

CERTIFICATE OF VALIDITY

SECTION 249 (4) OF THE LOCAL GOVERNMENT ACT 1999

I, TIMOTHY DAVID GRIFFIN of Norman Waterhouse lawyers, level 15, 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 the District Council of Ceduna intends to make, 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)(b), 246(3)(e);

Acts Interpretation Act, 1915, Section 39;

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

DATED the 23rd day of October 2006

.....
Timothy David Griffin, Legal Practitioner

DISTRICT COUNCIL OF CEDUNA

By-law made under the Local Government Act 1999

By-Law No. 3 – Local Government Land

For the management and regulation of the use of and access to local government land vested in or under the control of council, including the prohibition and regulation of particular activities on local government land.

1. Definition

In this by-law:

- 1.1 'local government land' means land owned by the Council or under the Council's care, control and management;
- 1.2 'foreshore' means the area between the low water mark on the seashore and the nearest boundary of:
- 1.2.1 a road;
 - 1.2.2 a section;
 - 1.2.3 a public reserve; or
 - 1.2.4 land comprised in a land grant, Crown Land or Crown Licence
- 1.3 'low water mark' means the lowest meteorological tide;
- 1.4 'liquor' has the same meaning as defined in the Liquor Licensing Act 1997;

- 1.5 'sand dune' and 'coastal slope or cliff' mean the sand dunes, coastal slopes, cliffs and other geomorphological coastal forms under the care, control, and management of the Council;
- 1.6 '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;
- 1.7 'authorised person' means a person appointed an authorised person pursuant to Section 260 of the Local Government Act 1999;
- 1.8 'permission' means the permission of the Council given in writing;
- 1.9 'public place' means a place (including a place on private land) to which the public has access (except a street or road) but does not include any part of a community parcel divided by a plan of community division under the Community Titles Act 1996;
- 1.10 'park' means community land reserved or delineated as a park or designated by the Council as a park;
- 1.11 'reserve' means community land reserved or dedicated as a reserve or designated by the Council as a reserve.

2. **Activities requiring permission**

No person shall without permission on any local government land:

2.1 **Horses, cattle etc**

lead or drive any horse, cattle, sheep and other like animal except where the Council has set aside a track or other area for use by or in connection with the animal of that kind;

2.2 **Improper use of Council property**

improperly remove, improperly interfere with or use or wilfully damage any chattel or thing which is the property of the Council;

2.3 **Organised or dangerous sports**

2.3.1 promote, organise or participate in any organised athletic sport;

2.3.2 on any land to which this paragraph applies, as determined in accordance with paragraph 10 of this by-law, play or practise any game which involves kicking, hitting or throwing a ball or other object which by the use thereof may cause, or is likely to cause, injury or discomfort to any person being on or in the vicinity of that land or detract from, or is likely to detract from, a person's lawful use and enjoyment of that land;

2.3.3 fly any model aircraft or operate any power model boat from or on any local government land;

2.4 **Removal of soil, fruit, flora and fauna**

2.3.1 damage, pick, interfere with, carry away or remove any mineral or vegetable matter that is part of the land (unless the land is a reserve and the taking of that item is consistent with the purpose for which that land has been reserved);

2.3.2 tease, interfere with or cause harm to any animal, bird or marine creature, or any burrow, nest or habitat of such animal;

2.5 Attaching objects to trees

attach, hang or fix any rug, blanket, sheet, rope or other material to any tree, shrub, plant, guard, tree stake, notice board, seat, fence, post, wall or other item or structure the property of the Council;

2.6 Overhanging articles

suspend or hang any article or thing from any building, veranda, pergola, post or other structure where it might present a nuisance or danger to any person using local government land;

2.7 Tents and structures

erect or construct any tent, booth, marquee, building or other structure, unless, in the case of a tent, the land is a camping reserve and the tent is for the purpose of camping overnight;

2.8 Camping

camp or stay overnight, provided that this sub-paragraph does not apply to camping reserves;

2.9 Lighting fires

light or maintain a fire except:

