



LOCAL GOVERNMENT LAND BY-LAW 2024

By-law No. 3 of 2024

A By-law to manage and regulate the access to and use of Local Government land and certain public places.

CONTENTS

PART 1 – PRELIMINARY	2
1. Title.....	2
2. Authorising law	2
3. Purpose.....	2
4. Commencement, revocation and expiry	2
5. Application.....	2
6. Definitions.....	3
PART 2 – ACCESS TO LOCAL GOVERNMENT LAND.....	5
7. Access.....	5
8. Closed lands	5
PART 3 – USE OF LOCAL GOVERNMENT LAND	6
9. Activities requiring permission	6
10. Prohibited activities	12
PART 4 – ENFORCEMENT	14
11. Directions.....	15
12. Orders	15
13. Removal of animals and objects	16
PART 5 – MISCELLANEOUS.....	16
14. Exemptions.....	16
15. Liability of vehicle owners	16

PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Local Government Land By-law 2024* and is By-law No. 3 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under sections 238, 239 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

3. Purpose

The objectives of this By-law are to regulate the access to and use of Local Government land and certain public places:

- 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:

By-law No. 3 – Local Government Land 2017; and

*By-law No. 8 – Foreshore & Boat Facilities By-Law 2017.*²

4.2. This By-law will expire on 1 January 2032³

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 2024*.
- 5.2. Subject to subclauses 5.3 & 5.4, this By-law applies throughout the Council area.
- 5.3. Subclauses 9.2, 9.4.2, 9.18.1, 9.18.4, 9.18.5, 9.21.2, 9.28.5, 10.4 and 10.9 of this By-law only apply in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

- 5.4. Subclauses 9.1, 9.3, 9.9, 9.18.2, 11.2, 12.1 and 13.3 of this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Definitions

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

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **animal or animals** includes birds and insects but does not include a dog unless otherwise stated;
- 6.3. **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.4. **boat** includes a raft, pontoon, personal watercraft or other similar device;
- 6.5. **boat facilities** means a facility constructed, maintained and operated by the Council for the launching, landing or mooring of a boat;
- 6.6. **boat landing** means a facility constructed, maintained and operated by the Council for charter operators to land passengers;
- 6.7. **boat mooring** means a facility constructed, maintained and operated by the Council for the mooring of a boat;
- 6.8. **boat ramp** means a facility constructed, maintained and operated for the launching and retrieval of a boat or other vessel from land or adjacent waters;
- 6.9. **camp includes** setting up a camp or causing
- 6.9.1 a tent or other structure of calico, canvas, plastic or other similar material;
- 6.9.2 a swag or similar bedding; or
- 6.9.3 subject to the *Road Traffic Act 1961*, a caravan, tent trailer, motor home or other vehicle;
- to remain on a road overnight, whether or not any person is in attendance or sleeps on the road.

Note-

To avoid doubt, setting up a calico, canvas, plastic or other tent, marquee or similar structure for recreation purposes to provide shade during daylight hours only (and not overnight) is not within the meaning of 'camp'.

- 6.10. **charter operator** means a person approved by the Council to use a boat landing;
- 6.11. **coastal waters** means ocean waters extending offshore from the low water mark but excluding any waters overlying land between the low water mark and the high water mark;
- 6.12. **Council** means Kangaroo Island Council;
- 6.13. **effective control** means a person exercising effective control of an animal either:
- 6.13.1 by means of a physical restraint; or

- 6.13.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.14. **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.15. **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.16. **foreshore** means land (which may or may not be Local Government land) extending:
- 6.16.1 from the low water mark on the seashore in the Council's area to the nearest road or section boundary; or
- 6.16.2 for a distance of 50 metres from the high water mark-
(whichever is the lesser) and to avoid doubt, includes the foreshore within the Harbor of American River, the Harbor of Kingscote, Harbor of Penneshaw and the Harbor of Vivonne Bay;
- 6.17. **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.18. **Harbor of American River** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2009*;
- 6.19. **Harbor of Kingscote** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2009*;
- 6.20. **Harbor of Penneshaw** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2009*;
- 6.21. **Harbor of Vivonne Bay** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2009*;
- 6.22. **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 6.23. **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.24. **low water mark** means the lowest astronomical tide;
- 6.25. **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.26. **open container** means a container which, after the contents of the container have been sealed at the time of manufacture:
- 6.26.1 being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
- 6.26.2 being a can, it has been opened or punctured;
- 6.26.3 being a cask, it has had its tap placed in a position to allow it to be used;

