

NORTHERN TERRITORY OF AUSTRALIA

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CULLEN BAY MARINA BY-LAWS

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By-laws under the *Cullen Bay Marina Act*

I, STEPHEN PAUL HATTON, the Minister for Lands, Housing and Local Government, in pursuance of the powers conferred on me by section 17 of the *Cullen Bay Marina Act*, made, on 9 August 1994, the following By-laws.

Dated 9 August 1994.

Stephen Paul Hatton  
Minister for Lands, Housing and Local Government

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CULLEN BAY MARINA BY-LAWS

PART 1 - PRELIMINARY

1. CITATION

These By-laws may be cited as the *Cullen Bay Marina By-laws*.

2. INTERPRETATION

(1) In these By-laws, unless the contrary intention appears -

"Act" includes the Regulations made under the Act and these By-laws;

"approved" means approved by the Management Corporation or by a person to whom the power to approve a matter or thing has been delegated by the Management Corporation under the Act;

"berth" includes a jetty, pontoon or pile or other mooring or structure for vessels within the boat harbour and includes, where the context so requires, the underlying land comprising an area on or over which such a structure is or is capable of being located and within or on which a vessel is capable of being berthed or moored;

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\* Notified in the *Northern Territory Government Gazette* on 12 August 1994.

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- "boat harbour" means the area within the development area (including the common property and the water envelope of a lot or a marina) the whole or part of which is capable of or intended to be submerged by water;
- "casual lock opening permit" means a casual lock opening permit granted under by-law 12;
- "estate manager" means a person appointed by the Management Corporation to manage the development area and any other associated activities for and on behalf of the Management Corporation and includes a person appointed to be estate manager by the Developer before the first Annual General Meeting of the Management Corporation;
- "fee" means a fee determined by the Management Corporation under by-law 3;
- "jetty" means a jetty, boardwalk or other structure erected on over or within the boat harbour and includes all buildings and other works on the jetty and the appurtenances of a jetty;
- "lock" means the control mechanism, and associated structures, established at the entrance to the boat harbour for the purpose of -
- (a) maintaining the body of water contained in the harbour at levels from time to time considered appropriate by the Management Corporation; and
  - (b) enabling vessels to enter and exit the boat harbour;
- "lock master" means the person employed for the purpose of controlling the operation of the lock;
- "lock opening permit" means a lock opening permit granted under by-law 12;
- "lot" means a parcel of land (including water) within the development area -
- (a) designated as a lot on a lot plan; and
  - (b) in respect of which a freehold title is issued;

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"marina" means a lot within the boat harbour which has a structure or berth providing for the mooring of more than 2 vessels and includes facilities provided and/or associated with a marina;

"marina berth" means a berth within a marina;

"mooring" means, according to its context, a structure for the anchoring or securing of vessels to a buoy, pile or other structure or the action of anchoring or securing a vessel;

"owner" includes -

- (a) in relation to a lot -
  - (i) an occupier or person in possession (whether as lessee, licensee, tenant or any other legal title);
  - (ii) successors in title (including a mortgagee in possession); and
  - (iii) a person who exercises, whether personally or by his or her servants and agents, a right of occupation;
- (b) in relation to a vehicle - the person in charge of the vehicle;
- (c) in relation to a berth or a marina berth - the person who holds, in fee simple or as lessee, sublessee, licensee or permittee, the land on which it is constructed; and
- (d) in relation to a vessel - a part owner, charterer, occupier, licensee, agent and permittee and the person in charge of the vessel;

"permittee" means the holder of a lock opening permit or a casual lock opening permit;

"register" means the register established under by-law 20;

"vessel" includes an aircushioned vessel, a boat, ship, barge, yacht, surf ski, jet ski, racing shell, canoe, dingy or windsurfer or other craft capable of being used as a means of transportation by water, whether propelled by sail, motor, oars or otherwise;

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"water envelope of a lot" means a submerged lot, or the submerged part of a lot, within the boat harbour.

