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LOCAL GOVERNMENT ACT 1995

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**CITY OF COCKBURN**

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**JETTIES, WATERWAYS AND  
MARINA LOCAL LAW 2012**



**LOCAL GOVERNMENT ACT 1995**

## CITY OF COCKBURN

**JETTIES, WATERWAYS AND MARINA LOCAL LAW 2012**

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**LOCAL GOVERNMENT ACT 1995**

## CITY OF COCKBURN

**JETTIES, WATERWAYS AND MARINA LOCAL LAW 2012**

Under the powers conferred by the Local Government Act and under all other powers enabling it, the local government of the City of Cockburn resolved on the 9 February 2012 to make the following local law.

**PART 1 — PRELIMINARY****1.1 Citation**

This local law may be cited as the *City of Cockburn Jetties, Waterways and Marina Local Law 2012*.

**1.2 Commencement**

This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

**1.3 Definitions**

In this local law unless the context otherwise requires—

“**Act**” means the *Local Government Act 1995*;

“**animal**” means any animal other than a dog;

“**AS 1158**” means the standard called “Lighting for roads and public spaces” published by the Standards Association of Australia;

“**AS 1163**” means “Cold-formed structural steel hollow sections” published by the Standards Association of Australia;

“**AS 2159**” means the standard called “Piling—Design and installation” published by the Standards Association of Australia;

“**AS 3004**” means the standard called “Electrical installations—Marinas and Recreational Boats” published by the Standards Association of Australia;

“**AS 3191**” means the standard called “Electric flexible cords” published by the Standards Association of Australia;

“**AS 3962**” means the standard called “Guidelines for design of marinas” published by the Standards Association of Australia;

“**AS 3678**” means “Structural Steel—Hot-rolled plates, floorplates and slabs” published by the Standards Association of Australia;

“**AS 3679.1**” means the standard called “Structural steel—Hot-rolled bars and sections” published by the Standards Association of Australia;

“**AS 3679.2**” means “Structural steel—Welded I sections” published by the Standards Association of Australia;

“**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;

“**bait**” means food, or some substance, used as a lure in fishing;

“**boat lifter**” means any mechanical or electrical device used to lift a boat out of the water;

“**boat ramp**” means a place where vehicles equipped with trailers launch and retrieve recreational vessels;

“**bulk cargo**” means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged;

“**CEO**” means the chief executive officer of the City of Cockburn;

“**commencement day**” means the day on which this local law came into operation;

“**commercial vessel**” has the meaning given to it by the *Western Australian Marine Act 1982*;

“**district**” means the district of the City of Cockburn;

“**fish**” has the meaning given to it by section 4 of the *Fish Resources Management Act 1994*;

“**fishing**” has the meaning given to it by section 4 of the *Fish Resources Management Act 1994*;

“**fishing net**” means any fishing net other than a—

- (a) hand scoop or hand dip net;
- (b) prawn hand trawl net; or
- (c) complying drop net;

“**gangway**” means a structure including a removable ladder, ramp or footway that provides pedestrian access between a fixed jetty or the shore and a pontoon, floating jetty or a vessel;

“**jetty**” means—

- (a) any jetty, pier, wharf, quay, grid, slip, landing place, stage, platform (other than a platform that is a vessel for the purposes of the *Western Australian Marine Act 1982*) or similar structure, whether fixed or floating, erected or placed, wholly or in part, in, on or over any waters; and
- (b) any ramp and supporting structure for vessel access to a ramp which is or which may be used for the purpose of launching or landing a vessel;

“**jetty or pontoon envelope**” means the area designated by the local government within a waterway lot within which the construction of a jetty or pontoon and associated gangway is permissible;

“**local government**” means the City of Cockburn and includes, where the context permits, an authorised person;

“**marina**” means a complex of interconnecting pens, and all jetties and walkways, together with any adjoining waterways, which are under the care, control or management of the local government or a person authorised by the local government to undertake such care, control or management on behalf of the local government;

“**moor**” means to secure a vessel to a mooring;

“**mooring**” means something to which a vessel may be moored and includes an anchor, stake or mooring pile;

“**mooring envelope**” means the area of a waterway lot designated for the mooring of vessels;

“**mooring pile**” means any pile used or capable of being used to secure a vessel;

“**owner**” means the person who is the lawful owner or the person entitled to possession of any vessel, vehicle, cargo, property or chattel;

“**pen**” means a specific area within a marina for the mooring of a vessel and does not include any adjacent jetty and walkway;

“**pollutant**” means any noxious, polluting or offensive material whether solid or liquid including but not limited to non-biodegradable chemicals or cleaning agents, rubbish, dirt, black water, sewage, oil, oily bilge water, sullage, fuel or the content of brine tanks, fish products including fish carcasses (but excluding bait), shells, offal or litter;

“**pontoon**” means a floating platform or similar structure providing landing, docking or mooring facilities;

“**private jetty**” means any jetty other than a public jetty;

“**public jetty**” means any jetty under the care, control or management of the local government;

“**reasonable notice**” means notice of not less than 24 hours in accordance with section 3.32 of the *Local Government Act 1995*;

“**regulations**” means the *Local Government (Functions and General) Regulations 1996*;

“**sign**” includes any notice, mark, structure or device on which may be shown words, numbers, expressions, colors or symbols;

“**State Authority**” means the relevant Statutory Authority responsible for the designation of mooring envelopes;

“**vessel**” means any kind of vessel, whether licensed or unlicensed, used or capable of being used in navigation by water, however propelled or moved, and without limiting the generality of the foregoing includes—

- (a) a barge, lighter, floating restaurant, dinghy, commercial vessel, tender vessel or other floating structure; and
- (b) an air-cushion vehicle, or other similar craft, used wholly primarily in navigation by water,

but does not include structures used only for the purposes of walkways or storage.

