



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2023

By-law No. 4 of 2023

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 2023*.

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 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 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; or
- 3.10.4 land comprised in a land grant, Crown Land or Crown License;
- 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 **livestock** has the same meaning as defined in the *Livestock Act 1997* but does not include a dog or cat;
- 3.15 **local government land** has the same meaning as in the *Local Government Act 1999* and includes the foreshore but does not include any road;
- 3.16 **low water mark** means the lowest meteorological tide;
- 3.17 **model aircraft** includes a drone;
- 3.18 **ocean** means that part of the foreshore comprising water;
- 3.19 **open container** means a container which:
- 3.19.1 after the contents thereof have been sealed at the time of manufacture and:
- 3.19.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
- 3.19.1.2 being a can, it has been opened or punctured;
- 3.19.1.3 being a cask, has had its tap placed in a position to allow it to be used;

- 3.19.1.4 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
- 3.19.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.20 **personal watercraft** means a device that:
 - 3.20.1 is propelled by a motor; and
 - 3.20.2 has a fully enclosed hull; and
 - 3.20.3 is designed not to retain water if capsized; and
 - 3.20.4 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;
- 3.21 **smoke** means:
 - 3.21.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
 - 3.21.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.22 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*;
- 3.23 **variable message sign** includes a permanent, portable or vehicle mounted electronic sign (except when the sign is used as a traffic control device);
- 3.24 **waters** means any body of water including a pond, lake, river, creek or wetlands under the care, control and management of Council, but does not include the ocean.

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* and the *Marine Safety (Domestic Commercial Vessel) National Law* enter any waters, or swim or use a boat in or on waters except:

- 4.1.1 in an area where a nearby sign erected by the Council states that one or more of these activities is permitted; and
- 4.1.2 in accordance with any condition stated in the sign;

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 2023*;

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;

4.4.6 erect, place, use or allow any object to remain;

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

4.6.1 other than the foreshore:

4.6.1.1 ride, lead or drive any livestock, 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;

4.6.1.2 cause or allow any livestock to stray onto, move over, graze or be left unattended on any land;

4.6.1.3 cause or allow any animal under their control to swim or bathe in the any waters to which the Council has resolved this subparagraph shall apply;

4.6.2 release or leave any domestic animal;

4.7 **Attachments**

attach anything to:

4.7.1 a tree or plant; or

4.7.2 a structure or fixture;

4.8 **Aquatic Life**

take, interfere with, introduce or disturb any aquatic life in any waters to which the Council has resolved this subparagraph shall apply;

4.9 **Bees**

place, or allow to remain, any bee hive;

4.10 **Boats**

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

4.10.1 hire or offer for hire a boat, raft, pontoon or other watercraft;

4.10.2 launch or retrieve a boat, raft, pontoon or other watercraft to or from any waters;

4.10.3 propel, float, install, maintain or otherwise use any boat, raft, pontoon, steps, jetty or other watercraft or similar structure on any waters;

4.10.4 launch or operate a model boat on any waters;

to which the Council has resolved this subparagraph shall apply;

4.11 **Bridge Jumping**

jump from or dive from a bridge or jetty;

4.12 **Buildings & Structures**

4.12.1 erect or install a building;

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

4.13 Camping

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

4.13.2 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);

4.14 Cemeteries

Comprising a cemetery:

4.14.1 bury or inter any human or animal remains;

4.14.2 erect any memorial;

4.15 Closed Lands

enter or remain on any part of the land:

4.15.1 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

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

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

4.16 Distribution

distribute anything to any bystander, passerby or other person;

4.17 Donations

ask for or receive or indicate that they desire a donation of money or any other thing;

4.18 Fires

light any fire except:

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

4.18.2 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

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

4.19 Fireworks

discharge any fireworks;

4.20 Fishing

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

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

4.21 Flora, fauna and other living things

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

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

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

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

4.22 Funerals, burials and scattering ashes

4.22.1 bury, inter or scatter the ashes of any human or animal remains;

4.22.2 erect any memorial;

4.22.3 conduct or participate in a funeral ceremony;

on land to which the Council has resolved this subparagraph will apply;

4.23 Golf

play or practice golf, except on local government land where a nearby sign erected by the Council states that the playing or practicing of golf is permitted.