(2) In the event of an inconsistency between these By-laws and By-laws made by the Municipality of Darwin under the *Local Government Act*, the latter shall prevail to the extent of the inconsistency.

PART 2 - POWERS OF MANAGEMENT CORPORATION

3. FEES

The Management Corporation may determine the fee payable in respect of a permit or an approval under these By-laws.

4. PULLING DOWN OF UNAUTHORISED WORK

(1) The Management Corporation may pull down, remove or alter work, a structure or a thing erected or being in breach of these By-laws.

(2) The exercise of a power under clause (1) does not limit or affect the liability of a person to be prosecuted for a breach of a by-law.

5. REMOVAL OF OFFENDERS

(1) The Management Corporation or a member of the Police Force acting on the instructions of the Management Corporation may summarily eject or remove any person from a place under the control of the Management Corporation.

(2) A person may be prosecuted for a breach of a by-law notwithstanding that he or she was summarily ejected or removed from a place under the control of the Management Corporation by the Management Corporation or a member of the Police Force.

6. SECURITY AGAINST DAMAGE TO PROPERTY OF THE CORPORATION

Where, in the opinion of the Management Corporation, an activity to be performed under a permit or approval granted under these By-laws may involve alteration or damage to work or property belonging to or under the control of the Management Corporation, the Management Corporation may, before granting the permit or approval, require the applicant to lodge with the estate manager sufficient security to, in its opinion, cover the cost of rectification by the Management Corporation of the potential alteration or damage.

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PART 3 - OFFENCES AND RECOVERY OF EXPENSES

7. PENALTIES FOR OFFENCES

A person who contravenes or fails to comply with these By-laws or a condition of a permit or approval granted under these By-laws is guilty of an offence and is liable on conviction to a penalty not exceeding \$2,000 and, in addition, to a penalty not exceeding \$50 for each day during which the offence continues.

8. EXPENSES TO BE PAID

(1) Where a person has breached a by-law or has, without reasonable excuse, failed to carry out works which he or she is required to carry out by or under these By-laws, he or she is liable to pay, in addition to any penalty that he or she may incur as a consequence of that breach or failure, all expenses reasonably incurred by the Management Corporation as a consequence of that breach or failure.

(2) A person is not liable to pay expenses referred to in clause (1) unless notice of the expenses incurred by the Management Corporation has been served on him or her.

(3) A person upon whom a notice of expenses payable has been served shall pay the charges before the expiration of 30 days after the date of service of the notice.

PART 4 - LOCK OPENING PERMITS

9. VESSEL TO HAVE PERMIT

(1) The owner of a vessel shall not permit or cause the vessel to -

- (a) enter or exit the lock; or
- (b) enter any other part of the boat harbour that is part of the common property,

unless the vessel is the subject of a current lock opening permit or a casual lock opening permit.

(2) The owner of a vessel shall not moor, or permit or cause to be moored, the vessel at a berth or a marina berth unless the vessel is the subject of a current lock opening permit or a casual lock opening permit in respect of the berth or marina berth designated in the permit.

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(3) The owner of a berth or marina berth shall not construct a structure for mooring vessels in the berth or marina berth unless a current lock opening permit or casual lock opening permit in respect of the berth has been granted by the Management Corporation.

(4) Subject to this Part, the owner of a berth or marina berth in which a structure for mooring vessels has been constructed shall ensure that at least one current lock opening permit or casual lock opening permit in respect of the berth has been granted by the Management Corporation.

### 10. DETERMINATION OF REQUIREMENT FOR PERMITS

(1) The Management Corporation shall determine -

(a) the number of lock opening permits or casual lock opening permits to be granted in respect of each berth or marina berth; and

(b) the number and size of the vessels to be permitted to be moored at a berth or marina berth.

(2) The Management Corporation may, as it thinks fit, waive the requirement for a lock opening permit in respect of a berth, a marina berth, or a part of such a berth.

