

Model By-law: Recreational Areas

I, Peter Walsh, Minister for Water and Minister responsible for administering the **Water Act 1989**, issue in accordance with section 287ZB of the Act, the Model By-law: Recreational Areas.

Date 9-10-2012



PETER WALSH MLA
Minister for Water

[This page is not to be included when a water corporation makes a by-law by using this model by-law]

Model By-law – Recreational Areas

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Model By-law – Recreational Areas

[Name of Water Corporation]

By-law No. [insert no] - Recreational Areas

This by-law is made by the [insert name of water corporation] under section 287ZC of the **Water Act 1989** following approval by the Board at Board meeting No. [insert No.] held [insert date].

Signed:

..... [insert approval signatures as appropriate]

in the presence of;

.....

.....

on/...../..... [insert date], being the date of making this by-law.

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PART 1—PRELIMINARY

1 Objectives

The objectives of this by-law are—

(a) to prescribe provisions for—

- (i) the control, management and the use of land, services and facilities; and
- (ii) the protection of the land, service and facilities; and
- (iii) the protection of people in the area from injury or nuisance; and
- (iv) the conservation and preservation of plants, animals, flora, fauna and habitat; and
- (v) the control of the introduction of any new plants and animals ; and

in a recreational area under the management and control of the Authority; and

(b) to prescribe provisions for the management, protection and use of lands, waterways and works in a recreational area.

2 Authorising provisions

This by-law is made under sections 160 and 287(ZC) of the **Water Act 1989**.

3 Commencement and revocation

- (1) This by-law comes into operation on the date that a notice of its making is published in the Victorian Government Gazette.

4 Application of this by-law to a recreational area

This by-law applies to land that has been –

- (a) declared by Order of the Minister under section 107 of the **Water Act 1989**, prior to the repeal of that by section 54 of the **Water (Governance) Act 2006**, to be a recreational area under the management and control of the Authority; or

- (b) determined by the Minister under section 122ZA of the **Water Act 1989** to be a recreational area under the management and control of the Authority.

5 Definitions

- (1) In this by-law—

Act means the **Water Act 1989**;

aircraft includes an aeroplane, helicopter, glider, hot air balloon, hang glider, paraglider and parachute;

animal means any animal except any human or fish, whether vertebrate or invertebrate, in any stage of biological development;

authorised water officer has the same meaning as in section 3 of the **Water Act 1989**;

Authority means the (*insert full name of the water corporation making this model by-law*);

camp means—

- (a) to erect, occupy or use, for accommodation, a tent, sleeping bag, swag, tarpaulin or any similar form of accommodation, shelter or temporary structure; or
- (b) to occupy or use for accommodation purposes a vessel, vehicle including a caravan or camper van, or other moveable form of accommodation;

damage includes to alter, cut or deface;

designate means set out in a notice or sign posted or erected in the recreational area or in the proximity of the part of the recreational area to which the notice or sign relates;

emergency means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria;

facilities include infrastructure such as picnic tables, toilets, fireplaces, information shelters and car parks;

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- fauna* means any animal that is indigenous to Victoria;
- firewood* means dead plant material not attached to a standing plant, shrub or tree;
- fire* includes a fire lit or maintained or used in barbecue or other cooking or heating device that uses solid, liquid or gaseous fuel;
- firearm* has the same meaning as in section 3 of the **Firearms Act 1996**
- fish* has the same meaning as in section 5 of the **Fisheries Act 1995**;
- fixed fireplace* means a fixed facility constructed of stone, metal, concrete or other non-flammable material provided by the Authority for the purposes of lighting and maintaining fires;
- flora* means a plant or part of a plant in any stage of biological development, whether the plant or part of the plant is vascular or non-vascular and whether alive or dead;
- houseboat* means any boat, vessel or pontoon having a fixed house above the deck with accommodation which may be used by persons residing on board for an overnight period or longer;
- hunt* has the same meaning as in section 3 of the **Wildlife Act 1975**;
- litter* has the same meaning as in section 4 of the **Environment Protection Act 1970**;
- motorised wheel chair* means a wheel chair that is built to be propelled by a motor that forms part of the wheel chair, but is capable of a speed of not more than 10 kilometres per hour;
- person* includes any body corporate, or association (whether incorporated or not);
- pollute* has the same meaning as in section 4 of the **Environment Protection Act 1970**;
- prohibited access area* means an area designated by the Authority as an area to which access by a member of the public is prohibited;
- public fireplace* means a fireplace including a gas or electric barbecue provided by an Authority in a recreational area for public use;
- recreational area* means any area of land—