“**waterway**” means any area of water under the care, control and management of the local government or a person authorised by the local government to undertake such care, control or management on behalf of the local government including any area of water within a marina or, but not including mooring envelopes;

“**waterway edge wall**” means any revetment wall separating the land filled part of a lot adjoining a waterway from the submerged part of such a lot together with any associated retaining wall;

“**waterway lot**” means any privately owned land or lot adjoining a waterway.

#### 1.4 Application

This local law applies within the district of the City of Cockburn.

**PART 2—USE OF WATERWAYS****2.1 Swimming in waterway**

(1) No person shall swim in a waterway without having first obtained the written consent of the local government.

(2) Notwithstanding subclause (1) a person—

- (a) may swim in that portion of a waterway that is within 25 metres of a beach or foreshore provided the beach or foreshore has not been designated or set aside as a locality where swimming or bathing is prohibited;
- (b) may swim in any area of a waterway that has been designated or set aside by the local government by signs or otherwise as a swimming area; and
- (c) may swim in any waterway with the written consent of an authorised person.

**2.2 Fishing in waterways**

A person shall not—

- (a) fish in a waterway from a vessel; or
- (b) use a net for the purpose of fishing in a waterway; or
- (c) use a gidgee or speargun; or
- (d) fish from a private jetty or private land,

so as to cause a nuisance.

**2.3 Users of waterway not to cause a nuisance**

No person shall moor their vessel or otherwise use a waterway in such a manner as to cause a nuisance to other users of the waterway.

**2.4 Maintenance of Vessels**

A person shall not clean, repair or maintain a vessel moored in a waterway, pen, jetty or mooring envelope in such a manner as to cause a nuisance to other users of the waterway.

**2.5 Storage of Fuels**

A person shall not store fuel—

- (a) on a jetty;
- (b) on any other structure built on or over the water and that is attached to the land; or
- (c) within 20 metres of the high watermark,

except in a fuel storage facility constructed with the approval of the local government.

**2.6 Pollution of waterway**

A person shall not deposit or release or permit to be deposited or released any pollutant into a waterway whether from a vessel, jetty, bridge, pen or private land.

**2.7 Restrictions on Vessel Anti-Fouling Paint**

Any vessel that is coated with anti-fouling paint containing any substance or additive compound that has been altered or is applied at variance with manufacturers or government specification, which is known to bio-accumulate toxins or contain residual chemicals that risk being harmful to the marine environment, is prohibited from using the waterways or entering a marina.

**2.8 Size of Vessels**

Any vessel entering or navigating a waterway shall not exceed any size limit for vessels stipulated on a sign relating to the waterway.

**2.9 Application of Signs**

(1) A sign that—

- (a) was erected by the local government or a person authorised by the local government prior to the coming into operation of this local law; and
- (b) relates to the use of a waterway, jetty or marina, shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(2) Where the use of a vessel in a waterway is regulated by a sign, then the sign shall for the purposes of this local law apply to that part of the waterway which—

- (a) lies beyond the sign; and
- (b) lies between the sign and the next sign beyond that sign.

(3) No person shall use a vessel in a waterway contrary to a sign.

**PART 3—MOORING OF VESSELS****3.1 Application of Part**

This Part applies to the mooring of any vessel whether on a waterway, pen, private mooring envelope, jetty or within a marina.

### 3.2 Application of Signs

(1) Where the mooring of a vessel in a waterway is regulated by a sign, then the sign shall for the purposes of this local law apply to that part of the waterway which—

- (a) lies beyond the sign; and
- (b) lies between the sign and the next sign beyond that sign.

(2) No person shall moor a vessel contrary to a sign.

### 3.3 Vessels Moored Within Mooring Envelope

Where a vessel is moored within a mooring envelope it must be wholly contained within that mooring envelope.

### 3.4 Mooring of Oversized Vessels

A person shall not moor a vessel against a jetty where the vessel exceeds the maximum engineered load for the jetty against which it is moored or where the vessel exceeds the maximum size indicated on a sign.

### 3.5 Mooring Lines

The owner of a vessel must—

- (a) provide, use and adequately maintain mooring lines sufficient to ensure the safe mooring of the vessel, and which shall not be less than the sizes listed below—

<u>Length of vessel</u>	<u>Mooring Line Diameter</u>
Up to 5m	Not less than 12mm
5m to 8m	Not less than 16mm
8m to 12m	Not less than 20mm
12m to 15m	Not less than 24mm

- (b) periodically inspect the mooring lines and replace any mooring lines which are unfit for their intended purpose so as to ensure compliance with the requirements set out in clause 3.6(1)(a).

