



By-Law Made Under the Local Government Act 1999

FORESHORE BY-LAW 2023

By-law No. 7 of 2023

For the management of local government land comprising the beach and foreshore under the control of the Council.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Foreshore By-law 2023*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

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

- 3.1 **animal** includes birds, insects and fish, but excludes a dog;
- 3.2 **boat** includes a raft, pontoon, jet ski, personal watercraft or any other similar device;
- 3.3 **camp** includes setting up a camp, or causing a tent, caravan or motor home to remain on the foreshore for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the foreshore;
- 3.4 **e-cigarette** means:
 - 3.4.1 a device that is designed to generate or release an aerosol or vapour for inhalation by its user in a manner similar to the inhalation of smoke from an ignited tobacco product; or
 - 3.4.2 a device of a kind resolved by the Council and notified by notice in the *Gazette* to be an e-cigarette;
- 3.5 **effective control** means a person exercising effective control of an animal either:
 - 3.5.1 by means of a physical restraint; or

- 3.5.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 3.6 **foreshore** means the area between the low water mark on the seashore and the nearest boundary of:
 - 3.6.1 a road;
 - 3.6.2 a section;
 - 3.6.3 a public reserve; or
 - 3.6.4 land comprised in a land grant, Crown Land or Crown License;
- 3.7 **liquor** has the same meaning as defined in the *Liquor Licensing Act 1997*;
- 3.8 **low water mark** means the lowest meteorological tide;
- 3.9 **open public water** means any stream, river, creek or ocean within the foreshore;
- 3.10 **smoke** means:
 - 3.10.1 in relation to a tobacco product, smoke, hold, or otherwise have control over, an ignited tobacco product; or
 - 3.10.2 in relation to an e-cigarette, to inhale from, hold or otherwise have control over, an e-cigarette that is in use;
- 3.11 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

Part 2 – Management of Foreshore

4. Activities Requiring Permission

A person must not without permission on the foreshore:

- 4.1 **Advertising**

display any sign for the purpose of commercial advertising other than a moveable sign displayed in accordance with the Council's Moveable Signs By-law 2023;
- 4.2 **Aircraft**

subject to the *Civil Aviation Act 1988*, land any aircraft on, or take off any aircraft from the foreshore;
- 4.3 **Amplification**

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

4.4 Attachments

attach anything to a tree, plant, equipment, fence, post, structure or fixture on the foreshore;

4.5 Camp

erect a tent or other structure of calico, canvas, plastic or other similar material;

4.6 Charge Admission

charge admission or seek payment for entering any part of the foreshore;

4.7 Closed Lands

enter or remain on any part of the foreshore that has been closed to the public, including through the erection of barriers;

4.8 Flora, fauna and other living things

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

4.8.1 except in a community garden, damage, pick, or interfere with any plant, fungi or lichen thereon; or

4.8.2 tease, remove or cause harm to any animal or bird or the eggs or young of any animal or bird or aquatic creature;

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

4.9 Fireworks

ignite or discharge any fireworks;

4.10 Jetties

jump or dive from a jetty or other structure onto the foreshore or into any adjacent waters;

4.11 Missiles

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

4.12 Pontoons

install or maintain a pontoon or jetty in any open public water;

4.13 Public Exhibitions and Displays

4.13.1 sing, busk or play a musical instrument for the apparent purpose of either entertaining others or receiving money;

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

4.13.3 erect or inflate any inflatable castle;

4.13.4 cause any public exhibitions or displays;

4.14 Trading

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

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

4.15 Vehicles and Vessels

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

4.16 Weddings, Functions and Special Events

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

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

4.16.3 hold or conduct any filming where the filming is for a commercial purpose.

5. Activities Requiring Permission in Declared Areas

A person must not without permission on any part of the foreshore:

5.1 Alcohol

consume or possess or be in charge of any liquor;

5.2 Animals

5.2.1 cause or allow any animal to swim or bathe in any open public water to the inconvenience, annoyance or danger of any other person bathing or swimming; or

5.2.2 allow, ride or take any animal or allow it to remain;

5.2.3 allow any animal to enter or leave the foreshore other than by the access ramps constructed or provided for that purpose;

5.3 **Bathing**

swim or bathe in any open public water at a time when swimming or bathing in that place has been prohibited as indicated by a sign or signs displayed on or near the foreshore;

5.4 **Boats**

5.4.1 subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law* hire out any boat or otherwise use a boat for commercial purposes from the foreshore;

5.4.2 launch or retrieve a boat from or onto the foreshore without using a boat ramp constructed or provided for that purpose;

5.4.3 allow a vehicle or a boat to remain stationary on a boat ramp for longer than is necessary to launch or retrieve a boat;

5.5 **Boat Ramps**

subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

5.5.1 use or launch a boat or other object from any boat ramp or in any area except where a sign or signs are displayed by the Council requiring the purchase of a permit prior to launch;

5.5.2 in respect of a permit issued under sub-paragraph 5.5.1:

5.5.2.1 the Council shall prescribe a fee at least once in each financial year for permits to use a boat ramp;

5.5.2.2 a permit may be purchased for a fee from the Council or its duly authorised agent, or a ticket vending machine installed and maintained by the Council;

5.5.2.3 upon request of an authorised person, any person about to use (unless they have not yet had the opportunity to purchase a ticket) using or having used a boat ramp, must produce a permit or ticket purchased prior to the request in compliance with this by-law;

