

CITY OF TEA TREE GULLY

By-Law made under the Local Government Act 1999

By-Law No. 3 – Local Government Land

History

Council has power to make the by-law by virtue of the following statutory provisions:

- Local Government Act 1999, section 238 (1), 238 (2), 240, 246 (1) (b), 246 (3) (c), 246 (3) (e);
- Local Government Act 1934, as amended section 667 (1) paragraphs 8.XXXII;
- Local Government (Implementation) Regulations 1999, Regulation 13 (1) (d);
- Acts Interpretation Act 1915, section 39.

The by-law is not in conflict with the Local Government Act 1999, or any other Act.

This by-law was duly made and passed at a meeting of the Council of the City of Tea Tree Gully held on 11 December 2001.

Gazettal of this by-law was on 20 December 2001 and the by-law came into effect on 20 April 2002.

Penalties

Expiation Fee	\$125.00
Maximum Penalty	\$500.00

Refer to Fees & Charges Register.

CITY OF TEA TREE GULLY

By-Law made under the Local Government Act 1999

By-Law No. 3 – Local Government Land

For the management and regulation of the use of and access to local government land (other than streets and roads) vested in or under the control of the Council, including the prohibition and regulation of particular activities on local government land.

1. Definitions

In this By-Law

- (1) “*Building*” includes any structure and/or fixture of any kind whether for human habitation or not.
- (2) “*Firearm*” means any gun or device including an airgun, spear gun, crossbow or slingshot from or by which any kind of shot, bullet or missile can be discharged.
- (3) “*Liquor*” has the same meaning as defined in the Liquor Licensing Act 1997.
- (4) “*Local government land*” means all land owned by the Council or under the Council’s care, control and management except Roads.
- (5) “*Offensive*” includes threatening, abusive, insulting or annoying behaviour and “*offend*” has a complementary meaning.
- (6) “*Parkland*” means local government land declared as such by the Council.
- (7) “*Public Place*” means a place (including a place on private land) to which the public has access (except a street or Road).
- (8) “*Reserve*” means local government land declared as such by the Council.
- (9) “*Road*” has the same meaning as in the Local Government Act 1999 and includes a footpath.
- (10) A “*vehicle*” includes:
 - (a) a motor vehicle, motor cycle, motor scooter, trailer caravan and tram; and
 - (b) a bicycle; and
 - (c) an animal-drawn vehicle; and an animal that is being ridden or drawing a vehicle; and
 - (d) any combination thereof; and
 - (e) a motorised wheelchair that can travel at over 10 kilometres per hour (on level ground);

but does not include another kind of wheelchair, a train, or a wheeled recreational device or wheeled toy.

2. Activities Requiring Permission

No person shall without permission on any local government land:

Litter

- (1) (a) Throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose;
- (b) Deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.

Annoyance

- (2) Do anything likely to offend or unreasonably interfere with any other person
 - (a) using that land or reserve, or
 - (b) occupying nearby premisesby making a noise or creating a disturbance.

Smoking

- (3) Smoke tobacco or any other substance where a sign indicates it is prohibited to do so.

Liquor

- (4) Consume, carry or be in possession or in charge of any liquor on any parkland or reserve and where a sign indicates it is prohibited to do so.

Damaging Surfaces

- (5) Damage or remove any soil, surface or footway.

Damaging Trees

- (6) Damage or remove a tree, plant or lawn.

Damaging Property

- (7) Damage, alter, interfere with or remove a building, structure or fixture.

Playing Games

- (8) (1) Play or practice any athletic sport or game on any local government land indicated by a sign and: –
 - (a) which is likely to cause damage to the local government land or anything in it; or

- (b) which endangers the safety or interferes with the comfort of any person;
or
- (c) play or practice golf.

Closed Areas

- (9) (a) Enter or be in an area at any time during which the Council has declared that it shall be closed to the public and which is indicated by a sign adjacent to the entrance to that effect.
- (b) Where the land is enclosed with fences and/or walls, and gates, at any time when the gates have been closed and locked; or
- (c) Where admission charges are payable, enter without paying those charges.

Toilets

- (10) Use any building, structure or public toilet for any purpose other than its intended purpose.
- (11) In any public convenience on local government land:
 - (a) urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
 - (b) deposit anything in a pan, urinal or drain which is likely to cause a blockage;
 - (c) use it for a purpose for which it was not designed or constructed;
 - (d) enter any toilet that is set aside for use of the opposite sex except:
 - (i) where a child under the age of eight years is accompanied by an adult person of that sex; and/or
 - (ii) to provide assistance to a disabled person.

Cemeteries

- (11) *On any local government land comprising a cemetery*
 - (a) bury or inter any humans or animal remains;
 - (b) erect any memorial;
 - (c) drive or propel any vehicle except on paths or roads constructed and set aside for that purpose and in compliance with any signs that have been erected.

Entertainment and Distribution

- (12) (a) Sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money.
- (b) Preach, or harangue.

- (c) Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound.
- (d) Conduct or hold any concert, festival, show, public gathering, circus, meeting, performance or any similar activity.
- (e) Give out or distribute to any bystander or passer-by any pamphlet, handbill, book, notice or other printed material, provided that this restriction shall not apply to any handbill or leaflet given out or distributed by or with authority of a candidate during the course of a Federal, State or Local government election or to a handbill or leaflet given out or distributed during the course and for the purpose of a referendum.
- (f) Convey any advertising, religious or other message to any bystander, passer-by or other person except for any message or material conveyed for the purpose of a Local, State or Federal election.