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- (a) determined by the Minister to be a recreational area under section 122ZA under the **Water Act 1989**; or
- (b) declared by the Minister to be a recreational area by Order under section 107 of the **Water Act 1989** prior to the repeal of that section by section 54 of the **Water (Governance) Act 2006**;

Explanatory note: recreational area includes any lands or waterways contained within the recreational area.

sign includes—

- (a) any notice, whether on a post or not; or
- (b) any painted lines or words on sealed roadway; or
- (c) any beacon, buoy or other navigational marker;

traditional owner group entity has the same meaning as in the Traditional Owner Settlement Act 2010;

waterway has the same meaning as in section 3 of the **Water Act 1989**;

vehicle has the same meaning as in section 3 of the **Road Safety Act 1986** but does not include a wheel chair, motorised wheel chair, pram, stroller or other similar device for the conveyance of children or disabled or injured persons;

vessel has the same meaning as in section 3 of the **Marine Safety Act 2010**;

6 Application of certain terms and conditions

A person acting in accordance with the terms and conditions of any—

- (a) permit, authorisation, lease, licence or consent granted under the Act or any regulations or by-law made under the Act; or
- (b) agreement entered into under the Act or any regulations or by-law made under the Act—

is not subject to this by-law to the extent that the activities by the permit, authorisation, lease, licence, consent or agreement are inconsistent with this by-law.

7 Exclusion to application of offences

An offence under this by-law does not apply to a person if that person—

- (a) is a member of the police force; or
- (b) is an authorised water officer; or
- (c) is an officer of the Authority or any person authorised by the Authority to exercise any powers or perform any functions of the Authority; or
- (d) is a person authorised to deal with an emergency—

if that person is exercising any duties, powers or functions that they have been authorised under any Act or regulations made under that Act.

8 Exemption— Traditional owner rights

- (1) An offence under this by-law does not apply to a person who is a member of a traditional owner group entity when that person is acting under and in accordance with an authorisation order issued under Part 6 of the **Traditional Owner Settlement Act 2010**.

PART 2—GENERAL CONTROL OF A RECREATIONAL AREA

9 Entry into a recreational area

Where the Authority has designated the hours during which a recreational area is open to the public a person must not be in the area when it is not open to the public.

Penalty: 20 penalty units.

10 Temporary closure of recreational area

A person must not enter into a recreational area or a designated part of the area if the Authority has temporarily closed that area or designated part of the area to public access.

Penalty: 20 penalty units.

11 Areas where access is prohibited

A person must not, in a recreational area, enter into an area that has been designated as a prohibited access area by the Authority.

Penalty: 20 penalty units.

12 Direction to leave recreational area

A person must immediately leave any area referred to in clause 8, 9 or 10 if directed to do so by an authorised water officer.

Penalty: 20 penalty units.

13 Use, carriage or possession of certain things

(1) A person must not in a recreational area, possess, carry or use—

- (a) poison for which there is no lawful use in the area; or
- (b) a firearm; or
- (c) a bow, crossbow, catapult, spear, or spear gun; or
- (d) trap, snare, net (that is not a net designed to be used for fishing) or similar equipment.

Penalty: 20 penalty units.

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- (2) Subclause (1) does not apply to a person who keeps any equipment referred to in subclause (1)—
 - (a) unloaded and concealed in a vehicle or vessel; or
 - (b) lawfully in transit through the area.
- (3) Subclause (1) does not apply to a person who is using any equipment referred to in subclause (1)(b) for the lawful hunting of animals—
 - (a) in an area designated by the Authority for that purpose; and
 - (b) the person is acting under and in accordance with any permit or licence required by the **Firearms Act 1996**, the **Wildlife Act 1975** or any regulations made under those Acts.

14 Interfering with structures etc.

A person must not,

- (a) without the consent of the Authority or
- (b) without any other lawful authority—

remove, cut, damage, destroy, displace, deface or interfere with any works, sign, building or other structure constructed or erected in a recreational area.

Penalty: 20 penalty units.

Explanatory Note: This clause relates to structures under the ownership and control of persons with the consent of the Authority. Section 288 of the *Water Act 1989* [*Interference etc with Authority's property*] deals with Authority property. It provides that a person must not, without the consent of the Authority or without any other lawful authority, destroy, damage, remove, alter or in any way interfere with any works or other property (whether real or personal) belonging to or under the control and management of an Authority. For a first offence, 60 penalty units or imprisonment for 6 months. For a subsequent offence, 120 penalty units or imprisonment for 12 months.

