

**CITY OF WHYALLA**  
**LOCAL GOVERNMENT LAND BY-LAW 202~~1~~<sup>0</sup>**  
**By-law No. 2 of 202~~1~~<sup>0</sup>**

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

**PART 1 – PRELIMINARY**

**1. Title**

This By-law may be cited as the *Local Government Land By-law 2021* and is By-law No. 2 of the City of Whyalla.

**2. Authorising law**

This By-law is made under sections 238 and 246 of the *Local Government Act 1999* and section 18A of the *Harbours and Navigation Act 1993*.

**3. Purpose**

The objectives of this By-law are to regulate the access to and use of Local Government land (other than roads), and certain public places:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to prevent damage to Local Government land;
- 3.3 to protect the convenience, comfort and safety of members of the public;
- 3.4 to enhance the amenity of the Council's area; and
- 3.5 for the good rule and government of the Council's area.

**4. Commencement, revocation and expiry**

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation<sup>1</sup>:

By-law No. 2 – Local Government Land 2014<sup>3,2</sup>

- 4.2 This By-law will expire on 1 January 2028.<sup>3</sup>

**Note-**

- 1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: (section 249(5) of the Act).
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

## 5. Application

- 5.1 This By-law operates subject to the Council's Permits and Penalties By-law ~~2021~~<sup>2014</sup>.
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council's area.
- 5.3 Subclauses 9.2, 9.4.4, 9.20.1, 9.20.3, 9.20.4, 9.23.2, 9.37, 10.7 and 10.12 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.
- 5.4 Subclauses 9.7.1, 9.7.2, 9.7.4, 9.7.5 and 9.33.1 this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

## 6. Interpretation

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

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal** includes birds and insects but does not include a dog;
- 6.3 **aquatic life** means any animal or plant living or growing in water including, but not limited to, yabbies, molluscs, fish, insects, insect pupa or larvae and water plants
- 6.4 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.5 **boat** includes a raft, pontoon, houseboat, personal watercraft or other similar device;
- 6.3 **camp** includes setting up a camp, or causing a tent, a 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;
- 6.46.6 **Council** means the City of Whyalla;
- 6.56.7 **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;
- 6.66.8 **effective control** means a person exercising effective control of an animal either:
- 6.6.16.8.1 by means of a physical restraint; or
- 6.6.26.8.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.76.9 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.86.10 **Foreshore** means the area between the low water mark on the seashore and the nearest boundary of:
- 6.8.16.10.1 a road;

~~6.8.26.10.2~~ a section;

~~6.8.36.10.3~~ a public reserve; or

~~6.10.4~~ land comprised in a land grant, Crown Land or Crown License.

~~6.96.11~~ **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;

~~6.106.12~~ **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;

~~6.116.13~~ **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);

~~6.126.14~~ **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;

~~6.136.15~~ **open container** means a container that:

~~6.13.16.15.1~~ after the contents of the container have been sealed at the time of manufacture:

~~6.13.1.16.15.1.1~~ being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);

~~6.13.1.26.15.1.2~~ being a can, it has been opened or punctured;

~~6.13.1.36.15.1.3~~ being a cask, it has had its tap placed in a position to allow it to be used;

~~6.13.1.46.15.1.4~~ being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or

~~6.13.26.15.2~~ is a flask, glass, mug or other container able to contain liquid.

~~6.146.16~~ **personal watercraft** has the same meaning as in the Harbors and Navigation Act 1993, which is a device that –

~~6.14.16.16.1~~ is propelled by a motor; and

~~6.14.26.16.2~~ has a fully enclosed hull; and

~~6.14.36.16.3~~ is designed not to retain water if capsized; and

~~6.14.46.16.4~~ 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;

~~6.156.17~~ **tobacco product** has the same meaning as in the *Tobacco and E-Cigarette Products Regulation Act 1997*;

~~6.18~~ **road** has the same meaning as in the Act;

~~6-166.19~~ **vehicle** has the same meaning as in the *Road Traffic Act 1961*; ~~and~~

~~6-176.20~~ **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council; ~~and~~

~~6.21~~ **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

**Note-**

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in a By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

## **PART 2 – ACCESS TO LOCAL GOVERNMENT LAND**

### **7. Access**

**Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council ~~should~~**must** erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

The Council may:

- 7.1 close, or regulate or restrict access to, any part of Local Government land to the public for specified times and days; and
- 7.2 fix charges or fees payable for entry onto any part of Local Government land.

