

**NORTHERN TERRITORY OF AUSTRALIA**

**DARWIN WATERFRONT CORPORATION BY-LAWS 2010**

As in force at 1 July 2021

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2021

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## DARWIN WATERFRONT CORPORATION BY-LAWS 2010

### By-laws under the *Darwin Waterfront Corporation Act 2006*

#### Part 1 Preliminary matters

##### 1 Citation

These By-laws may be cited as the *Darwin Waterfront Corporation By-laws 2010*.

##### 2 Commencement

These By-laws commence on the commencement of the *Darwin Waterfront Corporation Regulations 2010*.

##### 3 Definitions

In these By-laws:

***adopted***, for Part 5, see by-law 47.

***Adopted Animal Management By-laws***, see by-law 47.

***advertiser***, for Part 13, see by-law 100.

***approved*** means approved by the Corporation by resolution.

***arrangement with the DCC*** means an arrangement with the DCC mentioned in section 12(3) of the Act.

***authorised person*** means an authorised person appointed under by-law 22.

***bicycle*** includes a motorised bicycle.

***boat*** means a floating vessel of any kind.

***Code***, for Part 13, see by-law 100.

**council** means:

- (a) for Part 5 – the DCC; and
- (b) for any other provision – a council constituted under the *Local Government Act 2019*.

**DCC** means the Darwin City Council.

**DCC By-laws** means the *Darwin City Council By-laws 1994*.

**declared dump**, for Part 3, Division 1, see by-law 30.

**determined fee**, see by-law 12(1).

**handbill** includes a poster, placard, notice, ticket and pamphlet.

**infringement notice** means a notice mentioned in by-law 113.

**infringement offence**, see by-law 112(1).

**levy** means a levy imposed under section 16 of the Act.

**litter** means garbage, rubbish, refuse or waste matter, and includes dead animals and discarded vehicle bodies, machinery and implements.

**market**, for Part 10, see by-law 83.

**market permit** means a market permit mentioned in by-law 84(1).

**motor boat** means a boat propelled principally by a motor and includes a hovercraft.

**motor vehicle**, see by-law 5.

**obstruct** includes hinder and resist.

**off-street parking area** means an area mentioned in by-law 87(1).

**on-street parking**, see by-law 89(1).

**owner**, in relation to a motor vehicle, means the person in whose name the motor vehicle is registered under:

- (a) the *Motor Vehicles Act 1949*; or
- (b) another law of the Territory, or of a State or another Territory, that provides for the registration of vehicles.

**permit** means a permit granted under by-law 14(1)(a) or (c).



**permit holder** means a person who holds a permit.

**premises** includes land and buildings.

**prescribed person**, for Part 2, Division 1, see by-law 7.

**promenade** includes a mall, boardwalk or thoroughfare.

**public enclosed waters** means any enclosed body of sea water that is designed as a feature of the Precinct for the use of the public.

**public place**, see by-law 4.

**rates** means rates imposed under section 15 of the Act.

**register** means a register kept under by-law 19(2).

**registrar** means the person holding or occupying the office of registrar mentioned in by-law 18.

**regular garbage collection service**, for Part 3, Division 1, see by-law 30.

**sell**, for Part 10, see by-law 83.

**stall**, for Part 10, see by-law 83.

**stallholder**, for Part 10, see by-law 83.

**stallholders association**, for Part 10, see by-law 83.

**stallholders permit** means a stallholders permit mentioned in by-law 85.

**tricycle** includes a motorised tricycle.

**vehicle** means any means of conveyance over land and includes the following:

- (a) a bicycle;
- (b) a tricycle;
- (c) roller skates, roller blades and skateboards;
- (d) an animal being driven or ridden;
- (e) a motorised wheelchair capable of travelling at a speed greater than 7 km/h.

**Wave Lagoon** means the water, the recreation area surrounding the water, and any associated equipment, enclosed by the fence of the Wave Lagoon.

#### **4 Public place**

- (1) A **public place** means a place in the Precinct that the public is entitled to use, whether free of charge or on the payment of money.
- (2) Without limiting clause (1), a public place includes the following:
  - (a) the Wave Lagoon;
  - (b) public enclosed waters and recreational areas adjoining those waters;
  - (c) the sea wall;
  - (d) a place used (or that may be used) for a park or garden or for sport, recreation or entertainment;
  - (e) an off-street parking area.

#### **5 Motor vehicle**

- (1) A **motor vehicle** is a vehicle designed to be self-propelled and includes:
  - (a) a trailer when attached to a motor vehicle; and
  - (b) a motorised wheelchair capable of travelling at a speed greater than 7 km/h.
- (2) However, a motor vehicle does not include a motorised bicycle or motorised tricycle.

#### **6 Application of By-laws**

- (1) These By-laws apply to the Precinct.
- (2) If a provision of these By-laws is inconsistent with a provision of the *Port By-laws 1964*, the provision of the *Port By-laws 1964* prevails to the extent of the inconsistency.

## **Part 2 Administrative matters**

### **Division 1 Rates, levies and fees**

#### **7 Definition**

In this Division:

**prescribed person** means a person, prescribed by regulation under section 16(2) of the Act, on whom the Corporation imposes a levy.