### 11. APPLICATION

A person may apply to the Management Corporation for a lock opening permit or a casual lock opening permit by lodging with the Management Corporation details of -

(a) the applicant's full name and address;

(b) the location of the berth or marina berth where the vessel will be moored;

(c) where the applicant is the owner of a berth or a marina berth - the mooring structure in the berth or the marina berth, or the mooring structure to be constructed in the berth or marina berth; and

(d) the applicant's vessel, including -

(i) the length, draft and a general description of the vessel; and

(ii) the register number and name of the vessel, the radio call sign and other communication details, if any.

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12. GRANT OF PERMITS

(1) The Management Corporation may, in its absolute discretion and subject to the conditions it thinks fit -

- (a) on payment of the fee - grant; or
- (b) refuse to grant,

a lock opening permit or a casual lock opening permit.

(2) A lock opening permit is valid for a period of 12 months from the date on which it is granted.

(3) The Management Corporation shall not grant a casual lock opening permit valid for a period of more than 3 months.

(4) A lock opening permit shall be in the approved form and have marked on it -

- (a) the full name and address of the person to whom it is granted;
- (b) the period for which it is valid;
- (c) particulars to enable the identification of the vessel to which it relates;
- (d) the location of the mooring to which it relates; and
- (e) other approved particulars.

(5) A casual lock opening permit shall be in the form of a receipt for payment of the fee, endorsed with particulars that enable the identification of the vessel and the location of the mooring to which the permit relates and shall have marked on it the period for which it is valid.

(6) The Management Corporation shall not grant a lock opening permit or casual lock opening permit in respect of a house boat.

13. RENEWAL OF PERMITS

(1) The holder of a lock opening permit may apply to the Management Corporation for the renewal of the permit, on or before the expiry of the permit.

(2) The Management Corporation may, in its absolute discretion and subject to the conditions it thinks fit, renew or refuse to renew a lock opening permit.

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(3) The Management Corporation may renew a lock opening permit for such period, not exceeding 12 months, as is specified in the permit.

14. SUBLETTING AND TRANSFER OF PERMITS

(1) A permittee shall not permit a vessel other than the vessel in respect of which the permit was granted to use a berth or marina berth to which the permit relates, except with the approval of the Management Corporation.

(2) A permittee may apply in writing to the Management Corporation for an amendment to the permit so that the permit applies to a vessel in substitution for the vessel to which the permit originally applied.

(3) The Management Corporation may, on the application in writing of a permittee, amend a permit so that the permit applies to a vessel in substitution for the vessel to which the permit originally applied.

(4) The Management Corporation shall not, under clause (3), amend a lock opening permit granted to the owner of a berth or marina berth unless the mooring structure of that berth or marina berth is of a suitable dimension for the vessel to which the permit, if amended, would apply.

PART 5 - APPROVALS

*Division 1 - Harbour Works Approvals*

15. NO HARBOUR WORKS WITHOUT APPROVAL

A person shall not commence or continue to construct or place -

- (a) harbour works;
- (b) works; or
- (c) a pile or other structure,

in, on, over, through or across -

- (d) the foreshore of a lot abutting; or
- (e) land lying under or comprising part of,

a part of the boat harbour in the common property, except under and in accordance with a harbour works approval granted by the Management Corporation.

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16. APPLICATION

A person may apply to the Management Corporation, on the approved form accompanied by the fee, if any, for a harbour works approval.

17. GRANT OF APPROVALS

(1) The Management Corporation may, in its absolute discretion and subject to the conditions it thinks fit, grant or refuse to grant a harbour works approval.

(2) Where the Management Corporation refuses to grant a harbour works approval it shall refund to the applicant the fee, if any, paid by the applicant under by-law 16.

18. VARIATION OF APPROVALS

(1) Where, after the grant of a harbour works approval, the Management Corporation is of the opinion that a change in circumstances is such that the conditions of the approval should be varied (including by the addition of a new condition), it may, by notice in writing addressed to the holder of the approval at his or her last known address or place of business, vary a condition of the approval.