4.24 Lighting

4.24.1 use or operate any fixed floodlight;

4.24.2 use or operate any portable floodlight between sunrise and sunset on land to which the Council has resolved this subparagraph shall apply;

4.25 Model aircraft, boats and cars

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

- 4.25.2 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;

4.26 No Liquor

- 4.26.1 consume, carry or be in possession or charge of any liquor on any local government land to which the Council has resolved this subparagraph shall apply (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 the Council has resolved this subparagraph shall apply (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 the Council has resolved this subparagraph shall apply;
- 4.28.3 play any organised competition sport, as distinct from organised social play, in any area to which the Council has resolved this subparagraph shall apply;

4.29 Pontoons

install or maintain a pontoon, steps, jetty or similar structure in any waters;

4.30 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;

4.31 Public Exhibitions and Displays

- 4.31.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;
- 4.31.2 conduct or hold any concert, festival, show, public gathering, circus, performance or any other similar activity;

4.31.3 erect or inflate any inflatable castle;

4.31.4 cause any public exhibitions or displays;

4.32 Removing and Depositing

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

4.33 Sand Dunes

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

4.33.2 ride a horse on a sand dune or coastal slope;

4.33.3 carry out an activity on a sand dune, coastal slope or cliff that may threaten its integrity;

4.34 Selling, Hiring, Leasing

sell, offer or display anything for sale, hire or lease;

4.35 Skateboards and Small Wheeled Devices

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

4.36 Vehicles

4.36.1 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;

4.36.2 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

4.36.3 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;

4.37 Weddings, Functions and Special Events

4.37.1 hold, conduct or participate in a marriage ceremony, funeral or special event;

4.37.2 erect a marquee, stage or structure;

4.37.3 conduct any commercial filming;

on land to which the Council has resolved this subparagraph will apply;

4.38 Wetlands

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

4.38.1 operate a model boat;

4.38.2 fish, or take any aquatic creature;

4.38.3 introduce any fish or aquatic creature;

4.38.4 take or draw water;

4.39 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 Animals

5.1.1 cause or allow any animal to enter, swim, bathe, or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming;

5.1.2 allow an animal in that persons control, charge or ownership to damage Council property;

5.1.3 lead, drive, or exercise any horse or other animal in such a manner as to endanger the safety of any other person;

5.2 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;

5.3 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;

5.4 Defacing Property

deface, paint, write, cut marks or affix bills or advertisements to any tree, rock, gate, fence, building, sign or property of the Council;

5.5 Fishing

- 5.5.1 fish, including with a hand spear or spear gun in any waters to which the Council has determined this subparagraph applies except in the area of Encounter Lakes;
- 5.5.2 return any noxious species including European carp (*Cyprinus carpio*) or redfin perch (*Perca fluviatilis*) caught by the person to any land or waters;
- 5.5.3 deposit or leave any dead fish (in part or whole) or offal;
- 5.5.4 fish at Encounter Lakes without complying with the conditions indicated by signage at that location;

5.6 Glass

wilfully break any glass, china or any other brittle material;

5.7 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;

5.8 Smoking

smoke any substance:

- 5.8.1 in any building or part of any building; or
- 5.8.2 on any local government land;

to which the Council has resolved this subparagraph shall apply;

5.9 Swim

swim, dive, scuba dive or snorkel in any waters to which the Council has determined this subparagraph applies;

5.10 Toilets

in any public convenience:

- 5.10.1 smoke any substance;
- 5.10.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 5.10.3 use it for a purpose or manner for which it was not designed or constructed;
- 5.10.4 subject to clause 5.10.5, enter the public convenience unless the person is of the gender indicated in writing or on a sign located on the public convenience;

5.10.5 clause 5.10.4 does not apply –

5.7.5.1 in a genuine emergency; or

5.7.5.2 to a vulnerable person being assisted by the vulnerable person's caregiver, parent or guardian; or

5.7.5.3 to a person that is intersex, transgender or gender diverse; or

5.7.5.4 to a person with a disability; or

5.7.5.5 to a person assisting a person with a disability;

5.11 Use of Council Rubbish Bins

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

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 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 reasonable 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 the authorised person reasonably believes that no person is in charge of the animal.

7.2 An authorised person may direct any person who is reasonably 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 person 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, 4.7.2, 4.16, 4.30, 4.31.1, 4.31.2 and 4.31.4 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 on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 10.2.2 matters which relate to, and occur during the course of and for the purpose of a referendum.

11. **Application**

Any of paragraphs 4.6.1.3, 4.8, 4.10, 4.20, 4.22, 4.24.2, 4.25.2, 4.26, 4.28.2, 4.28.3, 4.35, 4.37, 5.5.1, 5.8 and 5.9 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. 4 – Local Government Land*, published in the *Gazette* on 26 August 2016, 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 Victor Harbor on the 24 day of July 2023 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
Ms Victoria MacKirdy
Chief Executive Officer