5.5.2.4 the Council, or such other person as the Council may authorise by resolution for that purpose, may exempt organisations involved in search and rescue at sea from the requirement to purchase a permit; and

5.5.2.5 the Council may, by resolution and the erection of a sign or signs, restrict the use of special areas or boat ramps to either commercial or recreational use, or prohibit their use entirely;

5.6 Camp

Camp or sleep overnight in accordance with such time limits and other conditions determined by resolution of Council (if any);

5.7 Fires

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

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

5.7.2 in a portable barbecue, as long as the barbecue is used in an area that is clear of flammable material for a distance of four metres;

5.8 Fishing

cast or keep in open public water any fishing line, net or trap to catch fish or other water creatures in any area, bridge, pontoon or jetty in any area to which the Council has resolved this paragraph applies;

5.9 Vehicles

drive or propel a vehicle except on an area of the foreshore set aside by the Council for that purpose and identified by means of signs, devices or fencing;

5.9.1 clause 5.9 applies to all fenced Hooded Plover breeding sites located on the foreshore so that these sites constitute an area on the foreshore where a vehicle may not be driven or propelled; and

5.9.2 for the purposes of clause 5.9.1, a 'Hooded Plover breeding site' is any land that has been identified by a temporary fenced exclusion zone with a sign at least 20 metres away from the fence to indicate a Hooded Plover nest is or may be present on the land or in the vicinity.

6. Prohibited Activities

A person must not on the foreshore:

6.1 Annoyances

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

6.1.1 using the foreshore; or

6.1.2 occupying nearby premises,

by making a noise or creating a disturbance;

6.2 Glass

wilfully break glass, china or other brittle material;

6.3 **Interference with Permitted Use**

interrupt, disrupt or interfere with any other person's use of the foreshore for which permission has been granted;

6.4 **Model Aircraft, Boats and Cars**

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 foreshore or detract from or be likely to detract from another person's lawful use of and enjoyment of the foreshore;

6.5 **Pontoon**

moor a boat or allow any boat to remain stationary adjacent to a pontoon installed on the foreshore other than in accordance with any conditions displayed on any sign on or in the vicinity of the pontoon;

6.6 **Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs**

6.6.1 carry out any activity that may damage or threaten the integrity of sand dunes, pebble dunes, coastal slopes or cliffs; or

6.6.2 introduce non-indigenous flora or fauna or dump any material in a sand dune or pebble dune; or

6.6.3 destroy, remove or cause interference to any vegetation, whether living or dead, on or within a sand dune, coastal slope or coastal cliff;

6.6.4 remove or clear or destroy any sand, soil, rocks or other flora and fauna;

6.6.5 make or excavate any dugout, cave, cliff or other opening or camp in or otherwise occupy any dugout, cave or cliff overhanging opening;

6.7 **Toilets**

in any public convenience:

6.7.1 smoke tobacco or any other substance;

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

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

6.7.4 subject to clause 6.5.5, enter the public convenience unless the person is of the gender indicated in writing or on a sign located on the public convenience;

6.7.5 clause 6.5.4 does not apply –

6.5.5.1 in a genuine emergency; or

6.5.5.2 to a vulnerable person being assisted by the vulnerable person's caregiver, parent or guardian; or

6.5.5.3 to a person that is intersex, transgender or gender diverse; or

6.5.5.4 to a person with a disability; or

6.5.5.5 to a person assisting a person with a disability;

6.8 Use of Equipment, Buildings and Property

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

6.8.1 other than for the purpose and in the manner for which it was designed, set aside or intended to be used; and

6.8.2 where any nearby sign states the conditions of use, except in accordance with those conditions;

6.9 Waste

6.9.1 deposit or leave thereon:

6.9.1.1 anything obnoxious or offensive;

6.9.1.2 any offal, dead animal, dung or filth; or

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

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

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

Part 3 – Miscellaneous

7. Orders and Directions

7.1 Every person shall comply with any reasonable direction or request from an authorised person relating to:

7.1.1 that person's use of the foreshore;

7.1.2 that person's conduct and behaviour on the foreshore;

7.1.3 that person's safety on the foreshore; and

7.1.4 the safety and enjoyment of the foreshore by other persons.

8. Removal of Animals and Objects

If any animal or object is found on any part of the foreshore in breach of a by-law:

- 8.1 any person in charge of the animal or object shall forthwith remove it from that part on the reasonable request of an authorised person; and
- 8.2 any authorised person may remove the animal or object if the person fails to comply with the request, or if the authorised person reasonably believes that no person is in charge of the animal or object.

9. Exemptions

- 9.1 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 an emergency worker when performing emergency duties.
- 9.2 The restrictions in paragraphs 4.1, 4.3, 4.4, 4.13.1, 4.13.2 and 4.13.4 of this by-law do not apply to electoral matters:
 - 9.2.1 authorised by a candidate and which relate to a Commonwealth or State election that occurs during the period commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day; or
 - 9.2.2 related to, and occurring during the course of and for the purpose of a referendum.

10. Application of Paragraphs

Any of paragraph 5.1 and 5.8 of this by-law shall apply only in such portion or portions of the foreshore as the Council may by resolution direct in accordance with Section 246(3)(e) of the *Local Government Act 1999*.

11. Revocation

Council's *By-law No. 7 – Foreshore*, published in the *Gazette* on 26 August 2016, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the City of Victor Harbor held on the 24 day of July 2023 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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Ms Victoria MacKirdy
Chief Executive Officer