



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2018

By-Law No 3 of 2018

For the management and regulation of the use of and access to all land vested in or under the control of 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 2018*.

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 Act.

3. Interpretation

In this by-law:

- 3.1 **animal** includes birds, insects and fish;
- 3.2 **boat** includes a raft, canoe, personal watercraft or any other similar device;
- 3.3 **electoral matter** has the same meaning as in the *Electoral Act 1985*;
- 3.4 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 3.5 **local government land** has the same meaning as in the *Local Government Act 1999*, but does not include any road;
- 3.6 **open container** means a container which:
 - 3.6.1 after the contents thereof have been sealed at the time of manufacture and:
 - 3.6.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
 - 3.6.1.2 being a can, has been opened or punctured;
 - 3.6.1.3 being a cask, has had its tap placed in a position to allow it to be used;

- 3.6.1.4 being any other form of container, has been opened, broken, punctured or manipulated in such a way as to allow access to the contents thereof; or
- 3.6.2 is a flask, glass, mug or other container used for drinking purposes;
- 3.7 **park** has the same meaning as in the *Local Government Act 1999*;
- 3.8 **public place** has the same meaning as in the *Local Government Act 1999*;
- 3.9 **reserve** has the same meaning as in the *Local Government Act 1999*; and
- 3.10 **waters** means any body of water, including a pond, lake, river, creek or wetland, under the care, control and management of the 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 the Council:

4.1 Advertising

display any sign for the purpose of commercial advertising other than a moveable sign which is displayed in accordance with the *Moveable Signs By-law 2018*;

4.2 Amplification

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

4.3 Animals

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

4.3.2 cause or allow any animal to enter, swim, bathe or remain in any waters located on local government land to which the Council has resolved this subparagraph shall apply;

4.3.3 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;

4.4 Annoyance

do anything likely to offend or unreasonably interfere with any other person:

4.4.1 using that land; or

4.4.2 occupying nearby premises,

by making a noise or creating a disturbance;

4.5 Aquatic Life

introduce any aquatic life to any waters;

4.6 Athletic and Ball Sports

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

4.6.2 play any organised competition sport, as distinct from organised social play;

4.6.3 play or practise the game of golf;

4.7 Attachments to Trees

attach, hang or fix any rug, blanket, sheet, rope or other material to any tree, shrub, plant, tree guard, notice board, seat fence, post or other item or structure;

4.8 Camping and Tents

4.8.1 camp or stay overnight; or

4.8.2 erect any tent, booth, marquee or other structure for the purpose of habitation for a period of 24 hours or more;

4.9 Canvassing and Preaching

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;

4.10 Cemeteries

comprising a cemetery:

4.10.1 bury or inter any human or animal remains;

4.10.2 erect any memorial;

4.11 Closed Lands

enter or remain on any part of local government land:

4.11.1 at any time during which the Council has declared that part to be closed to the public and which closure is indicated by a sign on or adjacent to that land to that effect;

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

4.11.3 where admission charges are payable to enter without paying those charges;

4.12 Dispose of Dead Animals

dispose of any dead animals or part thereof in any Council rubbish bin;

4.13 Defacing Property

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

4.14 Distributing

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

4.15 Donations

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

4.16 Encroachment

erect or place any fencing, posts or other structures or any other items or substances so as to encroach onto the land;

4.17 Entertaining

4.17.1 sing, busk or play a recording or musical instrument for the purpose of, or so as to appear to be for the purpose of, entertaining others whether or not receiving money;

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

4.18 Filming

conduct or participate in any filming where the filming is for a commercial purpose;

4.19 Fires

light any fire except:

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

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

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

4.20 Fireworks

ignite, explode or use any fireworks or rockets;

4.21 Flora and Fauna

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

- 4.21.1 damage, pick, disturb, interfere with or remove any plant or flower;
- 4.21.2 lead or drive any animal, or stand or walk, on any flower bed or garden plot;
- 4.21.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 4.21.4 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;
- 4.21.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 4.21.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 4.21.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or marine creature;
- 4.21.8 burn any timber or dead wood;

4.22 Games

- 4.22.1 promote, organise or participate in any game, recreation or amusement which involves the use of a ball, missile or other object 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 that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land;
- 4.22.2 fly any model aircraft, drone or operate any power model boat;
- 4.22.3 participate in any game, recreation or amusement which is likely to cause damage to lawns, gardens, trees or other property; or
- 4.22.4 participate in any game, recreation or event where the Council has caused a notice to be erected indicating the playing of such a game, recreation or event is prohibited

and, where taking part in any of the activities referred to in subparagraphs 4.22.1, 4.22.2, 4.22.3 or 4.22.4, all persons must cease those activities in favour of other persons making use of the land unless in a designated sporting area identified by goal posts, cricket pitches or similar equipment or improvements;

4.23 Liquor

excepting sealed containers, consume, carry or be in possession or charge of any liquor in an open container between the hours of 9.00pm on any day and

9.00am on the day immediately following (provided the land constitutes a park or reserve) except on premises in respect of which a licence is in force pursuant to the *Liquor Licensing Act 1997*;

