

YORKE PENINSULA COUNCIL
PORT VINCENT MARINA BY-LAW 2013
BY-LAW NO. 7 OF 2013

A By-law to regulate certain activities undertaken in the Port Vincent Marina to ensure the safety and convenience of persons in the Marina.

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PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Port Vincent Marina By-law 2013* and is By-law No. 7 of the Yorke Peninsula Council.

2. Authorising law

This By-law is made under sections 238 and 246 of the Act, section 18A of the *Harbors and Navigation Act 1993* and sections 667(1) 4.I and 9.XVI of the *Local Government Act 1934*.

3. Purpose

The objectives of this By-law are to regulate the use of the area constituting the Port Vincent Marina:

- 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 area; and
- 3.5. for the good rule and government of the 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 operation¹:

4.1.1 Yorke Peninsula Council By-Law Number L – Port Vincent Marina.²

4.2. This By-law will expire on 1 January 2021.³

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 2013*.

5.2. This By-law applies to the area constituting the Port Vincent Marina delineated on the plan attached to this By-Law and marked "**Annexure A**".

6. Interpretation

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

- 6.1. *the Act* is the *Local Government Act 1999*;
- 6.2. **Council** means the Yorke Peninsula Council and includes any officer/employee of the Council authorised to oversee the activities and operations of the Port Vincent Marina;
- 6.3. **jetty** means a wharf or landing and includes recreation launching facilities, walkways, boardwalks, piles and pontoons constructed as part of a jetty, a pier or the piles or wooden structure protecting a pier;;
- 6.4. **pontoon** means a pontoon or jetty;
- 6.5. **vessel** has the same meaning as in the *Harbors and Navigation Act 1993*;
- 6.6. **waterways** includes the navigable waters and all land within the area to which this by-law applies as identified in clause 5.2;

Note-

Section 14 of the *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 – USE OF THE PORT VINCENT MARINA

7. Prohibited Activities

A person must not do any of the following within the Port Vincent Marina:

7.1. Moorings

Suffer, cause or permit to be moored in the waterways any vessel unless it is secured to a jetty, pontoon or otherwise secured within a marina berth.

7.2. Obstructions by Vessels

Suffer, cause or permit any vessel, or any part of any vessel, that is secured to a jetty to obstruct the passage of vessels through the waterways.

7.3. Sunken Vessels

Suffer, cause or permit any sunken vessel to remain in the waterways for a period exceeding 3 days.

7.4. Notification of Ownership

Suffer, cause or permit a vessel to remain in the waterways for a period exceeding 7 days without the owner of the vessel having first provided details of such vessel to the Council including the name, length, description, use and location of such vessel.

7.5. *Nuisances in the Waterways*

- 7.5.1 Suffer, cause or permit any nuisance or conduct likely to cause injury to health or risk to safety in the waterways.
- 7.5.2 Suffer, cause or permit any of the following:
- (a) the creation of noise including, but not limited to, playing music and/or musical instruments, between 11pm and 7am on any day; or
 - (b) the use of generators and/or compressors between 9pm and 6am on any day in any daylight saving period and between 8pm and 7am on any other day.

7.6. *Vessel as Place of Residence*

Reside or cause, suffer or permit any person to reside, on a vessel in the waterways for a period greater than 7 days without the written permission of the Council first being obtained.

7.7. *Boat Repair and Maintenance Generally*

- 7.7.1 Cause, suffer or permit in the waterways any major repairs to a vessel.
- 7.7.2 Undertake, or cause to be undertaken, any of the following:
- (a) any spray painting on any vessel;
 - (b) chipping of paint and/or rust on any vessel;
 - (c) the use of any noisy equipment including any angle grinder, sand blaster or other electrical power tool and/or welding equipment on any vessel except for:
 - (ii) the purposes of carrying out minor maintenance work to a vessel; and
 - (iii) in a manner that does not adversely affect the amenity of the locality or otherwise cause a nuisance to any other person;
 - (d) any welding, burning, cutting or heating of plant, equipment or materials on or associated with any vessel (whether undertaken on the vessel or not) without permission from the Council.
- 7.7.3 Allow any repair or maintenance equipment and/or materials and/or waste materials to be left on a jetty.

7.8. *Conduct of Persons in the Waterways*

- 7.8.1 Allow any dog that the person is responsible for to enter or swim in the waterways.
- 7.8.2 Release any duck or goose or any other bird, animal or fish into the waterways.

7.8.3 Engage in water skiing or any other water sports in the waterways.

7.8.4 Destroy, damage, disturb, deface or interfere with any buoy, float, life preserver, sign, notice or any other property of the Council.

7.9. *Vessel Control Generally*

Tow any object or person in the waterways except for a disabled vessel or floating plant where such towing is necessary for marina maintenance and/or construction purposes.

7.10. *Safe Mooring*

Cause, suffer or permit a vessel to be moored in the waterways in such a place or manner so as to cause, or be likely to cause, any risk or danger to any person or property.

PART 3 – ENFORCMENT

8. Orders

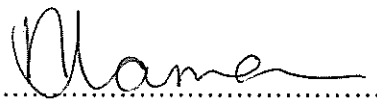
If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, an authorised person may take action reasonably required to have the order carried out. The Council may seek to recover the costs associated with taking any action section 262(3) of the Act from the person who failed to comply with the Order.

PART 4 – MISCELLANEOUS

9. Exemptions

The restrictions in this By-law do 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.

This By-law was duly made and passed at a meeting of the Yorke Peninsula Council held on the 11 December 2013 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



Andrew Cameron
Chief Executive Officer

ANNEXURE A



SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

Yorke Peninsula Council

By-law No 7 - Port Vincent Marina

To regulate access to and the use of the Port Vincent Marina and certain activities undertaken therein.

and do certify that in my opinion:

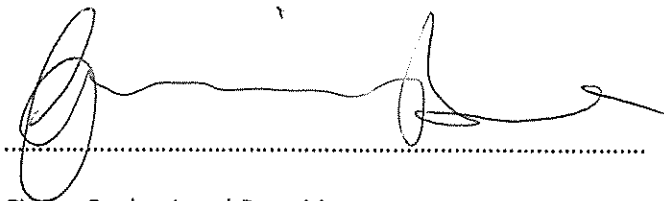
Yorke Peninsula Council

has the power to make the by-law by virtue of the following statutory provisions:

Local Government Act 1999: sections 238, 246(1)(a), 246(3)(a), 246(3)(c) and 246(3)(e);
and *Local Government Act 1934*: sections 667(1) 4.1 and 9.XVI;

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 20 day of November 2013

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a long horizontal line and a smaller 'B' at the end. The signature is written above a horizontal dotted line.

Cimon Burke, Legal Practitioner