



By-law made under the Local Government Act 1999

LOCAL GOVERNMENT LAND BY-LAW 2018

By-law No. 4 of 2018

A by-law to regulate access to and use of Local Government land (other than roads), and certain public places.

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, unless the contrary intention appears:

- 3.1 **animal** includes birds, insects and fish;
- 3.2 **boat** includes a raft, pontoon or personal watercraft or other similar device;
- 3.3 **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;
- 3.4 **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 **effective control** means a person exercising effective control of an animal either:
 - 3.5.1 by means of a physical restraint; or
 - 3.5.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;

- 3.6 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 3.7 **funeral ceremony** means a ceremony only (ie a memorial service) and does not include a burial;
- 3.8 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 3.9 **local government land** has the same meaning as in the *Local Government Act 1999*, but does not include any road;
- 3.10 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complimentary meaning;
- 3.11 **park** means land reserved or delineated as a park or designated by the Council as a park;
- 3.12 **reserve** means land reserved or dedicated as a reserve or designated by the Council as a reserve;
- 3.13 **road** has the same meaning as in the *Local Government Act 1999*;
- 3.14 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 3.15 **township** has the same meaning as in the *Local Government Act 1999*;
- 3.16 **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 3.17 **waters** includes a body of water, including a pond, lake, river, creek or wetlands 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

subject to paragraph 8.2 of this by-law, display, paint or erect any sign or hoarding for the purpose of commercial advertising or any other purpose;

4.2 Alcohol

consume, carry or be in possession or in charge of any liquor on local government land comprising parks or reserves to which this subparagraph applies;

4.3 Amplification

subject to paragraph 8.2 of this by-law, use an amplifier or other mechanical or electrical device for the purpose of broadcasting or magnifying sound;

4.4 **Animals**

- 4.4.1 lead, herd or exercise an sheep, cow, goat or horse, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided that the animal or animals are under effective control;
- 4.4.2 cause or allow an sheep, cow, goat or horse to stray onto, move over, graze or be left unattended on local government land;

4.5 **Annoyance**

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

- 4.5.1 using that land; or
- 4.5.2 occupying nearby premises,
by making a noise or creating a disturbance;

4.6 **Attachments**

subject to paragraph 8.2 of this by-law, attach anything to a tree, plant, equipment, fence, post, structure or fixture on local government land;

4.7 **Bees**

place a hive of bees on such land, or allow it to remain thereon;

4.8 **Boats**

subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law* on land to which this subparagraph applies:

- 4.8.1 launch or retrieve a boat to or from any waters;
- 4.8.2 launch or retrieve a boat other than from a boat ramp constructed for that purpose;
- 4.8.3 propel, float or otherwise use a boat on or in any waters;
- 4.8.4 hire out a boat or otherwise use a boat for commercial purposes; or
- 4.8.5 moor a boat on any waters or to a pontoon attached to local government land;

4.9 **Bridge Jumping**

jump or dive from a bridge;

4.10 **Buildings**

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

4.11 Burials and Memorials

- 4.11.1 bury, inter or spread the ashes of any human or animal remains;
- 4.11.2 erect any memorial;

4.12 Camping and Tents

camp:

- 4.12.1 within any township (unless a sign or signs erected by the Council indicates to the contrary);
- 4.12.2 outside any township, on any land to which this subparagraph applies;

4.13 Canvassing

subject to paragraph 8.2, convey any advertising, religious or other message to any bystander, passer-by or other person;

4.14 Closed Lands

- 4.14.1 enter or remain on any part of local government land at any time during which the Council (or a person authorised by the Council by resolution for that purpose) has declared that part to be closed to the public and which is indicated by a sign to that effect;
- 4.14.2 where entry fees or charges are payable, without paying those fees or charges; or
- 4.14.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked;

4.15 Defacing Property

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

4.16 Distribution

subject to paragraph 8.2 of this by-law, give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person;

4.17 Donations

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

4.18 Entertainment and Busking

- 4.18.1 sing, busk or play a recording or use a musical instrument for the purpose of receiving money;
- 4.18.2 subject to paragraph 8.2 of this by-law, conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity;

4.19 Equipment

use an item of equipment, facilities or property belonging to the Council if that person is of or over the age indicated by a sign or notice as the age limit for using such equipment, facility or property;

4.20 Fires

subject to the *Fire and Emergency Services Act 2005* light a fire except:

- 4.20.1 in a place provided by the Council for that purpose; or
- 4.20.2 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 4 metres;
- 4.20.3 in a place determined by Council;

4.21 Fireworks

ignite or discharge any fireworks;

4.22 Flora and Fauna

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

- 4.22.1 damage, pick, disturb, interfere with or remove any plant or flower thereon;
- 4.22.2 cause or allow an animal to stand or walk on any flower bed or garden plot;
- 4.22.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 4.22.4 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;
- 4.22.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 4.22.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 4.22.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or marine creature;

4.23 Games

- 4.23.1 play or practice any game which involves kicking, hitting or throwing a ball or other object on local government land which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that lands or detract from or be likely to detract from another person's lawful use and enjoyment of that land;
- 4.23.2 participate in, promote or organise any organised competition or sport, as distinct from organised social play;
- 4.23.3 promote, organise or take part in any organised athletic sport on local government land to which this subparagraph applies;
- 4.23.4 play or practice the game of golf on local government land to which this subparagraph applies;