#### **8 Rates**

- (1) If the Corporation imposes rates on the common property of a plan, the rates are payable by the following body corporate:
  - (a) for a plan for which one or more new corporations mentioned in section 28(5) of the *Unit Titles Act 1975* have been constituted – a parent corporation for the plan mentioned in section 28(5)(a) of the *Unit Titles Act 1975* that is not a member of any other parent corporation constituted for the plan;
  - (b) for any other plan – the body corporate constituted for the plan.
- (2) If the Corporation imposes rates on the common property of a scheme, the rates are payable by the following body corporate:
  - (a) for a basic scheme – the body corporate of the basic scheme;
  - (b) for a subsidiary scheme of a layered scheme – the body corporate of the layered scheme;
  - (c) for a layered scheme – the body corporate of the layered scheme.
- (3) A notice issued for rates mentioned in section 15(3)(b) of the Act must specify how the rates have been calculated.
- (4) In this by-law:

**basic scheme**, see section 63(3) of the *Unit Title Schemes Act 2009*.

**body corporate** means:

- (a) in relation to a plan – the body corporate constituted under section 27 or 28 of the *Unit Titles Act 1975* for the plan; or
- (b) in relation to a scheme – the body corporate of the scheme as defined in section 5 of the *Unit Titles Schemes Act 2009*.

**common property**, see section 15(9) of the Act.

**layered scheme**, see section 68(1) of the *Unit Title Schemes Act 2009*.

**plan**, see section 15(9) of the Act.

**scheme**, see section 15(9) of the Act.

**subsidiary scheme**, see section 63(1) of the *Unit Title Schemes Act 2009*.

## **9 Proposed expenditure statement relating to levy**

- (1) At least one month before the start of each financial year, the Corporation must give each prescribed person a statement setting out an estimate of the Corporation's proposed expenditure on promotional activities for the financial year.
- (2) However, if the Corporation intends to impose a levy on a prescribed person during the financial year in which these By-laws commence, the Corporation must, no later than 14 days after the commencement, give the person a statement setting out an estimate of proposed expenditure on promotional activities for the remainder of the financial year.

## **10 Quarterly and annual expenditure statements relating to levy**

- (1) No later than one month after the end of each quarter in a financial year, the Corporation must give each prescribed person a statement of all expenditure by the Corporation on promotional activities for which the person is required to pay a levy for the quarter.
- (2) No later than 3 months after the end of each financial year, the Corporation must give each prescribed person a statement of all expenditure on promotional activities by the Corporation in the financial year.

(3) The statement mentioned in clause (2) must be prepared in accordance with relevant principles and disclosure requirements of the Australian Accounting Standards Board, as in force at the time the statement is prepared.

(4) In this by-law:

**quarter** means the period of 3 months starting from the beginning of January, April, July and October.

## **11 Unexpended amount of levy carried forward or refunded**

(1) If a prescribed person pays the Corporation an amount as a levy for a financial year and it is not used for the funding of promotional activities in that year, the Corporation must:

- (a) carry forward the amount to be off-set against the amount payable as a levy by the person in the next financial year; or
- (b) refund the amount to the prescribed person.

(2) If the Corporation has underestimated the expenditure on proposed promotional activities for a financial year, the Corporation may impose an additional levy for that amount for the next financial year.

## **12 Determination of fee**

(1) The Corporation may determine a fee (a **determined fee**) for any of the following:

- (a) a service provided by the Corporation;
- (b) a permit application;
- (c) entrance to the Wave Lagoon;
- (d) parking in an off-street area;
- (e) on-street parking.

(2) The Corporation must publish a notice of the fee in a newspaper circulating in the Precinct as soon as practicable after the determination is made.

## **Division 2 Permits and signs**

### **13 Application for permit**

(1) A person may apply to the Corporation for a permit mentioned in these By-laws.

- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by the determined fee.

#### **14 Decision on permit application**

- (1) After considering an application for a permit, the Corporation must:
  - (a) grant the permit; or
  - (b) refuse to grant the permit; or
  - (c) grant the permit subject to conditions.
- (2) If the Corporation refuses to grant the permit or grants the permit subject to conditions, the Corporation must notify the applicant of the reasons for its decision.

#### **15 Compliance with conditions**

- (1) A person must not contravene a condition of a permit.  
Maximum penalty: 100 penalty units.
- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

#### **16 Revocation of permit**

The Corporation may revoke a permit if the permit holder contravenes a condition of the permit.

#### **17 Signs erected or exhibited by Corporation**

- (1) The Corporation may erect or exhibit signs, in addition to those mentioned in these By-laws, in connection with the performance of its functions.
- (2) The Corporation may also erect or exhibit advertising signs in the Precinct.
- (3) A person must not remove, alter, deface or otherwise interfere with a sign erected or exhibited by the Corporation.  
Maximum penalty: 20 penalty units.
- (4) An offence against clause (3) is a regulatory offence.

### **Division 3 Registrar and registers**

#### **18 Registrar**

The Corporation may appoint a person to be registrar.

#### **19 Registers**

- (1) The Corporation may approve registers for use under these By-laws.
- (2) The registrar must keep each approved register.
- (3) Any person may:
  - (a) inspect a register; and
  - (b) copy, or take extracts from, a register.
- (4) On payment of the determined fee, the registrar must give a person a copy of or extract from a register, certified to be a true copy or extract.