- 6.26.4 being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
- 6.26.5 is a flask, glass, mug or other container able to contain liquid.
- 6.27. **personal watercraft** means a device that –
- 6.27.1 is propelled by a motor; and
- 6.27.2 has a fully enclosed hull; and
- 6.27.3 is designed not to retain water if capsized; and
- 6.27.4 is designed to be operated by a person who sits astride, stands, or kneels on the device;
- and includes the device commonly referred to as a jet ski;
- 6.28. **road** has the same meaning as in the Act;
- 6.29. **sand dune** or **coastal slope** or **cliff** means the sand dunes, coastal slopes, cliffs or other geomorphologic coastal forms under the care, control and management of the Council;
- 6.30. **special event** means an organised gathering of more than fifty (50) persons for any social, sporting or cultural purposes;
- 6.31. **tobacco product** has the same meaning as in the *Tobacco Tobacco and E-Cigarette Products Act 1997*;
- 6.32. **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 6.33. **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council but does not include coastal waters; and
- 6.34. **wheeled Recreational Device** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 12 of the *Legislation Interpretation Act 2021* 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 – ACCESS TO LOCAL GOVERNMENT LAND

7. Access

The Council may:

- 7.1. close or regulate or restrict access to any part of Local Government land to the public for specified times and days; and
- 7.2. fix charges or fees payable for entry onto any part of Local Government land.

8. Closed lands

A person must not without permission, enter or remain on any Local Government land:

- 8.1. which has been closed or in respect of which access by the public is regulated or restricted in accordance with subclause 7.1;

- 8.2. where entry fees or charges are payable, without paying those fees or charges; or
- 8.3. where the land has been enclosed by fences and/or walls and gates that have been closed and locked or, where a sign is displayed at or near the entrance of the land notifying that the land has been closed.

PART 3 – USE OF LOCAL GOVERNMENT LAND

9. Activities requiring permission

Note-

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not, without the permission of the Council, do any of the following activities on Local Government land or the foreshore or where indicated, on a road.

9.1. Advertising

Except on any Local Government land determined by resolution of the Council, display, paint or erect or cause to be displayed, painted or erected, on Local Government land or on a structure, building or fixture on Local Government Land any sign, advertising or hoarding for any purpose,

9.2. Alcohol

Consume, carry or be in possession or in charge of any liquor on Local Government land comprising parks or reserves to which the Council has resolved this subclause applies.

9.3. Amplification

Use an amplifier or other mechanical or electrical device for the purpose of amplifying, broadcasting or magnifying sound except on Local Government land to which the Council has resolved this clause applies (if any).

9.4. Animals

9.4.1 On Local Government land excluding the foreshore, lead, herd, drive or exercise any horse, cattle, sheep or similar animal except where the Council has set aside a track or other area for use by or in connection with an animal of that kind as indicated by signage, and provided that the animal or animals are under effective control:

9.4.2 On the foreshore, take, lead, herd or drive any animal onto or allow any animal to remain on any foreshore to which the Council has resolved this subclause applies and other than in accordance with any conditions determined by the Council:

9.4.3 Allow any animal to enter or leave the foreshore other than by the access ramps constructed or provided by the Council for provision of access onto the beach.

9.5. Annoyance

Do anything that, in the reasonable opinion of an authorised person, offends or is likely to offend or unreasonably interfere with any other person:

9.5.1 using that land; or

9.5.2 occupying nearby premises;

by making a noise or creating a disturbance.

9.6. *Attachments*

Subject to subclause 9.1, attach or cause to be attached, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture, or any other object..

9.7. *Buildings*

Use a building or structure on Local Government land for a purpose other than its intended purpose or other than in accordance with any conditions of use contained on signage in or on the building or structure.

9.8. *Burials, Memorials & Cemeteries*

9.8.1 Bury, inter or spread the ashes of any human or animal remains including the remains of a dog.

9.8.2 Erect any memorial.

9.8.3 On Local Government land comprising a cemetery, drive or propel any vehicle except where the Council has constructed and set aside an area for that purpose as indicated by signage on the land.

9.9. *Camping and Tents*

9.9.1 Subject to this clause 9.9, erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation.

9.9.2 Camp or remain overnight except:

(a) on any Local Government land, road or foreshore to which the Council has resolved this subclause applies (and thereby designates as a camping area); and

(b) in accordance with any conditions determined by the Council and displayed on any signage on or near the Local Government land or foreshore.