### **8. Closed lands**

A person must not without permission, enter or remain on any Local Government land:

- 8.1 which has been closed, or in respect of which access by the public is regulated or restricted in accordance with ~~subclause~~ 7.1;
- 8.2 where entry fees or charges are payable, without paying those fees or charges; or
- 8.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked ~~or, where a sign is displayed at the entrance of the land notifying that the land has been closed.~~

## **PART 3 – USE OF LOCAL GOVERNMENT LAND**

### **9. Activities requiring permission**

**Note-**

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council ~~should~~ erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not without the permission of the Council, do any of the following on Local Government land ~~or~~ on ~~the foreshore~~.

## 9.1 Advertising

Display, paint or erect ~~or cause to be displayed, painted or erected, on Local Government Land or a structure, building or fixture on Local Government Land~~ any sign, ~~advertising~~ or hoarding for the purpose of commercial advertising or any other purpose.

## 9.2 Alcohol

Consume, carry or be in possession or in charge of any liquor ~~in an open container~~ on Local Government land comprising parks or reserves to which the Council has determined this paragraph applies.

## 9.3 Amplification

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

## 9.4 Animals

9.4.1 Cause or allow an animal ~~under his or her control~~ to stray onto, move over, graze or be left unattended ~~on Local Government land.~~

9.4.2 ~~Subject to sub-clause 9.4.4, c~~ Cause or allow an animal ~~under his or her control~~ to enter, swim, bathe or remain in any waters located ~~thereupon on Local Government land.~~

~~9.4.3~~ Lead, herd or exercise ~~any horse, cattle, sheep or other like~~ 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.

~~9.4.3~~ ~~Take any horse or camel onto or allow it to remain on the foreshore or in any waters except between the hours of 12am and 9am daily and then, only on such parts of the foreshore as the Council may by resolution~~ determine this sub-clause applies.

9.4.4

## 9.5 Attachments

~~Subject to subclause 9.1, attach or cause to be attached, hang or fix~~ Attach anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government land.

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## 9.6 Bees

Place a hive of bees ~~thereupon on such land~~, or allow it to remain thereon.

## 9.7 Boats & Mooring

Subject to the Council's *Boat Harbors and Facilities By-law 2021*, the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

9.7.1 launch or retrieve a boat to or from any waters except:

9.7.1.1 in an area to which the Council has resolved this subclause applies; or

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

9.7.2 use, propel, float or operate, or cause to be used, propelled, floated or operated, a boat in any waters except:

9.7.2.1 in an area to which the Council has resolved this subclause applies and in accordance with any conditions that the Council may have determined by resolution apply to that use; or

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

9.7.29.7.3 launch or retrieve a boat ~~from or to any Local Government land without using other than from~~ a boat ramp constructed and set aside by the Council for that purpose and in accordance with the *Boat Harbors and Facilities By-law 2021*;

~~4.1.1~~ propel, float or otherwise use a boat on or in any waters;

9.7.39.7.4 hire out a boat or otherwise use a boat for commercial purposes except in an area to which the Council has resolved this subclause applies; or

9.7.5 Moor any boat on ~~any waters~~ or to ~~a pontoon attached to~~ Local Government land except:

9.7.5.1 on or to any Local Government land to which the Council has determined this subclause applies; or

9.7.5.2 on or to any Local Government land the Council has designated for mooring as indicated by signs on or in the vicinity and in accordance with any conditions that may be contained on the sign;

9.7.49.7.6 obstruct any boat or mooring place or access to any mooring place.

## 9.8 Buildings

Use a building, or structure on Local Government land for a purpose other than its intended purpose.

## 9.9 Burials and Memorials

9.9.1 Bury, inter or spread the ashes of any human or animal remains.

9.9.2 Erect any memorial.

## 9.10 Canvassing

~~Subject to subclause 14.2, convey~~Convey any advertising, religious or other message to any bystander, passer-by or other.

## 9.11 Defacing Property

~~Deface, remove, paint, spray, write upon, cut names, letters or make marks on any tree, rock, gate, fence, object, monument, building, sign, bridge or property of the Council.~~

## 9.12 Depositing Soil

~~Deposit any soil, clay, gravel, sand, timber, stones, pebbles or other matter on the land.~~

## 9.12 Distribution

~~Subject to subclause 14.2 and the Local Nuisance and Litter Control Act 2016, place~~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.

