - 3.15.1 after the contents thereof have been sealed at the time of manufacture and:
    - 3.15.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
    - 3.15.1.2 being a can, it has been opened or punctured;
    - 3.15.1.3 being a cask, has had its tap placed in a position to allow it to be used;
    - 3.15.1.4 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

- 3.15.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.16 **organised competition or sport** does not include social play;
- 3.17 **personal watercraft** means a device that:
- 3.17.1 is propelled by a motor; and
- 3.17.2 has a fully enclosed hull; and
- 3.17.3 is designed not to retain water if capsized; and
- 3.17.4 is designed to be operated by a person who sits astride, stands, or kneels on the device,
- and includes the device commonly referred to as a jet ski;
- 3.18 **sand dune** means the sand dunes, coastal slopes, cliffs and other geomorphological coastal forms under the care, control, and management of the Council;
- 3.19 **smoke** means:
- 3.19.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
- 3.19.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.20 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*;
- 3.21 **variable message sign** includes a permanent, portable or vehicle mounted electronic sign (except when the sign is used as a traffic control device);
- 3.22 **waters** means any body of water including a pond, lake, river, creek or wetlands under the care, control and management of Council.

## Part 2 – Management of Local Government Land

### 4. Activities Requiring Permission

A person must not on any local government land, without the permission of Council:

#### 4.1 Access to Waters

subject to the provisions of the *Harbors and Navigation Act 1993*, enter any waters, or swim or use a boat in or on waters:

- 4.1.1 in an area where a nearby sign erected by the Council states that one or more of these activities is prohibited;
- 4.1.2 contrary to any condition or requirement stated on a nearby sign erected by the Council;



## 4.2 Advertising and Signage

4.2.1 display any sign for the purpose of commercial advertising, other than a moveable sign that is displayed in accordance with the *Moveable Signs By-law 2020*;

4.2.2 erect, install, place or display a variable message sign;

4.2.3 place or maintain any goods or sign on the road or park or stand a vehicle on the land for the purpose of:

4.2.3.1 soliciting any business from any person; or

4.2.3.2 offering or exposing goods or services for sale.

provided that this subparagraph 4.2.3 shall not apply to a person who is simply travelling along an area or road on local government land set aside by the Council;

## 4.3 Aircraft

subject to the *Civil Aviation Act 1988*, 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 to the public;

## 4.6 Animals on Local Government Land

4.6.1 cause or allow any animal to stray onto, move over, graze or be left unattended;

- 4.6.2 ride, lead or drive any horse, cattle or sheep, except on any track or car park on local government land that the Council has set aside (through the erection of signage) for the use by, or in connection with that animal;
- 4.6.3 cause or allow any animal under his or her control to swim or bathe in any waters to which Council has resolved this subparagraph will apply;
- 4.6.4 allow an animal in that persons control, charge or ownership to damage Council property;
- 4.6.5 release or leave any domestic animal;

#### 4.7 **Attachments**

attach anything to a tree, plant, structure or fixture on local government land;

#### 4.8 **Bees**

place, or allow to remain, any bee hive;

#### 4.9 **Boats and Boat Ramps**

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

- 4.9.1 launch or retrieve a boat to or from a boat ramp to which the Council has determined this subparagraph applies;
- 4.9.2 launch or retrieve a boat to or from the foreshore where the Council has determined that this subparagraph applies;
- 4.9.3 launch or retrieve a boat from any boat ramp to which the Council has determined this subparagraph applies other than in accordance with any conditions specified on a sign or signs erected in the vicinity of the boat ramp, including (but not limited to) conditions which may restrict the type of boat that may be launched from that boat ramp;
- 4.9.4 tie or affix a boat to any jetty or pontoon;
- 4.9.5 hire, offer for hire or use for commercial purposes a boat;
- 4.9.6 jump, dive or swim from any boat ramp or similar type of infrastructure;  
or
- 4.9.7 allow a vehicle to remain stationary on a boat ramp longer than is reasonably necessary to launch or retrieve a boat;

#### 4.10 **Bridge and Jetty Jumping**

- 4.10.1 jump from or dive from any bridge;
- 4.10.2 jump or dive from any jetty or pontoon to which the Council has resolved this subparagraph applies;

**4.11 Buildings and Structures**

4.11.1 erect or install a building;

4.11.2 use a building or structure other than for its intended purpose;

**4.12 Camping**

4.12.1 camp or stay overnight; or

4.12.2 erect any tent, booth, marquee or other structure as a place of habitation;

except in a place designated by resolution of the Council for that purpose and in accordance with any such resolution;

**4.13 Cemeteries**

comprising a cemetery:

4.13.1 bury or inter any human or animal remains;

4.13.2 erect any memorial;

**4.14 Closed Lands**

enter or remain on any part of the land:

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

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

4.14.3 where admission charges are payable, without paying those charges;

**4.15 Distribution**

distribute anything to any bystander, passerby 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 Fires**

light any fire except:

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

4.17.2 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; and



4.17.3 in accordance with the *Fire and Emergency Services Act 2005*;

**4.18 Fireworks**

discharge any fireworks;

**4.19 Fishing**

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

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

**4.20 Flora, Fauna and Other Living Things**

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

4.20.1 except in a community garden, damage, pick, or interfere with any plant, fungi or lichen thereon; or

4.20.2 tease, remove or cause harm to any animal or bird or the eggs or young of any animal or bird or aquatic creature;

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

**4.21 Foreshore**

4.21.1 hire out a boat on or from any part of the foreshore;

4.21.2 lead or drive any horse, cattle, sheep and other like animal on the foreshore where the Council has resolved this subparagraph applies;

**4.22 Funerals and Scattering Ashes**

conduct or participate in a funeral ceremony, or scatter ashes on land to which the Council has resolved this subparagraph will apply;

**4.23 Games**

4.23.1 participate in, promote or organise any organised competition or sport, as distinct from organised social play;

4.23.2 play or practice any game which involves kicking, hitting or throwing a ball or other object, which may cause or be likely to cause injury or discomfort to a 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;

4.23.3 play or practice the game of golf on land to which the Council has resolved this subparagraph applies;

**4.24 Horses, Cattle etc**

lead or drive any horse, cattle, sheep and other like animal on land to which the Council has resolved this subparagraph applies;

**4.25 Lighting**

4.25.1 use or operate any fixed floodlight;

4.25.2 use or operate any portable floodlight on land to which this subparagraph applies;

**4.26 Marine Life**

introduce any marine life to any waters;

**4.27 Model Aircraft, Boats and Cars**

4.27.1 subject to the *Civil Aviation Act 1988*, fly or operate a model aircraft or drone aircraft;

4.27.2 operate a model boat, model aircraft, drone aircraft 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;

**4.28 Motor Bikes and Buggies**

4.28.1 drive, propel, operate or be in possession of a motor bike, buggy or similar motor vehicle on land to which the Council has determined subparagraph applies;

4.28.2 bring any motor bike, buggy or similar motor vehicle on land to which the Council has resolved this subparagraph applies;

**4.29 No Liquor**

4.29.1 consume, carry or be in possession or charge of any liquor on any local government land constituting a park or reserve to which this subparagraph applies;

4.29.2 excepting sealed containers, consume, carry or be in possession or charge of any liquor in an open container on any local government land constituting a park or reserve to which this subparagraph applies;

**4.30 Overhanging Articles and Displaying Personal Items**

suspend or hang an article or object from a building, verandah, pergola, post or other structure where it might present a nuisance or danger to a person using the land or be of an unsightly nature;



**4.31 Picking of Fruit, Nuts or Berries**

except in any community garden, pick fruit, nuts, seeds or berries from any plant;

**4.32 Pontoons**

install or maintain a pontoon or jetty in any waters;

**4.33 Preaching and Canvassing**

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;

**4.34 Public Exhibitions and Displays**

4.34.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;

4.34.2 conduct or hold any concert, festival, show, public gathering, circus, performance or any other similar activity;

4.34.3 erect or inflate any inflatable castle;

4.34.4 cause any public exhibitions or displays;

**4.35 Removing**

carry away or remove any earth, rocks, minerals, plant material (dead or living), animal remains (including shells and fossils) or any part of the land;

**4.36 Ropes**

place a buoy, cable, chain, hawser, rope or net in or across any waters;

**4.37 Selling**

sell anything or display anything for sale;

**4.38 Skateboards and Small Wheeled Devices**

subject to the *Road Traffic Act 1961*, and the *Local Government Act 1999*, ride on a skateboard or use roller skates or roller blades on land to which the Council has resolved this subparagraph will apply;

**4.39 Trading**

sell, buy, offer or display anything for sale;

**4.40 Vehicles**

- 4.40.1 drive or propel a motor vehicle thereon, unless on an area or road constructed or set aside by the Council for the parking or travelling of motor vehicles;
- 4.40.2 drive or propel a motor vehicle on any part of the land to which the Council has resolved this subparagraph applies;
- 4.40.3 except on an area properly constructed 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;

**4.41 Weddings**

conduct or participate in a marriage ceremony or other special event ;

**4.42 Wetlands**

subject to the *Natural Resources Management Act 2004*, where that land constitutes a wetland:

- 4.42.1 operate a model boat;
- 4.42.2 fish, or take any aquatic creature;
- 4.42.3 introduce any fish or aquatic creature;
- 4.42.4 take or draw water;

**4.43 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 Annoyances**

unreasonably annoy or interfere with any other person:

- 5.1.1 using the land;
- 5.1.2 occupying nearby premises,

by making a noise or creating a disturbance that has not been authorised by the Council;

**5.2 Children's Playgrounds**

use any device, equipment or apparatus installed in a children's playground if that person is over the age indicated by sign or notice as the age limit for using such equipment, apparatus or other installed device;

**5.3 Fishing**

deposit or leave any dead fish (in part or whole) or offal;