### 3.6 Inspection of Mooring Lines by Authorised Person

Where an authorised person considers the mooring line of a vessel may be faulty or not comply with the requirements of clause 3.5(1)(a) the authorised person may issue a written direction to the owner of the vessel requiring within a specified timeframe—

- (a) the replacement of any mooring line; or
- (b) the testing and certification of any mooring line as suitable for its purpose by a marine engineer or equivalent and the provision of such certification to the local government.

### 3.7 Connection of Moored Vessel to Electrical Power Supply

Where the owner of a moored vessel connects the vessel to the mains power supply of a dwelling the—

- (a) power supply of the vessel must comply with AS 3004;
- (b) the power cords used to connect the power supply of the vessel to the main dwelling must comply with AS 3191; and
- (c) the owner shall ensure that the power cords or leads used to connect the vessel to the mains power supply do not enter the water and do not otherwise create a hazard for those in the vicinity of the vessel.

### 3.8 Mooring in Waterway

No person shall moor a vessel in a waterway so as to—

- (a) obstruct the waterway; or
- (b) cause a nuisance to other users of the waterway.

## PART 4—USE OF PUBLIC JETTIES

### 4.1 Use of a Public Jetty

(1) A person shall not land at, use or enter a public jetty except in accordance with this local law.

(2) A person shall not land at, use or enter a public jetty which is—

- (a) under construction or repair; or
- (b) closed under section 6 of the *Jetties Act 1926* or any other written law, unless that person is engaged in the construction or repair of that public jetty in accordance with the written authorisation of the local government.

### 4.2 Mooring of Vessels

(1) A person shall not moor or fasten a vessel to a public jetty unless—

- (a) the vessel is in distress such that repairs are required and then only to effect the minimum repairs necessary to enable the vessel to be moved elsewhere;



- (b) the embarking or disembarking of passengers is in progress, and then not for a single period exceeding 2 hours without the prior written consent of the local government and provided that access to the jetty structure is not impeded;
  - (c) the loading or discharging of cargo is in progress in accordance with this local law and then only for such time as may be reasonably required to complete the loading or discharging of cargo;
  - (d) where the vessel is being used for commercial purposes, the person has first obtained the approval of the local government and paid any required fee to the local government for such mooring or making fast; or
  - (e) the mooring of the vessel is authorised or permitted by the local government either by way of a sign affixed by the local government to the public jetty or by written consent of the local government.
- (2) A person shall not—
- (a) moor or make fast a vessel to a public jetty or any part of the jetty except to such mooring piles, ring bolts or other fastenings as are provided;
  - (b) permit a vessel to remain alongside a public jetty unless the vessel is so moored or fastened; or
  - (c) moor or make fast a vessel that exceeds the maximum size of vessel permitted on a public jetty as indicated by any sign.

#### **4.3 Authorised person may order removal of vessel**

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

#### **4.4 Vehicles on Public Jetties**

A person shall not—

- (a) drive or allow a vehicle to remain on a public jetty (other than a boat ramp) without the prior written consent of the local government; or
- (b) ride a bicycle, or allow a bicycle to remain, on a public jetty, except for an emergency vehicle responding to an emergency.

#### **4.5 Fishing From Public Jetties and Bridges**

A person shall not—

- (a) fish from a public jetty or bridge so as to obstruct or interfere with the free movement of a vessel approaching, passing or leaving the jetty or bridge or so as to cause a nuisance on or near the public jetty or bridge; or
- (b) hang or spread a fishing net from, on or over any part of a public jetty or bridge.

#### **4.6 Nuisance on Public Jetties or Bridges**

A person shall not without the prior written consent of the local government—

- (a) offer for sale or sell goods or services from a vessel, public jetty or bridge;
- (b) use any loud speaking or sound amplifying device on a vessel, public jetty or bridge without the prior written consent of the local government;
- (c) interfere with the free movement of others entering or leaving a public jetty or bridge; or
- (d) display any sign or advertisement other than those authorised by the local government;
- (e) jump or dive from a public jetty or bridge;
- (f) use a fire hose on a public jetty or bridge, except in the case of an emergency.

#### **4.7 Material not to be removed**

A person shall not remove or cause to be removed from a public jetty or from its approaches any gravel, stone, timber, trees, shrubs, grasses or other material without the prior written permission of the local government.

#### **4.8 Damage to public jetty or bridge**

(1) A person shall not, by using a vessel or vehicle or otherwise, cause damage to a public jetty or bridge.

(2) Where damage is caused to a public jetty or bridge, whether by a vessel or vehicle or otherwise, the local government may repair the damage and the costs of the repair shall be a debt due to the local government recoverable in a court of competent jurisdiction.

(3) The debt referred to in subclause (2) is payable—

- (a) where the damage is caused by the use of a vessel or vehicle, by the person in control of the vessel or vehicle at the time the damage occurs;
- (b) where the damage is not caused by a vessel or vehicle, by the person or persons who caused the damage; or
- (c) where the damage is caused by an agent or employee of the owner of the vessel or vehicle, and without prejudice to the liability of other persons, if any, by the owner of the vessel or vehicle.

