



LOCAL GOVERNMENT ACT 1995

SHIRE OF SHARK BAY

**LOCAL GOVERNMENT
PROPERTY
LOCAL LAW**

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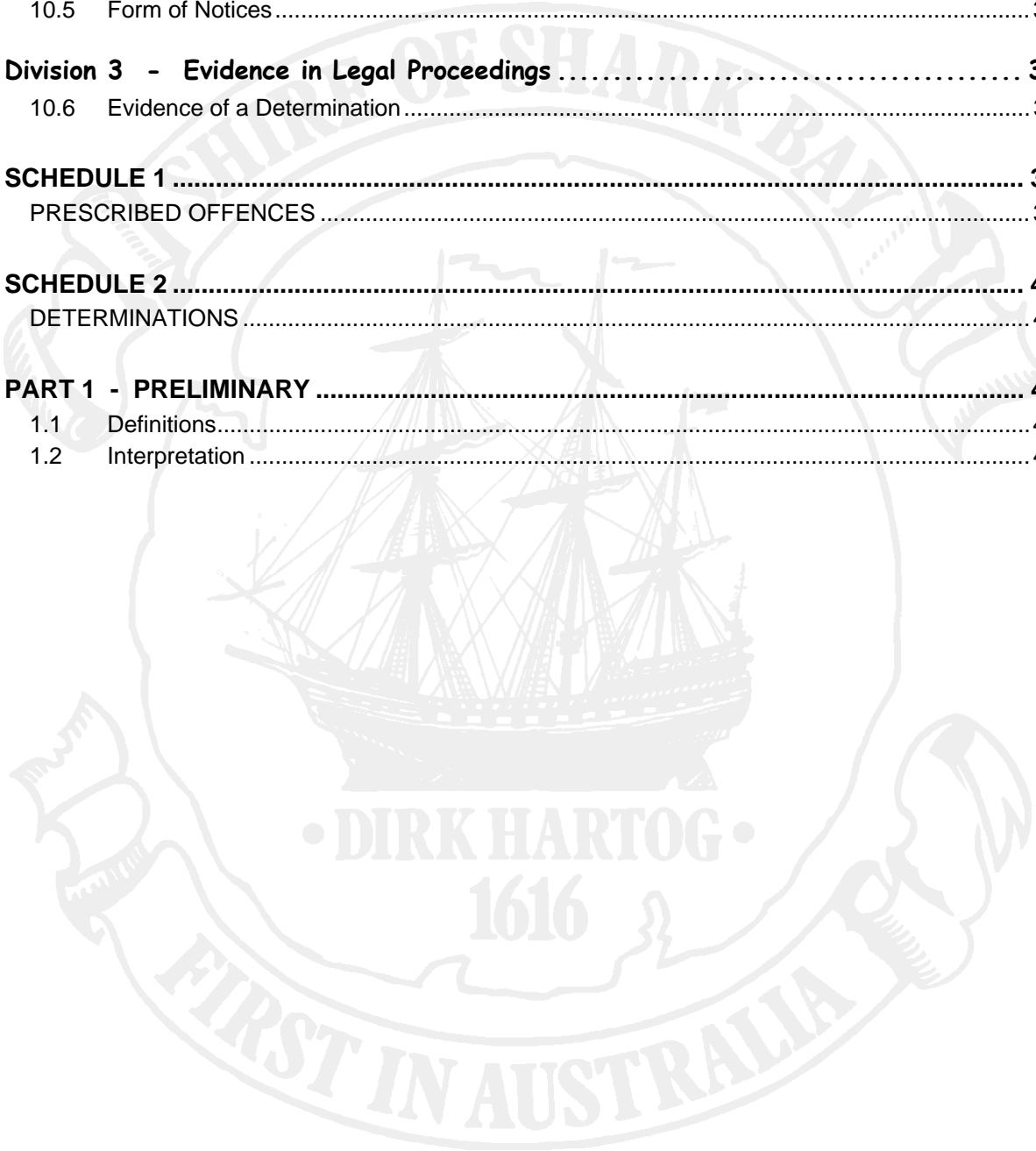
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LOCAL GOVERNMENT ACT 1995

Shire of Shark Bay

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Shark Bay resolved on 27 February 2002 to make the following Local Law.

PART 1 - PRELIMINARY

1.1 CITATION

This Local Law may be cited as *The Shire of Shark Bay Local Government Property Local Law*.

1.2 DEFINITIONS

In this Local Law unless the context otherwise requires -

"**Act**" means the *Local Government Act 1995*,

"**applicant**" means a person who applies for a permit under Clause 3.2,

"**authorised person**" means a person authorised by the Local Government under Section 9.10 of the Act to perform any of the functions of an authorised person under this Local Law,

"**boat**" means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski,

"**building**" means any building which is Local Government property and includes a -

- (a) hall or room,
- (b) corridor, stairway or annexe of any hall or room, and
- (c) jetty,

"**CEO**" means the Chief Executive Officer of the Local Government,

"**commencement day**" means the day on which this Local Law comes into operation,

"**Council**" means the Council of the Local Government,

"**date of publication**" means, where local public notice is required to be given of a matter under this Local Law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district,

"**determination**" means a determination made under Clause 2.1,

"**district**" means the district of the Local Government,

"**function**" means an event or activity characterised by all or any of the following -

- (a) formal organisation and preparation,
- (b) its occurrence is generally advertised or notified in writing to particular persons,
- (c) organisation by or on behalf of a club,
- (d) payment of a fee to attend it, and
- (e) systematic recurrence in relation to the day, time and place,

"**liquor**" has the same meaning as is given to it in Section 3 of the *Liquor Licensing Act 1988*,

"**Local Government**" means the Shire of Shark Bay,

"**Local Government property**" means anything except a thoroughfare -

- (a) which belongs to the Local Government,
- (b) of which the Local Government is the management body under the *Land Administration Act 1997*, or
- (c) which is an 'otherwise unvested facility' within Section 3.53 of the Act.

"**Manager**" means the person for the time being employed by the Local Government to control and manage a facility which is Local Government property and includes the person's assistant or deputy,

"**permit**" means a permit issued under this Local Law,

"**Regulations**" means the Local Government (Functions and General) Regulations 1996,

"**sign**" includes a notice, flag, mark, structure or device approved by the Local Government on which may be shown words, numbers, expressions or symbols,

"**trading**" means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of -

- (a) offering them for sale or hire,
- (b) inviting offers for their sale or hire,
- (c) soliciting orders for them, or
- (d) carrying out any other transaction in relation to them, and

"**vehicle**" includes -

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, and
- (b) an animal being ridden or driven,

but excludes -

- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath,
- (d) a pram, a stroller or a similar device, and
- (e) a boat.

1.3 INTERPRETATION

In this Local Law unless the context otherwise requires a reference to Local Government property includes a reference to any part of that Local Government property.

1.4 APPLICATION

- (1) This Local Law applies throughout the district and in the sea adjoining the district for a distance of 200 metres seawards from the Western district boundary which is bounded by the shores of the Indian Ocean and the inlets therefrom.
- (2) Notwithstanding anything to the contrary in this Local Law, the Local Government may -
 - (a) hire Local Government property to any person, or
 - (b) enter into an agreement with any person regarding the use of any Local Government property.

1.5 REPEAL

- (1) The following Local Laws are repealed -

Relating to -

 - Foreshore, published in the *Government Gazette* of 1 May 1957,
 - Management and Use of Halls and Other Buildings under the Control of the Council, published in the *Government Gazette* of 16 June 1964, as amended in the *Government Gazette* of 15 October 1993,
 - Reserves, published in the *Government Gazette* of 23 February 1990, as amended in the *Government Gazettes* of 8 February 1991 and 13 May 1994,
 - Monkey Mia Jetty, published in the *Government Gazette* of 20 October 1998.
- (2) Where a Policy was made or adopted by the Local Government under or in relation to a Local Law repealed by this Local Law, then the Policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

Provisions of other written laws

Throughout this Local Law text boxes have been inserted containing references to provisions of other written laws which complement this Local Law. These provisions have been reproduced in full in a separate document published in the Local Laws Manual, titled 'Complementary Legislation'. This can be found in Section 4 (Legislative Review) starting on page 23.