## 9.13 Donations

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

## 9.14 Encroachment

~~Erect or cause to be erected or placed any fencing, poste or other structures or any other items so as to encroach onto the land.~~

## 9.15 Entertainment and Busking

9.15.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of ~~either~~entertaining others ~~whether~~ or ~~not~~ receiving money.

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

## 9.16 Equipment

Use an item of equipment, facilities or property belonging to the Council ~~other than in accordance with any conditions~~if that person is of use contained on ~~or over the age indicated by a sign or notice in the vicinity of~~as the age limit for using such equipment, facility or property.

### 9.17 Fires

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

- 9.17.1 in a place provided by the Council for that purpose; or
- 9.17.2 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 (4) metres.

### 9.18 Fireworks

Ignite, explode or usedischARGE any fireworks.

### 9.19 Flora and Fauna

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

- 9.19.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon;

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

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

4.1.2 — run, stand or walk on any flowerbed or garden plot thereon;

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

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

9.19.59.19.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

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

9.19.79.19.8 collect or take any dead wood or timber or burn any timber or dead wood; —

with the exception that subclauses 9.23.4 and 9.23.7 do not apply to lawful fishing activities.

### 9.20 Games & Sport

- 9.20.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play on any Local Government land to which the Council has determined this subclause applies.



- 9.20.2 Play, ~~practise~~ or ~~participate in practice~~ any game which involves ~~the use of kicking, hitting or throwing a ball, missile or other object on Local Government land~~ which ~~by the use thereof~~ may cause or be likely to cause injury or discomfort to ~~any~~ person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 9.20.3 ~~Engage~~Play or ~~participate in or conduct practice~~ any organised group fitness activity or training on Local Government land to which the Council has resolved this subclause applies.
- ~~9.20.4~~ Play or ~~practise practice~~ any game or sport on Local Government land to which the Council has resolved this subclause applies except other than at the times determined by the Council and time indicated on any Council sign on or in the vicinity of the land (if any).
- ~~9.20.49.20.5~~ Participate in any game, recreational activity or event where the Council has caused a notice to be erected indicating the game, recreational activity or event ~~that is prohibited applicable to the area.~~

## 9.21 Golf

Except on a properly constructed golf course or practice fairway, play or practice golf.

### ~~1.2 Litter & Rubbish~~

- ~~1.2.1 Throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose.~~
- ~~1.2.2 Deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.~~
- ~~1.2.3 Remove or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a Council bin on Local Government Land.~~

### ~~1.3 Marine Life~~

~~Introduce any marine life to any waters located on Local Government land.~~

## 9.22 Interference with Land

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

- 9.22.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.22.2 erecting or installing a structure in, on, across, under or over the land;
- 9.22.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.22.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or

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9.22.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

#### 9-229.23 **Model Aircraft, Boats and Cars**

9.23.1 Fly or operate a model or drone 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.

9-22-19.23.2 Fly or operate a model or drone aircraft, boat or model or remote control vehicle on any Local Government Land to which the Council has resolved this subclause applies.

#### 9-239.24 **Objects**

Erect, place, use or allow to remain thereon any object including (but not limited to) any planter box, table, chairs, display stand, hoarding crane, cherry picker, elevated platform vehicle, scaffolding, stage, ladder, trestle, appliance or other equipment.

**Commented [A1]:** Is this required to be regulated by Council – it would preclude picnic tables and similar objects being used at reserves without permission. An option may be to limit its application to certain land as resolved by the Council? Note substantial objects or items that would interfere with the use of the land is dealt with at clause 9.22

#### 9-249.25 **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 in the opinion of an authorised person.

#### 9-259.26 **Playing Area**

Use or occupy a playing area:

9-25-19.26.1 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);

9-25-29.26.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

9-25-39.26.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the on or in the vicinity of the playing area.

#### 9-269.27 **Pontoons**

Install or maintain a pontoon or jetty in any waters thereon (excluding coastal waters).

#### 9-279.28 **Preaching**

Preach, harangue or solicit for religious purposes.

#### 9.29 **Removal of Sand**

Remove, clear or destroy any sand, seaweed, soil, rocks, minerals, vegetation or shells.

### 9.289.30 Ropes

Subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*, ~~p~~Place a buoy, cable, chain, hawser, rope or net in or across any waters (excluding coastal waters).