(2) Where notice is given to the holder of an approval under clause (1), the approval is deemed to have been varied in accordance with the terms of the notice from the date on which the notice is given.

19. CANCELLATION AND SUSPENSION OF APPROVALS

The Management Corporation may, by notice in writing addressed to the holder of an harbour works approval at his or her last known address or place of business, cancel or suspend his or her approval if it is of the opinion that action taken under the approval is being performed in a manner -

- (a) likely to be injurious to the common property or the estate; or
- (b) which constitutes a public nuisance.

20. REGISTER OF WORKS

(1) The Management Corporation shall establish and maintain a register of all harbour works approvals.

(2) A person shall, within 28 days after the sale or transfer of works to which a harbour works approval relates, notify the Management Corporation in writing of the name and address of the person to whom the works have been sold or transferred.

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(3) The Management Corporation shall enter or cause to be entered in the register established under clause (1) details of -

- (a) the location and description of works in respect of which a harbour works approval has been granted;
- (b) the date of issue of each harbour works approval;
- (c) the name and address of the person to whom the harbour works approval was granted;
- (d) where notice of the sale or transfer of harbour works is given to the Management Corporation - the name and address of the person to whom the works have been sold or transferred; and
- (e) such other information and particulars as the Management Corporation thinks fit.

*Division 2 - Material Removal Approvals*

21. NO REMOVAL OF MATERIAL WITHOUT APPROVAL

(1) In this by-law, "material" means ballast, rocks, stone, shingle, gravel, sand, clay, earth or other material.

(2) A person shall not remove material from a part of the boat harbour that is in the common property, except under and in accordance with a material removal approval granted by the Management Corporation.

22. GRANT OR RENEWAL OF APPROVALS

(1) The Management Corporation may, in its absolute discretion and subject to the conditions it thinks fit, grant or refuse to grant a material removal approval or a renewal of such an approval.

(2) A material removal approval shall be in the approved form and shall be -

- (a) valid for the period; and
- (b) issued subject to the conditions, if any,

specified in the approval.

(3) The Management Corporation shall not renew a material renewal approval unless an application for its renewal is made before the expiration of the approval.

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(4) It is a condition of a material removal approval that the person to whom approval was granted shall comply with the provisions of these By-laws in performing actions under the approval.

23. VARIATION OF MATERIAL REMOVAL APPROVALS

(1) Where, after the grant of a material removal approval, the Management Corporation is of the opinion that a change in circumstances is such that the conditions of the approval should be varied (including by the addition of a new condition), it may, by notice in writing addressed to the holder of the approval at his or her last known address or place of business, vary a condition of the approval.

(2) Where notice is given to a holder of an approval under clause (1), the approval is deemed to have been varied in accordance with the terms of the notice from the date on which the notice is given.

24. CANCELLATION AND SUSPENSION OF APPROVALS

The Management Corporation may, by notice in writing addressed to the holder of a material removal approval at his or her last known address or place of business, cancel or suspend his or her approval if it is of the opinion that the removal of the material is being carried out in a manner -

- (a) likely to be injurious to the common property or the estate; or
- (b) which constitutes a public nuisance.

PART 6 - USE AND MAINTENANCE OF BOAT HARBOUR  
AND COMMON PROPERTY

25. CONTROL OF BOAT HARBOUR

(1) Where, in the opinion of the Management Corporation, a vessel is not securely moored or is otherwise potentially causing a danger to a person, a vessel or property on or within the common property, it may direct the owner of the vessel to remedy the lack of secure mooring or to do those things the Management Corporation thinks necessary to avoid any such danger, within a time specified by the Management Corporation.

(2) Where -

- (a) a direction is given by the Management Corporation under clause (1);

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- (b) a vessel is moored or anchored in contravention of these By-laws or is otherwise in contravention of these By-laws; or
- (c) a vessel may, in the opinion of the Management Corporation, cause a danger to the common property,

the person so directed shall moor, unmoor, anchor or remove the vessel in accordance with the directions of the Management Corporation.