Delegation

See Sections 5.42 to 5.46 of the *Local Government Act 1995* and Sections 58 and 59 of the *Interpretation Act 1984*.

PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1 - Determinations

2.1 DETERMINATIONS AS TO USE OF LOCAL GOVERNMENT PROPERTY

- (1) The Local Government may make a determination in accordance with Clause 2.2 -
 - (a) setting aside specified Local Government property for the pursuit of all or any of the activities referred to in Clause 2.7,
 - (b) prohibiting a person from pursuing all or any of the activities referred to in Clause 2.8 on specified Local Government property,
 - (c) as to the matters in Clauses 2.7(2) and 2.8(2), and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determination in Schedule 2 -
 - (a) are to be taken to have been made in accordance with Clause 2.2,
 - (b) may be amended or revoked in accordance with Clause 2.6, and
 - (c) have effect on the commencement day.

2.2 PROCEDURE FOR MAKING A DETERMINATION

- (1) The Local Government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that -
 - (a) the Local Government intends to make a determination, the purpose and effect of which is summarised in the notice,
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the Local Government, and
 - (c) submissions in writing about the proposed determination may be lodged with the Local Government within twenty one days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to -
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication,
 - (b) amend the proposed determination, in which case subclause (5) will apply, or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to -
 - (a) consider those submissions, and
 - (b) decide -
 - (i) whether or not to amend the proposed determination, or

- (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice -
 - (a) of the effect of the amendments, and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 DISCRETION TO ERECT SIGN

The Local Government may erect a sign on Local Government property to give notice of the effect of a determination which applies to that property.

2.4 DETERMINATION TO BE COMPLIED WITH

A person shall comply with a determination.

2.5 REGISTER OF DETERMINATIONS

- (1) The Local Government is to keep a register of determinations made under Clause 2.1, and of any amendments to or revocations of determinations made under Clause 2.6.
- (2) Sections 5.94 and 4.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within Section 5.9(u)(i) of the Act.

2.6 AMENDMENT OR REVOCATION OF A DETERMINATION

- (1) The Council may amend or revoke a determination.
- (2) The provisions of Clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2 - Activities which may be Pursued or Prohibited under a Determination

2.7 ACTIVITIES WHICH MAY BE PURSUED ON SPECIFIED LOCAL GOVERNMENT PROPERTY

- (1) A determination may provide that specified Local Government property is set aside as an area on which a person may -

- (a) bring, ride or drive an animal,
 - (b) take, ride or drive a vehicle, or a particular class of vehicle,
 - (c) fly or use a motorised model aeroplane,
 - (d) use a children's playground provided that the person is under the age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age,
 - (e) launch, beach or leave a boat,
 - (f) take or use a boat, or a particular class of boat,
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified area of that Local Government property,
 - (h) play or practice -
 - (i) golf or archery,
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*, or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the Local Government may cause injury or damage to a person or property.
 - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device, and
 - (u) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular -
- (a) the days and time during which the activity may be pursued,
 - (b) that an activity may be pursued on a class of Local Government property, specified Local Government property or all Local Government property,
 - (c) that an activity is to be taken to be prohibited on all Local Government property other than that specified in the determination,
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things,
 - (e) may specify that the activity can be pursued by a class of persons or all persons, and
 - (f) may distinguish between different classes of the activity.

2.8 ACTIVITIES WHICH MAY BE PROHIBITED ON SPECIFIED LOCAL GOVERNMENT PROPERTY

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified Local Government property -
- (a) smoking on premises,
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device,
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle,
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed,
 - (e) taking or using a boat, or a particular class of boat,
 - (f) the playing or practice of -
 - (i) golf, archery, pistol shooting or rifle shooting, or

- (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the Local Government may cause injury or damage to a person or property,
 - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property, and
 - (h) the traversing of sand dunes or land which in the opinion of the Local Government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular -
 - (a) the days and times during which the activity is prohibited,
 - (b) that an activity is prohibited on a class of Local Government property, specified Local Government property or all Local Government property,
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things,
 - (d) that an activity is prohibited in respect of a class of persons or all persons, and
 - (e) may distinguish between different classes of the activity.
- (3) In this clause -

"premises" means a building, stadium or similar structure which is Local Government property, but not an open space such as a park or a playing field.

Division 3 - Transitional

2.9 SIGNS TAKEN TO BE DETERMINATIONS

- (1) Where a sign erected on Local Government property has been erected under a Local Law of the Local Government repealed by this Local Law, then it is to be taken and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provisions of this Local Law or any determination made under Clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3 - PERMITS

Division 1 - Preliminary

3.1 APPLICATION OF PART

This Part does not apply to a person who uses or occupies Local Government property under a written agreement with the Local Government to do so.

Division 2 - Applying for a Permit

3.2 APPLICATION FOR PERMIT

- (1) Where a person is required to obtain a permit under this Local Law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this Local Law shall -
 - (a) be in the form determined by the Local Government,
 - (b) be signed by the applicant,
 - (c) provide the information required by the form, and
 - (d) be forwarded to the Chief Executive Officer together with any fee imposed and determined by the Local Government under and in accordance with Sections 6.16 to 6.19 of the Act.
- (3) The Local Government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The Local Government may require an applicant to give local public notice of the application for a permit.
- (5) The Local Government may refuse to consider an application for a permit which is not in accordance with subclause (2).

3.3 DECISION ON APPLICATION FOR PERMIT

- (1) The Local Government may -
 - (a) approve an application for a permit unconditionally or subject to any conditions, or
 - (b) refuse to approve an application for a permit.
- (2) If the Local Government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the Local Government.
- (3) If the Local Government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

Division 3 - Conditions

3.4 CONDITIONS WHICH MAY BE IMPOSED ON A PERMIT

- (1) Without limiting the generality of Clause 3.3(1)(a), the Local Government may approve an application for a permit subject to conditions relating to -
- (a) the payment of a fee,
 - (b) compliance with a standard or a Policy of the Local Government adopted by the Local Government,
 - (c) the duration and commencement of the permit,
 - (d) the commencement of the permit being contingent on the happening of an event,
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application,
 - (f) the approval of another application for a permit which may be required by the Local Government under any written law,
 - (g) the area of the district to which the permit applies,
 - (h) where a permit is issued for an activity which will or may cause damage to Local Government property, the payment of a deposit or bond against such damage, and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the Local Government.
- (2) Without limiting Clause 3.3(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire Local Government property may be issued -
- (a) when fees and charges are to be paid,
 - (b) payment of a bond against possible damage or cleaning expenses or both,
 - (c) restrictions on the erection of material or external decorations,
 - (d) rules about the use of furniture, plant and effects,
 - (e) limitations on the number of persons who may attend any function in or on Local Government property,
 - (f) the duration of the hire,
 - (g) the right of the Local Government to cancel a booking during the course of an annual or seasonal booking, if the Local Government sees fit,
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*,
 - (i) whether or not the hire is for the exclusive use of the Local Government property,
 - (j) the obtaining of a policy of insurance in the names of both the Local Government and the hirer, indemnifying the Local Government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the Local Government property by the hirer, and
 - (k) the provision of an indemnity from the hirer, indemnifying the Local Government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the Local Government property by the hirer.

3.5 IMPOSING CONDITIONS UNDER A POLICY

(1) In this Clause -

"Policy" means a Policy of the Local Government adopted by the Council containing conditions subject to which an application for a permit may be approved under Clause 3.3(1)(a).

(2) Under Clause 3.3(1)(a) the Local Government may approve an application subject to conditions by reference to a Policy.

(3) The Local Government shall give a copy of the Policy, or the part of the Policy which is relevant to the application for a permit, with the form of permit referred to in Clause 3.3(2).

(4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a Policy until the Local Government gives the permit holder a copy of the Policy or the part of the Policy which is relevant to the application.

(5) Sections 5.94 and 4.95 of the Act shall apply to a Policy and for that purpose a Policy shall be deemed to be information within Section 5.94(u)(i) of the Act.

3.6 COMPLIANCE WITH AND VARIATION OF CONDITIONS

(1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The Local Government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 4 - General

3.7 AGREEMENT FOR BUILDING

Where a person applies for a permit to erect a building on Local Government property the Local Government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

3.8 DURATION OF PERMIT

A permit is valid for one year from the date on which it is issued, unless it is -

- (a) otherwise stated in this Local Law or in the permit, or
- (b) cancelled under Clause 3.12.