15 Activities that may cause disturbance.

- (1) A person must not, in a recreational area—
 - (a) throw an object; or
 - (b) play a game or sport ; or

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(c) engage in behaviour, including any behaviour that is indecent, obscene, offensive or insulting; or

(d) engage in any other activity—

in a manner that is likely to cause damage, danger, unreasonable disturbance or inconvenience to—

(e) other persons;

(f) fauna or other animal or—

in a manner that is likely to cause damage to—

(f) property; or

(g) flora.

Penalty: 20 penalty units.

16 Operating annoying or disturbing device or equipment

(1) A person must not in a recreational area play or operate any sound producing device at a volume likely to—

(a) cause unreasonable inconvenience or nuisance to any person; or

(b) disturb any fauna or any other animal—

unless the person does so under and in accordance with a permit issued by the Authority.

Penalty: 15 penalty units.

(2) A person must not in a recreational area operate equipment that is not a sound producing device that is likely to—

(a) cause unreasonable inconvenience or nuisance to any person; or

(b) disturb any fauna or other animal—

in an area that is not designated by the Authority for the purpose of operating that equipment.

Penalty: 10 penalty units.

(3) Subclause (2) does not apply to a person who—

(a) operates the equipment under and in accordance with a permit issued by the Authority; or

(b) uses the equipment for necessary medical purposes.

(4) In this clause *sound producing device* means a device, the main function of which is to make, reproduce or amplify sound.

17 Lighting or maintaining fires

(1) A person must not light, maintain or use a fire in a recreational area.

Penalty: 20 penalty units.

(2) Subclause (1) does not apply to a person who lights, maintains or uses a fire in a recreational area at a time and during a period when the lighting of fires in that area is not prohibited under any Act and the person does so—

(a) in a public fireplace; or

(b) in an area that is designated by the Authority as an area in which a fire may be lit, maintained or used; or

(c) in an appliance in or on a vessel.

(3) A person who lights, maintains or uses a fire in accordance with subclause (2)(a) or (2)(b) must ensure that—

(a) the ground and airspace within a distance of 3 metres of the fire are clear of flammable material; and

(b) if the fire is in an appliance—

(i) the fuel used in the appliance is of a type that the appliance has been designed and manufactured to use; and

(ii) the fire is contained in the appliance; and

(iii) when the fire is alight, the appliance is placed in a stable position.

Penalty: 20 penalty units.

(4) A person who has lit, maintained or used a fire or who has been left in charge of a fire in a recreational area must extinguish the fire—

(a) immediately at the request of an authorised water officer or member of the police force; or

(b) before leaving the area where the fire was lit, maintained or used.

Penalty: 20 penalty units.

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- (5) A person must not act, cause or permit any act to be done or omit to do any act, which would result in any damage by fire to any thing.

Penalty: 20 penalty units.

- (6) A person must not leave a fire unattended.

Penalty: 20 penalty units.

18 Fishing, yabbing or eel harvesting (*option one*)

- (1) Subject to subclause (2) or (3) a person must not fish, yabby or undertake eel harvesting in a recreational area.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply if—

- (a) the person is fishing, yabbing or harvesting eels in an area designated by the Authority for that purpose; and
(b) the person is doing so in accordance with any licence required by the **Fisheries Act 1995** and the **Flora and Fauna Guarantee Act 1988** and any Regulations made under those Acts.

- (3) Subclause (1) does not apply if the person is harvesting eels in accordance with a permit issued by the Authority.

OR

18 Fishing, yabbing or eel harvesting (*option two*)

- (1) Subject to subclause (2) and (3) a person must not fish, yabby or undertake eel harvesting in any part of a recreational area that has been designated by the Authority as an area where fishing, yabbing or eel harvesting is prohibited.

Penalty: 20 penalty units.

- (2) A person must not fish or yabby unless the person is doing so in accordance with any licence required by the **Fisheries Act 1995** and the **Flora and Fauna Guarantee Act 1988** and any Regulations made under those Acts.

- (3) A person must not harvest eels in a recreational area unless the person is doing so in accordance with a permit issued by the Authority.

Penalty: 20 penalty units.

[Drafting note to corporation: unwanted option to be removed].

19 Organised events

A person must not, in a recreational area, conduct—

- (a) an organised entertainment or sporting or recreational event or show;
- (b) a rally;
- (c) an organised boating event or regatta;
- (d) a festival, tour, fete or public meeting;
- (e) a demonstration, training class or similar event;
- (f) a wedding or similar ceremony; or
- (g) a private function for 30 or more persons—

unless they do so under and in accordance with a permit issued by the Authority.

Penalty: 20 penalty units.

