

## CITY OF HOLDFAST BAY

*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 the Council, including the prohibition and regulation of particular activities on local government land.*

#### **1. Definitions**

In this by-law:

- 1.1 'authorised person' has the same meaning as in the Local Government Act 1999;
- 1.2 'electoral matter' has the same meaning as in the Electoral Act 1995;
- 1.3 'liquor' has the same meaning as in the Liquor Licensing Act 1997;
- 1.4 'local government land' means land owned by the Council or under the Council's care, control and management except roads;
- 1.5 'open container' means a container which:
  - 1.5.1 after the contents thereof have been sealed at the time of manufacture and:
    - 1.5.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
    - 1.5.1.2 being a can, has been opened or punctured;
    - 1.5.1.3 being a cask, has had its tap placed in a position to allow it to be used;
    - 1.5.1.4 being any other form of container, has been opened, broken, punctured or manipulated in such a way as to allow access to the contents thereof; or
  - 1.5.2 is a flask, glass, mug or other container used for drinking purposes;
- 1.6 'park' has the same meaning as in the Local Government Act 1999;
- 1.7 'public place' has the same meaning as in the Local Government Act 1999;
- 1.8 'reserve' has the same meaning as in the Local Government Act 1999;
- 1.9 'road' has the same meaning as in the Local Government Act 1999;
- 1.10 'vehicle' has the same meaning as in the Road Traffic Act 1961; and

- 1.11 'waters' means any body of water, including a pond, lake, river, creek or wetland, under the care, control and management of the Council.

## 2. **Activities Requiring Permission**

No person shall without permission on any local government land:

### 2.1 **Advertising**

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

### 2.2 **Amplification**

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

### 2.3 **Animals**

2.3.1 cause or allow any animal to stray onto, move over, graze or be left unattended on any local government land;

2.3.2 cause or allow any animal to enter, swim, bathe or remain in any waters located on local government land to which the Council has resolved this subparagraph shall apply;

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

### 2.4 **Annoyance**

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

2.4.1 using that land; or

2.4.2 occupying nearby premises,

by making a noise or creating a disturbance;

### 2.5 **Aquatic Life**

introduce any aquatic life to any waters located on local government land;

### 2.6 **Athletic and Ball Sports**

2.6.1 promote, organise or take part in any organised athletic sport;

2.6.2 play any organised competition sport, as distinct from organised social play;

2.6.3 play or practise the game of golf on local government land to which the Council has resolved this subparagraph shall apply;

## 2.7 **Attachments to Trees**

attach, hang or fix any rug, blanket, sheet, rope or other material to any tree, shrub, plant, tree guard, notice board, seat, fencepost or other item or structure on local government land except:

- 2.7.1 any electoral matter attached by or with the authority of a candidate and which is related to a Commonwealth or State election and is attached 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
- 2.7.2 any electoral matter attached by or with the authority of a candidate and which is related to an election held under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is attached during the period commencing four (4) 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
- 2.7.3 any matter posted during the course of and for the purposes of a Referendum;

## 2.8 **Camping and Tents**

- 2.8.1 camp or stay overnight; or
- 2.8.2 erect any tent, booth, marquee or other structure for the purpose of habitation for a period of 24 hours or more;

## 2.9 **Canvassing**

convey any advertising, religious or other message to any bystander, passer-by or person other than any message or material of a government or political nature, provided that such message or material would not jeopardise public order because it is offensive, insulting or might otherwise encourage a breach of the peace;

## 2.10 **Cemeteries**

comprising a cemetery:

- 2.10.1 bury or inter any human or animal remains;
- 2.10.2 erect any memorial;
- 2.10.3 drive or propel any vehicle except on paths or road constructed and set aside for that purpose and in compliance with any signs that have been erected;

## 2.11 **Closed Lands**

enter or remain on any part of local government land:

- 2.11.1 at any time during which the Council has declared that part to be closed to the public and which closure is indicated by a sign on or adjacent to that land to that effect;

2.11.2 where land is enclosed with fences and/or walls and gates, at any time when the gates have been closed and locked; or

2.11.3 where admission charges are payable to enter without paying those charges;