9.9.3 Subject to this clause, use or occupy or cause, suffer or permit to be used or occupied, any caravan, motorhome or other vehicle on Local Government land or on the foreshore or on a road for or in connection with undertaking camping activities, including washing, cooking or sleeping.

9.10. *Canvassing*

Subject to subclause 14.2, convey any advertising or other message to any bystander, passer-by or other person.

9.11. *Distribution*

Subject to subclause 14.2 and the *Local Nuisance and Litter Control Act 2016*, give out or distribute any book, leaflet or other printed matter to any bystander, passer-by or other person.

9.12. *Donations*

Ask for or receive or indicate a desire for a donation of money or any other thing.

9.13. *Encroachment*

Erect or cause to be erected or placed any fencing, post or other structures or any other items so as to encroach onto the land.

9.14. *Entertainment and Busking*

9.14.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.

9.14.2 Conduct or hold a concert, festival, show, public gathering, circus, performance or any other similar activity.

9.15. *Fires*

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

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

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

9.16. *Fireworks*

Ignite, explode or use any fireworks.

9.17. *Flora and Fauna*

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

9.17.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon (excluding weeds);

9.17.2 cause or allow an animal (including a dog) to stand or walk on any flower bed or garden plot;

9.17.3 deposit, dig, damage, disturb, interfere with, clear or remove any sand, soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

9.17.4 take, interfere with, tease, harm, hunt or disturb any animal, bird or marine creature or the eggs or young of any animal, bird or marine creature;

9.17.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

9.17.6 undertake research of any flora or fauna;

- 9.17.7 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 9.17.8 use, possess or have control of any device for the purpose of killing or capturing any animal bird or marine creature –

with the exception that subclauses 9.17.4 and 9.17.8 do not apply to lawful fishing activities.

9.18. *Games & Sport*

- 9.18.1 Participate in, promote or organise any organised competition or sport as distinct from organised social play on Local Government land or foreshore to which the Council has resolved this clause applies (if any).
- 9.18.2 Except on Local Government Land or foreshore to which the Council has resolved this clause applies, play or practise any game which involves kicking, hitting or throwing a ball or other object that may, in the reasonable opinion of an authorised person:
- (a) unreasonably cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land; or
 - (b) unreasonably detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 9.18.3 Play or practise the game of golf except on a fairway or other land constructed and set aside for that purpose.
- 9.18.4 Engage or participate in or conduct any organised group fitness activity or training on Local Government land to which the Council has resolved this subclause applies.
- 9.18.5 Play or practise any game or sport on Local Government land to which the Council has resolved this subclause applies and in accordance with any conditions indicated on any sign on or in the vicinity of the land.

9.19. *Interference with Land*

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.19.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.19.2 erecting, placing or installing a structure or any object in, on, across, under or over the land;
- 9.19.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.19.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.19.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

9.20. *Jetties*

Jump or dive from a jetty or other structure.

9.21. *Model Aircraft, Boats and Cars*

Subject to the *Civil Aviation Safety Regulations 1998*:

9.21.1 fly or operate a model or drone aircraft, boat or model or remote control vehicle in a manner which may, in the reasonable opinion of an authorised person:

- (a) cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land;
- (b) or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or

9.21.2 fly or operate a model or drone aircraft, boat or model or remote control car on any Local Government Land or foreshore to which the Council has resolved this subclause applies.

9.22. *Overhanging Articles*

Suspend or hang an article or object from a building, verandah, pergola, post or other structure where it might, in the reasonable opinion of an authorised person:

9.22.1 present a nuisance or danger to a person using the land; or

9.22.2 cause an unsightly condition.

9.23. *Playing Area*

Use or occupy a playing area:

9.23.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);

9.23.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or

9.23.3 contrary to any conditions indicated on a sign displayed on or near the playing area.

9.24. *Preaching*

Preach, harangue or solicit for religious purposes.

9.25. *Rubbish Dumps and Rubbish Bins*

9.25.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government land.

9.25.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on Local Government land for collection by the Council (or its agent).