### **Division 4 Directions to carry out work**

#### **20 Direction to carry out work**

- (1) The Corporation or an authorised person may, by written notice to the owner or occupier of land (the **responsible person**), direct that work, and anything incidental to the work, be carried out on the land.
- (2) The notice may direct that the work is carried out:
  - (a) in a particular way; or
  - (b) within a particular period of time; or
  - (c) by qualified or licensed persons only.
- (3) The notice may also direct the responsible person to pay, or enter into a bond for payment of, an amount determined by the Corporation to provide security against costs the Corporation may incur as a result of the work.
- (4) If the responsible person contravenes the notice:
  - (a) the Corporation may carry out the work; and

- (b) the cost of carrying out the work is a debt due and payable to the Corporation by the person.

## **21 System of numbering**

- (1) The Corporation may adopt a system of numbering areas of land adjacent to a road.
- (2) The Corporation may, in accordance with the system:
  - (a) attach a number to a building, front gate or fence on land adjoining a road; or
  - (b) by written notice, direct the owner or occupier of land adjoining a road (the **responsible person**) to attach a number to a building, front gate or fence on the land.
- (3) If the responsible person contravenes the notice:
  - (a) the Corporation may attach the required number; and
  - (b) the cost of attaching the number is a debt due and payable to the Corporation by the person.
- (4) If the Corporation directs a person to attach a number, the Corporation must offer to provide the number free of charge.

## **Division 5 Authorised persons**

### **22 Appointment of authorised persons**

The Corporation may appoint a person (other than a member of the Corporation) to be an authorised person.

### **23 Powers of authorised persons**

An authorised person may, subject to any limitations and conditions of appointment, exercise the powers conferred on an authorised person by these By-laws.

### **24 Identity cards for authorised persons**

- (1) The Corporation must issue each authorised person with an identity card:
  - (a) containing the person's name and a photograph of the person; and
  - (b) stating that the person is an authorised person.



(2) The authorised person must, at the reasonable request of a person, produce the identity card for inspection.

(3) A person must, on ceasing to be an authorised person, return the identity card to the Corporation within 21 days after cessation.

Maximum penalty: 20 penalty units.

(4) An offence against clause (3) is a regulatory offence.

## **25 Power to require statement of name and address**

(1) If an authorised person reasonably suspects a person of having committed an offence against these By-laws, the authorised person may direct the person:

(a) to state the person's name and address; and

(b) if the authorised person considers further evidence of identity necessary – to provide further evidence of identity.

(2) The person must not contravene the direction.

Maximum penalty: 10 penalty units.

(3) An offence against clause (2) is a regulatory offence.

(4) It is a defence to a prosecution for an offence against clause (2) if the defendant establishes a reasonable excuse.

## **26 Power to enter premises**

(1) An authorised person may enter premises and remain on the premises for as long as is necessary for one or more of the following purposes:

(a) investigating a suspected offence against these By-laws;

(b) taking necessary action in an emergency:

(i) to protect the health of, or prevent injury to, a person or animal; or

(ii) to relieve the suffering of an animal; or

(iii) to seize or destroy a savage, diseased or injured animal;

(c) destroying a dog that has, within the preceding 24 hours, attacked and injured a person in a public place;

- (ca) removing and impounding an advertising sign under by-law 107(1) or 108(1);
  - (d) exercising any other power conferred on an authorised person by these By-laws.
- (2) The authorised person may only do so with:
- (a) the consent of the occupier of the premises; or
  - (b) a warrant issued by a justice of the peace; or
  - (c) in an emergency or to remove and impound an advertising sign in the circumstance mentioned in by-law 108(1)(b) – the CEO's authorisation.
- (3) A justice of the peace may issue a warrant only if satisfied by information verified by oath or affirmation that there are reasonable grounds on which an authorised person should be authorised to enter the premises for the purpose of this by-law.

## **27 Removal of persons from public place**

- (1) An authorised person may remove a person who contravenes these By-laws in a public place from that place.
- (2) If an authorised person has removed a person from a public place, the Corporation may, by written notice to the person, refuse the person entry to that place for a period not exceeding 6 months.
- (3) The person must not enter the public place specified in the notice during the period specified in the notice.

Maximum penalty: 20 penalty units.

- (4) Clauses (2) and (3) do not apply in relation to a public place that is:
- (a) a street or road; or
  - (b) a footpath adjacent to a street or road.
- (5) An offence against clause (3) is a regulatory offence.

## **28 Assistance of police**

An authorised person may call on a police officer for assistance in the exercise of powers under these By-laws.

## **29 Obstruction of authorised person**

A person must not obstruct an authorised person in the exercise of powers under these By-laws.

Maximum penalty: 50 penalty units.

## **Part 3 Health and safety**

### **Division 1 Garbage, litter and waste**

#### **30 Definitions**

***declared dump*** means a place declared to be a dump under by-law 36(1).

***regular garbage collection service***, includes:

- (a) providing a garbage container; and
- (b) regular collection and disposal of garbage.

#### **31 Collection of garbage by Corporation**

- (1) The Corporation may provide a regular garbage collection service for all or some of the premises in the Precinct.
- (2) If the Corporation provides a regular garbage collection, it must publish a notice in a newspaper circulating in the Precinct:
  - (a) describing the regular garbage collection service; and
  - (b) specifying the requirements for an alternative regular garbage collection service for any premises not included in the regular garbage collection service.
- (3) The occupier of premises included in the regular garbage collection service provided by the Corporation must not leave garbage for collection outside the times specified in the notice.