3.9 RENEWAL OF PERMIT

(1) A permit holder may apply to the Local Government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

3.10 TRANSFER OF PERMIT

- (1) An application for the transfer of a valid permit is to -
 - (a) be made in writing,
 - (b) be signed by the permit holder and the proposed transferee of the permit,
 - (c) provide such information as the Local Government may require to enable the application to be determined, and
 - (d) be forwarded to the Chief Executive Officer together with any fee imposed and determined by the Local Government under and in accordance with Sections 6.16 to 6.19 of the Act.
- (2) The Local Government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the Local Government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the Chief Executive Officer.
- (4) Where the Local Government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.11 PRODUCTION OF PERMIT

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

3.12 CANCELLATION OF PERMIT

- (1) Subject to Clause 8.1, a permit may be cancelled by the Local Government if the permit holder has not complied with a -
 - (a) condition of the permit, or
 - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder -
 - (a) shall return the permit as soon as practicable to the Chief Executive Officer, and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a Permit is Required

3.13 ACTIVITIES NEEDING A PERMIT

- (1) A person shall not without a permit -
 - (a) subject to subclause (3), hire Local Government property,
 - (b) advertise anything by any means on Local Government property,
 - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on Local Government property,

- (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is Local Government property,
 - (e) plant any plant or sow any seeds on Local Government property,
 - (f) carry on any trading on Local Government property unless the trading is conducted -
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit, or
 - (ii) by a person who has a licence or permit to carry on trading on Local Government property under any written law,
 - (g) unless an employee of the Local Government in the course of her or his duties or on an area set aside for that purpose -
 - (i) drive or ride or take any vehicle on to Local Government property, or
 - (ii) park or stop any vehicle on Local Government property,
 - (h) conduct a function on Local Government property,
 - (i) charge any person for entry to Local Government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation,
 - (j) light a fire on Local Government property except in a facility provided for that purpose,
 - (k) parachute, hang glide, abseil or base jump from or on to Local Government property,
 - (l) erect a building or a refuelling site on Local Government property,
 - (m) make any excavation on or erect or remove any fence on Local Government property,
 - (n) erect or install any structure above or below ground, which is Local Government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person,
 - (o) depasture, take on to, or allow to enter or remain upon Local Government property, any horse, sheep, cattle, goat, camel, ass or mule, unless the Local Government has made a determination under Clause 2.1(1) of this Local Law, in which event the provisions of the determination shall prevail, or
 - (p) conduct or take part in any gambling game or contest, or bet, or offer to bet, publicly.
- (2) The Local Government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The Local Government may exempt specified Local Government property or a class of Local Government property from the application of subclause (1)(a).

3.14 PERMIT REQUIRED TO CAMP OUTSIDE A FACILITY

(1) In this clause –

facility has the same meaning as is given to it in section 5(1) of the Caravan Parks and Camping Grounds Act 1995.

goods has the same meaning as is given to it in section 3.38 of the Act.

(2) This clause does not apply to a facility operated by the local government.

(3) A person shall not without a permit -

(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;

(b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or

(c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.

(4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.

(5) Any tent, camp, hut or similar structure erected in contravention of paragraph (b) of subclause (3) and associated goods may, subject to Regulation 29 of the Regulations, be impounded.

(6) A vehicle parked in contravention of paragraph (c) of subclause (3) may, subject to the provisions of Regulation 29 of the Regulations, be impounded by immobilising the vehicle by the use of wheel clamps.

(7) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding and the place where and hours during which the costs can be paid.

(8) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.

(9) Notices issued under this clause shall be in the form determined by the CEO.

Local Government to consider suitability of land for camping for more than three nights

See Regulation 13 of the Caravan Parks and Camping Grounds Regulations 1997.

Caravan or camp to be maintained

See Regulation 14 of the Caravan Parks and Camping Grounds Regulations 1997.

Reserves under control of a Local Government

The powers of a Local Government over Reserves (which were formerly vested in it, and which are now the subject of a management order under the *Land Administration Act 1997*) are contained in Section 3.54 of the *Local Government Act 1995* and Section 5 of the *Parks and Reserves Act 1895*.

Disturbing Local Government land on anything on it

See Regulation 5 of the Local Government (Uniform Local Provisions) Regulations 1996.

3.15 PERMIT REQUIRED FOR POSSESSION AND CONSUMPTION OF LIQUOR

- (1) A person, on Local Government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless -
- (a) that is permitted under the *Liquor Licensing Act 1988*, and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Limitations as to liquor on unlicensed premises etc

See section 119 *Liquor Licensing Act 1988*.

Division 6 - Responsibilities of Permit Holder

3.16 RESPONSIBILITIES OF PERMIT HOLDER

A holder of a permit shall in respect of Local Government property to which the permit relates -

- (a) ensure that an authorised person has unobstructed access to the Local Government property for the purpose of inspecting the property or enforcing any provision of this Local Law,
- (b) leave the Local Government property in a clean and tidy condition after its use,
- (c) report any damage or defacement of the Local Government property to the Local Government, and
- (d) prevent the consumption of any liquor on the Local Government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

Unlawful discrimination

See *Equal Opportunity Act 1984* references for unlawful discrimination.

PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1 - Behaviour On and Interference With Local Government Property

4.1 BEHAVIOUR WHICH INTERFERES WITH OTHERS

A person shall not in or on any Local Government property behave in a manner which -

- (a) is likely to interfere with the enjoyment of a person who might use the property, or
- (b) interferes with the enjoyment of a person using the property.

Indecent acts

See Section 203 of the *Criminal Code*.

Disorderly conduct

See Section 54 of the *Police Act 1892*.

4.2 BEHAVIOUR DETRIMENTAL TO PROPERTY

- (1) A person shall not behave in or on Local Government property in a way which is or might be detrimental to the property.

- (2) In subclause (1) -

"detrimental to the property" includes -

- (a) removing any thing from the Local Government property such as a rock, a plant or a seat provided for the use of any person, and
- (b) destroying, defacing or damaging any thing on the Local Government property, such as a plant, a seat provided for the use of any person, or a building.

Damage to animals, plants etc in gardens

See Section 58A of the *Police Act 1892*.

Criminal damage

See Section 444 of the *Criminal Code*.

Wilful damage to property

See Section 80 of the *Police Act 1892*.

Graffiti

See Section 65(2) and 80A of the *Police Act 1892*.

Compensation and restitution orders

See Part 16 of the *Sentencing Act 1995*, Sections 111, 117 (compensation orders) and 120 (restitution orders).

Littering

See Sections 23 and 24 of the *Litter Act 1979*, also Regulations 4, 5 and 6 of the Litter Regulations 1981.

Protected flora

See Sections 23A and 23B of the *Wildlife Conservation Act 1950*.

4.3 TAKING OR INJURING ANY FAUNA

(1) A person shall not take, injure or kill, or attempt to take, injure or kill, any fauna which is on or above any Local Government property, unless that person is authorised under a written law to do so.

(2) In this clause -

"animal" means any living thing that is not a human being or plant, and

"fauna" means any animal indigenous to or which periodically migrates to any State or Territory of the commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal -

- (a) any class of animal or individual member,
- (b) the eggs or larvae, or
- (c) the carcass, skin, plumage or fur.

Injury or destroying native or acclimatised animals or birds on parks, roads or reserves

See Section 97 of the *Police Act 1892*.

Taking or unlawful possession of protected fauna

See Sections 16 and 16A of the *Wildlife Conservation Act 1950* and Section 20 of the same Act in relation to the authority of wildlife officers.

4.4 INTOXICATED PERSONS NOT TO ENTER LOCAL GOVERNMENT PROPERTY

A person shall not enter or remain on Local Government property while under the influence of liquor or a prohibited drug.

Circumstances in which an intoxicated person may be apprehended by police

See Section 53A of the *Police Act 1892*.

