

WATER ACT 1989

The Corangamite Catchment Management Authority makes the following by-law:

Dated: 7 APRIL 2011

The Common Seal of the Corangamite Catchment Management Authority was hereto affixed
In the presence of:

The seal is circular with a blue border. Inside the border, the text "CORANGAMITE CATCHMENT MANAGEMENT AUTHORITY" is written in a circle. At the bottom of the seal, the word "Seal" is written in a decorative font. The seal is stamped over several lines of text, which are partially obscured by the seal and handwritten signatures.

..... Chairman
..... Member
..... Chief Executive Officer

By-law No 2 Barwon River

Part 1 - PRELIMINARY

Title

1. This by-law may be cited as By-law No. 2 Barwon River.

Objectives

2. The objectives of this by-law are to make provision for –
 - (a) the regulation of activities on that part of the Barwon River and its banks and adjacent land which is vested in, or otherwise under the control of, the Corangamite Catchment Management Authority and situated between the structure known as lower breakwater on the River, approximately 107 metres upstream of the Parish of Conewarre eastern boundary, and the extension across the River of the centre line of the Orana Road road reserve in Highton; and
 - (b) the setting of penalties for breaches of this by-law.

Authorising provisions

3. The by-law is made under sections 160 and 219 of the Water Act 1989.

Commencement

4. This by-law commences on the day that a notice is published under section 287ZI of the Water Act 1989.

Definitions

5. In this by-law -

"Act" means the Water Act 1989 as amended from time to time and any re-enactment thereof.

"Authorised Officer" means –

- (a) any officer or employee of the Authority; or
- (b) any Person appointed in writing by the Authority as an Authorised Officer for the purpose of this by-law.

"Authority" means the Corangamite Catchment Management Authority.

"Boat" includes any device that is used or capable of being used as a means of transportation on water including surf board, sailboard, jet ski, power boat, rowing coaching boat and like device.

"Boating Co-ordinator" means any Person appointed by the Authority as a Boating Co-ordinator for the purposes of this by-law and includes, for the purposes of the event only, any official in charge of or concerned in a regatta, power boating or water skiing contest or similar event authorised to be conducted on the River by the Authority. An "Authorised Officer" is also a Boating Co-ordinator for the purposes of this by-law.

"Motor Vehicle" means any mechanically propelled device for travelling on land including a motorcycle, mini-bike, go-cart, motorised cycles and scooters.

"Prospect" means to physically search beneath the soil surface

"Permit" means a Permit in writing issued under this by-law.

"Person" includes a corporation.

"Power Boat" means any Boat that is mechanically propelled.

"River" means that portion of the Barwon River and its banks and adjacent land which is vested in, or otherwise under the control of the Authority and situated between the structure known as lower breakwater on the river, approximately 107 metres upstream of the Parish of Conewarre eastern boundary, and the extension across the river of the centre line of the Orana Road road reserve in Highton;

Part 2 – ADMINISTRATION OF BY-LAW

Exempt Person and works and activities that do not require permits

6. (1) This by-law does not apply to -
- (a) any of the following persons, when acting in the course of that Person's duties-
 - (i) an Authorised Officer;
 - (ii) a member of the Police force; or
 - (iii) a contractor carrying out work for the Authority;
 - (b) a Person dealing with a fire, flood or other public emergency; or
 - (c) a Person who is acting in the course of his or her duties under any relevant law within the meaning of the Conservation, Forests and Lands Act 1987; or
 - (d) a Person acting in accordance with an authorisation granted by the Authority and any condition of that authorisation.

Part 3 – CONDUCT

A person's conduct on the River which includes its banks and River reserves

7. A Person must not -
- (a) obstruct, hinder or interfere with any Person employed on the River.
 - (b) climb, jump on, get over, under or through any of the gates or fences on the River.
 - (c) post bills or advertisements, or cut names, apply graffiti or in any other way damage any of the buildings, furniture or fittings, gates, stiles, fences, seats, or other structures on the River.
 - (d) interfere with, break, or damage in any way any of the trees, shrubs, or plants, or pluck flowers, destroy or cut grasses or dig holes on the River.
 - (e) leave, or deposit on the River, any litter including dog excreta or refuse of any nature other than in a rubbish receptacle provided for the purpose of receiving such litter or refuse.

