	DISTRICT COUNCIL OF FRANKLIN HARBOUR	Version No:	1.0
	Boat Harbors and Facilities	Issued:	9 th March 2016
	By-law no. 4 of 2016	Next Review:	1 st January 2023

A by-law to regulate the use of harbors, boat ramps and lands adjacent thereto which are under the care, control and management of the Council or its agents.

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PART 1 – PRELIMINARY

1. Title

This by-law may be cited as *By-law Number 4, Boat Harbors and Facilities by-law 2016* of the District Council of Franklin Harbour.

2. Authorising Law

This by-law is made under sections 238 and 246 of the *Local Government Act 1993*, sections 667(1) 4.1 and 9.XVI of the *Local Government Act 1934* and section 18A of the *Harbors and Navigation Act 1993 (Harbors Act)*.

3. Purpose

The objectives of this by-law are to

- 3.1 regulate the access to and use of the boat ramp facilities and the boat harbor;
- 3.2 prevent and mitigate nuisances;
- 3.3 prevent damage to the boat ramp facilities and harbour; and
- 3.4 protect the convenience, comfort and safety of users and members of the public.

4. Expiry

This by-law will expire on 1 January 2023.


5. Application

This by-law operates in conjunction with Council's *Permits and Penalties by-law* and is subject to the operation of the Harbors Act.

6. Definitions

In this by-law:

- 6.1 **Authorised Agency** means a businesses authorised by Council to issue Permits and Tickets.
- 6.2 **Authorised Person** has its meaning in the *Local Government Act 1999* or the Harbors Act as appropriate.
- 6.3 **Boat Ramp** means a facility constructed, maintained and operated for the launching and retrieval of a Vessel as designated by sinage.
- 6.4 **Commercial Permit** means a valid permit issued to the operator of a *commercial vessel* within the meaning of the Harbors Act.
- 6.5 **Harbor** has its meaning in the Harbors Act.
- 6.6 **General Permit** means a valid permit as permits the holder to launch and retrieve a

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Vessel for periods of 12 months, 28 days or 7 days, subject to the terms and conditions stated thereon, in this by-law and as published or prescribed by Council from time to time.

- 6.7 **Ticket** means a ticket which permits the holder to launch and retrieve a Vessel from a Boat Ramp for a period of 24 hours, subject to the terms and conditions stated thereon, in this by-law and as published or prescribed by Council from time to time.
- 6.8 **Vessel** has its meaning in the Harbours Act and includes a trailer where appropriate.


Part 2

7. Boat Ramp Usage

- 7.1 No person shall use a designated Boat Ramp without having first purchased a Ticket, General or Commercial Permit.
- 7.2 Council may prescribe a fee at least once in each financial year for Tickets and Permits.
- 7.3 Permits may be purchased for the fee set by Council from Authorised Agencies.
- 7.4 Tickets may be purchased from vending machine(s) located at or near a Boat Ramp and clearly displayed on the dash of all vehicles used to launch or retrieve a Vessel.
- 7.5 Council may erect or publish signs or notices stating the fee and the location of the Ticket vending machine(s).
- 7.6 Upon request of an Authorised Person, any person about to use, using or having used a Boat Ramp, must produce a valid ticket.
- 7.7 Council may exempt persons or organisations involved in search and rescue at sea from the requirement to purchase a Ticket.
- 7.8 Council may by resolution restrict the use of designated areas or Boat Ramps to commercial or recreational use, or prohibit use altogether.
- 7.9 No person shall allow any Vessel to remain stationary on any Boat Ramp longer than is reasonably necessary to launch or retrieve that Vessel.

8 Offence

- 8.1 Any person:
- 8.1.1 using a Boat Ramp without having first obtained a valid Ticket or Permit or clearly displaying a valid Ticket or Permit; or

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8.1.2 failing to comply with the terms and conditions of each valid Ticket or Permit stated thereon, in this by-law and as prescribed or published by Council from time to time; or

8.1.3 failing to comply with a lawful direction given by an Authorised Person,

8.2 commits an offence under this By-law.

9 Penalties

9.1 Any person found to have committed an offence will be subject to penalties as prescribed by Council from time to time.

10 Harbors

Subject always to the operation of the Harbors Act, no person shall without permission:

10.1 Anchor or moor a Vessel in a Harbor, except where:

10.1.1 the boat has just arrived at a Harbor by sea; and

10.1.2 the person in charge of the boat seeks permission to anchor or moor the Vessel from Council in the Harbor if anchorage or mooring is required for more than 24 hours; and

10.1.3 if permission is refused, the Vessel must be immediately removed from the Harbor;

10.2 Interfere with any moorings in a Harbor;

10.3 Move or remove any rocks from the breakwaters of a Harbor, or throw or place any rock, stone or other object in the waters of a Harbor;

10.4 Anchor or moor a Vessel in the vicinity of the entrance or so as to obstruct the entrance of a Harbor;


10.5 Remain or sleep overnight on any Vessel in a Harbor for more than three consecutive nights;

10.6 Throw, discharge or place any marine offal, animal offal or waste, sewage, food waste or other rubbish of any kind, into the waters, facilities or surrounds of a Harbor unless facilities are specifically designated for such usage;

10.7 Fish, swim, dive, scuba dive or snorkel on or near a Boat Ramp or conduct or participate in any water sport on or near a Boat Ramp;

10.8 Handle any fuel or dangerous or flammable substance in such a manner that may expose a person or property to danger; or

10.9 Do or fail to do any act in a Harbor as may endanger other persons, facilities or Vessels.

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11 Removal of Persons, Vessels and Objects


- 11.1 If any person, Vessel or object is found on any part of a Harbor, Boat Ramp or land adjacent thereto that is under the care, control and management of Council or its agents, in breach of this by-law:
- 11.1.1 the person in charge of the Vessel or object shall forthwith remove it as directed by an Authorised Person; or
 - 11.1.2 an Authorised Person may remove the Vessel or object if the person fails to comply with that direction; or
 - 11.1.3 if the person in charge of it cannot be located: then
 - 11.1.4 it may be removed at the cost of the person in charge or the lawful owner.
- 11.2 An Authorised Person may direct any person who they consider to be in breach of this by-law, to leave that part of a Harbor, Boat Ramp, facilities or land adjacent thereto.
- 11.3 If a person leaves a Vessel or object in a Harbor, on a Boat Ramp, facilities, or land adjacent thereto without lawful authority or permission, or has apparently abandoned the same thereon, the Council may remove it; and
- 11.3.1 it will be stored for a period of thirty days; and
 - 11.3.2 if not claimed by its lawful owner within that time, and all expenses incurred by the Council in its removal and storage are not paid by the lawful owner; then
 - 11.3.3 Council may dispose of it in any way it sees fit, with any proceeds applied first, in satisfaction of the costs incurred by the Council in the removal, storage and disposal of it, with any remaining funds to be forwarded to the lawful owner if the lawful owner can be identified using reasonable means; and
 - 11.3.4 if such surplus funds are unable to be returned to the lawful owner within 90 days; then
 - 11.3.5 retained by Council and used for the maintenance of the facilities the subject of this by-law at its discretion.

12 Exemptions:

- 12.1 This by-law does not operate to restrict a person in the conduct of their duties at law^{*}

^{*}Example: a police officer, emergency worker or Council employee acting in their official capacity.

The foregoing by-law was duly made and passed at a meeting of the District Council of Franklin Harbour held on the 9th March 2016 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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Chris Smith
Chief Executive Officer