Maximum penalty: 5 penalty units.

- (4) An offence against clause (3) is a regulatory offence.

#### **32 Alternative garbage collection service**

If the Corporation does not provide a regular garbage collection service for a particular premises in the Precinct, the occupier of the premises must ensure an alternative garbage collection service is

provided for the premises in accordance with the requirements specified under by-law 31(2)(b).

### **33 Maintenance and use of garbage containers**

- (1) The occupier of premises must not fail to do any of the following:
- (a) maintain the garbage container for the premises (the **container**):
    - (i) in good condition; and
    - (ii) in a condition that does not attract, harbour or breed pests, insects or vermin or give off an offensive odour; and
    - (iii) in a way that is not a danger to public health and does not affect the comfort of persons occupying or passing through neighbouring premises;
  - (b) keep the container on the premises, or in an allocated area for the premises, and ensure the container is not removed from the premises except for collection of the garbage in the container;
  - (c) return the container to the premises or to an allocated area for the premises within 24 hours after collection of the garbage in the container;
  - (d) place garbage produced on, and during the ordinary use of, the premises into the container until the garbage is collected or otherwise lawfully disposed of;
  - (e) effectively wrap wet garbage before placing it in the container;
  - (f) ensure that waste liquids, chemicals, paint or hazardous substances or excess quantities of heavy material such as earth, concrete or brick are not placed in the container;
  - (g) keep the lid of the container closed except when placing garbage in it or cleaning it.

Maximum penalty: 20 penalty units

- (2) An offence against clause (1) is a regulatory offence.

### **34 Interference with garbage containers**

- (1) A person must not use, remove, mark or otherwise interfere with a garbage container unless the person is:
- (a) the occupier of the premises for which the container is provided; or
  - (b) an agent, officer or employee of the Corporation acting in accordance with the person's duties; or
  - (c) a contractor acting in the performance of a contract for garbage collection between the contractor and the Corporation, or an officer, employee or agent of the contractor.

Maximum penalty: 20 penalty units.

- (2) A person must not damage a garbage container provided by the Corporation.

Maximum penalty: 20 penalty units.

- (3) An offence against this by-law is a regulatory offence.

### **35 Garbage containers to be replaced**

- (1) A person collecting garbage on behalf of the Corporation must, after collecting the contents of a garbage container, replace the container and its lid.

Maximum penalty: 5 penalty units.

- (2) An offence against clause (1) is a regulatory offence.

### **36 Corporation may declare dump**

- (1) The Corporation may declare a place (which may be outside the Precinct) to be a dump for the deposit of garbage by occupants of the Precinct.
- (2) The Corporation may make arrangements and enter into contracts with the owner or occupier of land for establishing a declared dump.
- (3) The Corporation must publish a notice in a newspaper circulating in the Precinct specifying:
- (a) the location of a declared dump; and
  - (b) the hours during which the dump is open for the deposit of garbage; and

- (c) the conditions subject to which garbage may be deposited at the dump.
- (4) The Corporation may:
  - (a) require a person to hold a permit for the use of a declared dump; and
  - (b) charge a fee for dumping garbage at the dump.
- (5) If a declared dump is outside the Precinct and controlled by a council, the by-laws of the council relating to the use of the dump, as in force from time to time, apply to the occupants of the Precinct.

### **37 Depositing litter or waste**

- (1) A person must not deposit litter on land.  
Maximum penalty: 20 penalty units.
- (2) Clause (1) does not apply to:
  - (a) garbage left for collection in accordance with a regular garbage collection service; and
  - (b) litter left in a litter bin provided by the Corporation in a public place.
- (3) A person must not place household, commercial or industrial waste in a litter bin provided by the Corporation in a public place.  
Maximum penalty: 5 penalty units.
- (4) An offence against this by-law is a regulatory offence.

## **Division 2 Hazardous activities**

### **38 Lighting or maintaining fires**

- (1) A person must not light or maintain a fire in the open air.  
Maximum penalty: 100 penalty units.
- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

### **39 Glass and similar material in public place**

(1) The Corporation may, by sign, prohibit glass in any part of a public place.

(2) A person must not bring glass into a public place where glass is prohibited.

Maximum penalty: 20 penalty units.

(3) Clause (2) does not apply if the person is acting in accordance with a permit.

(4) A person must not, in a public place, intentionally break glass or another material likely to cause injury to a person.

Maximum penalty: 100 penalty units.

(5) A person must not, in a public place:

(a) if the person breaks glass or material mentioned in clause (4) – fail to promptly and safely dispose of the broken glass or material; or

(b) discard glass except in a litter bin provided by the Corporation.

Maximum penalty: 50 penalty units.

(6) An offence against clause (2) or (5) is a regulatory offence.

(7) It is a defence to a prosecution for an offence against clause (5) if the defendant establishes a reasonable excuse.

### **40 Throwing objects**

(1) A person must not throw or propel a stone or another object into, from or in a public place in a way likely to:

(a) damage property; or

(b) injure a person or animal.

Maximum penalty: 100 penalty units.

(2) An offence against clause (1) is a regulatory offence.