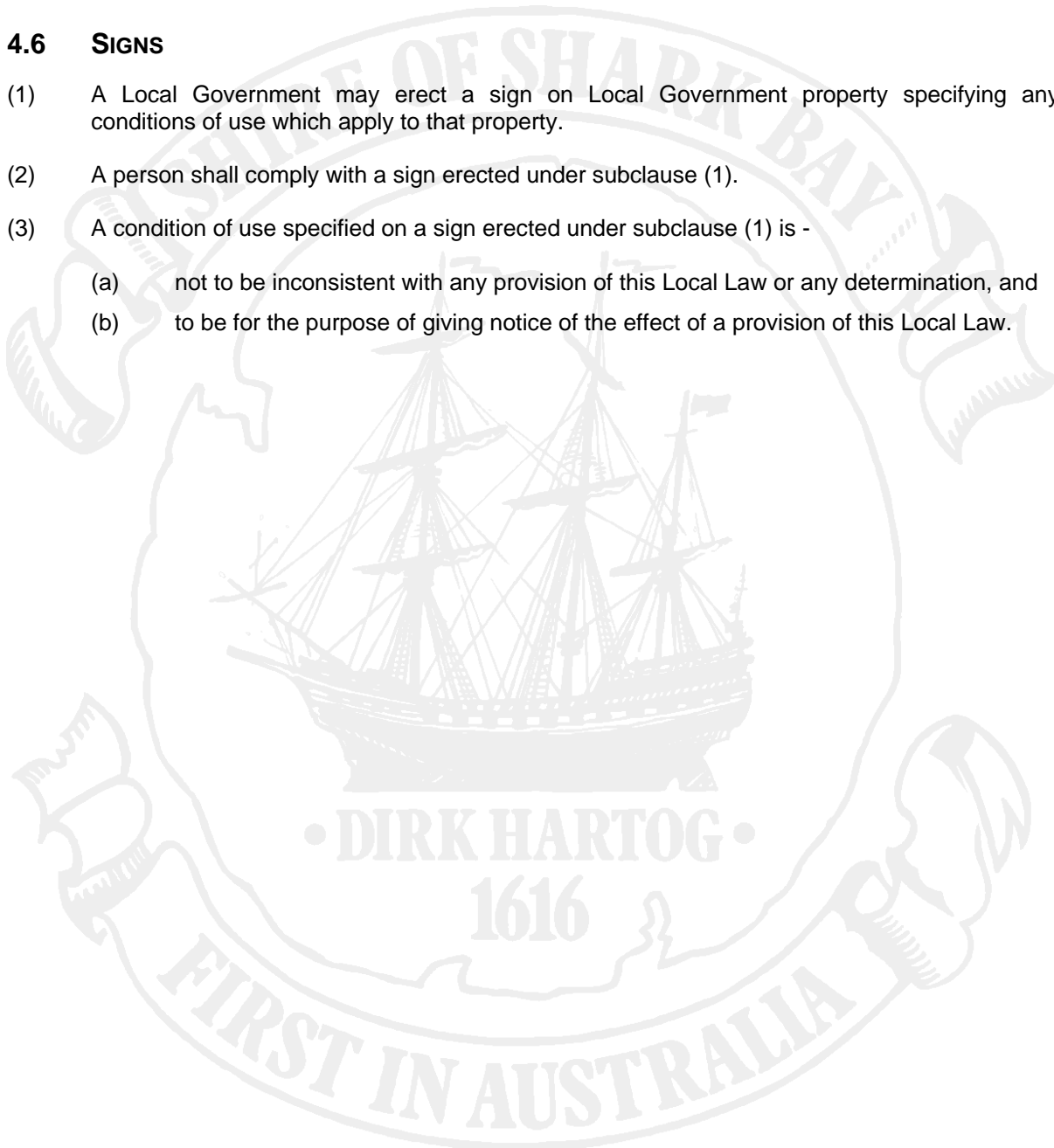
4.5 No PROHIBITED DRUGS

A person shall not take a prohibited drug onto, or consume or use a prohibited drug on, Local Government property.

Division 2 - Signs

4.6 SIGNS

- (1) A Local Government may erect a sign on Local Government property specifying any conditions of use which apply to that property.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is -
 - (a) not to be inconsistent with any provision of this Local Law or any determination, and
 - (b) to be for the purpose of giving notice of the effect of a provision of this Local Law.



PART 5 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1 - Beaches

5.1 POWERS OF SURF LIFE SAVING CLUB MEMBERS

- (1) Subject to subclause (2), the Local Government may authorise under Section 9.10 of the Act the members of a surf life saving club to perform all or any of the following functions in relation to a beach -
 - (a) patrol any beach,
 - (b) carry out any activity on any beach,
 - (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs,
 - (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of a surf life saving club activities, and
 - (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Under subclause (1), the Local Government shall authorise only those members who have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.
- (3) Under subclause (1), the Local Government may authorise members generally, or in relation to particular times, days or months.

5.1 AUTHORISING OTHER PERSONS

- (1) A Local Government may authorise, under Section 9.10 of the Act, a person to perform all or any of the functions referred to in Clause 5.1(1) in relation to a beach.
- (2) Under subclause (1), the Local Government shall authorise only those persons who, in the reasonable opinion of the Local Government, are competent to perform the functions referred to in Clause 5.1(1) in respect of which they are authorised.
- (3) Under subclause (1), the Local Government may authorise a person generally, or in relation to particular times, days or months.
- (4) Where the Local Government has authorised members of a surf life saving club under Clause 5.1(1) and a person under subclause (1) in relation to the same beach, so that they can perform all or any of the functions referred to in Clause 5.1(1) contemporaneously, the Local Government is to specify which authorisation is rendered ineffective when both are exercised.

5.3 PERSONS TO COMPLY WITH SIGNS AND DIRECTIONS

A person shall -

- (a) not act in contravention of any sign erected on a beach under Clause 5.1(1)(c),

- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless she or he is a member of the club or has obtained permission to enter from the club, and
- (c) comply with any direction given under Clause 5.1(1)(c) or 5.1(1)(e).

notwithstanding that the sign or the direction was erected or given, as the case may be, by a person referred to in Clause 5.2(1).

Division 2 - Fenced or Closed Property

5.4 NO ENTRY TO FENCED OR CLOSED LOCAL GOVERNMENT PROPERTY

A person must not enter Local Government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the Local Government.

Division 3 - Toilet Blocks and Change Rooms

5.5 ONLY SPECIFIED GENDER TO USE ENTRY OF TOILET BLOCK OR CHANGE ROOM

Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by -

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room, or
- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.

Division 4 - Aerodrome (Airport)