#### **4.9 Obstruction of public jetty or bridge**

- (1) A person shall not, without the written consent of the local government, cause any obstruction on a public jetty or bridge or impede the free passage of other persons to, from or on a public jetty or bridge.
- (2) A person shall not obstruct or hinder any authorised person, or worker engaged in the construction or repair of any public jetty or bridge.
- (3) A person shall not, without the prior written consent of the local government, place any sign, advertisement or fixture of any nature on a public jetty or bridge or access to a public jetty or bridge.
- (4) Property intended for shipment onto a vessel shall—
  - (a) not to be stored or placed on a public jetty unless and until the vessel is alongside the jetty; and
  - (b) be removed from the public jetty as soon as practicable.
- (5) A person unloading property from a vessel onto a public jetty shall cause it to be removed from the public jetty as soon as practicable or upon demand by an authorised person and in any event no later than 6.00pm on the day on which it was placed on the public jetty.
- (6) Except with the prior written consent of the local government, a person shall not tip or deposit bulk cargo from a vehicle or vessel onto a public jetty.
- (7) An authorised person may direct a person apparently in charge of property which remains on a public jetty contrary to this local law to remove the property from the public jetty.
- (8) An authorised person may remove and impound property which has been left on a public jetty contrary to this local law in accordance with Part 3, Division 3, Subdivision 4 of the Act, irrespective of whether a direction to remove the property has been given pursuant to clause 4.9 (7).

#### **4.10 Littering on a public jetty or bridge**

A person shall not—

- (a) tip or deposit anything on to a public jetty or bridge so as to litter or cause pollution; or
- (b) deposit any offensive rubbish or offal into any rubbish bin located on the public jetty or bridge.

#### **4.11 Launching of Vessels**

A person shall not launch or permit the launching of a vessel from or over any public jetty (other than a boat ramp) unless he or she has—

- (a) applied to, and obtained the written consent of, the local government in the form (if any) prescribed by the local government for any purpose; and
- (b) paid to the local government any fee set by the local government from time to time for the purpose.

#### **4.12 Miscellaneous Prohibitions**

No person shall on any public jetty or bridge—

- (a) light, place or keep a fire upon or so near as to endanger any jetty;
- (b) throw or impel any stone, or other missile onto or therefrom, except for the express purpose of fishing and then only in accordance with clause 4.5;
- (c) permit an animal to remain thereon;
- (d) be in a state of intoxication or in possession of any intoxicating substance unless such intoxicating substance is cargo or medical supply carried for lawful purpose;
- (e) behave in a disorderly manner, or create or take part in any disturbance or use any foul or indecent language or commit any act of indecency;
- (f) post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill, advertisement, sign or other matter;
- (g) fix or place any receptacle capable of holding water and providing a breeding site for mosquitoes or other insects; or
- (h) land, place or handle explosives without the prior written consent of the local government.

#### **4.13 Application for consent**

- (1) Where a person is required to obtain the written consent of the local government under this local law, the person is to apply for that consent in the manner required by the local government.
- (2) The local government may, in accordance with sections 6.16 to 6.19 of the Act, determine and impose a fee for receipt of an application for consent made under clause 4.13(1).
- (3) If an application for consent is not made in the manner required by the local government or the fee, if any, which is charged to accompany that application is not paid, the local government may refuse to consider the application for consent.
- (4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.

## **PART 5 — PRIVATE JETTIES AND WATERWAY LOTS**

### **5.1 Causing nuisance from a private jetty**

A person shall not on a private jetty without the prior written consent of the local government—

- (a) offer for sale or sell goods or services; or
- (b) use any loud speaking or sound amplifying device; or
- (c) interfere with the free movement of others on any waterway adjoining the private jetty so as to cause a nuisance; or
- (d) display any sign or advertisement other than those authorised by the local government;
- (e) use a fire hose on a private jetty except in the case of an emergency.

### **5.2 Mooring of Vessels**

A person shall not—

- (a) moor or permit the mooring of a commercial vessel at a private jetty without prior approval of the local government;
- (b) moor or permit the mooring of a vessel which outside the mooring envelope designated by the State Authority and the local government when the vessel is normally moored alongside the private jetty; or
- (c) moor or permit the mooring of a vessel at a private jetty without the consent of the owner of the jetty.

### **5.3 Private Jetties**

(1) A person shall not construct a jetty or pontoon—

- (a) in such a manner as to damage a waterway edge wall underlying or adjoining the jetty or pontoon;
- (b) in such a manner as to impose any additional load upon a waterway edge wall, unless approved by the local government; or
- (c) other than within the jetty/pontoon envelope designated by the local government;

(2) The installation of services including electricity, potable water, data or communications cabling or sewage/sullage facilities is prohibited on any private jetty or pontoon.

(3) Notwithstanding subclause (2), an owner may with the permission of the local government and in accordance with AS 1158 install lighting on a private jetty.

(4) The owner of a private jetty or pontoon shall maintain the jetty or pontoon to the satisfaction of the local government.