(3) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

## **Part 4 Environmental matters**

### **41 Burning offensive materials**

- (1) A person must not burn or heat anything that gives off an offensive odour.

Maximum penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

### **42 Discharge of water and other substances**

- (1) A person must not discharge water or another substance if it is likely to flow into a public place.

Maximum penalty: 77 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.

- (3) An offence against clause (1) is a regulatory offence.

- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

### **43 Discharge of waste products**

- (1) A person must not discharge a waste product into a public place.

Maximum penalty: 77 penalty units.

- (2) Clause (1) does not apply if the waste product is discharged into a container or facility provided for that purpose.

- (3) In this by-law:

**waste product** includes liquid, fumes, vapour, smoke and dust.

- (4) An offence against clause (1) is a regulatory offence.

- (5) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.



**44 Damage to trees and plants**

- (1) A person must not interfere with, pick, cut, remove, damage or plant a tree, shrub or plant in a public place.

Maximum penalty: 77 penalty units.

- (2) Clause (1) does not apply to:
- (a) an owner or occupier of land adjoining a footpath:
    - (i) pruning or maintaining a tree, shrub or plant on the footpath; or
    - (ii) maintaining or mowing a lawn on the footpath; or
  - (b) a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

**45 Overhanging trees and shrubs**

The Corporation may, by a notice under by-law 20, direct the owner or occupier of land to trim or remove a tree, shrub or plant growing on the land that is:

- (a) causing inconvenience or an obstruction to anyone using a public place; or
- (b) causing or likely to cause damage to a public place.

**46 Fishing**

- (1) A person must not fish in public enclosed waters.

Maximum penalty: 20 penalty units.

- (2) The Corporation may, by sign, prohibit fishing in water that is not public enclosed waters.

- (3) A person must not fish in water where fishing is prohibited.

Maximum penalty: 20 penalty units.

- (4) Clause (1) or (3) does not apply if the person is acting in accordance with a permit.

- (5) An offence against this by-law is a regulatory offence.

## **Part 5            Animal management**

### **Division 1        General provisions**

#### **47            Definitions**

In this Part:

***adopted***, in relation to a by-law specified by number, means the by-law of that number in the Adopted Animal Management By-laws.

***Adopted Animal Management By-laws*** means the By-laws adopted for the Precinct as specified in by-law 48(1).

#### **48            Adoption of animal management by-laws of the DCC**

- (1) The by-laws relating to animal management in Part 3 of the DCC By-laws, as in force from time to time, are adopted as the animal management by-laws for the Precinct.
- (2) The Adopted Animal Management By-laws apply in the Precinct as specified by this Part.
- (3) This Part does not prevent the Corporation from entering into an arrangement with the DCC in relation to animal management in the Precinct and, if a provision of this Part is inconsistent with such an arrangement, the arrangement prevails to the extent of the inconsistency.

#### **49            General application of Adopted Animal Management By-laws**

- (1) Clauses (2), (3) and (4) apply subject to the provisions of this Part that:
  - (a) exclude the application of one or more of those clauses; or
  - (b) specify a particular power or function under the Adopted Animal Management By-laws may be exercised or performed only by one of the following:
    - (i) the DCC;
    - (ii) the Corporation;
    - (iii) an authorised officer;
    - (iv) an authorised person.

- (2) The Adopted Animal Management By-laws apply in the Precinct as if:
- (a) a reference to the municipality includes a reference to the Precinct; and
  - (b) a reference to the council includes a reference to the Corporation; and
  - (c) a reference to an authorised officer or authorised person includes a reference to an authorised person appointed under these By-laws.
- (3) If the Adopted Animal Management By-laws mention a term that is defined in by-law 3 of the DCC By-laws, and the term includes a reference to the municipality or council, or to an authorised officer or authorised person, the reference is to be interpreted as specified by clause (2)(a), (b) or (c).

*Example for clause (3)*

*The term **guide dog** is mentioned in adopted by-law 54 and defined in by-law 3 of the DCC By-laws. That definition refers to a guide dog training institution recognised by the council and, because of clause (2)(b), also includes such an institution recognised by the Corporation. The effect of this is that adopted by-law 54, which mentions a guide dog, applies in the Precinct to a guide dog trained by an institution recognised by either the Council or the Corporation (or both). The exemptions mentioned in adopted by-law 54 apply accordingly.*

- (4) If the Adopted Animal Management By-laws require or permit a person to do something, or prohibit a person from doing something, the requirement or prohibition applies to a person in the Precinct.
- (5) Clause (2)(b) does not apply to the reference to the council in the definition of **suitable leash** in adopted by-law 53(1).

*Note for clause (5)*

*The effect of this provision is that only the council may approve another length for the definition of **suitable leash**.*

## **50 Register and registration**

- (1) Adopted by-law 55 applies only to the register kept by the DCC for the purposes of Part 3, Division 2 of the DCC By-laws.
- (2) However, if the Adopted Animal Management By-laws require a person to register an animal:
- (a) the requirement extends to a person residing in the Precinct; and

- (b) a reference in the Adopted Animal Management By-laws to a registered owner includes a reference to a registered owner residing in the Precinct; and
  - (c) particulars in the register mentioned in clause (1) must include all information relevant to a registered owner residing in the Precinct.
- (3) The registrar mentioned in the Adopted Animal Management By-laws is the registrar appointed by the DCC.