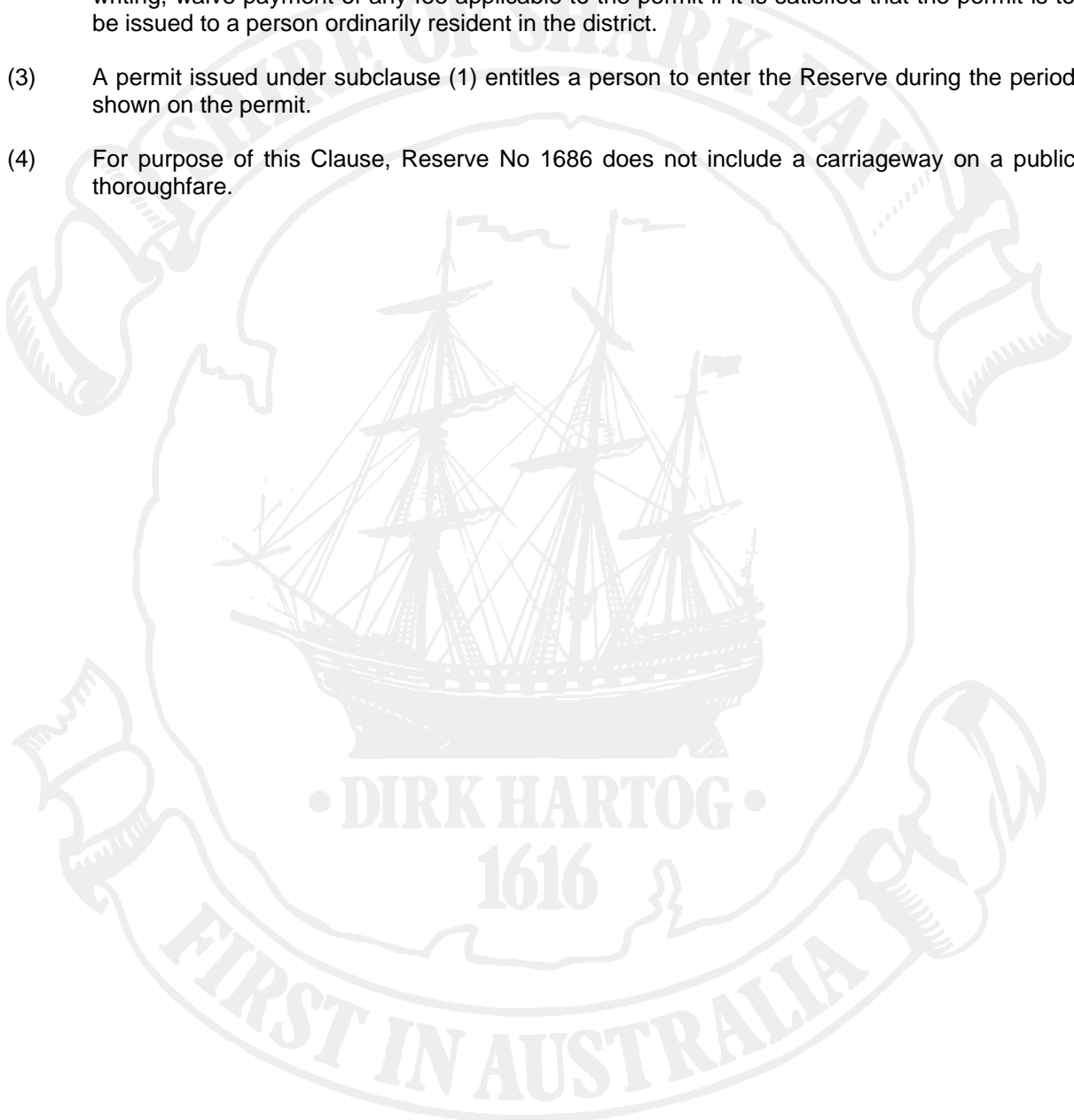
5.6 ACCESS OF ANIMALS RESTRICTED

- (1) A person shall not bring an animal on to an aerodrome unless -
 - (a) the person is a person referred to in Section 8 of the *Dog Act 1976* acting in accordance with that provision,
 - (b) the animal is being air freighted from the aerodrome,
 - (c) the animal has been air freighted to the aerodrome, or
 - (d) the person is authorised to do so by the Local Government.
- (2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.
- (3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner at that time commits an offence against subclause (2).

Division 5 - Reserve No 1686

5.7 PERMIT REQUIRED TO ENTER RESERVE

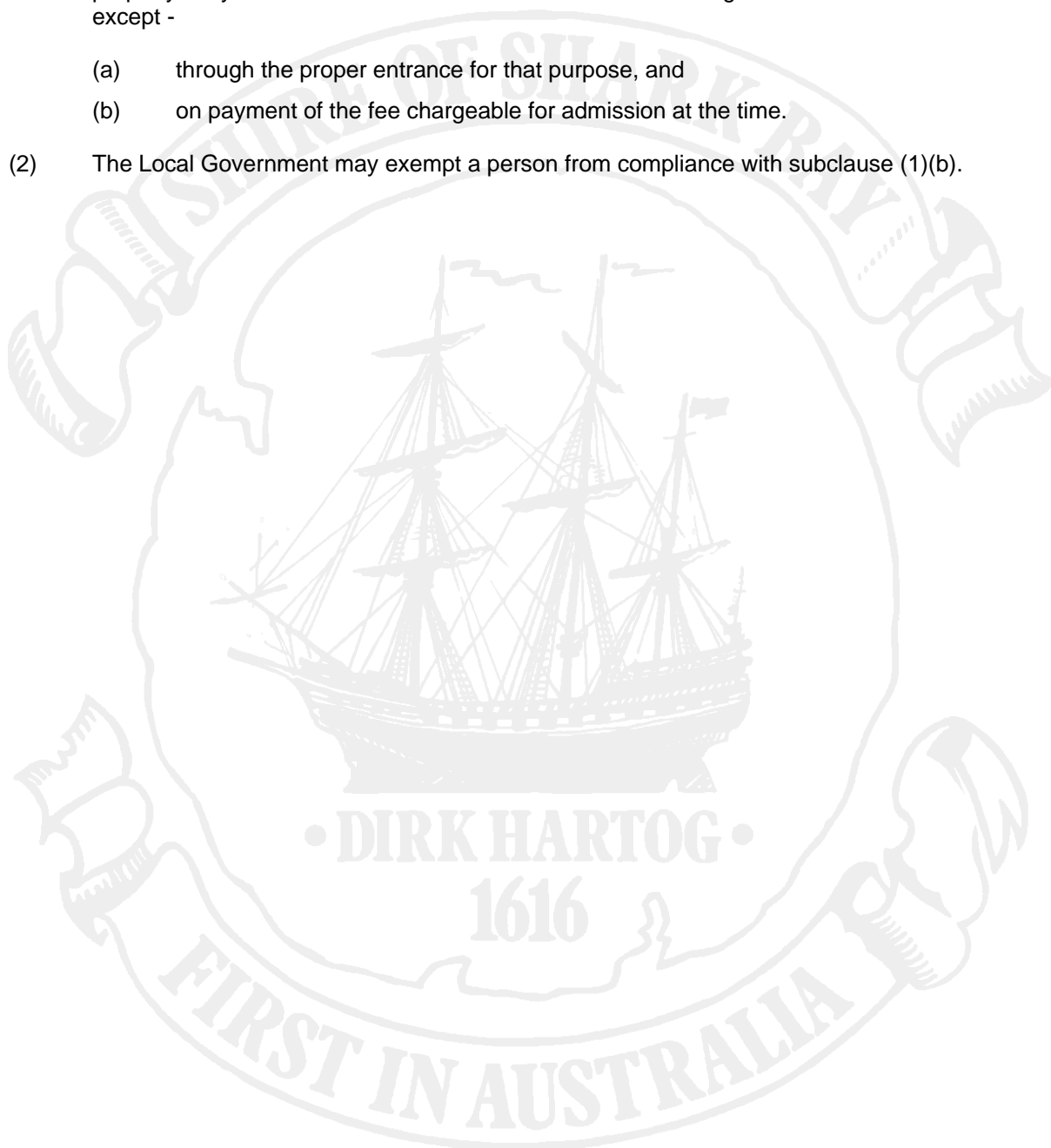
- (1) A person shall not enter Reserve No 1686 unless under a permit issued by the Local Government, and on payment of the fee applicable thereto.
- (2) Notwithstanding subclause (1) the Local Government shall, on application being made in writing, waive payment of any fee applicable to the permit if it is satisfied that the permit is to be issued to a person ordinarily resident in the district.
- (3) A permit issued under subclause (1) entitles a person to enter the Reserve during the period shown on the permit.
- (4) For purpose of this Clause, Reserve No 1686 does not include a carriageway on a public thoroughfare.



PART 6 - FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 NO UNAUTHORISED ENTRY TO FUNCTION

- (1) A person shall not enter Local Government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except -
 - (a) through the proper entrance for that purpose, and
 - (b) on payment of the fee chargeable for admission at the time.
- (2) The Local Government may exempt a person from compliance with subclause (1)(b).