(3) A person shall not fail to comply with a direction of the Management Corporation.

(4) Where -

- (a) a person fails to comply with a direction of the Management Corporation under this by-law; or
- (b) there is no person on board a vessel that is in contravention of this by-law,

the Management Corporation may moor, unmoor, anchor or remove the vessel as it thinks fit, and for that purpose may cast off or loose a warp or rope, or unshackle or loosen a chain, by which the vessel is moored or fastened.

26. USE, INTERFERENCE AND DAMAGE TO COMMON PROPERTY

(1) A person shall not use or in any way interfere with -

- (a) a fitting or appliance in or about; or
- (b) a structure erected on,

the common property, for a purpose other than that for which such fitting, appliance or structure is provided.

(2) The Management Corporation may take all such steps and do all such acts as it considers necessary for -

- (a) the general benefit and safety and security of; or
- (b) the avoidance of injury to,

a person, vessel or property in the common property.

(3) The Management Corporation may give -

- (a) to the owner of a vessel; or

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- (b) to a person,

in the development area such directions as it thinks fit for the purpose of enforcing these By-laws.

27. USE OF BOAT HARBOUR

(1) A person shall not navigate, move, moor or anchor a vessel in the common property except with the approval of, or in accordance with a permit granted by, the Management Corporation.

- (2) A person shall not -

(a) cast, place or leave or cause to be cast, placed or left, a private mooring of any kind in, on, over, through or across a portion of the bottom or bed of the common property; or

(b) moor a vessel so that it will or may extend into or over the common property, or construct a mooring for a vessel which will permit a vessel moored to it to extend into or over the common property, except with the approval of the Management Corporation.

(3) Where a private mooring is cast, placed or left or caused to be cast, placed or left in contravention of this by-law by a person, the Management Corporation may, by notice in writing, direct the person to remove the private mooring and restore the site of the mooring to its former condition within the period, if any, specified in the notice.

(4) Where a person to whom notice is given in accordance with clause (3) fails to comply with the notice, the Management Corporation may remove the mooring from the common property and the costs incurred in so doing shall be recoverable by the Management Corporation from the person as a debt due and payable to the Management Corporation, in addition to the penalty, if any, which may be imposed for a breach of these By-laws.

- (5) A person shall not -

(a) moor, anchor or place a vessel, or place a vehicle or other thing, so as to obstruct or impede the use by others of a berth, a marina berth or the boat harbour; and

(b) place, anchor or moor a vessel in the approach channel to the boat harbour or in the common property.

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(6) A person shall not cast, place or leave a buoy mooring in, on, over, through or across the bottom or bed of the boat harbour.

28. NAVIGATION OF VESSELS

(1) A person shall not navigate a vessel in the boat harbour at a speed exceeding 4 knots.

(2) A person shall not -

(a) navigate in the boat harbour at a speed likely to cause injury or damage to moored vessels or to a person or an object; or

(b) cause a hazard or undue inconvenience to the navigation of other vessels in the boat harbour.

(3) A person shall not navigate a vessel in the boat harbour carelessly, negligently or recklessly.

(4) Subject to by-law 32(2), a person navigating or using a vessel in the boat harbour shall not cause, permit or suffer a boom, spar or other projection to be rigged out of its stowed position so as to extend so far from the side of the vessel that it may cause injury to a person or object in the boat harbour.

29. MAINTENANCE OF VESSELS

(1) A person shall not carry out maintenance or repairs to a vessel in the common property except -

(a) in a part of the common property approved for that purpose; or

(b) under and in accordance with the approval of,

the Management Corporation.

(2) Notwithstanding clause (1), the owner of a vessel may perform minor repairs, internal painting, mechanical adjustments and electrical works in respect of the vessel within the common property, if the estate manager is advised of the work before the work commences.

30. NO RESIDING ON VESSELS WITHOUT PERMISSION

(1) Subject to clause (2), a person shall not reside on a vessel in the development area for more than 2 days in any 7 day period except under and in accordance with an approval in writing of the Management Corporation.