2.9.1 in a place set aside by the Council for that purpose; or

2.9.2 in a portable gas barbeque, as long as the barbeque is used in an area that is clear of flammable material; and

2.9.3 in accordance with the provisions of the Fire and Emergency Services Act 2005;

2.10 Use of rubbish bins

2.10.1 place any rubbish in a rubbish bin where a sign indicates that rubbish of a certain kind only is permitted to be placed in that bin; or

2.10.2 place any rubbish in a rubbish bin otherwise than in accordance with a sign which gives directions in relation to the placement of rubbish in that bin;

2.10.3 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;

2.11 No Liquor

consume, carry, possess or be in charge of any liquor on land that constitutes a park or reserve to which this sub-paragraph applies as determined in accordance with paragraph 10 of this by-law;

2.12 Levying charges

levy or collect a fee or charge for admission to any part of local government land;

2.13 Trading

2.13.1 carry on the business of selling, offering or exposing for sale any goods, merchandise, commodity, article or thing; or

2.13.2 set up a van or other vehicle, stall or other structure, tray, carpet or device for the purpose of buying or selling any goods, merchandise, commodity, article or thing;

2.14 Entertainers

sing, busk or play any recording or musical instrument for the purposes of, or so as to appear to be for the purpose of, entertaining other persons, whether or not receiving money;

2.15 Donations

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

2.16 Preaching

preach or harangue;

2.17 Amplification

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

2.18 Distributing

give out or distribute to any bystander or passer-by any handbill, book, notice, or other printed matter, provided that this restriction shall not apply to any handbill or leaflet given out or distributed by or with the authority of a candidate during the course of a Federal, State or Local Government Election or to a handbill or leaflet given out or distributed during the course and for the purpose of a Referendum;

2.19 Handbills on cars

place or put on any vehicle any handbill, advertisement, notice or other printed matter except for any electoral matter posted on a vehicle with the authority of a candidate during the course of a Federal, State or Local Government election or Referendum;

2.20 Canvassing

convey any advertising, religious or other message to any bystander, passer-by or person provided that this restriction shall not apply to any handbill or leaflet given out or distributed by or with the authority of a candidate during the course of a Federal, State or Local Government election or to a handbill or leaflet given out or distributed during the course and for the purpose of a Referendum;

2.21 Advertising

display any sign for the purpose of commercial advertising, other than a moveable sign which is displayed in accordance with council's moveable sign by-law;

2.22 Weddings

conduct or participate in a marriage ceremony;

2.23 Encroachment

erect or place any fencing, posts or other structures or any other items or substance such as to encroach onto the land;

2.24 Cemeteries

comprising a cemetery:

2.24.1 bury or inter any human or animal remains;

2.24.2 erect any memorial;

2.25 Smoking

to which this sub-paragraph applies *as determined in accordance with paragraph 10 of this by-law*, smoke tobacco or any other substance in any building or part of any building;

2.26 Toilets

in any public convenience:

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

2.26.2 smoke tobacco or any other substance;

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

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

2.26.5 enter any toilet that is set aside for use of the opposite sex except where:

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

(b) to provide assistance to a disabled person;

2.27 Swimming and aquatic activity

enter, swim or engage in any aquatic activity in or on any pond, lake or other similar body of water provided that this clause shall not apply to:

2.27.1 a body of water that the Council has set aside for that purpose;

2.27.2 in an area where a nearby sign states that such activity is allowed and, in accordance with any conditions stated in the sign; or

2.27.3 the sea;

2.28 Mooring

2.28.1 moor any boat, house boat, raft or other water craft on or to local government land or in any area that the Council has not set aside for the mooring of any boat, raft or other water craft; or

2.28.2 obstruct any boat, raft or other water craft or any mooring place, or any access to any boat, raft, object (either floating or sunk);

3. Working on vehicles

No person shall on local government land perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle without the written permission of the Council, except for running repairs in the case of breakdown.

