



**LOCAL GOVERNMENT ACT 1995**

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

(as amended July 2012)

City of Cockburn

**Jetties, Waterways and Marina Local Law 2012**

	Page
PART 1- PRELIMINARY .....	1
1.1 Citation.....	1
1.2 Commencement .....	1
1.3 Definitions .....	1
1.4 Application .....	4
PART2- USE OF WATERWAYS .....	4
2.1 Swimming in waterway.....	4
2.2 Fishing in waterways.....	4
2.3 Users of waterway not to cause a nuisance .....	5
2.4 Maintenance of Vessels .....	5
2.5 Storage of Fuels .....	5
2.6 Pollution of waterway .....	5
2.7 Restrictions on Vessel Anti-Fouling Paint .....	5
2.8 Size of Vessels.....	5
2.9 Application of Signs .....	5
PART 3 -MOORING OF VESSELS .....	6
3.1 Application of Part .....	6
3.2 Application of Signs.....	6
3.3 Vessels Moored Within Mooring Envelope.....	6
3.4 Mooring of Oversized Vessels .....	6
3.5 Mooring Lines .....	6
3.6 Inspection of Mooring Lines by Authorised Person.....	7
3.7 Connection of Moored Vessel to Electrical Power Supply .....	7
3.8 Mooring in Waterway .....	7
PART 4 - USE OF PUBLIC JETTIES .....	7
4.1 Use of a Public Jetty .....	7
4.2 Mooring of Vessels.....	8
4.3 Authorised person may order removal of vessel.....	8
4.4 Vehicles on Public Jetties .....	8
4.5 Fishing from Public Jetties and Bridges.....	9
4.6 Nuisance on Public Jetties or Bridges .....	9
4.7 Material not to be removed .....	9
4.8 Damage to public jetty or bridge .....	9
4.9 Obstruction of public jetty or bridge .....	10
4.10 Littering on a public jetty or bridge .....	10
4.11 Launching of Vessels .....	10
4.12 Miscellaneous Prohibitions.....	11
4.13 Application for consent .....	11

	Page
PART 5- PRIVATE JETTIES AND WATERWAY LOTS.....	11
5.1 Causing nuisance from a private jetty.....	11
5.2 Mooring of Vessels.....	12
5.3 Private Jetties .....	12
5.4 Design of Mooring Piles .....	12
5.5 Dry Storage of Vessels.....	13
 PART 6 -MAINTENANCE OF WATERWAY EDGE WALLS .....	 13
6.1 Maintenance of Waterway-Edge Walls.....	13
6.2 Notice to Repair Waterway-Edge Walls.....	13
 PART 7- USE OF MARINA .....	 13
7.1 Requirement for licence or lease.....	13
7.2 General prohibitions .....	13
7.3 Removal of vessel .....	14
 PART 8 - GENERAL PROVISIONS .....	 14
8.1 Notice of breach .....	14
8.2 Offences .....	14
8.3 Prescribed offences .....	15
8.4 Forms of infringement notices .....	15
8.5 Fees and charges .....	15
8.6 Costs of repair.....	15
8.7 Appointment of an authorised person .....	15

## **SCHEDULE I**

**City of Cockburn**

**Jetties, Waterways and Marina Local Law**

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 April 2009 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 Standards 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 Standards Australia;

"**AS 3004**" means the standard called "Electrical installations-Marinas and Recreational Boats" published by Standards Australia;

"**AS/NZS 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 Standards Australia;

"**AS 3678**" means "Structural Steel-Hot-rolled plates, floorplates and slabs" published by Standards Australia;

"**AS/NZS 3679.1**" means the standard called "Structural steel-Hot-rolled bars and sections" published by Standards Australia;

"**AS/NZS 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, sillage, 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;

**"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.

## **PART2- 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 sub-clause (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; and
  - (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.
  - (c) may swim in any waterway with the written consent of an authorised person.

### **2.2 Fishing in waterways**

- (1) 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 spear gun; 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**

- (1) 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**

- (1) 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 10m	Not less than 16mm
10m to 15m	Not less than 20mm
15m to 20m	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**

- (1) Where an authorised person considers the mooring line of a vessel may be faulty or not comply with the requirements of clause 3.5(l)(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**

- (1) 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**

- (l) 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**

- (1) 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**

- (l) 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**

- (l) 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**

- (l) 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 sub-clause (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**

- (1) 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**

- (1) 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**

- (1) 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) post, stick, paint or write or cause to be posted, stuck, painted or written any placard, bill, advertisement, sign or other matter;
  - (f) fix or place any receptacle capable of holding water and providing a breeding site for mosquitoes or other insects; or
  - (g) 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**

- (1) 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**

- (1) 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 sub-clause (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:
  - (i) **"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**

- (1) 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**

- (1) 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**

- (1) 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 peri. 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 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 sub-clause (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 sub-clause (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**

- (4) 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

### Jetties, Waterways & Marina Local Law 2012

#### OFFENCES AND MODIFIED PENALTIES

[cl 8.3(1)&(2)]

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 spear gun 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
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

<b>Item No</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty First Offence</b>	<b>Modified Penalty Subsequent Offence</b>
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(±)	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: 16 July 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