(2) A person may apply on the approved form, if any, accompanied by the fee, if any, for approval to reside on a vessel in the boat harbour for more than 2 days.

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(3) The Management Corporation may grant an approval, on the conditions it thinks fit, for a person to reside on board a vessel for such period as it thinks fit.

31. DISPOSAL OF WASTES FROM VESSELS

(1) The owner of a vessel shall ensure that waste from toilets and showers on a vessel, including contaminated bilge waste, is not discharged into the boat harbour.

(2) The owner of a vessel shall ensure that antifouling substances, petrol (other than normal emissions from an engine in use), oil or other toxic materials are not released from the vessel into the waters of the boat harbour.

32. USE OF VESSELS

(1) A person shall not, except in an emergency, cause a vessel to enter the common property through the lock unless the vessel is sea-worthy and travelling under its own power.

(2) A person shall not, except in an emergency, use sails within the boat harbour.

(3) The owner of a vessel in the common property shall ensure that the vessel is registered as required by law and identified, marked, equipped and maintained as required by law and safe boating practice.

(4) A vessel within the common property -

(a) is subject to the direction of the Management Corporation; and

(b) shall be manoeuvred and berthed only in accordance with a direction of the Management Corporation or under and in accordance with a lock opening permit or casual lock opening permit.

(5) Where an owner of a vessel has an outstanding debt to the Management Corporation, he or she shall not remove the vessel from the boat harbour except with the permission of the Management Corporation.

(6) The owner of a vessel shall observe maritime law and practice when entering or leaving the boat harbour, including, but not limited to, keeping the vessel to the right of an approaching vessel.

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33. NOISE NUISANCE

(1) A person shall not in or on a vessel -

(a) that is underway, engaged in dredging or in providing any other service in the boat harbour; or

(b) at a wharf, mooring, berth or marina berth,

in the common property, make a noise, whether by the use of machinery or equipment or in any other manner, so as to cause nuisance and shall not permit his or her servant or agent or a child under his or her supervision to do so.

(2) A noise is a nuisance for the purposes of this by-law if it occasions undue stress, annoyance or irritation to a person or persons in or on or in the vicinity of, a vessel or lot.

(3) Whether a disturbance, distress, annoyance or irritation causes a nuisance is to be determined in accordance with the sensitiveness of a reasonable person, having regard to the time, place, intensity and frequency of the noise complained of.

34. NUISANCE OR HAZARDOUS ACTIVITY

Where -

(a) a noise is a nuisance within the meaning of by-law 33; or

(b) the consequence of an action or failure to take an action is the creation of a nuisance (other than noise) or a hazard to a person or property in or in the vicinity of the common property,

the Management Corporation may, by notice in writing, direct -

(c) the owner of or master of the vessel on or in relation to which the nuisance or hazard is caused to take to or remove the vessel from a berth, mooring, anchorage or marina berth and, where the nuisance or hazard is created or associated with the loading or unloading of the vessel, the manner in which all or any cargo of the vessel shall be loaded or unloaded;

(d) the owner of or master of a vessel on or in relation to which the nuisance or hazard is caused as to the steps to be taken by him or her for the abatement, mitigation or prevention of nuisance or a hazard, including but not limited to a direction that machinery or equipment shall

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no longer be used or shall be used subject to such conditions as are approved by the Management Corporation; or

- (e) the owner in respect of a wharf, berth, pontoon or marina berth as to the steps to be taken by him or her for the delivery, loading, unloading or removal of goods or the abatement, mitigation or prevention of a hazard, noise or other nuisance.

35. FIRE FIGHTING EQUIPMENT

The owner of a vessel within the boat harbour shall ensure that -

- (a) the vessel is equipped with all firefighting equipment prescribed by or under the Marine Act for a vessel of its class; and
- (b) fire extinguishers are kept fully charged, maintained in good order and condition and fitted in the position on the vessel required by or under the Marine Act.