20 Commercial activities

(1) A person must not, in a recreational area—

- (a) sell, trade, offer for sale or hire any thing or service for profit; or
- (b) display any goods or services for sale, trade or hire; or
- (c) conduct any form of instruction for reward; or
- (d) undertake any other commercial activity—

unless the person does so under and in accordance with a permit issued by the Authority.

Penalty: 20 penalty units.

(2) A person must not, in a recreational area—

- (a) film or video; or
- (b) make an audio recording; or
- (c) transmit a radio broadcast; or
- (d) take photographs—

for profit or commercial purposes.

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Penalty: 20 penalty units.

- (3) Subclause (2) does not apply to a person who is acting in accordance with any permit issued by the Authority in relation to clause 18, 19 or 20.

21 Advertising, soliciting, public speaking etc.

- (1) A person must not, in a recreational area, solicit money or collect money unless the person does so under and in accordance with a permit issued by the Authority.

Penalty: 10 penalty units.

- (2) A person must not, in a recreational area—
- (a) erect any sign for the purposes of advertising; or
 - (b) hand out or disseminate any advertising or commercial or promotional material, including a pamphlet or handbill—
- unless the person does so under and in accordance with a permit issued by the Authority.

Penalty: 10 penalty units.

- (3) A person must not, in a recreational area, declaim or deliver any address unless the person does so under and in accordance with a permit issued by the Authority.

Penalty: 10 penalty units.

22 Erection or construction of buildings, structures etc.

- (1) A person must not erect or construct either permanently or temporarily in a recreational area—
- (a) a fixed installation, marquee, building or other structure; or
 - (b) an inflatable castle or similar inflatable device; or
 - (c) a boat ramp, jetty, floating jetty, slalom course, ski jump or any other fixed or floating construction that is not a vessel; or
 - (d) any object that may be likely to obstruct or interfere with the passage of boats.

Penalty: 20 penalty units.

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- (2) Subclause (1) does not apply to a person who is acting in accordance—
 - (a) with a permit used by the Authority in relation to clause 18, 19, 20(1), 20(2) or Part 4 of this by-law; or
 - (b) in accordance with any plans approved by the Authority for that purpose.

Explanatory Note: Officers of the Authority or other persons authorised by the Authority may remove any item under clause 20(1) for which the Authority has not issued a permit. Section 292 of the *Water Act 1989* [*Offence of obstructing etc. officers*] provides that a person must not obstruct, threaten, abuse, insult or intimidate an officer of an Authority in the execution of his or her duty under the Act; or a person lawfully performing duties under the Act, whether or not for or on behalf of the Authority; or any person lawfully assisting an officer of an Authority in the execution of his or her duty. A penalty of 20 penalty units applies to a breach of section 292.

23 Entry, occupation and use of buildings or structures

- (1) A person must not enter, occupy or use a building or a structure in a recreational area.
Penalty: 15 penalty units.
- (2) Subclause (1) does not apply to a person who enters, occupies or uses a building or structure which is provided for public use, if that entry, occupation or use is—
 - (a) in accordance with the purposes for which the building or structure is provided; or
 - (b) to obtain shelter or protection in the case of emergency.

24 Use of toilets, showers and other facilities

- (1) A person must not, in a recreational area, enter or use a toilet, shower or other facility designated solely for the use of persons of a specified gender unless the person identifies with that gender.
Penalty: 15 penalty units.

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- (2) Subclause (1) does not apply to the entering or use of a toilet facility, shower or other facility by—
- (a) a child under the age of 7 years of age when accompanied by an adult;
or
 - (b) a disabled person when accompanied by a carer; or
 - (c) a carer of a disabled person whilst caring for that person.

25 Use of playground equipment

A person must not, in a recreational area, use playground equipment provided by the Authority in a manner that is likely to cause damage to the equipment or injury to any person.

Penalty: 20 penalty units.

26 Swimming (*option one*)

- (1) A person must not swim in a recreational area.
Penalty: 20 penalty units.
- (2) Subclause (1) does not apply to a person who swims in any part of a recreational area designated by the Authority as an area in which swimming is permitted.

OR

26 Swimming (*option two*)

A person must not swim in any part of a recreational area that has been designated by the Authority as an area in which swimming is not permitted.

Penalty: 20 penalty units.

[Drafting note to corporation: unwanted option to be removed].

PART 3—PROTECTION OF FLORA AND FAUNA

27 Protection of flora and fauna

- (1) A person must not, in a recreational area, intentionally or recklessly disturb, harass, remove, hunt, capture, take, kill, injure or otherwise destroy or interfere with any fauna or other animal.