9.26. *Sand dunes, coastal slopes and cliffs*

Subject to the *Coastal Protection Act 1972*, the *Native Vegetation Act 1991* and subclause 9.33:

- 9.26.1 destabilise sand on a sand dune by any means so as to cause it to unnecessarily mass waste down slope;
 - 9.26.2 destroy, remove or interfere with live or dead vegetation upon a sand dune, coastal slope or cliff;
 - 9.26.3 introduce non-indigenous flora or fauna to, or dump any materials on a sand dune;
 - 9.26.4 use a sandboard or other item to slide down a sand dune, coastal slope or cliff;
 - 9.26.5 drive or propel a vehicle over or on any sand dunes; or
 - 9.26.6 carry out any other activity that may damage or threaten the integrity of sand dunes, coastal slopes or cliffs.
- 9.27. *Trading*
- 9.27.1 Sell, buy, offer or display anything for sale, or hire or lease any goods, merchandise, commodity, article or thing.
 - 9.27.2 Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing.
- 9.28. *Vehicles*
- 9.28.1 Drive or propel a vehicle on any Local Government land or foreshore except on land constructed or set aside by the Council for that purpose as indicated by signs on or in the vicinity of the land.
 - 9.28.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose as indicated by signage on the land.
 - 9.28.3 Repair, wash, paint, panel beat or carry out any other work to a vehicle, except for running repairs in the case of a breakdown.
 - 9.28.4 Drive or propel a vehicle onto or from the foreshore other than by a ramp or thoroughfare constructed or provided by the Council for that purpose.
 - 9.28.5 Use any ramp or thoroughfare to which the Council has resolved this clause applies to drive or propel a vehicle onto or from the foreshore without having paid the applicable fee (if any) in the manner determined by the Council.
- 9.29. *Weddings, Functions and Special events*
- 9.29.1 Hold, conduct or participate in a marriage ceremony, funeral ceremony or special event.
 - 9.29.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral ceremony or special event.

- 9.29.3 Hold or conduct any filming where the filming is for a commercial purpose.

9.30. *Wheeled Recreational Devices*

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

10. **Prohibited activities**

A person must not do any of the following activities on Local Government land or on the foreshore.

10.1. *Climbing*

Climb on or over any fixture, fitting, plant, object or building other than a playground or similar area that the Council has set aside for that purpose.

10.2. *Defacing Property*

Subject to any permission of the Council given under clause 9, deface, paint, write, cut names, letters or make marks on any tree, rock, gate, fence, building, sign or property of the Council.

10.3. *Equipment*

10.3.1 Use any item of equipment, facilities or property belonging to the Council:

- (a) other than in the manner and for the purpose for which it was designed, constructed or intended to be used;
- (b) where any nearby sign states the conditions of use, except in accordance with such conditions; or
- (c) in such a manner as is likely to damage or destroy it.

10.3.2 Use an item of equipment, facilities or property belonging to the Council if that person is of or over the age indicated by a sign or notice as the age limit for using such equipment, facility or property; or

10.3.3 Use an item of equipment, facilities or property belonging to the Council other than in accordance with any conditions of use contained on a sign or notice in the vicinity of the equipment, facility or property (if any).

in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

10.4. *Fishing*

Fish in any waters to which the Council has resolved this subclause applies.

10.5. *Glass*

Willfully break any glass, china or other brittle material.

10.6. *Interference with Permitted Use*

Interrupt, or unreasonably interfere with any other person's use of Local Government land where the person is using the land in a manner permitted by the Council or in accordance with any permission that has been granted by the Council.

10.7. *Obstruction*

Obstruct:

10.7.1 any path or track;

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

10.7.3 any gate or entrance to or on Local Government land.

10.8. *Playing games*

Play or practise a game:

10.8.1 which is likely to cause damage to the land or anything on it; or

10.8.2 in any area where a sign indicates that the game is prohibited.

10.9. *Smoking*

Subject to the *Tobacco Products and E-Cigarette Products Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product or vape on any Local Government land or foreshore to which the Council has resolved this subclause applies.

10.10. *Solicitation*

Subject to clause 9.24, tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

10.11. *Throwing objects*

Throw, roll, project or discharge a stone, substance or other missile, excluding sport and recreational equipment designed to be used in that way.

10.12. *Toilets*

In any public convenience on Local Government land (including showers, changerooms, toilets and hand washing facilities):

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

10.12.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage or damage to the facility, or any drain, pipe or property associated with the facility;

10.12.3 use the facilities for a purpose for which it was not designed or constructed.

10.13. *Waste*

10.13.1 Deposit or leave thereon anything obnoxious or offensive.

- 10.13.2 Deposit any rubbish or waste other than in receptacles provided by the Council for that purpose; or
- 10.13.3 Deposit in any rubbish bin:
- (a) any waste or rubbish emanating from a domestic, trade or commercial source; or
 - (b) any waste or rubbish contrary to any information on signs on the bin or in its vicinity.