## **Division 2            Sole responsibilities of the DCC**

### **51            Declared dogs**

- (1) Only the DCC may exercise the powers or perform the functions of the council under adopted by-laws 55B, 55C, 55D and 55E.
- (2) Only an authorised officer may exercise the powers or perform the functions of an authorised officer under adopted by-laws 55B, 55C, 55D and 55F.

### **52            Registration of animals and subsequent action**

- (1) Only the DCC may exercise the powers or perform the functions of the council under adopted by-laws 55G, 56 and 57(1).
- (2) Only an authorised officer may exercise the power of an authorised officer under adopted by-law 57(2).
- (3) Only the DCC may exercise the powers or perform the functions of the council under adopted by-laws 59 and 60 in relation to:
  - (a) the cancellation of the registration of a dog or cat; or
  - (b) the variation of the conditions to which the registration of a dog or cat is subject.

### **53            Pounds**

Only the DCC may exercise the powers or perform the functions of the council under adopted by-laws 76 to 80.

## **Division 3            Sole responsibilities of Corporation**

### **54            Licensing premises and subsequent actions**

- (1) Only the Corporation may exercise the powers or perform the functions of the council under adopted by-law 58.

(2) Only the Corporation may exercise the powers or perform the functions of the council under adopted by-laws 59(1)(c) and 60 in relation to the following matters:

- (a) the suspension or cancellation of a licence;
- (b) the variation of the conditions to which a licence is subject.

**55            Dog exercise area and dog restriction areas**

Only the Corporation may exercise the powers or perform the functions of the council under adopted by-law 62.

**56            Dog races and other events**

Only the Corporation may exercise the power of the council under adopted by-law 82.

**Division 4            Offences and enforcement**

**57            Dog not fitted with dog tag**

- (1) By-law 49(2)(b) does not apply to adopted by-law 65A(1)(a).
- (2) By-law 49(2)(c) does not apply to adopted by-law 65A(1)(b).

**58            Sterilisation marks and certificates**

By-law 49(2)(b) does not apply to adopted by-law 74(1) and (2)(a).

**59            Offences generally**

- (1) By-laws 20, 21 and 21A of the DCC By-laws, and the Schedule to the DCC By-laws (***the relevant provisions***) apply in relation to an offence committed in the Precinct against the Adopted Animal Management By-laws.
- (2) For clause (1), the relevant provisions apply in relation to the Precinct as if:
  - (a) a reference to the council includes a reference to the Corporation; and
  - (b) a reference to an authorised person includes a reference to an authorised person appointed under these By-laws.
- (3) However, by-law 21(4) of the relevant provisions does not apply in relation to an infringement notice approved by the Corporation.

**Part 6                    Carrying out work****60                    Laying pipes etc. and digging in public place**

(1) A person must not:

- (a) lay pipes, cables or conduits in a public place; or
- (b) dig up turf, sand, clay, soil or another material in a public place.

Maximum penalty:        100 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) Clause (1)(b) does not apply to a person who digs up sand, solely as a recreational activity, at the beach adjoining public enclosed waters.
- (4) An offence against clause (1) is a regulatory offence.
- (5) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

**61                    Structures, fixtures and equipment**

(1) A person must not:

- (a) interfere with, deface, damage or destroy a structure, fixture or piece of equipment in a public place; or
- (b) erect or install a structure in a public place; or
- (c) move a structure in a public place.

Maximum penalty:        100 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

**62                    Excavations**

(1) A person must not excavate land.

Maximum penalty:        100 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

## **Part 7 Conduct in public places**

### **63 Handbills**

- (1) A person must not, in a public place:
  - (a) distribute a handbill; or
  - (b) affix a handbill to a structure.Maximum penalty: 5 penalty units.
- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) A person must not affix a handbill to a structure on private land adjoining a public place.  
Maximum penalty: 5 penalty units.
- (4) Clause (3) does not apply to a person who has the consent of the owner or occupier of the land and is acting in accordance with a permit.
- (5) If a handbill affixed in accordance with a permit is dirty, untidy, worn, torn or detached, the Corporation may, by a notice under by-law 20, direct the responsible person to repair or remove the handbill.
- (6) For clause (5), the responsible person is:
  - (a) if the handbill is affixed to a structure on private land – the owner or occupier of the land; or
  - (b) otherwise – the person who affixed the handbill.
- (7) An offence against this by-law is a regulatory offence.
- (8) To avoid doubt, an advertising sign to which Part 13 applies is not a handbill mentioned in this by-law.

**65 Vehicles and boats in public place**

- (1) A person must not display a vehicle or boat for sale in a public place.

Maximum penalty: 5 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.

- (3) A person must not wash or carry out repairs or maintenance work on a vehicle or boat in a public place.

Maximum penalty: 5 penalty units.

- (4) Clause (3) does not apply:

(a) if the place has been set aside by the Corporation for the purpose of washing or carrying out repairs or maintenance work on vehicles or boats; or

(b) to repairs for the purpose of immediately removing the vehicle or boat from a public place.

- (5) The Corporation may, by sign, prohibit the following:

(a) the driving of motor vehicles in a public place;

(b) the riding or driving of other vehicles in a public place.

- (6) A sign prohibiting the riding or driving of vehicles mentioned in clause (5)(b) may relate to all, or specified, vehicles.