### 9.31 Rubbish Bins

Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on any Local Government Land, or placed on Local Government Land for collection by the Council (or its agent).

### 9.32 Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs

9.32.1 Carry out any activity that may damage or threaten the integrity of dunes, pebble dunes, coastal slopes or cliffs; or

9.32.2 Introduce non-indigenous flora or fauna or dump any material in a sand dune or pebble dune.

~~9.28.19.32.3~~ Destroy, remove or cause interference to any vegetation, whether living or dead, on or within a sand dune, coastal slope or coastal cliff.

### 9.289.33 Swimming

~~9.29.19.33.1~~ Subject to the *Harbors and Navigation Act 1993* and sub- clause 9.31.1.2, swim in, bathe or enter any waters except:

~~9.29.1.19.33.1.1~~ in an area which the Council has determined may be used for such purposes; and

9.33.1.2 in accordance with any conditions that the Council ~~has may have~~ determined by resolution apply to such use (if any) and which are specified on signage on or in the vicinity of the area.

~~9.29.29.33.2~~ Swim or bathe at a time when swimming or bathing in that place has been prohibited by the Council (for the reasons of public safety) as indicated by a sign or signs displayed on the land.

### 9.309.34 Trading

9.34.1 Sell, buy, offer or display anything for sale, hire or lease any goods, merchandise, commodity, article or thing.

~~9.30.19.34.2~~ Carry on or cause to be carried on any business.

~~9.30.29.34.3~~ Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the ~~apparent~~ purpose (as determined by an authorised officer acting reasonably) of buying, selling, offering, displaying for sale or the hiring or leasing of any goods merchandise, commodity, article or thing ~~or thing~~.

#### 9.349.35 **Vehicles**

9.31-19.35.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.

9.31-29.35.2 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.

9.31-39.35.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.

#### 9.329.36 **Weddings, Functions and Special events**

9.32-19.36.1 Hold, conduct or participate in a marriage ceremony, funeral or special event.

9.32-29.36.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event.

9.36.3 Hold or conduct any filming where the filming is for a commercial purpose.

#### 9.37 **Wheeled Recreational Devices**

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

### **10. Prohibited activities**

A person must not do any of the following on Local Government land.

#### **10.1 Ablutionary Facilities**

In any ablutionary facility (being showers, washing and toilet facilities) on Local Government land:

- 10.1.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 10.1.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage or damage to the facility or any drain, pipe or property associated with the facility;
- 10.1.3 use the facility for a purpose for which it was not designed or constructed;
- 10.1.4 deface, or make use of a facility other than for its proper purpose or cause any unsanitary or unclean condition in any ablutionary facility.
- 10.1.5 enter any ablutionary facility that is set aside for use of the opposite sex except:
  - 10.1.5.1 where a child under the age of ~~eight~~ **ten (10)** years is accompanied by an adult parent or guardian of that gender; or

10.1.5.2 to provide assistance to a ~~disabled person~~ person with a disability;  
or

10.1.5.3 in the case of a genuine emergency.

## **10.2 Animals**

**10.2.1** Cause or allow an animal to:

**10.2.1.1** ~~-damage a flowerbed, garden plot, tree, lawn or like thing or place;~~  
or

~~40.1.5.4~~ **10.2.1.2** ~~swim or bathe in any waters to the inconvenience,~~  
~~annoyance or danger of any other person in the vicinity.-~~

**10.2.2** Lead, herd or exercise ~~an animal here~~ e in such manner as to cause a nuisance or endanger the safety of a person.

## **10.3 Annoyances**

**10.3.1** ~~Annoy, 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.~~

~~40.1.6~~ **10.3.2** ~~Spit, urinate or defecate other than in toilet provided thereon.~~

## **10.4 Climbing**

Climb on or over any fixture, fitting, plant, object or building thereon other than in a playground or similar area that the Council has set aside for that purpose.

## **10.3 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.~~

## **Camping**

~~Fail to keep the area on which the person is camped or the surrounds in a clean, tidy and sanitary condition.~~

## **10.5 Dressing Sheds**

~~Use any dressing shed or similar facility thereon other than for the purpose of changing into or from bathing garments, or remain there for longer than is necessary for that purpose.~~

## **10.4 **10.6 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.

#### ~~40.5~~10.7 Fishing

~~10.7.1~~ Fish in any waters to which the Council has determined this subclause applies.

