



TATIARA DISTRICT COUNCIL
LOCAL GOVERNMENT LAND BY-LAW 2016
BY-LAW NO. 4 OF 2016

A by-law to regulate access to and use of local government land (other than roads).

PART 1 – PRELIMINARY

1. Title

This by-law may be cited as the *Local Government Land By-law 2016*.

2. Objectives

The objectives of this by-law are to regulate the access to and use of local government land (other than roads):

- 2.1 to prevent and mitigate nuisances;
- 2.2 to prevent damage to local government land;
- 2.3 to protect the convenience, comfort and safety of members of the public;
- 2.4 to enhance the amenity of the Council area; and
- 2.5 for the good rule and government of the area.

3. Commencement

This by-law comes into operation four months after the day on which it is published in the *South Australian Government Gazette*.

4. Application

- 4.1 The Council's *Permits and Penalties By-law 2016* operates in respect of:
 - 4.1.1 permissions required by or given under this by-law; and
 - 4.1.2 penalties for breach of this by-law.
- 4.2 Subject to clauses 4.3, 4.4, 4.5 and 4.6, this by-law applies throughout the Council area.
- 4.3 Clauses 7.3, 7.23.3, 7.23.4, 7.25.2, 8.4 and 8.11.2 of this by-law only apply in such part or parts of the Council area as the Council may, by resolution determine in accordance with section 246(3)(e) of the Act.
- 4.4 Clauses 7.13, 7.36, 8.1.3 and 8.1.4 of this by-law apply throughout the Council area except in such part or parts of the Council area as the Council may by resolution determine in accordance with section 246(3)(e) of the Act

- 4.5 This by-law does 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.
- 4.6 Clauses 7.1, 7.7, 7.14, 7.16 and 7.29 of this by-law do not apply to an electoral matter authorised by a candidate and which is related to:
- 4.6.1 a Commonwealth or State election and 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
 - 4.6.2 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
 - 4.6.3 occurs during the course of and for the purpose of a referendum.

5. Interpretation

In this by-law, unless the contrary intention appears:

- 5.1.1 **Act** means the *Local Government Act 1999*;
- 5.1.2 **animal or animals** includes birds and insects but does not include a dog;
- 5.1.3 **authorised person** has the same meaning as in the Act;
- 5.1.4 **boat** includes a raft, pontoon or personal watercraft or other similar device;
- 5.1.5 **camp** includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 5.1.6 **Council** means the Tatiara District Council;
- 5.1.7 **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;
- 5.1.8 **effective control** means a person exercising effective control of an animal either:
 - (a) by means of a physical restraint; or
 - (b) by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 5.1.9 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;

- 5.1.10 **funeral ceremony** means a memorial service and does not include a burial;
- 5.1.11 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 5.1.12 **local government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 5.1.13 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 5.1.14 **personal watercraft** means a device that
- (a) is propelled by a motor;
 - (b) has a fully enclosed hull;
 - (c) is designed not to retain water if capsized;
 - (d) is designed to be operated by a person who sits astride, stands, or kneels on the device,
- and includes a device commonly referred to as a jet ski;
- 5.1.15 **recreation ground** means local government land commonly used for playing sports or games, or accommodating the spectators at any sport or game, and any area contiguous thereto and used in connection with it;
- 5.1.16 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 5.1.17 **vehicle** has the same meaning as in the *Road Traffic Act 1961*; and
- 5.1.18 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council.
- 5.2 This by-law is to be interpreted as being subject to the Act, other Acts and the general law of South Australia.

PART 2 – ACCESS TO LOCAL GOVERNMENT LAND

6. Access

A person must not without permission, enter or remain on any local government land:

- 6.1 where entry fees or charges are payable, without paying those fees or charges; or
- 6.2 where the land has been enclosed by fences and/or walls and gates that have been closed and locked.

PART 3 – USE OF LOCAL GOVERNMENT LAND

7. Activities requiring permission

A person must not, without the permission of the Council, do any of the following on local government land:

7.1 Advertising

Subject to clause 4.6 display, paint or erect any sign or hoarding for the purpose of commercial advertising or any other purpose other than in accordance with the Council's *Moveable Signs By-law 2016*.

7.2 Aircraft

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

7.3 Alcohol

Consume, carry or be in possession or in charge of any liquor on local government land comprising parks or reserves to which the Council has determined this clause applies.