- (7) A person must not drive a motor vehicle in contravention of a sign mentioned in clause (5)(a).

Maximum penalty: 20 penalty units.

- (8) A person must not ride or drive a vehicle in contravention of a sign mentioned in clause (5)(b).

Maximum penalty: 20 penalty units.

- (9) An offence against this by-law is a regulatory offence.

**66 Public performances and amplification systems**

- (1) A person must not perform, paint, draw or take a photograph or film for commercial purposes in a public place.

Maximum penalty: 20 penalty units.



- (2) A person must not use any means of amplification or public address system in a public place.

Maximum penalty: 20 penalty units.

- (3) This by-law does not apply to a person acting in accordance with a permit or the written authority of the Corporation.

- (4) An offence against clause (2) is a regulatory offence.

## **67 Camping in public place**

- (1) A person must not camp in a public place.

Maximum penalty: 20 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.

- (3) If an authorised person reasonably believes a person has contravened clause (1), the authorised person may direct the person to:

(a) leave the public place; and

(b) remove anything used for camping in contravention of clause (1) to a place specified by the authorised person.

- (4) The person must not contravene the direction.

Maximum penalty: 20 penalty units.

- (5) An offence against this by-law is a regulatory offence.

- (6) It is a defence to a prosecution for an offence against clause (4) if the defendant establishes a reasonable excuse.

- (7) In this by-law:

**camp** includes any of the following:

(a) stay overnight in a vehicle, boat, tent or other temporary shelter;

(b) stay overnight in the open air;

(c) prepare a temporary shelter, park a vehicle, or put in place any equipment or bedding, for the purpose of staying overnight or sleeping.

**68 Shopping trolleys left in public place**

- (1) If a person uses a shopping trolley, the person must not leave it in a public place.

Maximum penalty: 5 penalty units.

- (2) An offence against clause (1) is a regulatory offence.
- (3) An authorised person may remove and impound a shopping trolley left unattended in a public place.
- (4) If the owner of the trolley can be identified and found, the authorised person must give the owner written notice of the impoundment and place of impoundment as soon as practicable after the impoundment.
- (5) If the owner cannot be identified and found and does not claim the trolley within 28 days after the impoundment, the Corporation must:
- (a) publish notice of the impoundment in a newspaper circulating in the Precinct; and
  - (b) if the owner does not respond within 7 days after the publication – publish the notice a second time.
- (6) The Corporation may sell or dispose of the trolley if the owner does not reimburse the Corporation for all costs relating to the removal and impoundment of the trolley within 28 days after:
- (a) notice is given under clause (4); or
  - (b) the later of the publications under clause (5).
- (7) Proceeds of the sale of the trolley must be used to pay the costs of its removal, impoundment and sale.
- (8) Any balance must be paid:
- (a) to the owner at the time of the removal and impoundment; or
  - (b) if the owner at the time of the removal and impoundment does not claim the balance – to the Corporation's general fund.

**69 Public amenities**

- (1) A person must not enter a dressing room, toilet or shower set aside for members of the opposite sex.

Maximum penalty: 20 penalty units.

- (2) A person who is responsible for the custody, care or control of a child between the ages of 5 and 15 years must not allow the child to enter a dressing room, toilet or shower set aside for members of the opposite sex of the child.

Maximum penalty: 20 penalty units.

- (3) It is a defence to a prosecution for an offence against this by-law if the defendant establishes a reasonable excuse.

## **70 Conduct generally in public place**

- (1) A person must not, in a public place, intentionally obstruct or disturb another person.

Maximum penalty: 50 penalty units.

- (2) A person must not, in a public place:

- (a) do anything likely to annoy another person; or
- (b) urinate; or
- (c) behave in a disorderly, indecent or offensive way; or
- (d) use offensive or indecent language.

Maximum penalty: 20 penalty units.

- (3) A person must not, in a public place, contravene a direction given by an authorised person or notified on a sign erected by the Corporation.

Maximum penalty: 20 penalty units.

- (4) A person must not, in a public place, behave in a way likely to injure the person or another person.

Maximum penalty: 100 penalty units.

- (5) A person must not:

- (a) restrict public access to a public place; or
- (b) obstruct the use of a facility in a public place.

Maximum penalty: 20 penalty units.

- (6) Clause (5) does not apply to a person acting in accordance with a permit.

- (7) An offence against clause (3), (4) or (5) is a regulatory offence.
- (8) It is a defence to a prosecution for an offence against clause (3) or (4) if the defendant establishes a reasonable excuse.

## **Part 8 Promenades**

### **71 Application of Part**

This Part does not apply to:

- (a) a person acting in accordance with a permit; or
- (b) an authorised person, or an agent, officer or employee of the Corporation, acting in accordance with the person's duties.

### **72 Walking on roof etc. of promenade**

- (1) A person must not walk on a roof, covering or canopy erected over a promenade.

Maximum penalty: 20 penalty units.

- (2) An offence against clause (1) is a regulatory offence.

### **73 Animals on promenade**

- (1) The Corporation may, by sign, prohibit animals on a promenade.
- (2) A person must not bring an animal, other than a guide dog, onto a promenade where animals are prohibited.

Maximum penalty: 5 penalty units.

- (2A) An offence against clause (2) is a regulatory offence.