4. Animals on council land

No person shall on any council land:

4.1 Animals causing pollution or damage

being the person responsible for an animal, fail to ensure that the animal does not:

4.1.1 pollute any lake, dam, channel or other body of water; or

4.1.2 cause any damage to Council property;

4.2 Depasturing

cause, suffer or allow any animal under his or her control to depasture;

4.3 Horse free areas

to which this sub-paragraph applies, as determined in accordance with paragraph 10 of this by-law; cause, suffer or permit any horse under that person's control, charge or authority to be, or remain, in that place.

5. Removal of animals

5.1 If any animal is found on local government land in breach of this by-law:

5.1.1 any person in charge of the animal shall remove it on the request of an authorised person; and

5.1.2 an authorised person may remove the animal if a person fails to comply with the request, or if no person is in charge of the animal.

5.2 Any authorised person may direct any person found committing a breach of these by-laws to cease the action or to take specified action to remedy the breach.

6. Foreshore and boat ramps

No person shall on any local government land:

6.1 launch or retrieve a boat from a boat ramp other than from a boat ramp constructed for that purpose and without permission from the Council (if permission is necessary as indicated by a sign or signs);

6.2 launch or retrieve a boat from a foreshore area where there is a boat ramp constructed for that purpose other than by that boat ramp;

6.3 jump, dive, or swim from any boat ramp or similar type of infrastructure;

6.4 hire out a boat, or otherwise use it for commercial purposes, from any part of the foreshore without the permission of the Council.

7. Camping reserves

No person shall on any local government land:

7.1 camp on a camping reserve for a period in excess of 42 consecutive days;

7.2 having camped on a camping reserve for 42 consecutive days, camp on any camping reserve until a further period of 28 consecutive days has expired.

8. Rubbish dumps

No person shall interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on local government land without the permission of Council or its appointed contractor or agent;

9. Restricted lands

No person shall enter or remain on any part of local government land:

- 9.1 at any time during which the Council has by resolution declared that part to be closed to the public, and which is indicated by a sign to that effect; or
- 9.2 where the land is enclosed with gates, fences and/or walls, at any time when the gates have been closed and locked; or
- 9.3 where admission charges are payable, to enter without paying those charges, or, otherwise without permission; or
- 9.4 where that person has been requested by an officer, employee or agent of the Council or a Council subsidiary to leave that land.

10. Removal of unauthorised objects

If a person has placed or erected a substance, object or structure on local government land without lawful authority or without permission, or has apparently abandoned the same thereon, the Council may:

- 9.1 remove and dispose of the substance, object or structure; and
- 9.2 recover the cost of so doing from that person.

11. Marinas

No person shall

- 11.1 carry out offensive activities on local government land within a marina area that apply to waterfront allotments and waterway land, including land covered by water;
- 11.2 allow to be moored on any waterfront allotment any vessel that is not a recreational vessel;
- 11.3 reside on a vessel moored at a jetty on any waterfront allotment without the consent of Council or the marina manager;
- 11.4 create any noise or unnecessary disturbance so as to annoy other residents who are entitled to consideration and in particular shall not:
 - 11.4.1 operate engines unnecessarily whilst stationary;
 - 11.4.2 allow rigging or spars to cause a nuisance or impair the amenity of the area;
- 11.5 Cause suffer or permit boat maintenance and in particular:
 - 11.5.1 not effect any major repairs to a vessel moored on waterway land or situated on a waterfront allotment;
 - 11.5.2 shall in effecting any minor repairs to a vessel moored on waterway land or on a waterfront allotment ensure that all work is done within the confines of the vessel itself and is only carried out between 7am to 8pm with no maintenance work occurring on Sundays;
 - 11.5.3 the carrying out of any spray painting;
 - 11.5.4 chipping paint and rust on steel or aluminium vessels or use noisy equipment;

- 11.5.5 use angle grinders, sand blasters or other electrical power tools and/or welding equipment on vessels situated on the land except for minor maintenance work with the approval of Council or the marina manager.