**5.4 Glass**

wilfully break any glass, china or other brittle material;

**5.5 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;

**5.6 Use of Rubbish Bins**

5.6.1 remove, dispose or interfere with any rubbish (including bottles, newspaper, cans, containers or packaging) that has been discarded in a Council rubbish bin;

5.6.2 deposit any commercial waste or other rubbish emanating from commercial premises in any Council rubbish bin;

**5.7 Playing Games**

5.7.1 play or practice a game in any area where a sign indicates that the game is prohibited;

5.7.2 promote, organise or take part in any organised competition or sport in any area to which this subparagraph applies;

**5.8 Sand Dunes**

5.8.1 use a sand board or other item to slide down a sand dune, coastal slope or cliff;

5.8.2 destabilise sand on a sand dune, coastal slope or cliff so as to cause it to unnecessarily mass waste down slope;

5.8.3 destroy, remove or cause interference to live or dead vegetation within a sand dune, coastal slope or coastal cliff;

5.8.4 light or cause to be lit or permit to remain alight any fire within a sand dune or on a coastal slope or cliff;



5.8.5 introduce non-indigenous flora and fauna or dump any material in the sand dunes or down coastal slopes or coastal cliffs;

5.8.6 carry out any activity which may threaten the integrity of sand dunes, coastal slopes and cliffs in the area;

#### 5.9 **Smoking**

smoke tobacco, e-cigarette or any other substance:

5.9.1 in any building or part of any building; or

5.9.2 on any land to which this subparagraph applies;

#### 5.10 **Solicitation**

tout or solicit customers for the parking of vehicles or for any other purpose whatsoever;

#### 5.11 **Toilets**

in any public convenience:

5.11.1 urinate other than in a urinal or pan or defecate other than in a pan provided for that purpose;

5.11.2 smoke tobacco or any other substance;

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

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

5.11.5 enter any toilet that is set aside for use by the opposite sex except where:

5.11.5.1 a child under the age of five years accompanied by an adult person of that other sex; and/or

5.11.5.2 to provide assistance to a disabled person;

#### 5.12 **Use of Equipment**

use any item 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.

### **Part 3 – Miscellaneous**

#### **6. Directions**

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

6.1 that person's use of the land;

- 6.2 that person's conduct and behaviour on the land;
- 6.3 that person's safety on the land;
- 6.4 the safety and enjoyment of the land by other persons.

## **7. Removal of Animals and Objects and Exclusion of Persons**

- 7.1 If any animal is found on local government land in breach of this by-law:
  - 7.1.1 any person in charge of the animal shall forthwith remove it from that land on the request of an authorised person; and
  - 7.1.2 any authorised person may remove any animal from the land if the person fails to comply with the request, or if no person is in charge of the animal.
- 7.2 If an object is obstructing any part of local government land an authorised person of the Council may remove the object, provided that this paragraph shall not apply to any object that has been placed on the land with the permission of the Council or some other lawful authority.
- 7.3 An authorised person may direct any person who is considered to be committing, or has committed, a breach of this by-law to leave local government land and not return for a period of no longer than 24 hours.

## **8. Exemptions**

- 8.1 The restrictions in this by-law do not apply to any Police Officer, Council Officer or Council 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 to an emergency worker performing emergency duties.
- 8.2 The restrictions in paragraphs 4.2.2, 4.5, 4.7, 4.15, 4.33, 4.34.2 and 4.34.4 of this by-law do not apply to:
  - 8.2.1 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
  - 8.2.2 electoral matters authorised by a candidate and which relate to an election under the *Local Government Act 1999* or the *Local Government (Elections) Act 1999* that 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
  - 8.2.3 matters which relate to, and occur during the course of and for the purpose of a referendum.

**9. Application**

Any of paragraphs 4.6.3, 4.9.1, 4.9.2, 4.9.3, 4.10.2, 4.19, 4.22, 4.23.3, 4.25.2, 4.28, 4.29, 4.38, 4.40.2, 4.41, 5.7.2 and 5.9.2 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct from time to time in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

**10. Revocation**

Council's *By-law No. 2 – Local Government Land*, published in the *Gazette* on 19 December 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 Yorke Peninsula Council on the 29th day of JULY 2020 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 Andrew Cameron  
Chief Executive Officer



**SECTION 249 LOCAL GOVERNMENT ACT 1999**

**CERTIFICATE OF VALIDITY**

I, Paul St Leger Kelly of 431 King William Street, Adelaide SA 5000, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law which Yorke Peninsula Council intends to make, being *Local Government Land By-law 2020* and do certify that in my opinion:

- (a) the said Council has power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999*, Section 238(1), 238(2),  
246(1), 246(2) and 246(3);

*Acts Interpretation Act 1915*, Section 39;

- (b) the by-law is not in conflict with the *Local Government Act 1999*.

**DATED** the 26<sup>th</sup> day of June 2020.



**Paul St Leger Kelly, Legal Practitioner**