Penalty: 20 penalty units.

- (2) A person must not, in a recreational area, intentionally or recklessly disturb, remove, take or otherwise destroy or interfere with the nest, bower, display mound, lair or burrow of any fauna or other animal.

Penalty: 20 penalty units.

- (3) A person must not, in a recreational area, feed, offer food or offer any object as food to any fauna or other animal except an animal that is lawfully brought into the area; or

Penalty: 20 penalty units.

- (4) Subclauses (1) and (2) do not apply if the person is acting under and in accordance with any permit or licence issued under the **Fisheries Act 1995**, the **Firearms Act 1996**, the **Wildlife Act 1975** or the **Flora and Fauna Guarantee Act 1988** or any regulations made under any of those Acts.

28 Protection of vegetation

- (1) A person must not, in a recreational area, intentionally or recklessly cut, fell, pick, remove, take, destroy or damage any vegetation, whether alive or dead.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to a person who collects firewood for the purposes of lighting or maintaining a fire in accordance with clause 17 if the person collects the firewood in an area that is designated by the Authority as an area in which firewood may be collected.

- (3) Subclauses (1) or (2) do not apply if—

- (a) the person is acting under and in accordance with any permit issued by the Authority or a permit or licence issued under the **Flora and**

Fauna Guarantee Act 1988 or any regulations made under that Act;
or

- (b) a person who is undertaking timber harvesting operations within the recreational area that are authorised operations referred to in section 45(2)(a) and 45(2)(b)(i) of the **Sustainable Forests (Timber) Act 2004**.

29 Introducing vegetation

- (1) A person must not knowingly bring in, plant or introduce any seed, tree, shrub, fern, algae or other vegetation, or any part of any tree, shrub, fern, algae or other vegetation in a recreational area.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to—

- (a) a person who brings a vessel, fishing rod, walking stick or other manufactured dead wooden object into the recreational area; or
- (b) a person who brings firewood into a part of a recreational area designated by the Authority where the bringing in of firewood is permitted.

30 Interfering with rocks or similar natural objects

A person must not, in a recreational area, intentionally damage, deface, remove or otherwise interfere with any rock or similar natural object.

Penalty: 20 penalty units.

31 Digging or removal of material

- (1) Subject to subclause (2) a person must not—

- (a) intentionally or recklessly dig, excavate or remove from a recreational area; or
- (b) knowingly take into a recreational area—
any gravel, shell, grit, sand, soil or other similar material.

Penalty: 20 penalty units.

- (2) Subclause (1)(a) does not apply to a person who is depositing or burying faeces in a manner that does not contravene clause 31.

PART 4 — ACCOMMODATION AND CAMPING

32 Camping

- (1) A person must not, in a recreational area, camp in an area that is not designated by the Authority for the purposes of camping.

Penalty: 20 penalty units.

- (2) A person who camps or occupies or uses land in an area of a recreational area designated for the purpose of camping must camp at least 20 meters away—

(a) from any waterway; and

(b) landward of the full supply level of a storage—

unless otherwise specified by the Authority.

Penalty: 20 penalty units.

- (3) If, in designating an area for camping, occupation or use, the Authority has not placed a limitation on the period for which any person may camp, occupy or use the area, a person must not camp on, occupy or use the area for more than 7 consecutive days.

Penalty: 20 penalty units.

- (4) A person who camps on, occupies or uses, a site within a recreational area must maintain the site in a clean and tidy condition.

Penalty: 20 penalty units.

- (5) A person who camps on, occupies or uses, a site within a recreational area must, before vacating the site, clear all litter and personal property and equipment from the site.

Penalty: 20 penalty units.

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- (6) If a person, camping on or occupying or using a site on any land within a recreational area, has brought in portable toilet facilities, the person must ensure that the portable toilet facilities are situated more than 100 metres away—

- (a) from any waterway; or
- (b) landward of the full supply level of a storage—

unless otherwise specified by sign erected by the Authority.

Penalty: 20 penalty units.

- (7) Where an authorised water officer is satisfied on reasonable grounds that a person has contravened subclause (4), (5) or (6)—

- (a) if the contravention relates to a structure or tent and the authorised water officer directs the person dismantle the tent, the person must do so immediately; or
- (b) if the contravention relates to a vehicle, vessel or other moveable form of accommodation and the authorised water officer directs the person to remove it from the site, the person must do so immediately.

Penalty: 20 penalty units.