7.4 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of broadcasting sound, or magnifying sound, to an audience.

7.5 Animals

Subject to clause 8.1:

7.5.1 Cause or allow an animal to stray onto, move over, graze or be left unattended on local government land.

7.5.2 Cause or allow an animal to enter, swim, bathe or remain in any waters located on local government land.

7.5.3 Lead, herd or exercise an animal, 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.

7.6 Aquatic life

Introduce any aquatic life into any waters located on local government land.

7.7 Attachments

Attach anything to a tree, plant, equipment, fence, post, structure or fixture on local government land.

7.8 Bees

Place or allow to remain any hive of bees on local government land.

7.9 Boats

Subject to the provisions of the *Harbors and Navigation Act 1993*:

7.9.1 launch or retrieve a motor propelled boat to or from any waters on local government land;

7.9.2 propel, float or otherwise use a motor propelled boat on or in any waters;

7.9.3 hire out a boat or otherwise use a boat for commercial purposes; or

7.9.4 moor a boat on any waters or to a pontoon attached to local government land.

7.10 Bridge jumping

Jump or dive from a bridge on local government land.

7.11 Buildings

Use a building, or structure on local government land for a purpose other than its intended purpose.

7.12 Burials and memorials

7.12.1 Bury, inter or spread:

- (a) the ashes of any human; or
- (b) animal remains.

7.12.2 Erect any memorial.

7.13 Camping and tents

7.13.1 Erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation.

7.13.2 Camp or sleep overnight except:

- (a) in a caravan park the proprietor of which has been given permission to operate the caravan park on that land; or
- (b) in an area that the Council has, by resolution, designated for camping and in accordance with any time limits and other conditions determined by resolution of the Council.

7.14 Canvassing

Subject to clause 4.6, convey any advertising, religious or other message to any bystander, passer-by or other person.

7.15 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.

7.16 Distribution

Subject to clause 4.6, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person.

7.17 Donations

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

7.18 Entertainment and busking

7.18.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.

7.18.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

7.19 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.

7.20 Fires

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

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

7.20.2 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.

7.21 Fireworks

Ignite or discharge any fireworks.

7.22 Flora and Fauna

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

7.22.1 damage, pick, disturb, interfere with or remove any plant or flower;

7.22.2 cause or allow an animal to stand or walk on any flower bed or garden plot;

7.22.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

7.22.4 take, interfere with, tease, harm or disturb any animal, bird or aquatic creature or the eggs or young of any animal, bird or aquatic creature;

7.22.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

- 7.22.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 7.22.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or aquatic creature; or
- 7.22.8 burn any timber or dead wood.

7.23 Games

- 7.23.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play.
- 7.23.2 Play or practice any game which involves kicking, hitting or throwing a ball or other object on local government land which may detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 7.23.3 Play or practice the game of golf on local government land to which the Council has resolved this clause applies.
- 7.23.4 Engage or participate in or conduct any organised group fitness activity or training on local government land to which the Council has determined this clause applies.

7.24 Litter

Subject to the *Local Nuisance and Litter Control Act 2016* and clause 8.15:

- 7.24.1 Throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose.
- 7.24.2 Deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.

7.25 Model aircraft, boats and cars

Subject to the *Civil Aviation Safety Regulations 1998*:

- 7.25.1 fly or operate a model aircraft, boat or model or remote control vehicle 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
- 7.25.2 fly or operate a model aircraft, boat or model or remote control vehicle on any local government land to which the Council has resolved this clause applies.

7.26 Overhanging articles

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.

7.27 Playing area

Use or occupy a recreation ground:

- 7.27.1 in such a manner as to damage or be likely to damage the surface of the recreation ground or infrastructure (above and under ground level);
- 7.27.2 in a manner contrary to the purpose for which the recreation Ground was intended to be used or occupied; or
- 7.27.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the recreation ground.

7.28 Pontoons

Install or maintain a pontoon or jetty in any waters.

7.29 Posting of bills

Post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on local government land or in a public place.

7.30 Preaching

Preach, harangue or solicit for religious purposes.

7.31 Ropes

Place a buoy, cable, chain, hawser, rope or net in or across any waters.