PART 7 - MONKEY MIA JETTIES AND BOAT RAMP

Division 1 - Preliminary

7.1 INTERPRETATION

In this Part –

boat ramp means the place adjacent to Reserve 1686 where vehicles equipped with trailers launch and retrieve vessels;

cargo means bulk produce, such as grain, coal, oil or mineral ore and includes the catch of a fishing vessel;

commercial jetty means the western jetty, being a concrete and steel structure extending northwards for 55 metres, located adjacent to Reserve 1686, and includes the approaches to the jetty within 5 metres of built infrastructure;

commercial vessel means a vessel which is not used solely for pleasure or recreation and the use of which is in the course of any business or in connection with any commercial transaction, and includes any Government vessel other than one that belongs to an arm of the Defence Force;

fish means an aquatic organism of any species (whether alive or dead) and includes –

- (a) the eggs, spat, spawn, seeds, spores, fry, larva or other source of reproduction or offspring of an aquatic organism; and
- (b) a part only of an aquatic organism (including the shell or tail); and
- (c) live rock and live sand;

fishing or fishing activity means any of the following –

- (a) searching for fish;
- (b) attempting to take fish;
- (c) taking fish;
- (d) engaging in any other activity that can reasonably be expected to result in the taking of fish;

fishing vessel means a vessel used or intended to be used for catching fish for trading or manufacturing purposes;

moor means to secure a vessel in place by cables or by lines, and if the context permits, includes a stationary vessel alongside a jetty, but not secured to the jetty, and positioned so as to restrict approach to or departure from the jetty;

pleasure vessel a vessel held wholly for the purpose of recreational or sporting activities and not for hire or reward;

recreational jetty means the eastern jetty located adjacent to Reserve 1686 and utilised for launching and retrieval of vessels, and includes the approaches to the jetty within 5 metres of built infrastructure;

sign includes any notice, mark, structure or device on which may be shown words, numbers, expressions, colours or symbols;

vessel means any kind of vessel used or capable of being used in navigation by water.

7.2 APPLICATION OF THIS PART

This Part applies to the commercial jetty, the recreational jetty and the boat ramp located adjacent to Reserve 1686.

Division 2 - Commercial jetty

7.3 WHEN VESSELS MAY BE MOORED

- (1) Without the prior written authorisation of the local government, a person in control of a vessel may moor the vessel to the commercial jetty if –
 - (a) the vessel is in distress, and then only –
 - (i) to effect the minimum repairs necessary to enable the vessel to be moved elsewhere;
 - (ii) the vessel is moored to the side of the jetty; and
 - (iii) is not deemed to be obstructing in accordance with clause 7.5;
 - (b) the vessel is not a commercial vessel, and –
 - (i) the embarking or disembarking of passengers is in progress;
 - (ii) is not deemed to be obstructing in accordance with clause 7.5;
 - (iii) the vessel is moored for no longer than 30 minutes; and
 - (iv) a period of more than 30 minutes has passed since the vessel last departed the jetty;
 - (c) the vessel is a commercial vessel other than a fishing vessel, and –
 - (i) the person has made payment of berthing fees imposed in accordance with clause 7.4;
 - (ii) is not deemed to be obstructing in accordance with clause 7.5;
 - (iii) the vessel is moored for not more than two hours; and
 - (iv) a period of more than one hour has passed since the boat last cast off from the jetty.
 - (d) the vessel is a fishing vessel, and –
 - (i) the person has made payment of berthing fees imposed in accordance with clause 7.4;
 - (ii) is not deemed to be obstructing in accordance with clause 7.5;
 - (iii) for not more than two hours; and
 - (iv) a period of more than one hour has passed since the boat last cast off from the jetty.
- (2) Any person provisioning or carrying out routine maintenance shall complete the task in as soon as practicable, and no other activity on the vessel is permitted during this time.

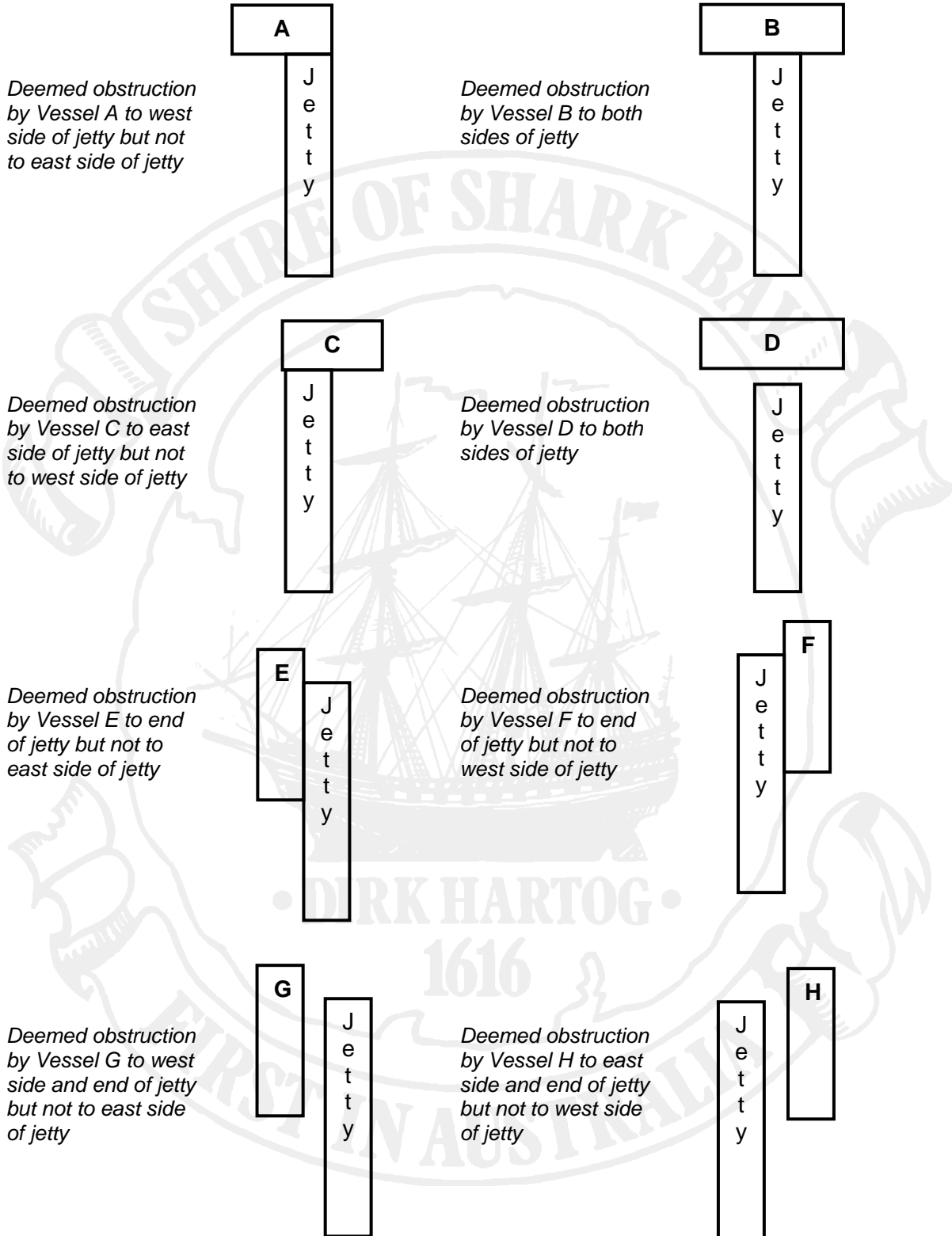
7.4 BERTHING FEES

The local government may, in accordance with sections 6.16 to 6.19 of the Act, determine and impose fees for mooring at the commercial jetty.

7.5 DEEMED OBSTRUCTION BY VESSELS

- (1) When requested to provide unimpeded approach or departure for another commercial vessel or vessel in distress, a vessel shall not remain moored to the commercial jetty in such a manner as to obstruct another vessel approaching the commercial jetty intending to moor to the jetty, or departing the jetty.
- (2) A moored vessel will be deemed to obstruct a vessel approaching the commercial jetty intending to moor to the jetty, or departing the jetty if –
 - (a) when moored to the side of the jetty, a portion of the vessel extends beyond the end of the jetty; or

(b) when moored at the end of the jetty, a portion of the vessel extends beyond the side of the jetty .



(3) Where a vessel is moored in compliance sub-clause 7.3(1) and subclause 7.5(2), no obstruction is deemed to exist.

7.6 VEHICLES ON JETTY

- (1) A person shall not drive a vehicle of a gross vehicle mass exceeding ten tonnes on to the commercial jetty.
- (2) Only vehicles servicing vessels shall be permitted on the commercial jetty immediately prior to and until completion of unloading and loading of vehicle with a maximum time of 30 minutes other than professional fishermen while loading or unloading.

