



CITY OF CHARLES STURT

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 local government land vested in or under the control of the Council and public places (other than roads), including the prohibition and regulation of particular activities on local government land and in public places.

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 **camp** includes setting up a camp, or causing 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;

3.3 **e-cigarette** means:

3.3.1 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

3.3.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;

3.4 **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;

- 3.5 **emergency vehicle** means a vehicle driven by a person who is an emergency worker;
- 3.6 **emergency worker** has the same meaning as in Regulation 54 of the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.7 **foreshore** means the land extending from the low water mark on the seashore to the nearest road or section boundary, or to a distance of 50 metres from high water mark (whichever is the lesser distance);
- 3.8 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.9 **local government land** means land owned by the Council or under the Council's care, control and management (except roads);
- 3.10 **model aircraft** includes a drone;
- 3.11 **motor vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 3.12 **on water activity** includes fishing (whether from a boat or other vessel, structure or land), swimming, bathing, diving, rowing or boating;
- 3.13 **open container** means a container which:
- 3.13.1 after the contents thereof have been sealed at the time of manufacture; and
 - 3.13.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
 - 3.13.1.2 being a can, it has been opened or punctured;
 - 3.13.1.3 being a cask, has had its tap placed in a position to allow it to be used;
 - 3.13.1.4 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
 - 3.13.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.14 **personal watercraft** has the same meaning as in the *Harbors and Navigation Act 1993*;
- 3.15 **public place** means a place (including a place on private land) to which the public has access (except a road) but does not include any part of a community parcel divided by a plan of community division under the *Community Titles Act 1996*;
- 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.

Part 2 – Management of Local Government Land and Public Places

4. Activities Requiring Permission

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

4.1 Advertising

display any sign for the purpose of advertising;

4.2 Amplification

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

4.3 Animals

4.3.1 enter in company with any animal that the Council has resolved is prohibited from local government land, except land to which the Council has resolved that such an animal is permitted, and has indicated the same through the erection of a sign or signs;

4.3.2 exercise any animal in such a manner as to endanger the safety of any other person;

4.4 Animals on Foreshore

4.4.1 allow or suffer any animal under his or her control to swim or bathe in the sea or any other open public water to the inconvenience, annoyance, or danger of any other person bathing or swimming;

4.4.2 exercise any horse on the foreshore in such manner as to endanger the safety of any other person;

4.5 Animals in Lakes and Ponds

comprising a pond or lake, to which this subparagraph applies, allow or suffer any animal to enter or remain therein;

4.6 Athletic and Ball Sports

4.6.1 promote, organise or take part in any organised athletic sport;

4.6.2 to which this subparagraph applies, play or practice the game of golf;

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 Boat Ramps

launch or retrieve a boat or other vessel to or from any pond or lake to which this subparagraph applies;

4.9 Bridge Jumping

jump or dive from any bridge;

4.10 Buoys

comprising a pond or lake, place a buoy, cable, chain, hawser, rope or net in, on or across the pond or lake;

4.11 Busking

sing, busk or play a musical instrument for the purpose of or so as to appear to be for the purpose of entertaining others or receiving money;

4.12 Camping

4.12.1 camp;

4.12.2 erect any tent or other structure of calico, canvas, plastic or similar material;

4.12.3 camp in a motorhome, except where a sign or signs erected by the Council indicates that camping on the land in such a vehicle is permitted;

4.13 Canvassing

convey any advertising, religious or other message to any bystander, passerby or other person;

4.14 Cemeteries

comprising a cemetery:

4.14.1 bury or inter any human or animal remains;

4.14.2 erect any memorial;

4.15 Closed Lakes

comprising a lake or pond, enter, remain in or on, or engage in any on water activity on any part of the lake or pond at any time during which the Council has resolved that it shall be closed to the public and which is indicated by a sign or signs to that effect;

4.16 Closed Lands

enter or remain on any part the land:

- 4.16.1 at any time during which the Council has resolved that it shall be closed to the public and which is indicated by a sign or signs to that effect;
- 4.16.2 where the land is enclosed with fences and/or walls, and gates, at any time when the gates have been closed and locked; or
- 4.16.3 where admission charges are payable, to enter without paying those charges;
- 4.16.4 constituting a revegetation area, where a sign or signs indicate that the land is closed for that purpose;

4.17 **Digging Soil**

to which this subparagraph applies, dig the soil for or collect worms, shellfish, grubs or insects;

4.18 **Distribution**

distribute anything to any bystander, passerby or other person;

4.19 **Donations**

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

4.20 **Fires**

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

4.21 **Fireworks**

use, discharge or explode any fireworks;

4.22 **Fishing**

fish:

- 4.22.1 in any pond or lake to which this subparagraph applies;
- 4.22.2 from any place or structure to which this subparagraph applies;
- 4.22.3 from any bridge;
- 4.22.4 in any pond or lake where signage indicates that it has been closed for health reasons;

4.23 **Flora and Fauna**

- 4.23.1 damage, pick, prune or otherwise interfere with any plant or flower or other vegetation thereon; or

4.23.2 tease, or cause any harm to any animal, bird or marine creature, unless they are acting in accordance with the provisions of the *Native Vegetation Act 1991*, *National Parks and Wildlife Act 1972* and/or the *Crown Land Management Act 2009* (to the extent applicable);

4.24 **Hiring Boats**

4.24.1 comprising a pond or lake, hire out a boat or vessel or otherwise use it for commercial purposes; or

4.24.2 comprising the foreshore, hire out a boat or vessel;