(5) A person shall not construct a gangway—

- (a) other than in accordance with AS 3962;
- (b) in such a manner as to damage or impose any additional load upon a waterway edge wall;
- (c) other than within the jetty/pontoon envelope; or
- (d) that is permanently attached or fixed to a waterway edge wall;
- (e) that is in excess of 2 metres in width to a jetty or pontoon.

### **5.4 Design of Mooring Piles**

(1) A person shall not construct a mooring pile other than—

- (a) in accordance with AS 2159;
- (b) where steel piles are installed, in accordance with AS 3679.1, AS 3679.2, AS 1163 and AS 3678 as applicable.

(2) No person shall construct, position or place a mooring pile, pole or other structure for the purpose of mooring a vessel within a waterway without the written consent of the local government.

### **5.5 Dry Storage of Vessels**

(1) For the purpose of this clause—

“**dry storage of a vessel**” means the storage of a vessel out of water whether on a jetty or on land;

(2) The dry storage of a vessel is not permitted on a private jetty.

(3) No person shall install, construct or use a boat lifter on a waterway lot.

## **PART 6—MAINTENANCE OF WATERWAY EDGE WALLS**

### **6.1 Maintenance of Waterway-Edge Walls**

(1) An owner of property must maintain any waterway edge wall within their property to the satisfaction of the local government.

(2) No person shall drill, cut, alter or remove a waterway edge wall without the written consent of the local government.

(3) An owner of property containing a waterway edge wall shall maintain a depression on the dry side of the owner's lot behind the top of the retaining wall edge for drainage purposes.

## 6.2 Notice to Repair Waterway-Edge Walls

Where a person fails to comply with clause 6.1 the local government may serve notice on the owner of the property requiring them to maintain or repair or replace anything stated in the notice within the timeframe given in the notice.

## PART 7—USE OF MARINA

### 7.1 Requirement for licence or lease

No person shall, without first obtaining a licence or lease from the local government, moor or anchor or cause any vessel to be moored or anchored, within a marina.

### 7.2 General prohibitions

(1) A person shall not perform underwater repairs or hull cleaning in a marina without having first obtained written consent from the local government and provided the activity is only undertaken within the licensee's pen.

(2) A person shall not without obtaining the prior written consent of the local government, use a—

(i) power point for longer than 3 hours; or

(ii) water tap for longer than 30 minutes,

in a 24-hour period commencing at midnight. Persons who have obtained the written authorisation of the local government to live on board may connect to power for longer periods on the condition that they shall not restrict power to other pen holders for the purpose of minor maintenance.

### 7.3 Removal of vessel

An authorised person may, in any of the circumstances mentioned in clause 7.5, move or cause to be moved any vessel located within a pen. The costs of moving a vessel under this clause shall be a debt due to the local government, payable by the licensee.

## PART 8—GENERAL PROVISIONS

### 8.1 Notice of breach

(1) When a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.

(2) A notice issued pursuant to subclause (1) shall—

(a) specify the provision of this local law has been breached;

(b) specify the particulars of the breach; and

(c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within the time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

### 8.2 Offences

(1) Any person who—

(a) 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; or

(b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or

(c) does anything which under this local law that person is prohibited from doing;

(2) Where, under this local law, an act to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.

(3) 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.

(4) Any person who fails to comply with a direction issued by an authorised person commits an offence.

(5) Any person who obstructs an authorised officer in the course of his duties under this local law commits an offence.

### 8.3 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;

(a) in the case of a first offence the modified penalty will be that prescribed in column 4 of Schedule 1;

(b) in the case of a subsequent offence the modified penalty will be that prescribed in column 5 of Schedule 1.

(3) An authorised person, before giving an infringement notice to a person in respect of the commission of a prescribed offence, must be satisfied that—

- (a) 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.

#### 8.4 Forms of infringement notices

Unless otherwise specified, for the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

#### 8.5 Fees and charges

Fees and charges may be imposed by the local government for the purposes of this local law in accordance with the requirements of Part 6, Division 5, Subdivision 2 of the Act.

#### 8.6 Costs of repair

Any person who causes damage to a jetty, bridge or pen under the care, control and management of the local government, whether or not they are committing an offence under this local law, shall pay the costs of repairing any damage caused to the local government.

#### 8.7 Appointment of an authorised person

The local government may appoint authorised persons under section 9.10 of the Act to perform any of the functions of an authorised person under this local law.