PART 7 - JETTIES AND OTHER STRUCTURES

36. USE OF JETTIES

(1) A person shall not, except in accordance with these By-laws, obstruct or impede the use of or access to a jetty by another person.

(2) A person shall not moor or fasten a vessel to a part of a jetty except to bollards or other fastenings provided for that purpose.

(3) A person shall not cause a vessel under his or her control to lie alongside a jetty unless the vessel is properly moored or fastened to the jetty.

(4) The Management Corporation is not responsible for

- (a) the security and safety of a vessel; or
- (b) for damage to a vessel,

while it is berthed at or moored or fastened to a jetty.

(5) A person shall not use or interfere with a fitting or appliance on a jetty except for the purpose for which the fitting or appliance is provided.

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37. CONTROL OF JETTIES

(1) The Management Corporation may perform those acts and give those directions it thinks necessary for the general benefit and safety of persons, vessels and property at or on a jetty.

(2) The Management Corporation may give to the person in control of a vessel at a jetty or to a person upon or alongside a jetty, the directions it thinks fit for the purpose of enforcing these By-laws.

(3) Where the Management Corporation is of the opinion that a vessel is not securely moored at a jetty, it may direct the person in control of the vessel to securely moor the vessel immediately or within the period the Management Corporation directs.

38. USE OF BOAT RAMP

(1) A person shall not use a boat ramp except -

- (a) for the purpose of launching or retrieving a vessel;
- (b) with the prior permission of the Management Corporation;
- (c) under and in accordance with a lock opening permit or a casual lock opening permit; and
- (d) if the person has paid the fee, if any, for use of the boat ramp.

(2) A person shall not drive or stand a vehicle onto or upon a boat ramp except to launch or retrieve a vessel.

(3) A person shall launch or retrieve a vessel as expeditiously as possible.

(4) A person shall not moor, place or anchor a vessel within the approach fairway so as to be likely to obstruct the use by another person of a boat ramp.

(5) A person shall not obstruct or impede the use by another person of a boat ramp.

(6) A person shall not carry out maintenance or repairs to a vessel -

- (a) on a boat ramp; or
- (b) in the approach fairway to a boat ramp.

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except in the event of an emergency, where to move the vessel from its position would involve danger to a person or the property of another.

(7) In this by-law, "boat ramp" means a boat ramp forming part of the common property in the boat harbour.

PART 8 - THE LOCK

39. LOCK LEVIES

(1) The Management Corporation may charge owners of lots within the development area levies for the upkeep and maintenance of the lock and the employment of a person as lock master.

(2) A levy charged under clause (1) is payable notwithstanding that contributions are required to be made according to a unit entitlement under the Act.

40. RESTRICTION OF VESSELS

(1) Where the Management Corporation or a lock master is satisfied that a vessel -

- (a) presents an undue risk of injury to the boat harbour, or to property or persons within the boat harbour; or
- (b) is undesirable because of -
  - (i) the size, design or type of vessel;
  - (ii) the trade or service in which the vessel is engaged; or
  - (iii) any other reason whatsoever,

the Management Corporation or the lock master may, by verbal or written direction to the owner of the vessel -

- (c) absolutely prohibit the entry, mooring or berthing of the vessel in the boat harbour; or
- (d) authorise the entry, mooring or berthing of the vessel at a mooring facility, berth or marina berth within the boat harbour on such terms and conditions as the Management Corporation or lock master directs.

(2) A lock master may refuse entry of a vessel to the boat harbour if -

- (a) it is in breach of a by-law;

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- (b) it is not comprehensively insured or is not subject to a contract of third party personal/property insurance (the obligation to provide evidence of which shall rest with the master or owner of the vessel); or
- (c) a current lock opening permit or casual lock opening permit has not been granted in respect of the vessel.

PART 9 - NOTICES

41. SERVICE OF NOTICES

Except as otherwise provided by these By-laws, a notice or other document required or permitted by or under these by-laws to be given or served upon a person may be given or served in accordance with regulation 71 of the Cullen Bay Marina Regulations.