**2.12 Dispose of Dead Animals**

dispose of any dead animals or parts thereof in any Council rubbish bin located thereon;

**2.13 Defacing Property**

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

**2.14 Distributing**

place on any vehicle (without the consent of the owner of the vehicle), or give out or distribute any handbill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person except any handbill, book, notice, leaflet or other printed matter other than matter of a government or political nature, provided that such matter would not jeopardise public order because it is offensive, insulting or might otherwise encourage a breach of the peace;

**2.15 Donations**

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

**2.16 Encroachment**

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

**2.17 Entertaining**

2.17.1 sing, busk or play a recording or musical instrument for the purpose of, or so as to appear to be for the purpose of, entertaining others whether or not receiving money;

2.17.2 conduct or hold any concert, festival, show, public gathering, circus, meeting, performance or other similar activity;

**2.18 Fires**

subject to the Fire and Emergency Services Act 2005, light any fires except:

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

2.18.2 in a portable barbecue, as long as the barbecue is used in an area that is clear of flammable material for a distance of at least four (4) metres;

**2.19 Fireworks**

ignite, explode or use any fireworks or rockets;

**2.20 Flora and Fauna**

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

- 2.20.1 damage, pick, disturb, interfere with or remove any plant or flower thereon;
- 2.20.2 lead or drive any animal, or stand or walk, on any flower bed or garden plot;
- 2.20.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 2.20.4 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;
- 2.20.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 2.20.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 2.20.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or marine creature;
- 2.20.8 burn any timber or dead wood;

**2.21 Games**

- 2.21.1 promote, organise or participate in any game, recreation or amusement which involves the use of a ball, missile or other object 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;
- 2.21.2 fly any model aircraft or operate any power model boat from or on any local government land;
- 2.21.3 participate in any game, recreation or amusement which is likely to cause damage to lawns, gardens, trees or other property;
- 2.21.4 participate in any game, recreation or event where the Council has caused a notice to be erected indicating the playing of such a game is prohibited,

and, where taking part in any of the activities referred to in subparagraphs 2.21.1, 2.21.2, 2.21.3 or 2.21.4, all persons must cease those activities in favour of other persons making use of the land unless in a designated sporting area identified by goal posts, cricket pitches or similar equipment or improvements;

**2.22 Glass**

carry or be in possession or charge of any container made in whole or in part of glass on local government land to which the Council has resolved this subparagraph shall apply;

**2.23 Kites**

fly a kite with more than one control string on local government land to which the Council has resolved this subparagraph shall apply;

**2.24 Liquor**

excepting sealed containers, consume, carry or be in possession or charge of any liquor in an open container between the hours of 9.00pm on any day and 9.00am on the day immediately following (provided the land constitutes a park or reserve) except on premises in respect of which a licence is in force pursuant to the Liquor Licensing Act 1997;

**2.25 Litter**

2.25.1 throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose;

2.25.2 deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter;

**2.26 Overhanging Articles**

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

**2.27 Picking Fruit**

pick fruit, nuts or berries from any trees or bushes thereon;

**2.28 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 any local government land or public place except for:

2.28.1 any electoral matter posted on a building or structure by or with the authority of a candidate which is related to a Commonwealth or State election and is posted 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

2.28.2 any electoral matter posted on a building or structure by or with the authority of a candidate which is related to an election held under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is posted during the period commencing four (4) 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

2.28.3 any matter posted during the course of and for the purposes of a Referendum;

**2.29 Removing Soil**

carry away or remove any soil, sand, clay, timber, stones, pebbles, gravel, other organic or inorganic materials or any part of the land;

**2.30 Repairs to Vehicles**

perform the work of repairing, washing, painting, panel beating or other work of any nature on or to any vehicle, except running repairs in the case of breakdown;

**2.31 Rubbish Dumps and Rubbish Bins**

2.31.1 interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on local government land;

2.31.2 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;

**2.32 Smoking**

2.32.1 smoke tobacco or any other substance in any building on local government land;

2.32.2 smoke tobacco or any other substance on any local government land or part thereof to which the Council has resolved this subparagraph shall apply;