### *Schedule 1*

#### PRESCRIBED OFFENCES

[cl 8.3(1)&(2)]

City of Cockburn

*Jetties, Waterways and Marina Local Law 2012*

#### OFFENCES AND MODIFIED PENALTIES

Item No.	Clause	Nature of Offence	Modified Penalty First Offence	Modified Penalty Subsequent Offence
1	2.1(1)	Swimming in a waterway so as to cause a nuisance	\$50	\$100
2	2.2(a)	Fishing in a waterway from a vessel so as to cause a nuisance	\$100	\$200
3	2.2(b)	Using a net to fish in a waterway so as to cause a nuisance	\$100	\$200
4	2.2(c)	Using a gidgee or speargun to fish in a waterway so as to cause a nuisance	\$100	\$200
5	2.2(d)	Fishing from a private jetty or private land so as to cause a nuisance	\$100	\$200
6	2.3	Using a waterway so as to cause a nuisance	\$100	\$200
7	2.4	Maintaining a vessel so as to cause a nuisance	\$100	\$200
8	2.5	Store fuel without approval	\$100	\$200
9	2.6	Depositing or releasing pollutant into waterway	\$250	\$500
10	2.9(3)	Using a vessel in a waterway contrary to a sign	\$100	\$200
11	3.2(2)	Mooring a vessel contrary to a sign	\$100	\$200
12	3.3	Mooring a vessel other than wholly within a mooring envelope	\$100	\$200
13	3.5	Mooring a vessel with faulty or inadequate mooring lines	\$100	\$200
14	3.8(1)(b)	Mooring in a waterway to cause obstruction or cause a nuisance	\$150	\$300
15	4.2	Unauthorised mooring of a vessel on a public jetty	\$100	\$200

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty First Offence</b>	<b>Modified Penalty Subsequent Offence</b>
16	4.5(a)	Fishing from a public jetty or bridge so as to cause obstruction or nuisance	\$100	\$200
17	4.5(b)	Using a fishing net on a public jetty or bridge	\$100	\$200
18	4.6(a)	Offering or selling goods or services from a vessel, public jetty or bridge	\$100	\$200
19	4.6(b)	Using a loud speaking device on a public jetty or bridge	\$100	\$200
20	4.6(c)	Interfering with the free movement of others entering or leaving a public jetty or bridge so as to cause a nuisance	\$100	\$200
21	4.6(d)	Display a sign or advertisement without authority	\$100	\$200
22	4.6(e)	Jumping or diving from a public jetty or bridge	\$100	\$200
23	4.6(f)	Use of fire hose where no emergency exists	\$500	
24	4.8(1)	Causing damage to a public jetty or bridge	\$200	\$400
25	4.9	Causing an obstruction of a public jetty or bridge	\$100	\$200
26	4.10	Littering on a public jetty or bridge	\$100	\$200
27	4.12	Miscellaneous prohibitions	\$100	\$200
28	5.1(a)	Offering or selling goods or services on a private jetty	\$100	\$200
29	5.1(b)	Using a loud speaking device on a private jetty	\$100	\$200
30	5.1(c)	Interfering with the free movement of others on any waterway adjoining the private jetty so as to cause a nuisance	\$100	\$200
31	5.1(d)	Display a sign or advertisement without authority	\$100	\$200
32	5.1(e)	Use of fire hose where no emergency exists	\$500	
33	5.2(a)	Mooring of a commercial vessel on a private jetty	\$100	\$200
34	5.2(b)	Mooring of an oversized vessel on a private jetty	\$100	\$200
35	5.2(c)	Mooring of a vessel on a private jetty without consent of owner	\$100	\$200
36	5.3(1)	Unsatisfactory construction of jetty or pontoon	\$100	\$200
37	5.3(4)	Failing to maintain private jetty or pontoon	\$100	\$200
38	5.5	Dry store a vessel on a private jetty	\$100	\$200
39	6.1(1)	Failing to maintain waterway-edge wall	\$100	\$200
40	6.1(2)	Damaging a waterway-edge wall	\$200	\$400
41	7.1	Mooring or anchoring a vessel in a marina without a licence or lease	\$100	\$200
42	8.1(3)	Failure to comply with notice	\$100	\$200
43	8.2(1)	Other offence not specified	\$100	\$200
44	8.2(4)	Failure to comply with a direction by an authorised officer	\$100	\$200

Dated: 15 February 2012.

The Common Seal of the City of Cockburn was affixed under the authority of a resolution of Council in the presence of—

LOGAN K. HOWLETT, Mayor.  
STEPHEN CAIN, Chief Executive Officer.



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LOCAL GOVERNMENT ACT 1995

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**CITY OF BUSSELTON**

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**BUSSELTON REGIONAL  
AIRPORT LOCAL LAW 2012**





**LOCAL GOVERNMENT ACT 1995**

CITY OF BUSSELTON

**BUSSELTON REGIONAL AIRPORT LOCAL LAW 2012**

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**SCHEDULE 1 — PRESCRIBED OFFENCES**

## LOCAL GOVERNMENT ACT 1995

### CITY OF BUSSELTON

## BUSSELTON REGIONAL AIRPORT LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other enabling powers, the Council of the City of Busselton resolved on 25 January 2012 to make this local law.

### PART 1 — PRELIMINARY

#### 1.1 Citation

This is the *Busselton Regional Airport Local Law 2012*.

#### 1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

#### 1.3 Application

This local law applies to and in respect of the Airport Land.