33 Hygiene

A person must not, in a recreational area, leave behind or deposit faeces unless—

- (a) the person is in an area in which toilet facilities are provided and the person does so in those facilities; or
- (b) the person is not in an area in which toilet facilities are provided and the person does so by burying those faeces to a depth of 20cm and in a location that is 100 metres or more away—
 - (i) from any waterway; or
 - (ii) landward of the full supply level of a storage—

unless otherwise specified by the Authority.

Penalty: 20 penalty units.

34 Use of soap or detergent

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A person must not use or dispose of any soap, detergent or similar substance in a recreational area within 50 metres—

- (a) of any river, stream, creek, well, spring, dam, lake, reservoir, bore, waterway or other body of water; or
- (b) landward of the full supply level of a storage—

except where washing facilities are provided by the Authority or otherwise specified by the Authority.

Penalty: 20 penalty units.

PART 5—PETS, LIVESTOCK AND OTHER ANIMALS

35 Dogs, Horses in recreational area

- (1) Subject to subclause (2) a person must not bring a dog or a horse into a recreational area or allow a dog or horse to enter into the area.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to a person who brings a dog or horse into a recreational if—
- (a) the person does so in a part of the recreation area that is designated by the Authority for that purpose and in accordance with any signage; or
 - (b) the dog or horse is brought into the recreational area—
 - (i) to assist a disabled person with respect to that person's disability; or
 - (ii) to be trained to assist disabled persons with respect to disabilities; or
 - (iii) by a person identified in clause 7 where that person is exercising any duties, powers or functions that they have been authorised under any Act or regulation made under an Act.
 - (c) the dog or horse is brought into the recreational area to be used in accordance with a permit issued by the Authority under clause 18 or 19; or
 - (d) the dog or horse is confined in a vehicle or vessel, which is in transit through the area, by a route that is open to the public for that purpose; or
 - (e) the dog is brought into the recreational area in accordance with any other by-law made by the Authority.
- (3) A person who brings a dog or horse into a recreational area, or part of the area, under sub-clause (1) or (2) must not allow that dog or horse to enter any waterway in the area.

Penalty: 20 penalty units.

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- (4) A person who brings a dog into a recreational area under sub-clause (1) or (2) must pick up and remove from the area any faeces deposited by the dog.

Penalty: 20 penalty units.

- (5) A person must remove the dog or horse from a recreational area if directed to do so by the officer where the officer believes that the person has contravened anything in this clause.

Penalty: 20 penalty units.

36 Livestock in recreational area

- (1) Subject to subclause (2) a person must not bring livestock into a recreational area or allow livestock to enter or remain in the area.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to a person who brings livestock into a recreational area if—

(a) the person does so in an area of the recreational area that is designated by the Authority for that purpose and in accordance with any signage; or

(b) the livestock is confined in a vehicle that is in transit through the area by a route that is open to the public for that purpose; or

(c) the livestock is brought into the area to be used in accordance with a permit issued by the Authority for those purposes set out under clause 18 or 19; or

(d) the livestock is brought into the area for grazing purposes in accordance with a licence issued by the Authority.

- (3) A person who brings livestock into a recreational area, or part of the area, under sub-clause (1) or (2) must not allow the livestock to enter any waterway in the area.

Penalty: 20 penalty units.

- (4) A person, who has in the opinion of an authorised water officer the care and control of livestock, must remove the livestock from a recreational area if directed to do so by the officer where the officer believes that the person has contravened anything in this clause.

Penalty: 20 penalty units.

37 Other animals in recreational area

- (1) This clause does not apply to a dog, horse or livestock.
- (2) Subject to subclause (3) a person must not bring any animal into a recreational area or allow such an animal to enter or remain in a recreational area.
Penalty: 20 penalty units.
- (3) Subclause (2) does not apply to a person who brings an animal into a recreational area—
 - (a) to assist a disabled person with respect to that person's disability; or
 - (b) to be trained to assist disabled persons with respect to disabilities; or
 - (c) to be used as bait for fishing; or
 - (d) the animal is brought into the area to be used in accordance with a permit issued by the Authority for those purposes set out under clause 18 or 19.
 - (e) the animal is confined in a vehicle or vessel which is in transit through the recreational area, by a route that is open to the public for that purpose.
- (4) A person who brings an animal into a recreational area under sub-clause (2) or (3) must not allow the animal to enter any waterway in the area.
Penalty: 20 penalty units.
- (5) A person who has, in the opinion of an authorised water officer, the care and control of an animal must remove the animal from a recreational area if directed to do so by the officer where the officer believes that the person has contravened anything in this clause.
Penalty: 20 penalty units.