~~40.5-10.7.2~~ Cast a fishing line or keep a fishing line in the water from any foreshore while there are other persons in the waters in the vicinity of the fishing line.

#### ~~40.6~~10.8 Glass

Willfully break any glass, china or other brittle material.

#### ~~1.4~~ Interference with land

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

~~10.6.1~~ altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;

~~10.6.2~~ erecting or installing a structure in, on, across, under or over the land;

~~10.6.3~~ changing or interfering with the construction, arrangement or materials of the land;

~~10.6.4~~ planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or

~~10.6.5~~ otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

#### ~~40.7~~10.9 Interference with Permitted Use

Interrupt, ~~disrupt~~ or unreasonably interfere with any other person's use of Local Government land ~~where the person~~ which is using the land in a manner permitted by the Council or in accordance with any ~~for which~~ permission that has been granted by the Council.

#### ~~40.8~~10.10 Nuisance

Behave in such an unreasonable manner as to cause discomfort, inconvenience, annoyance or offence to any other person including by using profane, indecent or obscene language.

#### ~~40.9~~10.11 Playing games

Play or ~~practise~~ a game:

~~40.9-10.11.1~~ which is likely to cause damage to the land or anything on it; or

~~40.9-210.11.2~~ in any area where a sign indicates that the game is prohibited.

#### ~~40.10~~10.12 Smoking

Subject to the Tobacco and E-Cigarette Products Regulation-Act 1997, smoke, hold or otherwise have control over an ignited tobacco product on any land to which the Council has determined this subclause applies.

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### 10.13 Obstruction

Obstruct or cause to be obstructed:

10.13.1 any path or track;

10.13.2 any door, entrance, stairway or aisle in any building; or

10.13.3 any gate or entrance thereon;

### ~~10.14~~ 10.14 Solicitation

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

### ~~10.15~~ 10.15 Waste & Rubbish

~~10.15.1~~ 10.15.1 Deposit or leave thereon anything obnoxious or offensive;

~~10.15.2~~ 10.15.2 Deposit any rubbish other than in receptacles provided by the Council for that purpose;

10.15.3 Deposit in ~~a receptacle~~ any rubbish bin;

10.15.3.1 ~~any trash emanated~~ emanating from a domestic, or trade or commercial source; or

~~10.15.3.2~~ 10.15.3.2 any rubbish contrary to any information on signs on the bin or in its vicinity.

## PART 4 – ENFORCEMENT

### 11. Directions

11.1 A person on Local Government land of the foreshore must comply with a reasonable direction from an authorised person relating to:

11.1.1 that person's use of ~~the~~ that land;

11.1.2 that person's conduct and behaviour on ~~the~~ that land;

11.1.3 that person's safety on that land; or

~~11.1.4~~ 11.1.4 the safety and enjoyment of other persons on ~~the~~ that land; ~~or~~

~~11.1.5 that person entering or remaining on premises on the land in circumstances where the person has been known to misbehave in those premises.~~

11.2 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.

## 12. Orders

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

### Note-

Section 262(1) of the Act states:

*If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*

- a) *If the conduct is still continuing — to stop the conduct; and*
- b) *whether or not the conduct is still continuing — to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order -and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out.

For example, an authorised person may order a person to

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

## 13. 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 the authorised person reasonable believes that no person is in charge of the ,or apparently in charge of, the animal or object.

## PART 5 – MISCELLANEOUS

### 14. Exemptions

- 14.1 The restrictions in this byBy-law do not apply to any Police Officer~~a police officer~~, emergency worker, Council ~~Officer~~~~officer~~ or Council employee acting in the course and within the scope of that ~~person's~~~~person's~~ normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council ~~Officer~~~~officer~~.
- 14.2 The restrictions in subclauses ~~9.10~~~~4, 9.13, 9.7~~ of this By-law do not apply to electoral matter authorised by a candidate and which is:
- 14.2.1 related to 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
  - 14.2.2 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
  - 14.2.3 related to, and occurs during the course of and for the purpose of a referendum.



**15. Liability of vehicle owners**

15.1 For the purposes of this clause 15, owner in relation to a vehicle has the same meaning as contained in section 4 of the Act.

~~14.3~~15.2 the owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the City of Whyalla held on **INSERT DATE** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....  
**JUSTIN COMMONS**  
Chief Executive Officer