#### 1.4 Definitions

In this local law—

**Act** means the *Local Government Act 1995*;

**Air Navigation Laws** means the *Air Navigation Act 1920* (Commonwealth), the *Air Navigation Regulations* (Commonwealth), the *Air Navigation Act 1937* (WA) and other laws relating to air navigation;

**aircraft** means any machine or craft that can derive support in the atmosphere from the reactions of the air;

**Airport** means the Busselton Regional Airport;

**Airport Land** means the land, within the district, on which the Airport is located;

**Airport Manager** means the person employed or engaged by the City to control and manage the Airport;

**authorised person** means a person appointed by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

**CEO** means the Chief Executive Officer of the City;

**City** means the City of Busselton;

**Council** means the council of the City;

**district** means the district of the City;

**Local Government Property Local Law** means the City's *Local Government Property Local Law 2010*, published in the *Government Gazette* on 9 March 2010;

**movement**, in relation to an aircraft, includes any action involving, or in relation to, the take-off or landing of an aircraft;

**owner**, in relation to an aircraft, includes a lessee, charterer and person for the time being in the possession or control of the aircraft;

**permit** means a permit under the Local Government Property Local Law;

**permit holder** means the holder of a permit;

**prohibited chemical** means any one or more of the following chemicals—

- (a) Dieldrin;
- (b) Aldrin;
- (c) Chlordane;
- (d) MCPA;
- (e) 2,4-D;
- (f) 2,4-DB;
- (g) 2,4,5-T;

- (h) Dicamba;
- (i) Fenoprop (2, 4,5-TP);
- (j) 4 CPA;
- (k) Picoram;
- (l) D.D.T. (dichlorodiphenyltrichloroethane); and
- (m) any other chemical specified in a determination made under the Local Government Property Local Law;

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

**taxi** means a taxi operating under the *Taxi Act 1994*.

### 1.5 Application of Local Government Property Local Law

The *Local Government Property Local Law* applies to the Airport as if the Airport Land were "local government property" for the purposes of that local law.

## PART 2 — AIRCRAFT

### 2.1 Rights of aircraft owners

Subject to clause 2.3, the owner of an aircraft may use the Airport, in accordance with the Air Navigation Laws, for—

- (a) the landing, servicing and departure of the aircraft; and
- (b) the embarkment and disembarkment of passengers and freight on and from the aircraft.

### 2.2 Requirement for a permit by flight training operators

(1) A flight training operator—

- (a) must not, without a permit, use the Airport; and
- (b) may use the Airport only in accordance with the terms and conditions of a permit.

(2) Subclause (1) does not apply to—

- (a) the Royal Flying Doctor Service, or an employee or agent of the Royal Flying Doctor Service;
- (b) a person who needs to land an aircraft at the Airport in an emergency;
- (c) a person who uses the Airport under and in accordance with a written agreement with the City; and
- (d) a person who has been exempted from subclause (1) by the Airport Manager.

(3) In this clause—

- (a) **flight training operator** means an owner of an aircraft who uses the aircraft, or allows the aircraft to be used, for training purposes; and

*Note: Under clause 1.4, an "owner", in relation to an aircraft, includes a lessee, charterer and person for the time being in possession or control of the aircraft.*

- (b) the **use of the Airport** by a flight training operator includes the use of the Airport for landing or taking off purposes.

(4) For the avoidance of doubt, the conditions that may be imposed on a permit include, in addition to the examples listed in Part 3 of the *Local Government Property Local Law*, conditions in respect of the use of the Airport such as—

- (a) when the use may occur; and
- (b) type of aircraft.

### 2.3 Closure of Airport

The Airport Manager or an authorised person may close all or part of the Airport if he or she considers that it is necessary to do so for safety or other operational reasons.

## PART 3 — CONDUCT OF BUSINESS

The Local Government Property Local Law prohibits or restricts the carrying out of various activities, including business activities, on local government property (which includes the Airport). Among the activities that cannot be carried out without a permit are—

- (a) advertising;
- (b) trading; and
- (c) the conduct of functions (see clause 3.13(1)).

### 3.1 Hire vehicles

Subject to, and without limiting the generality of, the *Local Government Property Local Law*, a person must not without a permit—

- (a) hire out self-drive vehicles; or
- (b) solicit, or conduct the business of, the hiring out of self-drive vehicles.

### 3.2 Taxis

A person may operate a taxi without the need for a permit under the *Local Government Property Local Law*.

## PART 4—ENTRY RESTRICTIONS

### 4.1 General restrictions

Other than with the written approval of the Airport Manager or an authorised person, a person must not enter or remain on the Airport Land unless that person—

- (a) is authorised to do so under this local law;
- (b) is carrying out activities under and in accordance with a permit or a written agreement with the City;
- (c) is a passenger, or intending passenger, in an aircraft lawfully using the Airport; or
- (d) is a person greeting or seeing off a passenger, or intending passenger, in an aircraft lawfully using the Airport.

### 4.2 Temporary prohibitions or restrictions on access

(1) For safety or other operational reasons, the Airport Manager or the CEO may, on a temporary basis, by written notice set aside any part or parts of the Airport in which access is to be prohibited either absolutely or subject to exceptions as specified in the notice, by reference, for example, to—

- (a) a person, or class of persons;
- (b) a vehicle, or class of vehicles;
- (c) an aircraft, or class of aircraft; or
- (d) goods, or class of goods.

(2) A prohibition or exception under subclause (1) may be subject to terms and conditions and, in that case, the terms and conditions are also to be specified in the notice.

