



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2022

By-law No. 3 of 2022

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 2022*.

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 **aquatic reserve** means an area of local government land (including any waters) declared by the Council, by resolution, to be an aquatic reserve for the purposes of this by-law;
- 3.3 **boat** includes a raft, canoe, personal watercraft or any other similar device;
- 3.4 **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;
- 3.5 **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);
- 3.6 **community garden** means an area of land set aside by the Council for the purposes of being gardened collectively by a group of people;
- 3.7 **domestic animal** includes any duck, reptile or fish;

- 3.8 **e-cigarette** means:
- 3.8.1 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
 - 3.8.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;
- 3.9 **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;
- 3.10 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 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 **local government land** has the same meaning as in the *Local Government Act 1999*, but does not include any road;
- 3.15 **model aircraft** includes a drone;
- 3.16 **open container** means a container which:
- 3.16.1 after the contents thereof have been sealed at the time of manufacture and:
 - 3.16.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
 - 3.16.1.2 being a can, it has been opened or punctured;
 - 3.16.1.3 being a cask, has had its tap placed in a position to allow it to be used;
 - 3.16.1.4 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
 - 3.16.2 is a flask, glass or mug or other container used for drinking purposes;
- 3.17 **personal watercraft** means a device that:
- 3.17.1 is propelled by a motor; and
 - 3.17.2 has a fully enclosed hull; and

- 3.17.3 is designed not to retain water if capsized; and
- 3.17.4 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;
- 3.18 **smoke** means:
 - 3.18.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
 - 3.18.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.19 **traffic control device** has the same meaning as in the *Road Traffic Act 1961*;
- 3.20 **variable message sign** includes a permanent, portable or vehicle mounted electronic sign (except when the sign is used as a traffic control device);
- 3.21 **waters** means any body of water including a pond, lake, river, creek or wetlands under the care, control and management of Council;
- 3.22 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

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 Advertising & Signage

- 4.1.1 display any sign for the purpose of commercial advertising;
- 4.1.2 erect, install, place or display a variable message sign;

4.2 Aircraft

subject to the *Civil Aviation Act 1988* (Cth), land or take off any aircraft on or from the land;

4.3 Alteration to Local Government Land

make an alteration to the land, including:

- 4.3.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property; or
- 4.3.2 erecting or installing a structure (including pipes, wires, cables, pavers, fixtures, fittings and other objects) in, on, across, under or over the land; or

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

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

4.3.5 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land;

4.4 **Amplification**

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

4.5 **Animals on local government land**

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

4.5.2 cause or allow any animal under his or her control to enter, swim or bathe in any waters where the Council has, by resolution, determined this restriction will apply;

4.5.3 release or leave any domestic animal;

4.6 **Attachments**

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

4.7 **Bees**

place, or allow to remain, any bee hive;

4.8 **Boats**

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

4.8.2 launch or retrieve a boat, raft, pontoon, model boat or other watercraft to or from any waters to which the Council has resolved this subparagraph will apply;

4.8.3 propel, float or otherwise use any boat, raft, pontoon, model boat or other watercraft on any waters to which the Council has resolved this subparagraph will apply;

4.9 **Bridge Jumping**

jump from or dive from a bridge;

4.10 **Buoys etc.**

place any buoy, cable, chain, hawser, rope or net in or across any waters;

4.11 Buildings & Structures

- 4.11.1 erect or install a building;
- 4.11.2 use a building or structure other than for its intended purpose;

4.12 Camping

- 4.12.1 erect any tent or other structure of calico, canvas, plastic or similar material as a place of habitation;
- 4.12.2 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);

4.13 Cemeteries

Comprising a cemetery:

- 4.13.1 bury or inter any human or animal remains;
- 4.13.2 erect any memorial;

4.14 Closed lands

enter or remain on any part of the land:

- 4.14.1 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
- 4.14.2 where the land is enclosed with fences and/or walls and gates, at any time when the gates have been closed and locked; or
- 4.14.3 where admission charges are payable, without paying those charges;

4.15 Distribution

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

4.16 Donations

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

4.17 Fires

light any fire except:

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

4.17.2 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

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

4.18 Fireworks

discharge any fireworks;

4.19 Fishing

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

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

4.20 Flora fauna and other living things

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

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

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

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

4.21 Funerals and scattering ashes

conduct or participate in a funeral ceremony, or scatter ashes on land to which the Council has resolved this subparagraph will apply;

4.22 Golf

play or practice golf on any land to which the Council has resolved this subparagraph will apply;

4.23 Lighting

4.23.1 use or operate any fixed floodlight;

4.23.2 use or operate any portable floodlight between sunrise and sunset on land to which this subparagraph applies;

4.24 Model aircraft and cars

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

4.24.2 operate a model car;

4.25 No liquor

- 4.25.1 consume, carry or be in possession or charge of any liquor on any local government land to which the Council has resolved this subparagraph will apply (provided the land constitutes a park or reserve);
- 4.25.2 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 will apply (provided the land constitutes a park or reserve);

4.26 Obstructions

obstruct:

- 4.26.1 any path or cycle track;
- 4.26.2 any door, entrance, stairway or aisle on any building; or
- 4.26.3 any gate or entrance to the land;

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 Area

use or occupy any playing area:

- 4.28.1 in such a manner as is likely to or does damage the surface of the playing area and/or infrastructure (above or below ground level);
- 4.28.2 in any manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 4.28.3 contrary to the directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

4.29 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;

4.30 Public Exhibitions and Displays

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

4.30.3 erect or inflate any inflatable castle;

4.30.4 cause any public exhibitions or displays;

4.31 Pontoons

install or maintain a pontoon, fixed floating jetty, or other jetty;

4.32 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;

4.33 Selling

sell anything or display anything for sale;

4.34 Swimming

swim, bathe or enter any waters to which the Council has resolved this subparagraph will apply;

4.35 Vehicles

4.35.1 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;

4.35.2 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;

4.36 Weddings

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

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

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 **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;

5.5 **Playing games**

- 5.5.1 play or practice a game in any area where a sign indicates that the game is prohibited;

- 5.5.2 promote, organise or take part in any organised athletic sport in any area to which the Council has resolved this subparagraph will apply;

- 5.5.3 play any organised competition sport, as distinct from organised social play, in any area to which the Council has resolved this subparagraph will apply;

5.6 **Smoking**

smoke:

- 5.6.1 in any building or part of any building; or

- 5.6.2 on any local government land;

to which the Council has resolved this subparagraph will apply;

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;

5.8 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;

5.9 Wheeled Recreational Devices

subject to the *Road Traffic Act 1961* and the *Local Government Act 1999*, ride a wheeled recreational device on any local government land to which the Council has resolved this subparagraph will apply.

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 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 no person is in charge of the animal.

7.2 An authorised person may direct any person who is considered to be committing, or has committed, a breach of this by-law to leave local government land.

8. Exemptions

- 8.1 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.
- 8.2 The restrictions in paragraph 4.3.2, 4.6, 4.15, 4.29, 4.30.1, 4.30.2 and 4.30.4 of this by-law do not apply to:

- 8.2.1 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 the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 8.2.2 matters which relate to, and occur during, the course of and for the purpose of a referendum.

9. **Application**

Any of paragraphs 4.5.2, 4.8.2, 4.8.3, 4.19, 4.21, 4.22, 4.23.2, 4.25, 4.34, 4.36, 5.5.2, 5.5.3, 5.6 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*.

10. **Revocation**

Council's *Local Government Land By-law 2015*, published in the *Gazette* on 3 September 2015, 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 Prospect held on the 23rd day of August 2022 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 Chris White
Chief Executive Officer