PART 4 – BOATS & BOAT FACILITIES

A person must not, without the permission of the Council, do any of the following activities on Local Government land or the foreshore or where indicated, on a road.

11. Boats

Subject to the provisions of the *Harbors and Navigation Act 1993* and, the *Marine Safety (Domestic Commercial Vessel) National Law*.

- 11.1. hire out a boat; or
- 11.2. subject to subclause 11.3, except on any Local Government land, foreshore or road to which the Council has resolved this clause applies, launch or retrieve a boat; or
- 11.3. launch or retrieve a boat from or to any Local Government land, foreshore or road other than in accordance with any conditions specified on signage on or in the vicinity of that land.

12. Boat Ramps

- 12.1. Except on any Local Government land, road or foreshore that the Council has resolved to apply this subclause to, a person must not use a boat ramp to launch or retrieve a boat without first having purchased a ticket.
- 12.2. A person must not use a boat ramp other than in accordance with any conditions stipulated on the ticket purchased in compliance with subclause 12.1.
- 12.3. A person must not allow any vehicle or boat to remain stationary on any boat ramp longer than is necessary to launch or retrieve a boat.

13. Boat Moorings

- 13.1. A person must not moor a boat at any place within Christmas Cove other than:
- 13.1.1 at the boat moorings designated and clearly marked by Council; and
 - 13.1.2 in accordance with the terms and conditions determined by the Council and set out on any signage erected on or in the vicinity of the boat moorings.
- 13.2. For the purposes of subclause 13.1, **Christmas Cove** means the area outlined in the plan displayed on the Council's website and marked as the plan that applies for the purpose of this subclause.

- 13.3. Subject to this clause 13, a person must not moor or tether a boat to any foreshore or Local Government land except for any foreshore or Local Government land to which the Council has resolved this subclause applies (thereby designating as a mooring area).
- 13.4. A person must not moor a boat to any foreshore or Local Government land in a manner that obstructs any boat or access to any boat or object (either floating or sunk) or any boat facility.
- 13.5. A person must not use a boat mooring on any foreshore or Local Government land to which the Council has resolved this clause applies unless the person:
- 13.5.1 first obtains a permit from the Council or purchases a mooring ticket; and
- 13.5.2 complies with any conditions regarding that use as specified either on the permit or mooring ticket or on any signs in the vicinity of the boat mooring.

PART 5– ENFORCEMENT

14. Directions

- 14.1. A person on Local Government land or the foreshore must comply with a reasonable direction from an authorised person relating to:
- 14.1.1 that person's use of the land;
- 14.1.2 that person's conduct and behaviour on the land;
- 14.1.3 that person's safety on the land; or
- 14.1.4 the safety and enjoyment of other persons on the land.
- 14.2. A person who, in the reasonable opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with an order of an authorised person made pursuant to section 262 of the Act which may include an order to leave that part of Local Government land or the foreshore.

15. 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, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note-

Section 262(1) of the Act states:

(1) If a person (**the offender**) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-

- (a) if the conduct is still continuing – to stop the conduct; and
- (b) whether or not the conduct is still continuing – to take specified action to remedy the contravention.

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

16. Removal of animals and objects

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if the authorised officer reasonably believes that no person is in charge of the animal or object.

PART 6 – MISCELLANEOUS

17. Exemptions

- 17.1. The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or Council employee acting in the course of 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 or in accordance with a direction of a Council officer.
- 17.2. The restrictions in subclauses 9.10 and 9.11 of this By-law do not apply to electoral matter authorised by a candidate and which is:
- 17.2.1 related to a Commonwealth or State election and occurs 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
 - 17.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four 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
 - 17.2.3 related to, and occurs during the course of and for the purpose of a referendum.
- 17.3. The Council may otherwise, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 17.4. An exemption:
- 17.4.1 may be granted or refused at the discretion of the Council;
 - 17.4.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 17.4.3 is subject to any conditions specified in the instrument of exemption.
- 17.5. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 17.6. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

18. Liability of vehicle owners

- 18.1. For the purposes of this clause 18, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.

- 18.2. The owner and the driver of a vehicle driven, parked or standing in contravention of this by-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on **INSERT DATE** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
DARYL BUCKINGHAM
Chief Executive Officer

Proposed