4.24 Overhanging Articles

suspend or hang any article or thing from any building, verandah, pergola, post or other structure where it might present a nuisance or danger to any person using local government land;

4.25 Picking Fruit

pick fruit, nuts or berries from any trees or bushes;

4.26 Removing Soil

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

4.27 Repairs to Vehicles

perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle, except running repairs in the case of breakdown;

4.28 Rubbish Dumps and Rubbish Bins

4.28.1 interfere with, remove or take away any rubbish that has been discarded at any rubbish dump;

4.28.2 remove, dispense or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a Council rubbish bin;

4.29 Smoking

4.29.1 smoke tobacco or any other substance in any building;

4.29.2 smoke tobacco or any other substance on any local government land or part thereof to which the Council has resolved this subparagraph shall apply;

4.30 Structures

erect or allow to remain erected any shed, tent, hut or other structure provided that this sub-paragraph does not apply to the erection of any portable shading cover placed on the land for no longer than any eight hour period and not overnight, provided no pegs are used to stabilise such cover;

4.31 Swimming and Aquatic Activity

enter, swim or engage in any aquatic activity in or on any waters except:

4.31.1 waters that the Council has set aside for that purpose; or

4.31.2 in an area where a nearby sign states that such activity is allowed and in accordance with any conditions stated in the sign;

4.32 Toilets

in any public convenience:

4.32.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

4.32.2 smoke tobacco or any other substance;

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

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

4.32.5 enter any toilet set aside for use of the opposite gender except:

4.32.5.1 a child under the age of seven accompanying an adult of that gender; and/or

4.32.5.2 for the purpose of providing assistance to a disabled person;

4.33 Trading

4.33.1 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 including, but not limited to, any vehicle, watercraft or aircraft;

4.33.2 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 including, but not limited to, any vehicle, watercraft or aircraft;

4.34 Vehicles

drive or propel any vehicle on local government land unless on an area or road that is constructed or set aside by the Council for that purpose;

4.35 Weddings, Funerals or Special Events

hold, conduct or participate in a 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 sixty.

5. Prohibited Activities

A person must not on any local government land:

5.1 Glass

wilfully break any glass, china or other brittle material;

5.2 Interference with Land

5.2.1 interfere with the land such as levelling or flattening land, planting grass, lawn or other vegetation, paving the land, or otherwise use the land in a manner contrary to the purpose for which the land was designed to be used; or

5.2.2 destroy, damage or deface, or cause or permit to be destroyed, damaged or defaced any local government land or any article, structure, building or thing fixed thereto;

5.3 Interference with Permitted Use

interrupt, disrupt or interfere with any person's use of parks or reserves for which permission has been granted;

5.4 Missiles

throw, roll or discharge any stone, substance or missile to the danger of any person or animal;

5.5 Obstruction

obstruct:

5.5.1 any footpath or bicycle track;

5.5.2 any door, entrance, stairway or aisle in any building; or

5.5.3 any gate or entrance;

5.6 Solicitation

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

5.7 Use of Equipment

use any item of equipment and/or facilities or other Council property:

5.7.1 other than in the manner and for the purpose for which it was designed or set aside; and

5.7.2 where any nearby sign states the conditions of use, except in accordance with such conditions;

5.8 Waste

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

6. Removal of Encroachment or Interference

Any person who encroaches onto or interferes with local government land contrary to this by-law must, at the request of an authorised person, whether verbal or written, cease the encroachment or interference and remove the source of the encroachment

or interference and reinstate the land to the same standard as the state of the land prior to the encroachment or interference.

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 person pursuant to paragraph 6 of this by-law, the Council may:

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

Part 3 - Miscellaneous

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 of other persons on the land;
- 8.5 the enjoyment of the land by other persons; and
- 8.6 the possible damage to lawn, grass, trees, shrubs, buildings, structures or objects on the land.

9. Removal of Animals and Directions To Persons

- 9.1 If any animal, person or object is found on any local government land in breach of a by-law:
 - 9.1.1 any person in charge of the animal, person or object shall remove it from the local government land on the request of an authorised person; and
 - 9.1.2 an authorised person may remove the animal or object from the land if a person fails to comply with the request, or if no person is in charge of it.
- 9.2 Any person who is committing or has committed a breach of this by-law must immediately comply with a direction of an authorised person to leave the local government land.

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 restriction in paragraph 4.18 does not apply to any filming conducted for the purposes of gathering or reporting the news;
- 10.3 The restrictions in paragraphs 4.2, 4.7, 4.9, 4.14 and 5.6 of this by-law do not apply to:
 - 10.3.1 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
 - 10.3.2 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
 - 10.3.3 matters which relate to, and occur during the course of and for the purpose of a referendum.

11. Application

Any of paragraphs 4.3.2 and 4.29.2 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*.

12. Revocation

Council's *By-law No 3 – Local Government Land*, published in the *Gazette* on 4 August 2011, 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 Burnside held on the 28th day of August 2018 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 Paul Deb
Chief Executive Officer