



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2021

By-law No. 3 of 2021

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 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 **animal** includes birds, insects and marine creatures;
- 3.2 **boat** includes a raft, canoe, personal watercraft or any other similar device;
- 3.3 **camp** includes setting up a camp, or cause 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 **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 vehicle** means a vehicle driven by a person who is an emergency worker;
- 3.10 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.11 **funeral ceremony** means a ceremony only (ie 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 **model aircraft** includes a drone;
- 3.16 **open container** means a container which:
 - 3.16.1 after the contents thereof have been sealed at the time of manufacture and:
 - 3.16.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
 - 3.16.1.2 being a can, it has been opened or punctured;
 - 3.16.1.3 being a cask, has had its tap placed in a position to allow it to be used;
 - 3.16.1.4 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
 - 3.16.2 is a flask, glass or mug or other container used for drinking purposes;
- 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 **smoke** means:
 - 3.18.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
 - 3.18.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.19 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*;
- 3.20 **variable message sign** includes a permanent, portable or vehicle mounted electronic sign (except when the sign is used as a traffic control device);
- 3.21 **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

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 & 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 2021*;
- 4.2.2 erect, install, place or display a variable message sign;

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 to the public;

4.6 Animals on local government land

- 4.6.1 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;
- 4.6.2 cause or allow any animal under his or her control to swim or bathe in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming;
- 4.6.3 allow an animal in that persons control, charge or ownership to damage Council property;
- 4.6.4 release or leave any domestic animal;

4.7 Attachments

attach, hang or fix any item to any tree, shrub, plant, tree guard, tree stake, notice board, seat, fence, post or other item or structure which is the property of the Council;

4.8 Bees

place, or allow to remain, any bee hive;

4.9 Boats

- 4.9.1 hire or offer for hire a boat, raft, pontoon or other watercraft;
- 4.9.2 launch or retrieve a boat, raft, pontoon or other watercraft to or from any waters;
- 4.9.3 propel, float or otherwise use any boat, raft, pontoon or other watercraft on any waters;

4.10 Bridge Jumping

jump from or dive from a bridge;

4.11 Buildings & 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 erect any tent or other structure of calico, canvas, plastic or similar material as a place of habitation;

- 4.12.2 camp or sleep overnight;

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 (the proprietor of which has been given permission to operate the caravan park on that land);

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;
- 4.14.4 constituting a revegetation area, where a sign or signs indicate that the land is closed for that purpose;

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

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

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

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;

4.18 Fireworks

Use, discharge or explode 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* and/or the *Crown Land Management Act 2009* (to the extent applicable):

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 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;

4.22 Golf

play or practice golf;

4.23 Lighting

- 4.23.1 use or operate any fixed floodlight;
- 4.23.2 use or operate any portable floodlight between sunrise and sunset on land to which this subparagraph applies;

4.24 Model Aircraft, Boats and Cars

- 4.24.1 fly or operate a model aircraft, model boat or model/remote control car 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 local government land or detract from or be likely to detract from another person's lawful use and enjoyment of the land;
- 4.24.2 fly or operate a model aircraft, model boat or model/remote control car on land to which the Council has resolved this subparagraph shall apply;

4.25 Motor Vehicles on Parklands

comprising a park, garden or reserve:

- 4.25.1 drive or propel a motor vehicle unless on an area or road constructed or set aside by the Council for the parking, driving or riding of motor vehicles;
- 4.25.2 take part in any race, test or trial of any kind utilising a motor vehicle except in an area that has been properly constructed or set aside by the Council for that purpose; or
- 4.25.3 promote or organise any race, test or trial of any kind in which motor vehicles take part unless the race, test or trial is to take place on an area that has been properly constructed or set aside by the Council for that purpose;

4.26 No liquor

- 4.26.1 consume, carry or be in possession or charge of any liquor on any local government land to which this subparagraph applies (provided the land constitutes a park or reserve);
- 4.26.2 excepting sealed containers, consume, carry or be in possession or charge of any liquor in an open container on any local government land to which this subparagraph applies (provided the land constitutes a park or reserve);

4.27 Picking of fruit, nuts or berries

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

4.28 Playing games

- 4.28.1 play or practice a game in any area where a sign indicates that the game is prohibited;
- 4.28.2 promote, organise or take part in any organised athletic sport in any area to which this subparagraph applies;
- 4.28.3 play any organised competition sport, as distinct from organised social play, in any area to which this subparagraph applies;

4.29 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;

4.30 Public Exhibitions and Displays

- 4.30.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;
- 4.30.2 conduct or hold any concert, festival, show, public gathering, circus, performance or any other similar activity;
- 4.30.3 erect or inflate any inflatable castle;
- 4.30.4 cause any public exhibitions or displays;

4.31 Removing Material

carry away or remove any earth, soil, sand, timber, stones, pebbles, rocks, minerals, plant material (dead or living), animal remains (including shells and fossils) or other organic or inorganic materials or any part of the land;

4.32 Selling

sell anything or display anything for sale;

4.33 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;

4.34 Weddings

conduct or participate in a marriage ceremony on land to which the Council has resolved this subparagraph will apply;

4.35 Wetlands

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

- 4.35.1 operate a model boat;
- 4.35.2 fish, or take any aquatic creature;
- 4.35.3 introduce any fish or aquatic creature;
- 4.35.4 take or draw water;

4.36 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's use of the land 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 of or over the age indicated by sign or notice as the age limit for using such equipment, apparatus or other installed device;

5.3 Fishing

- 5.3.1 return any noxious species including European carp (*Cyprinus carpio*) or redfin perch (*Perca fluviatilis*) caught by the person to any land or waters;
- 5.3.2 deposit or leave any dead fish (in part or whole) or offal;

5.4 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;

5.5 Smoking

smoke tobacco or any other substance:

- 5.5.1 in any building or part of any building; or

5.5.2 on any local government land;

to which the subparagraph applies;

5.6 Toilets

in any public convenience:

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

5.6.2 smoke tobacco or any other substance;

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

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

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

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

5.6.5.2 to provide assistance to a disabled person;

5.7 Use of Council Rubbish Bins

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

5.8 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 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 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.

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:

9.1 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; or

9.2 intentionally or negligently damages local government land,

an authorised person may:

9.3 undertake the work to comply with the request pursuant to paragraph 8 and/or repair the damage; and

9.4 recover the cost of completing the work from the person.

10. Exemptions

10.1 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.

10.2 The restrictions in paragraph 4.2.2, 4.7, 4.15, 4.29, and 4.30.4 of this by-law 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 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

10.2.3 matters which relate to, and occur during the course of and for the purpose of a referendum.

11. Application of Paragraphs

Any of paragraphs 4.19, 4.21, 4.23.2, 4.24.2, 4.26, 4.28.2, 4.28.3, 4.33, 4.34 and 5.5 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*.

12. Revocation

Council's *By-law No. 3 – Local Government Land*, published in the *Gazette* on 20 August 2015, 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 Council of the City of Tea Tree Gully on the 28th 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.


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Mr John Moyle
Chief Executive Officer