

CITY OF HOLDFAST BAY

*By-law made under the Harbors and Navigation Act 1993
and the Local Government Act 1999*

By-law No 7 - Foreshore

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

1. Definitions

In this by-law unless the context otherwise requires:

- 1.1 'authorised person' has the same meaning as in the Local Government Act 1999;
- 1.2 'boat' includes a raft, pontoon, jet ski, personal watercraft or any other similar device;
- 1.3 'foreshore' means the area between the low water mark on the seashore and the nearest boundary of:
 - 1.3.1 a road;
 - 1.3.2 a section;
 - 1.3.3 a public reserve; or
 - 1.3.4 land comprised in a land grant, Crown Land or Crown License;
- 1.4 'liquor' has the same meaning as defined in the Liquor Licensing Act 1997;
- 1.5 'low water mark' means the lowest meteorological tide;
- 1.6 'open public water' means any stream, river, creek or sea within the foreshore;
- 1.7 'vehicle' has the same meaning as in the Road Traffic Act 1961.

2. Activities Requiring Permission

No person shall without permission on the foreshore:

2.1 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;

2.2 Alcohol

consume or possess or be in charge of any liquor in areas to which this subparagraph applies;

2.3 **Animals**

2.3.1 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

2.3.2 take, drive or ride any horse, or allow it to remain, on the foreshore or to bathe in any open public water except between the hours of midnight and 9.00am and then only in such areas of the foreshore as the Council may by resolution direct and if the horse remains under effective control;

2.4 **Bathing**

in any open public water:

2.4.1 adjacent the foreshore, swim or bathe within five metres of any jetty; or

2.4.2 swim or bathe at a time when swimming or bathing in that place has been prohibited by resolution of the Council (for reasons of public safety) as indicated by a sign or signs displayed on or near the foreshore;

2.5 **Boats**

subject to the Harbors and Navigation Act 1993:

2.5.1 launch, propel, float or otherwise use any boat from the foreshore;

2.5.2 hire out any boat or otherwise use a boat for commercial purposes from the foreshore,

except in an area which the Council has by resolution permitted such an activity and in accordance with any conditions applicable thereto;

2.6 **Camp**

camp or stay overnight;

2.7 **Charge Admission**

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

2.8 **Dogs on Foreshore**

between the hours of 10.00am and 8.00pm on any day during the period of daylight saving in a place to which this subparagraph applies cause, suffer or permit any dog under that person's control charge or authority to be or remain on the foreshore unless such dog is restrained by a strong leash not exceeding two metres in length and either tethered securely to a fixed object or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons;

2.9 **Fires**

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

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

2.9.2 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 (4) metres;

2.10 Fishing

2.10.1 cast a fishing line or keep a fishing line in the water from any beach while there are other persons in the waters in the vicinity of the fishing line; or

2.10.2 cast a fishing line, net or trap to catch water creatures in areas to which this subparagraph applies;

2.11 Jetties

2.11.1 jump or dive from a jetty into water or onto a beach; or

2.11.2 tie or affix any water craft to a jetty; or

2.11.3 after being requested to leave a jetty by an authorised officer for an alleged offence, come back onto the jetty within 24 hours of the request being made;

2.12 Missiles

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

2.13 Moorings

2.13.1 enter or be on any mooring or mooring area between the hours of 12 midnight and 7.00am following other than with the consent of the person who has the right to use the mooring or mooring area to moor a vessel; or

2.13.2 enter a mooring area which is generally closed to the public and requires permission for entry;

2.14 Removal of Sand

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

3. Prohibited Activities

No person shall on the foreshore:

3.1 Annoyances

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

3.1.1 using the foreshore; or

3.1.2 occupying nearby premises,

by making a noise or creating a disturbance;

3.2 Glass

wilfully break glass, china or other brittle material;

3.3 Interference with Permitted Use

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

3.4 Sand Dunes, Pebble Dunes, Coastal Slopes and Cliffs

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

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

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

3.5 Toilets

in any public convenience:

3.5.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

3.5.2 smoke tobacco or any other substance;

3.5.3 deposit anything in a pan, urinal or drain that is likely to cause a blockage;

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

3.5.5 enter any toilet set aside for the use of the opposite gender except:

3.5.5.1 a child under the age of five accompanied by an adult of that gender; and/or

3.5.5.2 for the purpose of providing assistance to a disabled person;

3.6 Use of Equipment

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

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

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

3.7 Waste

3.7.1 deposit or leave thereon:

3.7.1.1 anything obnoxious or offensive;

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

3.7.1.3 any mineral, mineral waste, industrial waste or by-products.

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

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

4. Directions

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

4.1 that person's use of the foreshore;

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

4.3 that person's safety on the foreshore; and

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

5. Exemptions

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 driving an emergency vehicle while driving that vehicle in relation to an emergency situation as defined in the Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions Regulations 1999 and the Australian Road Rules 1999).

6. Application of Paragraph

Any of subparagraphs 2.2, 2.8 and 2.10.2 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.

This foregoing by-law was duly made and passed at a meeting of the City of Holdfast Bay held on the 14th 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