7.7 CARGO

- (1) A person in control of a vessel shall not allow the boat to be moored to the commercial jetty for the purpose of loading or discharging cargo or other goods –
 - (a) until the cargo or other goods are ready to be loaded or discharged; and
 - (b) without the written authorisation of the Local Government –
 - (i) for longer than two hours; and
 - (ii) unless a period of more than one hour has passed since the boat last cast off from the jetty.
- (2) A person in control of cargo or other goods intended for loading on to a boat shall –
 - (a) not allow the cargo to be stored or placed on the jetty unless and until the vessel is moored to the jetty; and
 - (b) load the cargo onto the boat as soon as practicable after the boat is moored to the jetty.
- (3) Any person unloading cargo or other goods from a boat on to the jetty shall remove the cargo, or cause it to be removed from the jetty as soon as practicable.

7.8 VESSEL MOORED IS TO BE ATTENDED

A vessel moored to the commercial jetty is to be attended at all times by a person licenced and authorised by the owner to operate the vessel.

Division 3 - Recreational jetty

7.9 USE OF RECREATIONAL JETTY

Except with the prior written authorisation of the Local Government, use of the recreation jetty is limited to –

- (a) pleasure vessels;
- (b) launching and retrieving of vessels; or
- (c) a vessel in distress, and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere.

7.10 VEHICLES ON RECREATIONAL JETTY

A person shall not drive a vehicle on the recreational jetty.

Division 4 - Boat Ramp

7.11 OBSTRUCTION

The vehicle and boat trailer are permitted on the boat ramp for only such time as is required for the launching or retrieval of a vessel as quickly as practicable.

Division 5 - General

7.12 METHOD OF MOORING VESSEL

A person in control of a vessel shall not moor the vessel to a jetty, or to any part of a jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

7.13 NO PRIVATE FIXTURES

- (1) A person shall not affix any private fenders, structure or item to a jetty.
- (2) Where private fixtures have been attached, the Local Government may give notice requiring the removal of the private fixtures within a specified period.
- (3) Should the private fixtures not be removed within the required period, the local government may undertake the work and recover the cost as a debt.

7.14 JETTY MAY BE CLOSED

When indicated by placement of appropriate warnings and relevant signage, unless the prior written authorisation of the Local Government has been obtained, a person shall not moor, use or go on to any part of a jetty which is –

- (a) under construction or repair; or
- (b) closed.

7.15 NUISANCE ON JETTIES OR BEACH ACCESS TO JETTIES

- (1) A person shall not place any object, sign, cargo or item of any nature or behave in such a manner as to cause any obstruction or impede the free passage of other persons –
 - (a) on a jetty; or
 - (b) within 5 metres of the approach to the built infrastructure of a jetty.
- (2) A vehicle shall not be parked in a manner that obstructs access to or from the jetty.

7.16 AUTHORISED PERSON MAY ORDER REMOVAL OF A VESSEL

Notwithstanding anything to the contrary in this local law, a person shall immediately remove a vessel moored to or standing alongside a jetty, upon being directed to do so by an authorised person.

7.17 AUTHORISED PERSON MAY DIRECT REMOVAL OF OBSTRUCTION

An authorised person may direct a person who, in the opinion of the authorised person is in charge of cargo or other goods, or item which remains on a jetty contrary to any provision of this Part or creates an obstruction in any way, to remove the goods or items from the jetty.

7.18 BICYCLES ON JETTIES

A person shall not ride or have a bicycle on a jetty.

7.19 RUBBISH FROM JETTY

- (1) A person shall not throw or cause to be thrown any glass, stone or other missile, or any filth, dirt, rubbish or other matter of a similar nature from a jetty.
- (2) A person shall not deposit any commercial rubbish from charter boats or offal into any rubbish bin located on a jetty.

7.20 LIQUOR ON BOATS

A person shall not sell alcoholic beverages from a boat while moored to, or alongside a jetty.

7.21 FISHING FROM JETTY

Fishing from a jetty is prohibited.

7.22 SWIMMING FROM A JETTY

Swimming, including diving, jumping and the like, from, under or within 5 metres of a jetty or vessel moored to the jetty, is prohibited.

7.23 EXPLOSIVES ON JETTIES

Except with the prior written authorisation of the Local Government, a person shall not land, place or handle on a jetty any explosives as defined in regulation 8 of the *Dangerous Goods Safety (Explosives) Regulations 2007*.

7.24 PENALTIES

- (1) The local government may by notice in writing suspend a person from mooring a vessel to the commercial jetty where the person has been convicted, or has paid the modified penalty, within the last 12 months in respect of 2 or more offences under Part 7 of this local law.
- (2) The local government may by notice in writing cancel the suspension referred to in subclause (1) once a person has been convicted, or has paid the modified penalty, for only one offence under Part 7 of the local law within the last 12 months

Division 6 - Schedule 1

7.25. SCHEDULE 1

Schedule 1
PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain a permit to camp outside a facility	100
3.15(1)	Failure to obtain a permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on Local Government property	100
5.3	Failure to comply with sign or direction on beach	100
5.4	Unauthorised entry to fenced or closed Local Government property	100
5.5	Gender not specified using entry of toilet block or change room	100
5.6(1)	Unauthorised presence of animal on airport	300
5.6(2)	Animal wandering at large on airport - person in charge	300
5.6(3)	Animal wandering at large on airport - owner	300
5.7(1)	Unlawful entry of Reserve No 1686	100
6.1(1)	Unauthorised entry to function on Local Government property	100

Local Government Property Local Law

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
7.3(1)	Unauthorised mooring of vessel	500
7.3(2)	Unauthorised activities on a vessel during reprovisioning or routine maintenance	500
7.5	Obstruction by a vessel	500
7.6(1)	Overweight vehicle on commercial jetty	300
7.6(2) & 7.6(3)	Vehicle on jetty during time prohibited	300
7.7(1)	Mooring when not ready to load or discharge cargo, on or for longer than permitted	500
7.7(2)	Cargo on jetty when not ready to load	500
7.7(3)	Failure to remove cargo as soon as practical	300
7.8	Moored vessel not attended by a licenced and authorised representative of owner	500
7.9	Unauthorised use of recreational jetty	500
7.10	Unauthorised vehicle on recreational jetty	500
7.11	Obstruction of boat ramp	300
7.12	Improper mooring of vessel to a jetty	300
7.13(1)	Unauthorised fixtures to a jetty	500
7.14	Unauthorised use of any part of Jetty which is closed or under repair or construction	500
7.15	Causing obstruction, authorising or participating in sales or promotional activity, or impeding free passage on or to a jetty	300
7.16	Failure to comply with direction of authorised person to remove vessel	500
7.17	Failure to comply with direction of authorised person to remove obstruction	300
7.18	Use of bicycle on a jetty	100
7.19(1)	Throwing a prohibited item from a jetty	300
7.19(2)	Unlawful deposit of rubbish into bin on a jetty	300
7.20	Selling alcohol from a vessel	500
7.21	Fishing from a jetty	100
7.22	Swimming from a jetty	100
7.23	Unauthorised presence of explosives on a jetty	500
9.1	Failure to comply with direction of an authorised person or hindering an authorised person	500
10.1	Failure to comply with notice	200

PART 8 - OBJECTIONS AND APPEALS

8.1 APPLICATION OF DIVISION 1, PART 9 OF THE ACT

When the Local Government makes a decision as to whether it will -

- (a) grant a person a permit or consent under this Local Law, or
- (b) renew, vary or cancel a permit or consent that a person has under this Local Law,

the provisions of Division 1 of Part 9 of the Act and Regulations 33 and 34 of the Regulations apply to that decision.



PART 9 - MISCELLANEOUS

Personation

See Section 87 of the *Criminal Code*.

Bathing in proper bathing costume

See Section 104 of the *Police Act 1892*.

Wilful and obscene exposure

See Section 66(11) of the *Police Act 1892*.

9.1 AUTHORISED PERSON TO BE OBEYED

A person on Local Government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.

Resisting or obstructing public officers

See Section 172 of the *Criminal Code*.

Disobedience to lawful order issued by Statutory Authority

See Section 178 of the *Criminal Code*.

9.2 PERSONS MAY BE DIRECTED TO LEAVE LOCAL GOVERNMENT PROPERTY

An authorised person may direct a person to leave Local Government property where she or he reasonably suspects that the person has contravened a provision of any written law.

Power of police and persons aggrieved to apprehend certain offenders

See Section 49 of the *Police Act 1892*.

Preventing persons from wrongfully entering or removing persons wrongfully on Local Government property

See Section 254 of the *Criminal Code*.

