



By-law made under the Local Government Act 1999

PORT VINCENT MARINA BY-LAW 2020

By-law No. 7 of 2020

For the regulation of certain activities undertaken in the Port Vincent Marina to ensure the safety and convenience of persons in the Marina.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Port Vincent Marina By-law 2020*.

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

3.1 In this by-law:

3.1.1 **Act** means the *Local Government Act 1999*;

3.1.2 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;

3.1.3 **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;

3.1.4 **pontoon** means a pontoon or jetty;

3.1.5 **Port Vincent Marina** means the land and waterways constituting the Port Vincent Marina as delineated in red on the map specified in Schedule 1;

3.1.6 **vessel** has the same meaning as in the *Harbors and Navigation Act 1993*;

3.1.7 **waterways** includes the navigable waters within Port Vincent Marina.

Part 2 – Use of the Port Vincent Marina

4. Prohibited Activities

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

4.1 Boat Repair and Maintenance Generally

- 4.1.1 cause, suffer or permit in the waterways any major repairs to a vessel;
- 4.1.2 undertake, or cause to be undertaken, any of the following:
 - 4.1.2.1 any spray painting on any vessel;
 - 4.1.2.2 chipping of paint and/or rust on any vessel;
 - 4.1.2.3 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:
 - (a) the purposes of carrying out minor maintenance work to a vessel; and
 - (b) in a manner that does not adversely affect the amenity of the locality or otherwise cause a nuisance to any other person;
 - 4.1.2.4 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;
- 4.1.3 allow any repair or maintenance equipment and/or materials and/or waste materials to be left on a pontoon;

4.2 Conduct of Persons in Waterways

- 4.2.1 allow any dog that the person is responsible for to enter or swim in the waterways;
- 4.2.2 release any duck or goose or any other bird, animal or fish into the waterways;
- 4.2.3 engage in water skiing on any other water sports in the waterways;
- 4.2.4 destroy, damage, disturb, deface or interfere with any buoy, float, life preserver, sign, notice or any other property of the Council;

4.3 Moorings

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

4.4 Notification of Ownership

cause, suffer or permit a vessel to remain in the waterways for a period exceeding seven 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;

4.5 Nuisances in Waterways

4.5.1 cause, suffer or permit any nuisance or conduct likely to cause injury to health or risk to safety in the waterways;

4.5.2 cause, suffer or permit any of the following:

4.5.2.1 the creation of noise including, but not limited to, playing music and/or musical instruments, between 11.00pm and 7.00am on any day or;

4.5.2.2 the use of generators and/or compressors between 9.00pm and 6.00am on any day in any daylight saving period and between 8.00pm and 7.00am on any other day;

4.6 Obstructions by Vessels

cause, suffer or permit any vessel, or any part of any vessel, that is secured to a pontoon to obstruct the passage of vessels through the waterways;

4.7 Safe Mooring

cause, suffer or permit any 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;

4.8 Sunken Vessels

cause, suffer, or permit any sunken vessel to remain in the waterways for a period exceeding three days;

4.9 Vessel Control Generally

tow any object or person in the waterways except for:

4.9.1 a disabled vessel; or

4.9.2 floating plant where such towing is necessary for marina maintenance and/or construction purposes;

4.10 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 seven days without the permission of the Council first being obtained.

Part 3 – Enforcement**5. Orders**

- 5.1 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.
- 5.2 The Council may recover the costs associated with taking any action under Section 262(3) of the Act from the person who failed to comply with the Order as a debt.

Part 4 - Miscellaneous**6. 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 an emergency worker performing emergency duties.

7. Revocation

Council's *By-law No 7 – Port Vincent Marina*, published in the *Gazette* on 19 December 2013, 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 Yorke Peninsula Council held on the 29th day of JULY 2020 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 Andrew Cameron
Chief Executive Officer

Schedule 1 – Port Vincent Marina

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, Paul St Leger Kelly of 431 King William 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 Yorke Peninsula Council intends to make, being *Port Vincent Marina By-law 2020* and do certify that in my opinion:

- (a) the said Council has power to make by the by-law by virtue of the following statutory provisions:

Local Government Act 1999, Sections 246(1), 246(2) and 246(3);

Local Government (General) Regulations 2013, Regulation 28

Acts Interpretation Act 1915, Section 39;

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

DATED the 26th day of June 2020.



Paul St Leger Kelly, Legal Practitioner