7.32 Swimming

Subject to the provisions of the *Harbours and Navigation Act 1993*, swim in, bathe or enter any waters except:

- 7.32.1 in an area which the Council has determined may be used for such purposes; and
- 7.32.2 in accordance with any conditions that the Council may have determined by resolution apply to such use.

7.33 Trading

Sell, buy, offer or display anything for sale.

7.34 Vehicles

- 7.34.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.
- 7.34.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.

- 7.34.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.

7.35 Wedding, functions and special events

- 7.35.1 Hold, conduct or participate in a marriage ceremony, funeral or special event.
- 7.35.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event.
- 7.35.3 Hold or conduct any filming for a commercial purpose.

7.36 Wheeled Recreational vehicles

Subject to the *Road Traffic Act 1961*, ride on a skateboard, use roller skates or blades or similar devices on local government land other than in an area to which the Council has determined by resolution this paragraph does not apply.

8. Prohibited activities

No person shall on local government land:

8.1 Animals

- 8.1.1 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.
- 8.1.2 Cause or allow an animal to damage a flowerbed, garden plot, tree, lawn or like thing or place.
- 8.1.3 Lead, herd, drive, ride or exercise any horse, cattle, camel or sheep or permit any horse, cattle, camel or sheep to be led, herded, driven, ridden or exercised on any land other than an area to which the Council has determined this clause does not apply.
- 8.1.4 Allow any horse, cattle, camel or sheep to be let loose or left unattended on any land other than an area to which the Council has determined this clause does not apply.

8.2 Annoyance

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

- 8.2.1 using that land; or
- 8.2.2 occupying nearby premises,
- by making a noise or creating a disturbance.

8.3 Equipment

Subject to clause 7.15, 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.

8.4 Fishing

Fish in any waters to which the Council has determined this clause applies.

8.5 Glass

Willfully break any glass, china or other brittle material.

8.6 Interference with land

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

- 8.6.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 8.6.2 erecting or installing a structure in, on, across, under or over the land;
- 8.6.3 changing or interfering with the construction, arrangement or materials of the land;
- 8.6.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 8.6.5 otherwise use the land in a manner contrary to the purpose for which the land is intended to be used.

8.7 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.

8.8 Nuisance

Behave in such a manner as to cause discomfort, inconvenience, annoyance or offence to any other person.

8.9 Playing games

Play or practice a game or sport:

- 8.9.1 which is likely to cause damage to the land or anything on it;
- 8.9.2 which endangers the safety or interferes with the comfort of any person; or
- 8.9.3 in any area where a sign indicates that the game or sport is prohibited.

8.10 Rubbish and rubbish dumps

- 8.10.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on local government land.
- 8.10.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a Council rubbish bin on local government land.

8.11 Smoking

Subject to the *Tobacco Products Regulation Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product:

8.11.1 in any building; or

8.11.2 on any land to which the Council has determined this clause applies.

8.12 Solicitation

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

8.13 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.

8.14 Toilets

In any public convenience on local government land:

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

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

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

8.14.4 enter a toilet that is set aside for use of the opposite sex except:

- (a) where a child under the age of eight years is accompanied by an adult parent or guardian of that sex;
- (b) to provide assistance to a disabled person; or
- (c) in the case of a genuine emergency.

8.15 Waste

Subject to the *Local Nuisance and Litter Control Act 2016*:

8.15.1 Deposit or leave on local government land:

- (a) anything obnoxious or offensive;
- (b) any offal, dead animal, dung or filth; or
- (c) any mineral, mineral waste, industrial waste or bi-products.

8.15.2 Foul or pollute any waters.

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

PART 4 – ENFORCEMENT**9. Recovery of expenses**

If a person breaches this by-law and fails to comply with an order of an authorised person made pursuant to section 262(1) of the Act, the Council may recover expenses incurred in carrying out the order under section 262(3) of the Act from the person who failed to comply with the order as a debt by an action in a court of competent jurisdiction pursuant to section 144(1) of the Act.

10. 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.

11. Liability of vehicle owners

- 11.1 For the purposes of this clause 11, **owner** in relation to a motor vehicle has the same meaning as contained in section 4 of the Act.
- 11.2 The owner and the driver of a motor vehicle which is driven, propelled, used or worked on in contravention of this by-law are each guilty of an offence and liable to the penalty prescribed for the offence.

This by-law was duly made and passed at a meeting of the Council held on 13 September 2016 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



Robert J Harkness
Chief Executive Officer