



KINGSTON DISTRICT COUNCIL

CAPE JAFFA ANCHORAGE (WATERWAYS) BY-LAW 2016

By-law No. 6 of 2016

A By-law to manage, control and regulate activities in waterways at Cape Jaffa.

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PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Cape Jaffa Anchorage (Waterways) By-law 2016* and is By-law No. 6 of the Kingston District Council.

2. Authorising law

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

3. Purpose

The objects of this By-law are to regulate activities in waterways at Cape Jaffa:

- 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 within the Cape Jaffa Anchorage;
- 3.4. to enhance the amenity of the Cape Jaffa Anchorage; and
- 3.5. for the good rule and government of the area.

4. Expiry

- 4.1. This By-law will expire on 1 January 2024.¹

Note-

1. 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 2016*.
- 5.2. This By-law applies to the Waterways within the Cape Jaffa Anchorage Waterways as may be determined by the Council from time to time.

6. Interpretation

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

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **authorised person** has the same meaning as in the Act;
- 6.3. **Cape Jaffa Anchorage Waterways** means the body of water delineated as such in the plan marked Annexure A that is attached to this By-law;
- 6.4. **Council** means the Kingston District Council;
- 6.5. **person** includes a body corporate;
- 6.6. **Vessel** means a dingy, jet-ski, boat, yacht, ship or other motorised vessel;

- 6.7. **Waterway** means those parts of the Cape Jaffa Anchorage Waterways area as the Council may by resolution determine from time to time in accordance with section 246(3)(e) of the Act;
- 6.8. **In this By-law, a reference to an:**
- 6.8.1 approved launching ramp, slipway, or boat lift;
 - 6.8.2 approved fishing area;
 - 6.8.3 approved vessel refuelling facility;
 - 6.8.4 approved swimming area;
 - 6.8.5 approved marina berth, wharf, pontoon, jetty or boat launching facility;
- means an area approved and signposted by Council for the approved purpose.

Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

PART 2 – USE OF WATERWAYS**7. Activities Requiring Permission**

No person shall, without permission of the Council, on or about any Waterway:

- 7.1. lay an anchor or moor a Vessel by anchor;
- 7.2. secure a Vessel to land, except within private property or to an approved marina berth, wharf, pontoon, jetty or boat launching facility;
- 7.3. launch a Vessel into or retrieve a Vessel from a Waterway, except at an approved launching ramp, slipway or boat lift;
- 7.4. bring into a Waterway a Vessel which in the opinion of an authorised person is of an excessive size (having regard to the Vessel's length, beam, draft and manoeuvrability);
- 7.5. discharge waste (including any part of a dead animal, dead fish or other dead marine organism) into the Waterway;
- 7.6. catch fish or other marine organism, except within private property or from an approved fishing area;
- 7.7. swim, snorkel or dive, except within private property or within an approved swimming area;
- 7.8. water ski;
- 7.9. refuel a Vessel (other than from an approved Vessel re-fuelling facility);
- 7.10. allow, cause or permit a Vessel to be left unattended, unless it is securely moored to an approved marina berth, wharf, pontoon, jetty or boat launching facility; or

- 7.11. behave in a manner, or cause or permit a circumstance to arise, that in the opinion of an authorised person is likely to cause offence or annoyance to other persons using or in the vicinity of the Waterway.

PART 3 – ENFORCEMENT

8. Directions

- 8.1. A person on or in the Waterway (whether on a Vessel or otherwise) must comply with a reasonable direction from an authorised person relating to:
- 8.1.1 that person's use of the Waterway;
 - 8.1.2 that person's use of a Vessel within the Waterway;
 - 8.1.3 that person's conduct and behaviour within the Waterway;
 - 8.1.4 that person's safety within the Waterway; or
 - 8.1.5 the safety and enjoyment of other persons within the Waterway.
- 8.2. A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with a direction of an authorised person to leave that part of the Waterway.

9. 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.

10. Exemptions

The restrictions in this By-law do not apply to:

- 10.1. Any emergency services personnel to the extent that he or she is acting in the course of his or her emergency response duties;
- 10.2. any Council officers or employees (including authorised persons) who are acting in the course of their normal duties; or
- 10.3. any of the Council's contractors while performing work for the Council or while acting under the direction and supervision of a Council officer.

This By-law was duly made and passed at a meeting of the Kingston District Council held on the 22 July 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.



Andrew MacDonald
Chief Executive Officer

ANNEXURE A