**2.33 Structures**

erect or allow to remain erected any shed, tent, hut or other structure;

**2.34 Swimming and Aquatic Activity**

enter, swim or engage in any aquatic activity in or on any waters except:

2.34.1 waters that the Council has set aside for that purpose;

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

2.34.3 in the sea;

**2.35 Toilets**

in any public convenience:

- 2.35.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 2.35.2 smoke tobacco or any other substance;
- 2.35.3 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 2.35.4 use it for a purpose for which it was not designed or constructed;
- 2.35.5 enter any toilet set aside for use of the opposite gender except:
  - 2.35.5.1 a child under the age of five accompanying an adult of that gender; and/or
  - 2.35.5.2 for the purpose of providing assistance to a disabled person;

### 2.36 **Trading**

- 2.36.1 carry on the business of buying, selling, offering or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing including, but not limited to, any vehicle, watercraft or aircraft;
- 2.36.2 set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the apparent purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing including, but not limited to, any vehicle, watercraft or aircraft;

### 2.37 **Weddings, Funerals or Special Events**

hold, conduct or participate in a marriage ceremony, game, picnic, other event or entertainment on any local government land except where the number of persons attending the event or entertainment does not exceed forty (40).

## 3. **Prohibited Activities**

No person shall on local government land:

### 3.1 **Glass**

wilfully break any glass, china or other brittle material;

### 3.2 **Interference with Land**

- 3.2.1 interfere with the land such as levelling or flattening land, 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
- 3.2.2 destroy, damage or deface, or cause or permit to be destroyed, damaged or defaced any local government land or any article, structure, building or thing fixed thereto;

**3.3 Interference with Permitted Use**

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

**3.4 Missiles**

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

**3.5 Obstruction**

obstruct:

3.5.1 any footpath or bicycle track;

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

3.5.3 any gate or entrance to local government land;

**3.6 Solicitation**

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

**3.7 Use of Equipment**

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

3.7.1 other than in the manner and for the purpose for which it was designed or set aside; and

3.7.2 where any nearby sign states the conditions of use, except in accordance with such conditions;

**3.8 Waste**

3.8.1 deposit or leave thereon:

3.8.1.1 anything obnoxious or offensive;

3.8.1.2 any offal, dead animal, dung or filth;

3.8.1.3 any mineral, mineral waste, industrial waste or by-products;

3.8.2 foul or pollute any waters situated thereon;

3.8.3 deposit any rubbish other than in receptacles provided by the Council for that purpose;

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

#### **4. 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 of an authorised person, whether verbal or written, 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.

#### **5. 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 person pursuant to paragraph 4 of this by-law, the Council may:

- 5.1 undertake the work itself; and
- 5.2 recover the cost of doing so from that person.

#### **6. Directions**

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

- 6.1 that person's use of the land;
- 6.2 that person's conduct and behaviour on the land;
- 6.3 that person's safety on the land;
- 6.4 the safety of other persons on the land;
- 6.5 the enjoyment of the land by other persons; and
- 6.6 the possible damage to lawn, grass, trees, shrubs, buildings, structures or objects on the land.

#### **7. Removal of Animals and Directions To Persons**

- 7.1 If any animal, person or object is found on any local government land in breach of a by-law:
  - 7.1.1 any person in charge of the animal, person or object shall remove it from the local government land on the request of an authorised person; and
  - 7.1.2 an authorised person may remove the animal or object from the land if a person fails to comply with the request, or if no person is in charge of it.
- 7.2 Any person who is committing or has committed a breach of this by-law must immediately comply with a direction of an authorised person to leave the local government land.

**8. Exemptions**

The restrictions in this by-law do not apply to any Police Officer, Council Officer or Council employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer, or to the driver of an emergency vehicle when driving an emergency vehicle as defined in the Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 and the Australian Road Rules 1999.

**9. Application**

Sub-paragraphs 2.3.2, 2.6.3, 2.22, 2.23 and 2.32.2 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 City of Holdfast Bay held on the 14<sup>th</sup> day of February 2012 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 Justin Lynch  
Chief Executive Officer