PART 6—USE OF VEHICLES, AIRCRAFT AND VESSELS

37 Vehicles

- (1) A person who is in charge of a vehicle must not cause the vehicle to enter into part of a recreational area that has not been designated by the Authority for that purpose.

Penalty: 20 penalty units.

- (2) A person who is in charge of a vehicle in a recreational area must not operate the vehicle in contravention of—

- (a) a notice or sign erected by the Authority; or
(b) a direction of an authorised water officer—

that relates to the operation of a vehicle including the stopping or parking of the vehicle or the direction of movement or speed of the vehicle in the area.

Penalty: 20 penalty units.

- (3) A person driving or in charge of a vehicle in a recreational area must, as soon as it is safe to do so, comply with any direction of an authorised water officer.

Penalty: 20 penalty units.

38 Parking of vehicles

- (1) Subject to subclause (2) a person must not park or leave a vehicle standing in any part of a recreational area that is not designated by the Authority for the purpose of parking vehicles or a class of vehicles or leaving vehicles or a class of vehicles standing.

Penalty: 20 penalty units.

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- (2) Subclause (1) does not apply to a person who parks or leaves the vehicle standing on or immediately adjacent to a road if the vehicle—
- (a) does not obstruct other persons or other vehicles; and
 - (b) does not damage any flora or fauna; and
 - (c) does not damage any natural or cultural feature; and
 - (d) is not parked in contravention of any sign or notice erected by the Authority or a direction given an authorised water officer.

39 Discharge from vehicles and vessels

A person must not intentionally or recklessly discharge or discard any petrol, engine oil or any other type of flammable liquid from a vehicle or vessel in a recreational area.

Penalty: 20 penalty units.

40 Use of aircraft

- (1) Subject to subclause (2) a person must not, in a recreational area—
- (a) launch or land an aircraft; or
 - (b) deliver anything by an aircraft.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to a person who launches or lands an aircraft or delivers anything by an aircraft where the person does so—
- (a) in a part of a recreational area designated by the Authority for that purpose; or
 - (b) under and in accordance with a permit issued by the Authority; or
 - (c) in an emergency.

PART 7—BOATING

41 Marine Acts

Where there is any inconsistency between this by-law and the **Marines Safety Act 2010**, the **Marines (Drug, Alcohol and Pollution Control) Act 1988** or any regulations or rules made under any of those Acts, those Acts and any regulations or rules made under those Acts prevail over this by-law to the extent of the inconsistency.

42 Operation of a houseboat (*option one*)

- (1) A person must not launch, land, load, unload, moor, anchor, operate or leave a houseboat in a recreational area.

Penalty: 20 penalty units.

Or

42 Operation of a houseboat (*option two*)

- (1) A person must not launch, land, load, unload, moor, anchor, operate or leave any houseboat in a recreational area other than on or around Lake Eildon and in accordance with any Regulations made under the **Water act 1989**.

Penalty: 20 penalty units.

[*Drafting note to corporation: unwanted option to be removed*].

43 Operation of a vessel that has accommodation and toilet facilities that is not a houseboat (*option one*)

- (1) This Clause does not apply to a houseboat.
- (2) A person must not launch, land, load, unload, moor, anchor, operate or leave a boat that has toilet facilities, whether the facilities are connected to the boat or may be portable facilities, in a recreational area without a permit.

Penalty: 20 penalty units.

Or

43 Operation of a vessel that has accommodation and toilet facilities that is not a houseboat (*option two*)

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- (1) This Clause does not apply to a houseboat.
- (2) A person must not launch, land, load, unload, moor, anchor, operate or leave any boat that has toilet facilities, whether the facilities are connected to the boat or may be portable facilities, in any part of a recreational area that has been designated by the Authority as an area in which the use of boats with toilet facilities is not permitted.

Penalty: 20 penalty units.

[Drafting note to corporation: unwanted option to be removed].

44 Camping on a vessel

- (1) Subject to subclause (2) a person must not camp overnight on a vessel, that is not a houseboat, in a recreational area.

Penalty: 20 penalty units.

- (2) Subclause (1) does not apply to a person who acts in accordance with a permit issued by the Authority.

45 Operation of a vessel

- (1) A person must not launch, land, load, unload, moor, anchor, operate or leave any boat in a recreational area—
 - (a) that is likely to cause danger to other people or damage to property; or
 - (b) that is derelict or unseaworthy; or
 - (c) in a careless or reckless manner; or
 - (d) in a manner or at a speed that would be likely to endanger other people or cause damage to property; or
 - (e) so as to obstruct endanger or interfere with the operations or works of the Authority or its servants or agents; or
 - (f) in a manner contrary to any direction given by an authorised water officer.