9.3 DISPOSAL OF LOST PROPERTY

An article left on any Local Government property, and not claimed within a period of three months, may be disposed of by the Local Government in any manner it thinks fit.

9.4 LIABILITY FOR DAMAGE TO LOCAL GOVERNMENT PROPERTY

- (1) Where a person unlawfully damages Local Government property, the Local Government may by notice in writing to that person require that person within the time required in the notice to, at the opinion of the Local Government, pay the costs of -
- (a) reinstating the property to the state it was in prior to the occurrence of the damage, or
 - (b) replacing that property.
- (2) Unless there is proof to the contrary, a person is to be taken to have damaged Local Government property within subclause (1) where -
- (a) a vehicle or a boat cause the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat, or
 - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- (3) On a failure to comply with a notice issued under subclause (1), the Local Government may recover the costs referred to in the notice as a debt due to it.

PART 10 - ENFORCEMENT

Division 1 - Notices Given Under this Local Law

10.1 OFFENCE TO FAIL TO COMPLY WITH NOTICE

Whenever the Local Government gives a notice under this Local Law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

10.2 LOCAL GOVERNMENT MAY UNDERTAKE REQUIREMENTS OF NOTICE

Where a person fails to comply with a notice referred to in Clause 10.1, the Local Government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2 - Offences and Penalties

Subdivision 1 - General

10.3 OFFENCES AND GENERAL PENALTY

- (1) Any person who fails to do anything required or directed to be done under this Local Law, or who does anything which under this Local Law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this Local Law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Subdivision 2 - Infringement Notices and Modified Penalties

10.4 PRESCRIBED OFFENCES

- (1) An offence against a Clause specified in Schedule 1 is a prescribed offence for the purposes of Section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the Clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that -
 - (a) commission of the prescribed offence is a relatively minor matter, and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

10.5 FORM OF NOTICES

- (1) For the purposes of this Local Law -
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in Section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations,
 - (b) the form of the infringement notice given under Section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations, and
 - (c) the form of the notice referred to in Section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under Section 9.16 of the Act in respect of an alleged offence against Clause 2.4, the notice is to contain a description of the alleged offence.

Deviation in forms

See section 74 of the *Interpretation Act 1984*.

Division 3 - Evidence in Legal Proceedings

10.6 EVIDENCE OF A DETERMINATION

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in Clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain a permit to camp outside a facility	100
3.15(1)	Failure to obtain a permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on Local Government property	100
5.3	Failure to comply with sign or direction on beach	100
5.4	Unauthorised entry to fenced or closed Local Government property	100
5.5	Gender not specified using entry of toilet block or change room	100
5.6(1)	Unauthorised presence of animal on airport	300
5.6(2)	Animal wandering at large on airport - person in charge	300
5.6(3)	Animal wandering at large on airport - owner	300
5.7(1)	Unlawful entry of Reserve No 1686	100
6.1(1)	Unauthorised entry to function on Local Government property	100
7.3(1)	Unauthorised mooring of vessel	500
7.3(2)	Unauthorised activities on a vessel during reprovisioning or routine maintenance	500
7.5	Obstruction by a vessel	500
7.6(1)	Overweight vehicle on commercial jetty	300
7.6(2) & 7.6(3)	Vehicle on jetty during time prohibited	300
7.7(1)	Mooring when not ready to load or discharge cargo, on or for longer than permitted	500
7.7(2)	Cargo on jetty when not ready to load	500
7.7(3)	Failure to remove cargo as soon as practical	300
7.8	Moored vessel not attended by a licenced and authorised representative of owner	500

Local Government Property Local Law

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
7.9	Unauthorised use of recreational jetty	500
7.10	Unauthorised vehicle on recreational jetty	500
7.11	Obstruction of boat ramp	300
7.12	Improper mooring of vessel to a jetty	300
7.13(1)	Unauthorised fixtures to a jetty	500
7.14	Unauthorised use of any part of Jetty which is closed or under repair or construction	500
7.15	Causing obstruction, authorising or participating in sales or promotional activity, or impeding free passage on or to a jetty	300
7.16	Failure to comply with direction of authorised person to remove vessel	500
7.17	Failure to comply with direction of authorised person to remove obstruction	300
7.18	Use of bicycle on a jetty	100
7.19(1)	Throwing a prohibited item from a jetty	300
7.19(2)	Unlawful deposit of rubbish into bin on a jetty	300
7.20	Selling alcohol from a vessel	500
7.21	Fishing from a jetty	100
7.22	Swimming from a jetty	100
7.23	Unauthorised presence of explosives on a jetty	500
9.1	Failure to comply with direction of an authorised person or hindering an authorised person	500
10.1	Failure to comply with notice	200

SCHEDULE 2

DETERMINATIONS

The following determinations are to be taken to have been made by the Local Government under Clause 2.1

PART 1 - PRELIMINARY

1.1 DEFINITIONS

In these determinations unless the context otherwise requires -

"**Local Law**" means the *Local Government Property Local Law* made by the Local Government.

1.2 INTERPRETATION

Unless the context otherwise requires, where a term is used but not defined in a determination and that term in the Local Law then the term shall have the meaning given to it in the Local Law.

2. Animals on local government property

- a. Unless authorised by a written law, or by a permit or a determination, a person must not tether any animal to a tree, shrub, tree guard, wall or fence or permit any animal to enter on or into any local government property.
- b. This clause does not apply to a guide dog used for the assistance of visually impaired persons.
- c. Pursuant to clause 3.13(1)(o) of the local law, subject to the person in charge of the animals concerned obtaining a permit beforehand and compliance with any conditions listed in the permit or this determination, the following areas of local government property may be used to depasture, take on to, or allow to enter or remain upon, any animal as permitted:
 - i. Reserve 49809, known as the Denham Town Common.

3. Vehicles on local government property

- a. Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
 - i. subject to sub-clause (c), the local government property is clearly designated as a:
 1. road;
 2. access way;
 3. boat launching ramp and approaches;
 4. Off road vehicle area; or
 5. car park;
 - ii. the vehicle is driven by an employee, authorised person or contractor engaged by the local government, who is engaged in –

1. providing a service or making a delivery in connection with the local government property; or
 2. maintaining the local government property;
 - iii. the person is driving an emergency vehicle in the course of his or her duties;
 - iv. It is in the area known as the Little Lagoon as delineated by signs and/or barriers erected; or
 - v. the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.
- b. A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person.
 - c. A person shall not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

4. Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a permit or a determination specifies a particular local government property.

5. Children's playgrounds

- a. The local government may set aside a public reserve or any portion of a public reserve as a children's playground.
- b. The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.
- c. A person over the age specified in that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

6. Launching and retrieval of boats

- a. A person must not take onto, launch from, or retrieve a boat on local government property except where a permit or a determination specifies a particular local government property unless —
 - i. the person is a local government employee, authorised person: or
 - ii. contractor engaged by the local government and who is engaged in providing a service or making a delivery in connection with the local government property; or
 - iii. maintaining the local government property;
 - iv. the person is in charge of a boat engaged in rescue services or dealing with an emergency; or
 - v. the local government property is a boat ramp on a portion of a Reserve under its care, control and management and as delineated by signs.

7. Activities prohibited on local government property

- a. A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the Shire for that purpose, or as otherwise provided by a determination or permit.
- b. A person must not play or practise golf, on local government property except on the area known as the Boolbardie Golf Course located in the Denham Townsite.
- c. A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board —
 - i. inside or on the curtilage to, a building;
 - ii. on a golf course; or
 - iii. in or on a lakebed or waterway.

- d. A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device.

8. Deposit of refuse, rubbish or liquid waste

- a. Except on the tables provided and as designated by a sign, a person must not, on local government property -
- i. shell, gut, scale or clean fish, shellfish or any other animal; or
 - ii. other than in the waste receptacles provided and as designated by a sign, deposit or discard the waste or rubbish from any fish, shellfish or other animal.
- b. A person must not, on local government property, deposit or discard refuse, rubbish or liquid waste, except -
- i. in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions; or

Note:

Determinations listed in paragraphs 2 – 8 above adopted by Council 27 November 2013

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receptacles, prohibition of the deposit of certain types of refuse or waste, and conduct of persons or persons in charge of vehicles while on the site.