(3) A copy of the notice under this clause is to be placed on a noticeboard exhibited to the public at the City's offices.

(4) A person must comply with a notice.

### 4.3 Signs

The Airport Manager is to ensure that appropriate signs are erected to give notice of the effect of a determination (under the *Local Government Property Local Law*) or a written notice (under clause 4.2).

### 4.4 Animals

(1) This clause does not apply where—

- (a) a blind person brings a guide dog accompanying that person to the Airport; or
- (b) a person brings to the Airport an animal, or has the possession and control at the Airport of an animal, that is, is to be, or has been, air freighted to or from the Airport—provided that person exercises effective control over the animal at all times.

(2) A person must not, without the prior written approval of the Airport Manager or an authorised person—

- (a) bring an animal to the Airport;
- (b) permit an animal to stray into the Airport; or
- (c) have an animal in his or her possession or control at the Airport.

(3) Where there is a breach of subclause (2), or where an animal is otherwise found at the Airport, the Airport Manager or an authorised person—

- (a) may, using all reasonable means, capture and remove the animal from the Airport; and
- (b) may, where the Airport Manager or authorised person considers that the animal is or may be a danger to persons or property, destroy the animal.

### 4.5 Chemicals

(1) A person must not, without the written approval of the Airport Manager or an authorised person, bring or permit to be brought onto the Airport a prohibited chemical.

(2) For the purpose of determining whether there has been a breach of subclause (1), the Airport Manager or an authorised person may direct any person to provide a sample, or allow a sample to be taken, of any container or other thing within the possession or control of that person.

(3) A person must comply with a direction under subclause (2).

### 4.6 Inappropriate behaviour

In addition to the requirements under Part 4 of the *Local Government Property Local Law*, a person—

- (a) must comply with a request or direction from the Airport Manager or an authorised person; and
- (b) must not use any building, structure or facility for any purpose other than that for which it was provided or intended.

Notes—

1. Under Part 4 of the *Local Government Property Local Law*, the CEO or an authorised person has power to direct a person who fails to comply with the requirements of that Act to leave and,

*if that person fails to leave, the CEO or authorised person may remove the person or arrange for the person to be removed.*

2. *The behaviour regulated by Part 4 includes—*

- (a) behaviour that interferes or is likely to interfere with others (clause 4.1);*
- (b) behaviour that is detrimental to property (clause 4.2);*
- (c) damage to fauna or flora (clauses 4.3 and 4.4); and*
- (d) being under the influence of liquor or taking a prohibited drug (clauses 4.5 and 4.6).*

## **PART 5—OBJECTIONS AND REVIEW**

### **5.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law to grant, renew, amend or cancel a permit or other authorisation.

## **PART 6—ENFORCEMENT**

### *Division 1—Notices*

#### **6.1 Definition**

In this Division—

“costs” of the City include its administrative costs.

#### **6.2 Damage to Airport property**

If a person unlawfully removes, damages or interferes with property within the Airport that is owned by, or within the care, control or management of the City, the Airport Manager or an authorised person may, at his or her option—

- (a) replace the property, or reinstate the property to the state it was in before the removal, damage or interference, and recover, from that person, as a debt, the costs of doing so; or
- (b) give the person a notice under this Division.

#### **6.3 Breach of a permit**

If a permit holder breaches a condition of the permit, or fails to comply with a direction under clause 3.16(b) of the *Local Government Property Local Law*, the Airport Manager or an authorised person may, at his or her option, either—

- (a) take whatever remedial action he or she considers to be appropriate to put the City in the position it would have been in if the breach or failure had not occurred, and to recover from the permit holder, as a debt, the costs of doing so; or
- (b) give the permit holder a notice under this Division.

#### **6.4 Notice requirements**

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 6.2 or 6.3, as the case may be.

#### **6.5 Offence to fail to comply with notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

#### **6.6 City may undertake requirements of notice**

If a person fails to comply with a notice given to him or her under this local law, the Airport Manager or an authorised person may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs of doing so.

### *Division 2—Offences and penalties*

#### **6.7 Offences and general penalty**

- (1) A 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.

#### **6.8 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 the amount specified adjacent to the clause in Schedule 1.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person must be satisfied that—
  - (a) the 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.

**6.9 Form of notices**

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.

---

**Schedule 1**  
**PRESCRIBED OFFENCES**

[clause 6.8]

Clause	Description	Modified Penalty \$
2.2(1)(a)	Using Airport without a permit	\$400
2.2(1)(b)	Non-compliance with terms or conditions of a permit	\$300
3.1	Hire/operate/solicit self drive vehicles	\$200
4.1	Entering or remaining on Airport Land	\$300
4.2	Failure to comply with a notice	\$300
4.4(2)	Bringing an animal onto Airport Land	\$200
4.6	Inappropriate behaviour	\$300
6.5	Failure to comply with a notice	\$300

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Dated: 14 February 2012.

The common seal of the City of Busselton was affixed by authority of a Council resolution in the presence of—

IAN W. STUBBS, Mayor.  
MICHAEL S. L. ARCHER, Chief Executive Officer.

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