12. Posting of bills etc

No person shall without the Council's permission post any bills, advertisements or other papers or items on a building or structure on local government land or other public place except for any electoral matter posted on a building or structure with the authority of a candidate during the course of a Federal, State or Local Government election or Referendum.

13. Prohibited activities

No person shall on local government land:

13.1 Use of equipment

use any item of equipment and/or facilities or other Council property:

- 13.1.1 other than in the manner and for the purpose for which it was designed or set aside; and
- 13.1.2 where any nearby sign states the conditions of use, except in accordance with such conditions.

13.2 Annoyances

- 13.2.1 annoy, commit any nuisance or unreasonably interfere with any other person's use of local government land by making a noise or by creating a disturbance that has not been authorised by the Council;
- 13.2.2 spit, urinate or defecate other than in toilets provided on any local government land;

13.3 Interference with permitted use

interrupt or disrupt or interfere with any person's use of parks or reserves for which permission has been granted;

13.4 Obstruction

obstruct:

- 13.4.1 any path in or on any local government land;
- 13.4.2 any door, entrance, stairway or aisle in any building in or on any local government land; or
- 13.4.3 any gate or entrance to, in or on local government land;

13.5 Interference with land

- 13.5.1 interfere with the land such as levelling or flattening sand hills, planting grass, lawn or other vegetation, paving the land, or otherwise use the land in a manner contrary to the purpose for which the land was designed to be used; or
- 13.5.2 destroy, damage or deface or cause or permit to be destroyed, damaged or defaced any article, structure, building or thing fixed to local government land;

13.6 Defacing land

deface, paint, write, make marks on or fix bills or advertisements to any tree, rock, gate, fence, building, sign or other property except for any electoral matter posted on a building or structure with the authority of a candidate during the course of a Federal, State or Local Government election or Referendum;

13.7 Missiles

throw, roll or discharge any stone, substance or missile to the danger of any person or animal therein;

13.8 Glass

wilfully break any glass, china or other brittle material;

13.9 Sand dunes

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

13.9.2 destabilise sand on a sand dune, coastal slope or cliff so as to cause it to unnecessarily mass waste down slope;

13.9.3 destroy, remove or cause interference to live or dead vegetation within a sand dune, coastal slope or coastal cliff;

13.9.4 light or cause to be lit or permit to remain alight any fire within a sand dune or on a coastal slope or coastal cliff;

13.9.5 introduce non-indigenous flora and fauna or dump any material in the sand dunes or down coastal slopes or coastal cliffs;

13.9.6 carry out other activity which may threaten the integrity of sand dunes, coastal slopes and cliffs in the area.

14. Removal of encroachment or interference

Any person who encroaches onto or interferes with local government land contrary to this by-law must at the request in writing of an authorised person, cease the encroachment or interference and remove the source of the encroachment or interference, and reinstate the land to the same standard as the state of the land prior to the encroachment or interference;

15. Council may do work

If a person fails to remove an encroachment or interference on local government land in accordance with a request of an authorised officer pursuant to Clause 13 of this by-law, then the Council may:

15.1 undertake the work itself; and

15.2 recover the cost of doing so from that person.

16. Directions

Any person on local government land must comply with any reasonable direction or request from an authorised officer of the Council relating to:

16.1 that person's use of the land;

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

16.3 that person's safety on the land; or

16.4 the safety and enjoyment of the land by other persons.

17. **Exemptions**

The restrictions in this by-law do not apply to any Police Officer, 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, or to the drivers of Emergency Vehicles (as defined in the Road Traffic (Road Rules – Ancillary & Miscellaneous Provisions) Regulations 1999 and the Australian Road Rules) while driving that vehicle in relation to an emergency.

18. **Application**

Paragraphs 2.3.2, 2.11, 2.25 and 4.3 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct in accordance with Section 246(3)(e) of the Local Government Act 1999.

The foregoing by-law was duly made and passed at a meeting of the District Council of Ceduna held on the 24th day of November 2006 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 Anthony John Irvine
Chief Executive Officer