Penalty: 20 penalty units.

- (2) A person must not moor a boat in a recreational area—
 - (a) in a manner that is likely to cause obstruction to any other boat; or
 - (b) in a boat exclusion zone.

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(f) in a manner contrary to any direction given by an authorised water officer.

Penalty: 20 penalty units.

46 Sinking and salvaging objects on water

(1) A person must not in a recreational area—

(a) deliberately sink or scuttle any boat or pontoon; or

(b) carry out the salvage of any sunken boat or pontoon.

Penalty: 20 penalty units.

(2) Subclause (1) does not apply to a person who acts in accordance with a permit issued by the Authority.

47 Obstruction of launching ramps

A person must not obstruct the launching or retrieval of a boat or other vessel from a launching ramp.

Penalty: 20 penalty units.

48 Directions to remove boats

An owner or operator of a vessel or any person who in the opinion of an authorised water officer is in charge of a vessel must remove the vessel from—

(a) a water body within a recreational area ; or

(b) from the recreational area—

if directed to do so by an authorised water officer, if the officer reasonably believes that the person has contravened any provision of this by-law.

Penalty: 20 penalty units.

PART 8—AUTHORISED WATER OFFICERS TO GIVE DIRECTIONS

49 Direction to leave a recreational area

A person to whom a direction is given by an authorised water officer to leave a recreational area or a part of the area must comply immediately with that direction where the giving of the direction is because authorised water officer reasonably believes that—

- (a) there is reason to leave the recreational area, or part of the area, due to an emergency; or
- (b) the person's safety may be at risk; or
- (c) another person's safety may be at risk; or
- (d) the person has contravened any provisions in this by-law relating to use of, or activities in, a recreational area

Penalty: 20 penalty units.

PART 9—ISSUE OF PERMIT

50 Application for permit

- (1) A person may apply to the Authority for the issue of a permit under this by-law.
- (2) An application under subclause (1) must—
 - (a) be made in a form approved by the Authority;
 - (b) contain any information that is required by the Authority; and
 - (c) be accompanied by an application fee as set out in Schedule 1 of this by-law.
- (3) A permit issued under subclause (1) does not remove the need to apply for any other permits or licences that may be necessary for the undertaking or compliance with anything else under this by-law, the Act or any regulations or other by-laws made under the Act.
- (4) The holder of a permit referred to in subclause (1) must comply with the conditions of that permit.

Penalty: 20 penalty units.

PART 10—REVOCATION

51 Revocation [Where relevant]

The [*insert name of the Authority's previous by-law if applicable*] is **revoked**. [*This Part may be removed if no revocation of any by-law is required*].

ENDNOTES

1. Recreational Areas

Information regarding recreational areas regulated under this by-law is located on the Authority's website. Information includes maps and plans of the recreational areas and further details of any parts of a recreational area that are areas designated or prohibited for entry or for the undertaking of activities.

2. Service fees

Persons seeking a permit to undertake any use or activity under this by-law that requires a permit may also be charged a service fee. Service fees associated with any use or activity may be imposed by the Authority under sections 264 in relation to services provided under section 122ZB of the Act.

3. Further boating rules

The regulation of undue noise of a vessel is regulated under Rule no. 21 of the Vessel Operating and Zoning Rules made under the **Marines Safety Act 2010**.

Further prohibition for the mooring of vessels is regulated under Rule no.23A of the Vessel Operating and Zoning Rules made under the **Marines Safety Act 2010**. This includes the prohibition of vessels being moored, secured to or in any other way made fast to any navigation marker, beacon, buoy, pole or post fixed in or on any State waters.

4. Other legislation

Fishing

Fishing is governed by the **Fisheries Act 1995** and Regulations made under that Act. Failure to adhere to that legislation may result in the imposition of penalties under that Act and those Regulations.

A licence or permit issued under section 50A of the **Fisheries Act 1995** does not confer any authority or consent to enter on any land that is, or to take or to attempt to take fish from any waters that are, owned or vested in a water authority.

Litter

The depositing of litter in a recreational area is prohibited under the **Environmental Protection Act 1970** and a person who does so is liable to the imposition of penalties under the Act.

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Fire

The **Country Fire Authority Act 1958**, also governs the lighting of fires. A person who fails to comply with the Act is liable to the imposition of penalties under that Act.

Wildlife

The taking, hunting or destroying of wildlife, including game, is regulated under the **Wildlife Act 1975**. A person who fails to comply with the requirements of that Act is liable the imposition of penalties under that Act.

5. Sunsetting

This by-law will sunset 10 years after its making.