



CITY OF MARION

By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2014

By-law No. 3 of 2014

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 2014*.

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 aquatic 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 **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;
- 3.8 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999*;

- 3.9 **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 the high water mark, whichever is the lesser distance;
- 3.10 **funeral ceremony** means a ceremony only (ie a memorial service) and does not include a burial;
- 3.11 **local government land** has the same meaning as in the *Local Government Act 1999* and includes the foreshore but does not include any road;
- 3.12 **low water mark** means the lowest meteorological tide;
- 3.13 **ocean** means that part of the foreshore comprising water;
- 3.14 **personal watercraft** means a device that:
- 3.14.1 is propelled by a motor; and
 - 3.14.2 has a fully enclosed hull; and
 - 3.14.3 is designed not to retain water if capsized; and
 - 3.14.4 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;
- 3.15 **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

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 2014*;

4.3 **Amplification**

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

4.4 **Animals on local government land**

4.4.1 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;

4.4.2 allow or suffer any animal under his or her control to swim or bathe in the ocean or any waters to the inconvenience, annoyance or danger of any other person bathing or swimming;

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

4.4.4 release or leave any domestic animal;

4.5 **Attachments**

attach anything to a tree, plant, structure or fixture on local government land;

4.6 **Bees**

place, or allow to remain, any bee hive;

4.7 **Buildings and Structures**

erect or install a building or structure (including pipes, wires, cables, fences, memorials, fixtures, fittings or other objects);

4.8 **Busking**

sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;

4.9 **Camping**

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

4.9.2 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);

4.10 **Closed lands**

enter or remain on any part of the land:

- 4.10.1 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
- 4.10.2 where the land is enclosed with fences and/or walls and gates, at any time when the gates have been closed and locked; or
- 4.10.3 where admission charges are payable, without paying those charges;
- 4.11 **Damaging property**
 - 4.11.1 damage or remove a building or structure (including pipes, wires, cables, fences, memorials, fixtures, fittings or other objects);
 - 4.11.2 interfere with, damage or remove any tree or other vegetation;
- 4.12 **Distribution**

distribute anything to any bystander, passerby or other person;
- 4.13 **Donations**

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

light any fire except:

 - 4.14.1 in a place provided by the Council for that purpose; or
 - 4.14.2 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
 - 4.14.3 in accordance with the *Fire and Emergency Services Act 2005*;
- 4.15 **Flora fauna and other living things**

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

 - 4.15.1 except in a community garden, damage, pick, or interfere with any plant, fungi or lichen thereon; or
 - 4.15.2 tease, remove or cause harm to any animal, bird or aquatic creature;
- 4.16 **Funerals and scattering ashes**

conduct or participate in a funeral ceremony, or scatter ashes on land to which the Council has resolved this sub-paragraph will apply;
- 4.17 **Golf**

play or practice golf;

4.18 Model aircraft

subject to the *Civil Aviation Act 1988*, fly or operate a model aircraft or drone aircraft;

4.19 Picking of fruit, nuts or berries

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

4.20 Posting of bills etc

post any bills, advertisements or other papers or items on a building, or structure on local government;

4.21 Removing

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

4.22 Selling

sell anything or display anything for sale;

4.23 Skateboards and small wheeled vehicles

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 sub-paragraph will apply;

4.24 Vehicles

4.24.1 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;

4.24.2 except on an area properly constructed for the purpose, promote, organise or take part in any race, test or trial of any kind in which motor vehicles, motor cycles, motor scooters or bicycles take part;

4.25 Weddings

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

4.26 Wetlands

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

4.26.1 operate a model boat;

4.26.2 fish, or take any aquatic creature;

4.26.3 introduce any fish or aquatic creature;

4.26.4 take or draw water;

4.27 **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 **Directions**

fail to comply with any reasonable direction or request from an authorised person of the Council relating to:

5.3.1 that person's use of the land;

5.3.2 that person's conduct and behaviour on the land;

5.3.3 that person's safety on the land; or

5.3.4 the safety and enjoyment of the land by other persons;

5.4 **Fishing**

5.4.1 return any noxious species including European carp (*Cyprinus carpio*) or redfin perch (*Perca fluviatilis*) caught by the person to any land or waters;

5.4.2 deposit or leave any dead fish (in part or whole) or offal;

5.5 **Playing games**

play or practice a game:

5.5.1 which is likely to cause damage to the land or anything in it; or

5.5.2 which endangers the safety or interferes with the comfort of any person; or

5.5.3 in any area where a sign indicates that the game is prohibited;

5.6 **Throwing objects**

throw or project a stone or other missile;

5.7 **Toilets**

in any public convenience:

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

5.7.2 smoke tobacco or any other substance;

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

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

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

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

5.7.5.2 to provide assistance to a disabled person;

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. Exemptions

6.1 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.

6.2 The restrictions in paragraph 4.5, 4.12 and 4.20 of this by-law do not apply to:

6.2.1 electoral matters authorised by a candidate and which relate to a Commonwealth or State election that occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

- 6.2.2 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
- 6.2.3 matters which relate to, and occur during the course of and for the purpose of a referendum.

7. Application

Any of paragraphs 4.16, 4.23, 4.24.1 and 4.25 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*.

8. Revocation

Council's *By-law No. 3 – Local Government Land*, published in the *Gazette* on 31 July 2008, 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 Corporation of the City of Marion held on the 26 day of August 2014 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 Mark Searle
Chief Executive Officer