- (f) roll or throw stones or missiles of any kind on the River, or leave anything of any nature on the River that might injure a Person.
- (g) light a fire on the River.
- (h) play or practice the sport of golf on the River.
- (i) ride a bicycle or like equipment on the River other than in accordance with signs allowing such activities and then only at a safe speed giving way to pedestrians on the River. Cyclists approaching pedestrians from behind shall ring a bell warning of their approach.
- (j) bring onto the River any dog, unless a chain or cord controls such animals.
- (k) take or put, allow to be taken, put or leave on the River any cats, horses, cattle, sheep, goats, pigs or other animals.
- (l) offer any article of food or drink or any other commodity whatsoever for sale without a permit from the City of Greater Geelong.
- (m) prospect on the River.
- (n) use a loud haler or speaker for coaching purposes before 9am on weekends.

Interference with River and River equipment

8. A Person must not -

- (a) remove, interfere with, damage or deface any life saving equipment, life hook, life buoy or other life saving apparatus unless such removal or use is for the purpose of saving lives.
- (b) pump or discharge or put or permit to be pumped or discharged, including from a Boat, or put any harmful, noxious, poisonous, or corrosive material or any liquid, oils, spirits, tar or other flammable or polluting substance whatsoever into the River.
- (c) cut, break, destroy or interfere with the mooring or fastening of any Boat belonging to the Authority or any other Boat without the consent of the owner thereof.
- (d) remove or interfere with, or cast off to take away any Boat from any wharf, or place fixed, set apart or allocated by the Authority or its Boating Co-ordinator for the mooring or berthing of boats without the permission of the Owner or Boating Co-ordinator.

Actions prohibited without a Permit

9. A Person must not -
- (a) bring intoxicating liquor onto the River;
 - (b) do anything whatsoever on the River for the purpose of commercial gain;
 - (c) use or occupy any Boat moored or berthed in any of the River as a residence whether permanent, temporary or occasional;
 - (d) bet publicly on the River;
 - (e) erect any building, tent or structure or camp on any portion of the River;
 - (f) hold or take part in any charity event, organised sport, entertainment, school regattas performance, show or ceremony on any part of the River;
 - (g) use a Power boat,
- without a permit from the Authority.

Motor vehicle use on the River

10. A Person must not drive any Motor Vehicle on the River -
- (a) at a speed exceeding 20 kilometres per hour or such lesser speed as may be indicated by signs.
 - (b) in a reckless, dangerous or careless manner.
 - (c) other than on such roads and paths on which such vehicles are authorised by means of signs to travel.
 - (d) unless that Person complies with all signs erected to control such vehicles.
 - (e) unless that Person complies with all reasonable directions of the Boating Co-ordinator or any member of the Victoria Police Force given to control such driving or traffic flow on the River.
11. A Person must not park any Motor Vehicle on the River other than in accordance with any relevant sign or contrary to any sign that prohibits parking or contrary to any reasonable directions of an Authorised Officer or any member of the Victoria Police Force.

Part 4 - BOATING ACTIVITIES

12. (1) All boating and in water activities on the River shall be carried out in accordance with the provisions of the Marine Act 1988 and notices published under section 15(2) of that Act.
- (2) A Person must not -
- (a) use or bring onto or allow any Power Boat to remain on the watercourse of the River without a Permit.
 - (b) use or bring onto, or allow any Boat to remain on the River-
 - (i) which is unsafe, derelict or unseaworthy; or
 - (ii) exceeding six metres in length or exceeding two and a half metres in beam except with a Permit save that this clause shall not apply to any dragon boats, outrigger canoes, rowing eights, fours, pairs or sculls.
 - (c) operate, anchor, berth, tie up or allow any Boat to drift on the River so as to obstruct Boats lawfully using the right for rowing, canoeing, water skiing, wake boarding or water sport or other like use.
 - (d) drive any Power Boat on the River at a speed exceeding 35 knots without being the holder of a Permit which specifically permits a greater speed.
- (3) Any Person in charge of any Boat in the opinion of the an Authorised Officer causing any such obstruction as referred to in sub clause (2) shall obey a direction of an Authorised Officer or member of the Victoria Police Force to remove such Boat.
13. A Person must not launch or recover any Boat on the River other than from the ramps or stagings constructed for that purpose.

Mooring of boats

14. (1) Boats shall be moored or berthed only in such part or parts of the River and in such manner as may from time to time be directed by an Authorised Officer or Boating Co-ordinator.

- (2) No Boats shall be moored and no mooring shall be laid in the River without a Permit.
- (3) Notwithstanding anything herein contained the owner or any Person in charge of any Boat shall remove the moorings thereof within 48 hours of having been served with a notice to do so by an Authorised Officer or Boating Co-ordinator and unless an Authorised Officer or Boating Co-ordinator permits the replacement of such moorings or unless the owner or Person in charge thereof is in breach of the provisions of this by-law the owner shall be entitled to a pro-rata refund of any mooring Permit fee paid.