4.25 **Horses**

ride, lead, exercise or otherwise allow a horse:

4.25.1 to be on or remain on the foreshore or bathe in any waters at the foreshore, except between the hours of 4:00am and 8:00am on any day, unless Council has resolved a section of foreshore to which this subparagraph would not apply; or

4.25.2 to be on any other land except where the Council has set aside a track or other area for use by or in connection with this subparagraph;

4.26 **Interference with Land**

interfere with or alter the land, including:

4.26.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;

4.26.2 erecting or installing a structure (including fencing, posts, buildings, pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over the land;

4.26.3 changing or interfering with the construction, arrangement or materials of the land;

4.26.4 changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings or other objects) associated with the land;

4.26.5 planting a tree or other vegetation on the land, damaging, picking, pruning or otherwise interfering with the vegetation on the land, or removing vegetation from the land; or

4.26.6 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used;

4.27 Launching and Retrieval of Personal Watercraft

launch or retrieve a personal watercraft from or onto the beach into or from the sea except in any area where the Council has resolved that such an activity is permitted, and has indicated the same through the erection of a sign or signs;

4.28 Model Aircraft, Boats and Cars

4.28.1 fly or operate a model aircraft, 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;

4.28.2 fly or operate a model aircraft, boat or model/remote control car on land to which the Council has resolved this subparagraph shall apply;

4.29 Motor Vehicles on Parklands

comprising a park, garden or reserve:

4.29.1 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;

4.29.2 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

4.29.3 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;

4.30 Organised Ceremonies and Events

conduct or participate in a funeral, marriage ceremony, game, picnic, other event or entertainment on any local government land, except where the number of persons attending the event or entertainment does not exceed 50;

4.31 Public Exhibitions and Displays

allow or cause any public exhibition or display;

4.32 Picking Fruit

pick fruit, nuts or berries from any tree or bush;

4.33 Pontoons

comprising a pond or lake, install or maintain a pontoon, fixed floating jetty, or other jetty, whether temporary or permanent;

4.34 Preaching

preach or harangue;

4.35 **Removing Soil**

carry away or remove any soil, sand, seaweed, timber, stones, pebbles or other organic or inorganic materials or any part of the land;

4.36 **Swimming**

swim or bathe in any pond or lake to which this subparagraph applies;

4.37 **Toilets**

in any public convenience:

4.37.1 smoke tobacco or any other substance;

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

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

4.38 **Use of Boats**

comprising a pond or lake to which this subparagraph applies, use a boat or vessel;

4.39 **Vehicles on Boat Ramps**

4.39.1 launch or retrieve a boat or vessel other than from a boat ramp constructed for that purpose;

4.39.2 allow any motor vehicle to remain stationary on any boat ramp longer than is necessary to launch or retrieve a boat or vessel;

4.40 **Vehicles on the Foreshore**

comprising the foreshore, drive or propel a motor vehicle onto, from or on the foreshore except for the purpose of launching or retrieving a boat, so long as the vehicle is driven or propelled:

4.40.1 on an area that is constructed or set aside by the Council for that purpose; or

4.40.2 on an area to which the Council has resolved such an activity is permitted, and has indicated the same through the erection of a sign or signs;

4.41 **Working on Vehicles**

perform the work of repairing, washing, painting, panel beating or other work of a similar nature on or to any motor vehicle, except for running repairs in the case of breakdown.

5. Prohibited Activities

A person must not on local government land:

5.1 Annoyances

annoy or unreasonably interfere with any other person's use of the land by making a noise or by creating a disturbance that has not been authorised by the Council;

5.2 Interference with Permitted Use

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

5.3 Use of Council Rubbish Bins

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

5.4 Use of Equipment

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.

Part 3 – Enforcement

6. 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:

- 6.1 cease the encroachment or interference; and
- 6.2 remove the source of the encroachment or interference; and
- 6.3 reinstate the land to the same standard it was prior to the encroachment, interference or alteration.

7. 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 6 of this by-law, then an authorised person may:

- 7.1 undertake the work; and
- 7.2 recover the cost of doing so from that person.

8. Directions

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

- 8.1 that person's use of the land;
- 8.2 that person's conduct and behaviour on the land;
- 8.3 that person's safety on the land;
- 8.4 the safety and enjoyment of the land by other persons.

9. Removal of Animals

If any animal is found on local government land in breach of a by-law:

- 9.1 any person in charge of the animal will remove it on the request of an authorised person; and
- 9.2 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.

Part 4 – Miscellaneous

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 when driving an emergency vehicle.
- 10.2 The restrictions in paragraph 4.11 do not apply to an activity carried out in a manner approved by resolution of the Council.
- 10.3 The restrictions in paragraph 4.33 do not apply where the person responsible for installing or maintaining the structure has obtained any development approval required under the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016* and maintains a policy of insurance which provides at least \$20 million of public liability coverage for the structure.
- 10.4 The restrictions in subparagraphs 4.1, 4.7, 4.13 and 4.18 of this by-law do not apply to:
 - 10.4.1 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
 - 10.4.2 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
 - 10.4.3 matters which relate to and occur during the course of and for the purpose of a referendum.

11. Application of Paragraphs

Any of paragraphs 4.5, 4.6.2, 4.8, 4.17, 4.22.1, 4.22.2, 4.28.2, 4.36 and 4.38 of this by-law will 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 *Local Government Land By-law 2014*, published in the *Gazette* on 21 August 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 City of Charles Sturt held on the day of 20 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 Paul Sutton
Chief Executive Officer