42. EXHIBITION OF NOTICES

The Management Corporation shall display, exhibit or publish these By-laws and regulations that relate to the common property or the operation of the lock by notices displayed at -

- (a) entrances to or in conspicuous places in or about the common property; or
- (b) at those places it thinks fit.

43. NO UNAUTHORISED ADVERTISEMENT

A person shall not, except with the written permission of the Management Corporation -

- (a) erect or maintain in or about the common property a signboard, notice, board or other fixture or erection for the exhibition of bills of notices; or
- (b) exhibit on, affix to, or maintain a bill or notice on a part of the common property.

PART 10 - MISCELLANEOUS

44. CONDUCT

A person shall not in or about or in the vicinity of the common property -

- (a) behave in a riotous, disorderly, indecent, offensive, threatening or insulting manner;

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- (b) sing an obscene song or ballad or write or draw an indecent or obscene word, figure or representation;
- (c) use profane, indecent or obscene language;
- (d) use threatening, abusive or insulting words;
- (e) wilfully break, destroy or damage a building, erection, fitting, appliance, tree, plant, seed or other thing;
- (f) write upon, mark or deface a building, structure, erection, fitting, appliance, tree, plant, seed or thing;
- (g) place or leave litter, decaying food, goods or things;
- (h) discharge or place or cause to be discharged or placed rubbish or any other substance or object overboard from a vessel, from a lot or from any other place within the development area, into the boat harbour (including lawn cuttings and the run-off of fertiliser from a lot leading into or otherwise entering the boat harbour);
- (j) light fires or burn material except in a facility provided for that purpose; or
- (k) park a motor vehicle within the meaning of the *Motor Vehicles Act* in an area that is not designated and, in the case of land in the common property, marked as, a carparking area.

45. FUELLING

A person shall not use or allow to be used -

- (a) a berth, marina berth, wharf, dock, jetty or other structure; or
- (b) a vehicle, apparatus, equipment or other facility on or within the common property,

for delivering fuel to vessels except under and in accordance with a lock opening permit, casual lock opening permit, or an approval granted by the Management Corporation.

46. CARPARKING

(1) The Management Corporation -

- (a) shall maintain all carparking areas in the commercial precinct of the development area;

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- (b) shall not permit those carparking areas to be used so as to permanently prevent their use as carparks; and
- (c) may designate the types of vehicle allowed to use or park in a designated carpark or part of a carpark and the times in which a vehicle may be parked in a carpark or part of a carpark.

(2) A person shall not use a carpark except as designated by the Management Corporation.

47. CERTAIN ACTIVITIES PROHIBITED

(1) A person shall not swim or dive within the common property.

(2) A person shall not -

- (a) cause a vessel or goods to be fumigated or smoked except with the permission of the Management Corporation in writing and under the supervision of such persons, if any, under whose supervision such fumigation or smoking is required to be carried out under a law of the Territory or of the Commonwealth;
- (b) use drags or grappling for the purpose of lifting articles or things from the bed of the boat harbour or disturb the bed of the boat harbour in any way whatsoever, except with the consent of the Management Corporation;
- (c) bring, or cause to be brought, a vehicle onto, or move a vehicle or cause a vehicle to be moved upon, a structure erected in or on the common property within the boat harbour if the vehicle is likely to damage the structure or part of the structure;
- (d) remove or in any way interfere with lifesaving gear, a life-hook, a life-buoy, or other lifesaving apparatus within the common property, except for the purpose of saving life;
- (e) soil, deface, mark or injure or drive nails, screws or any other object into, the common property or a structure under the control of the Management Corporation without the consent of the Management Corporation; or

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- (f) without the consent of the Management Corporation write, paint or place a placard or other printed or written material upon a building, shed, waiting room, fence, wharf, berth, marina berth or other structure under the control of the Management Corporation.

48. NUMBERING OF BY-LAWS

Section 57 of the *Interpretation Act* does not apply to or in relation to these By-laws.

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