Working on Vehicles

- (13) 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.

Horses

- (14) Ride, lead or drive a horse cattle or sheep, except on a track set aside by the Council and which is signposted as being for the use by that kind of animal.

Depasturing

- (15) Allow a horse, cattle or sheep to depasture.

Use of Areas

- (16) Use local government land in a manner: –
 - (a) likely to damage its surface; or
 - (b) inconsistent with its intended purpose, as indicated by a nearby sign.

Camping

- (17) Camp or remain overnight or pitch a tent.

Fires/Fireworks

- (18) Light a fire or discharge any fireworks except: –
 - (a) in a place provided by Council for that purpose; or
 - (b) in a portable barbeque as long as the barbeque is used in an area that is clear of flammable material;

Attachments to trees etc.

- (19) Attach hang or fix anything to a tree, plant or structure or fixture which belongs to the Council and is located on local government land .

Climbing Trees

- (20) Climb a tree.

Swimming etc.

- (21) Enter any waters, or swim or use a boat or other object in or on water except: –
- (a) in an area where a nearby sign, states that such an activity is allowed; and
 - (b) in accordance with any conditions stated in the sign.

Model Aircraft/Boats

- (22) Fly or operate a model aircraft or boat.

Weddings

- (23) Conduct or participate in a marriage ceremony on any parkland or reserve.

Animals in Ponds

- (24) Allow any animal to enter or remain in a pond or lake on local government land

Picking Fruit

- (25) Pick fruit, nuts, berries, olives or other produce from any trees or bushes or remove such fallen items from the ground.

Flora & Fauna

- (26) Subject to the Native Vegetation Act 1991 and the National Parks and Wildlife Act 1973: –
- (1) damage, pick or interfere with any plant or flower;
 - (2) tease, or cause harm to any animal, bird or marine creature.

Digging Soil/Burning Timber

- (27) Carry away or remove any soil, sand, timber, stones, pebbles or other similar materials.
- (28) Burn any timber or dead wood.

Donations

- (29) Ask for or receive or indicate that he or she desires a donation of money or any other thing.

Advertising

(30) Display any sign hoarding or notice for the purpose of advertising.

3. Vehicles

Obey Signs

(1) The driver of a vehicle on local government land shall obey the indications given by any traffic control device (within the meaning of the Road Traffic Act 1961) or any sign erected by or with the authority of the Council, for regulating traffic or indicating the direction or route to be followed by traffic on that land.

Vehicles Excluded

(2) (i) No person shall drive or propel a vehicle on any local government land where the Council has excluded vehicles generally pursuant to Section 359 of the Local Government Act 1934 Section 32 or Section 33 of the Road Traffic Act 1961

(ii) No person shall drive or propel a vehicle of a class on any local government land where the Council has excluded vehicles of that class pursuant to Section 359 of the Local Government Act 1934 or Section 32 or Section 33 of the Road Traffic Act 1961 or Section 59 of the Summary Offences act 1953

Vehicles on Parklands

- (3) On any local government land comprising parklands or reserves no person shall:
- (a) 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;
 - (b) ride, drive or propel a bicycle or a skateboard thereon except upon paths or areas set aside for that purpose;
 - (c) 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 or bicycles take part;
 - (d) drive or propel a motor vehicle on any part thereof without payment of the fee for the entry of motor vehicles to that part, where the Council has authorised a fee to be charged for that purpose.

4. Prohibited Activities

No person on local government land shall;

Firearms

(1) Shoot or discharge any firearm, or throw project or discharge any stone or other missile.

Use of Equipment

- (2) Use any item of equipment and/or facilities or other Council property other than in the manner and for the purpose for which it was designed or set aside.

5. Directions

Any person on local government land must comply with any reasonable direction or request from an Authorised Person relating to:

- (a) that person's use of the land;
- (b) that person's conduct and behaviour on the land;
- (c) that person's safety on the land;
- (d) the safety and enjoyment of the land by other persons.

6. Removal of Animals and Persons

- (1) If an animal is found on local government land in breach of a by-law:
 - (a) any person in charge of the animal shall remove it on the request of an Authorised Person; and
 - (b) an Authorised Person may remove the animal if a person fails to comply with the request, or if no person is in charge of the animal.
- (2) Any Authorised Person may remove any person from local government land who is found committing a breach of a by-law but may not use force in doing so.

7. Council Employees, Authorised Officers and Exempt Vehicles.

- (a) The restrictions in this by-law do not apply to any Council officer or employee acting in course and within the scope of that person's authorised duties.
- (b) Drivers of emergency vehicles (as defined in the Road Traffic (Road Rules – Ancillary & Miscellaneous Provisions) Regulations 1999 and the Australian Road Rules 1999) and vehicles used by an officer or employee of the Council in the course of normal duties are exempt from this By-Law.

8. Application of this by-law

Any of paragraphs 2(3), 2(4), 2(8), 2(9)(a) and 2(14) of this by-law shall apply only in such portion or portion of the area as the Council may by resolution direct (in accordance with Section 246 (3) (e) of the Local Government Act 1999).

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Tea Tree Gully held on the 11th day of December 2001 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a horizontal line that tapers to the right.

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Chief Executive Officer