Authority of an Authorised Officer

15. Where any Boat is brought onto, anchored, moored or berthed on or remains on the River in contravention of this by-law, an Authorised Officer may -
 - (a) after seven days notice in writing given to the owner or Person in control thereof and such notice has not been complied with; or
 - (b) if the whereabouts of the owner or Person in control are not known to an Authorised Officer after reasonable enquiry; or
 - (c) where such Boat is or is likely to become offensive, dangerous to life or traffic, or an obstruction to the use of the River and the owner or Person in control of such Boat is not immediately available

seize such Boat and remove the same to some other portion of the River or off the River into storage and any expense including storage involved in so doing shall be borne by the owner. In the event of the owner failing to pay on demand such expenses and removing such Boat, after eight days of seizing the Boat the Authority will advertise its intention to sell such Boat. After two days of advertisement by the Authority in the Geelong Advertiser or some other newspaper circulating in the district of its intention to sell such Boat, the Authority may sell the same and from the proceeds thereof deduct any removal, storage and sale of such Boat and may retain the balance until claimed by the Person, entitled thereto.

16. An Authorised Officer may if, in his or her opinion believes, a Boat is being navigated, driven or propelled in an incompetent manner or in a manner dangerous to the occupants or public or is overcrowded, order such Boat to the bank of the River or to its berth or moorings and may compel the whole or any number of passengers on board to disembark.

Boat race, regatta or assemblage of boats

17. On the occasion of any Boat race, regatta or other assemblage of Boats for which a Permit is given, a Person must -
- (a) not obstruct or improperly interfere with any Boats or persons thereon engaged in competing in any Boat race;
 - (b) not navigate any Boat in such a manner as to obstruct impede or interfere with a Boat race, regatta or assemblage of Boats or endanger the safety of persons on the River or prevent the maintenance of order thereon;
 - (c) obey the orders and directions of an Authorised Officer or any member of the Victorian Police Force as to the position to be taken up, the maintenance of order, the keeping clear of the water course and in connection with the general control and management of the Boat race, regatta or assemblage of Boats shall be strictly observed; and
 - (d) must remove all non competing Boats in their control from the water course as quickly as possible when the signal for cleaning the River is given or when ordered by an Authorised Officer or member of the Victorian Police Force.

PART 5 – WATER SKIING AND WAKE BOARDING

18. A Person must not engage in water skiing, wake boarding or similar activities except in all or part of a designated recreational area, which has been designated by the Authority for water skiing, wake boarding and similar activities and at times (if any) designated by the Authority for engaging in those activities.
19. Water skiers and wake boards shall water ski as close to the starboard or right hand bank as practicable.
20. Any water skier or wake boarder losing the towrope when being towed shall immediately swim to the starboard or right hand bank.
21. No water skier shall continue to slalom or wake boarder continue outside the wake of the towing Power Boat within 75 metres of any other Boat.
22. No boat operator shall exceed the speed limit of 75 kmph (40 knots) when towing a barefoot skier, or exceed the speed of 58 kmph when towing a skier or wake border skiing slalom.

23. No water skiing or wake boarding is permitted on the River when the River is flooded.

Part 6 - BATHING

24. A Person must not bathe in any portion of the River at a time when that portion is authorised under this by-law to be used by any Power Boat and any Person offending against this clause may be removed from the River by any Authorised Officer or any member of the Victoria Police Force.
25. A Person must not bathe in the River unless permitted by an Authorised Officer or signage indicates that bathing is permitted.

Part 7 – BLUE GREEN ALGAE

26. A Person must not enter the water of the River when signage indicates that blue green algae exists on the River and the River is closed to in water activities.

Part 8 – FLOODS

27. A Person must not conduct any water activity during any period when the River is in flood to the extent where water has broken the banks of the River unless authorised by the Authority or in response to an emergency situation.

Part 9 – SIGNAGE

28. The Authority may, by means of signs, regulate, control or prohibit the access to and use of the River by Persons, animals, Motor Vehicles or Boats of any class or description.
29. A sign may indicate directions or requirements of the Authority and may convey other information or warnings to Persons using the River.

Part 10 – PERMITS

Application for a Permit

30. An application for a Permit must be -
- (a) in the form (if any) approved from time to time by the Authority; and
 - (b) accompanied by –

- (i) the fee determined by the Authority for the purposes of this by-law; and
- (ii) such other documents necessary for the Authority to determine whether or not to grant the Permit.