4.24 Interference with Land

interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 4.24.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 4.24.2 erecting or installing a structure in, on, across, under or over the land;
- 4.24.3 changing or interfering with the construction, arrangement or materials of the land;
- 4.24.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 4.24.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

4.25 Model and Drone Aircraft, Boats and Cars

Subject to the *Civil Aviation Act 1988* (Cth):

- 4.25.1 fly or operate a model or drone aircraft, boat or model or remote control car in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 4.25.2 fly or operate a model or drone aircraft, boat or model or remote control car on any local government land to which the Council has resolved this subclause applies;

4.26 Overhanging Articles or Displaying Personal Items

suspend or hang an article or object from a building, verandah, pergola, post or other structure on local government land where it might present a nuisance or danger to a person using the land or be of an unsightly nature;

4.27 Playing Area

use or occupy a playing area:

4.27.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);

4.27.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

4.27.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area;

4.28 Preaching

subject to paragraph 8.2, preach, harangue or solicit for religious purposes;

4.29 Rubbish and Rubbish Dumps

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

4.30 Swimming

subject to the provisions of the *Harbors and Navigation Act 1993* swim in, bathe or enter any waters:

4.30.1 to which this subparagraph applies;

4.30.2 other than in accordance with any conditions that the Council may have determined by resolution to apply to such use.

4.31 Trading

sell, buy, offer or display anything for sale;

4.32 Vehicles

repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown;

4.33 Weddings, Functions and Special events

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

4.33.2 erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event.

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 to damage a flowerbed, garden plot, tree, lawn or like thing or place;
- 5.1.3 lead, herd, drive or exercise a horse in such manner as to cause a nuisance or endanger the safety of a person;

5.2 Equipment

use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it;

5.3 Glass

wilfully break any glass, china or other brittle material;

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 Obstruction

obstruct:

- 5.5.1 any path or gate;
- 5.5.2 door, entrance stairway or aisle in any building;

5.6 Playing games

play or practice a game:

- 5.6.1 which is likely to cause damage to the lands or anything in it;
- 5.6.2 in any area where a sign indicates that the game is prohibited;

5.7 Smoking

smoke, hold or otherwise have control over an ignited tobacco product:

- 5.7.1 in any building; or
- 5.7.2 on any land to which this subparagraph applies;

5.8 Throwing objects

throw, roll, project or discharge a stone, substance or other missile, excluding sport and recreational equipment designed to be used in that way;

5.9 Toilets

in any public convenience on local government land:

- 5.9.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 5.9.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 5.9.3 use it for a purpose for which it was not designed or constructed;
- 5.9.4 enter a toilet that is set aside for use of the opposite sex except:
 - 5.9.4.1 where a child under the age of eight years is accompanied by an adult parent or guardian of that sex; or
 - 5.9.4.2 to provide assistance to a disabled person; or
 - 5.9.4.3 in the case of a genuine emergency;

5.10 Solicitation

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

5.11 Waste

deposit in a receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

Part 3 – Miscellaneous**6. Directions**

- 6.1 A person on local government land must comply with a reasonable direction from an authorised person relating to:
 - 6.1.1 that person's use of the land;
 - 6.1.2 that person's conduct and behaviour on the land;
 - 6.1.3 that person's safety on the land; or
 - 6.1.4 the safety and enjoyment of other persons on the land.
- 6.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this by-law must immediately comply with a direction of an authorised person to leave that part of local government land.

7. Removal of Animals and Objects

An authorised person may remove an animal or object that is on local government land in breach of a by-law if no person is in charge of, or apparently in charge of, the animal or object.

8. Exemptions

- 8.1 The restrictions in this by-law do not apply to a police officer, emergency worker, Council officer or 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.
- 8.2 The restrictions in paragraphs 4.1, 4.3, 4.6, 4.13, 4.16, 4.18.2 and 4.28 of this by-law do not apply to electoral matter authorised by a candidate and which is:
 - 8.2.1 related to a Commonwealth or State election and 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 related to an election under the Act or the *Local Government (Elections) Act 1999* and 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
 - 8.2.3 related to, and occurs during the course of and for the purpose of a referendum.

9. Application

The restrictions in paragraphs 4.2, 4.8, 4.12.2, 4.23.3, 4.23.4, 4.25.2, 4.30.1 and 5.7.2 of this by-law only apply in such part or parts of the Council area as the Council may by resolution direct in accordance with Section 246(3)(e) of the Act.

10. Revocation

Council's *By-law No. 4 – Local Government Land*, published in the *Gazette* on 13 January 2011, is revoked on the day on which this by-law comes into operation.

This by-law was duly made and passed at a meeting of the District Council of Peterborough held on the 27 November 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 Peter McGuinness
Chief Executive Officer

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, Paul St Leger Kelly of 45 Pirie Street, Adelaide SA 5000, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law which District Council of Peterborough intends to make, being *Local Government Land By-law 2018*, and do certify that in my opinion:

- (a) the said Council has power to make the by-law by virtue of the following statutory provisions:

Local Government Act 1999, Section 238(1), 238(2),
240, 246(1), 246(2) and 246(3);

Acts Interpretation Act 1915, Section 39;

- (b) the by-law is not in conflict with the *Local Government Act 1999*.

DATED 21 November 2018


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Paul St Leger Kelly, Legal Practitioner