Further information

31. Before determining to grant or refuse a Permit the Authority may require the Person applying for the Permit to –
- (a) supply such additional information the Authority considers necessary to determine the application; and
 - (b) give public notice of the application or give notice of the application to such persons the Authority considers may be affected by the application, at such times and in such manner as determined by the Authority.

Matters taken into account by the Authority

32. In determining whether or not to grant a Permit, the Authority shall have regard to–
- (a) the objectives of this by-law;
 - (b) the effect of likely effect of the granting of the Permit (with or without conditions) on the River;
 - (c) any submissions that may be received in respect of the application; and
 - (d) any other matter it considers relevant.

Granting or refusing approval

33. The Authority may –
- (a) refuse an application for a Permit;
 - (b) grant the application for a Permit; or
 - (c) grant the application for a Permit subject to any conditions as determined by the Authority.
34. Any Permit issued under this by-law may be issued by an Authorised Officer
35. (1) Any Person, who carries out an activity for which a Permit has been granted by the Authority must –

- (a) do so in accordance with any conditions to which the Permit is subject ; and
 - (b) notify the Authority giving ten (10) days notice before commencing the activity.
- (2) Unless otherwise stated in the Permit, a Permit shall be valid for one year from its date of issue.

Amendment or transfer of permits

36. The Authority may, on the application of the Person to whom a Permit is granted—
- a) amend the Permit (with or without conditions);
 - b) renew the Permit (with or without conditions);
 - c) extend the permit;
 - d) transfer the permit, subject to receiving all required information from the proposed transferee; or
 - e) decline to amend, renew, extend or transfer the permit.

Revocation of permits

37. The Authority may revoke a Permit if in the opinion of the Authority the holder of the permit has failed to comply with any condition to which the Permit is subject, provided –
- (a) a notice of contravention in accordance with section 151 of the Act has been first served upon the holder of the Permit
 - (b) there has been a failure to comply with the notice of contravention; and
 - (c) the failure to comply continues for a period of seven (7) days or any longer period allowed by the Authority, after the date specified in the notice of contravention.

Part 11 – OFFENCES & PENALTIES

Offence to breach by-law

38. A Person who fails to comply with any provision of this by-law is guilty of an offence.

Offence to contravene conditions

39. Where any Permit issued under this by-law contains conditions, any Person who contravenes or fails to comply with a condition of the Permit is guilty of an offence.

Directions of authorised persons

40. (1) In any case where an Authorised Officer or any member of the Victoria Police Force has reasonable grounds for believing or suspecting that any persons have contravened this by-law an Authorised Officer or any member of the Police Force may request such persons to state his or her name and address and produce such evidence of identity as the circumstances may reasonably require.
- (2) If such a Person refuses to state his or her name and address or states a false name and address or refuses to produce to an Authorised Officer or any member of the Victoria Police Force such evidence of identity as the circumstances may reasonably require he or she shall be guilty of an offence against this by-law.
- (3) An Authorised Officer or member of the Victoria Police Force may give such reasonable directions to any Person on the River, or any Person who is in charge of or has the control and management of any Boat on the River which may in the opinion of such Authorised Officer or member of the Victoria Police Force be necessary for carrying into effect the provisions of this by-law. Neglect or refusal to obey the lawful direction of an Authorised Officer or member of the Victoria Police Force given as aforesaid shall be an offence against this by-law.

Obstruction of Authorised Officer

41. A Person must not obstruct or hinder an Authorised Officer in exercising that person's powers under this by-law.

Penalty

42. Any Person who is guilty of an offence shall be liable to a penalty not exceeding twenty (20) penalty units and in the case of a continuing offence an additional penalty not exceeding five (5) penalty units for each day on which the offence continues –

- (a) after service of a notice of contravention on the Person under section 151 of the Act; or
- (b) if no notice of contravention is served, after the Person has been notified by the Authority of the offence.

Part 12 - GENERAL

Service of notices

43. Any notice required to be served by the Authority on any Person under this by-law may be served in any manner as provided for in the Act.

Variation of restrictions or prohibitions

44. The Authority may by notice published in a daily newspaper circulating in Geelong or by notice displayed at Boat launching ramps on the River suspend or vary the restrictions imposed herein or may impose new restrictions or prohibitions and such alternative restrictions shall –
- (a) apply only for a period not exceeding seven (7) consecutive days; and
 - (b) such notices shall be published not more than fourteen days before such alternative restriction are to commence.

Note:

A notice under section 15 of the Marine Act 1988 regulating conduct on the River has been published and a copy of the relevant controls under the Marine Act 1988 notice can be obtained from the Corangamite Catchment Management Authority.