- (3) In this by-law:

**guide dog** means a dog:

- (a) trained by a guide dog training institution recognised by the Corporation; and
- (b) being used to provide assistance to a person who has a visual, hearing or mobility impairment.

**74 Motor vehicles on promenade**

(1) A person must not drive or stop a motor vehicle on a promenade unless it is:

- (a) an emergency vehicle; or
- (b) a service vehicle.

Maximum penalty: 20 penalty units.

(2) Clause (1) does not apply to a person acting in accordance with a permit.

(3) A person must not drive a vehicle, other than an emergency vehicle, on a promenade at a speed in excess of 5 km/h.

Maximum penalty: 20 penalty units.

(4) An offence against this by-law is a regulatory offence.

(5) If a vehicle is on a promenade in contravention of this by-law, a police officer or an authorised person may remove the vehicle to a place off the promenade.

(6) In this by-law:

**emergency vehicle** means a vehicle under the control of any of the following bodies in relation to its functions:

- (a) the Police Force of the Northern Territory;
- (b) the Northern Territory Fire and Rescue Service;
- (c) the Northern Territory Emergency Service;
- (d) an ambulance service.

**service vehicle** means a vehicle under the control of any of the following bodies in relation to its functions:

- (a) the Corporation;
- (b) an Agency whose responsibilities include the care, control and management of roads, the construction and maintenance of government works, or planning and urban development;
- (c) the Power and Water Corporation;
- (d) an organisation providing telecommunications services within the Territory.

## **Part 9                    Wave Lagoon and public enclosed waters**

### **75                    Admission to Wave Lagoon**

- (1) A person must not enter the Wave Lagoon without paying the determined fee for admission.

Maximum penalty:        5 penalty units.

- (1A) A person must not enter the Wave Lagoon outside its operating hours.

Maximum penalty:        20 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with the written authority of the Corporation.
- (3) The Corporation may restrict or prohibit public admission to the Wave Lagoon on a specific day by exhibiting a notice to that effect at the entrance to the Wave Lagoon.
- (4) If a child is not accompanied by, and in the control of, an older person who is apparently capable of caring for the child, the child may be refused admission to the Wave Lagoon.
- (5) An offence against this by-law is a regulatory offence.

### **76                    No intoxicating liquor in Wave Lagoon**

- (1) A person must not possess intoxicating liquor in the Wave Lagoon.

Maximum penalty:        20 penalty units.

- (2) An offence against clause (1) is a regulatory offence.

### **77                    Skin diseases or complaints**

A person suffering from an infectious or contagious skin disease or skin complaint must not enter the water of the Wave Lagoon or public enclosed waters.

Maximum penalty:        100 penalty units.

### **78                    Animals not permitted**

A person must not allow an animal under the person's control to enter the Wave Lagoon or public enclosed waters.

Maximum penalty:        20 penalty units.

**79 No introduction of animals or plants**

- (1) A person must not put an animal or plant into the Wave Lagoon or public enclosed waters.

Maximum penalty: 100 penalty units.

- (2) Clause (1) applies regardless of whether the animal or plant is dead or alive.

- (3) In this by-law:

***animal*** includes a crocodile, fish, jellyfish and crustacean.

**80 No fish feeding in public enclosed waters**

- (1) A person must not feed fish in public enclosed waters.

Maximum penalty: 5 penalty units.

- (2) An offence against clause (1) is a regulatory offence.

**81 Boats in public enclosed waters**

- (1) A person must not drive or propel a boat in public enclosed waters except to leave or enter a berth allocated to the boat within the public enclosed waters.

Maximum penalty: 20 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.

- (3) The Corporation may determine a speed limit for boats being driven or propelled in public enclosed waters and erect a sign notifying the speed limit.

- (4) A person must not drive or propel a boat at a speed greater than the speed limit notified under clause (3).

Maximum penalty: 20 penalty units.

- (5) Clause (4) does not apply to a person acting in accordance with a permit.

- (6) An offence against this by-law is a regulatory offence.

**82 Directions of authorised persons**

- (1) An authorised person may direct a person to leave the Wave Lagoon, public enclosed waters, or a recreational area adjoining public enclosed waters, if the authorised person reasonably believes the person:
  - (a) has contravened a by-law in this Division; or
  - (b) is intoxicated; or
  - (c) is inappropriately or inadequately dressed.
- (2) A person must not contravene a direction given under clause (1).

Maximum penalty: 20 penalty units.
- (3) An offence against clause (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant establishes a reasonable excuse.

**Part 10 Markets and stalls****83 Definitions**

In this Part:

**market** means an area in which 2 or more stalls are located or intended to be located.

**sell** includes offer, expose, or advertise, for sale.

**stall** means a stall or other thing from which goods or services are offered for sale and includes a tent, vehicle, caravan, trailer or table.

**stallholder** means a person who sells goods or services from a stall.

**stallholders association** means an association incorporated under the *Associations Act 2003* for the purpose of establishing and managing a market.

**84 Obligations of stallholders associations**

- (1) A stallholders association must not establish or manage a market without a market permit granted under by-law 14.

Maximum penalty: 100 penalty units.



- (2) The stallholders association for a market:
- (a) must not contravene the reasonable directions of the Corporation or an authorised person concerning the location of stalls in the market; and
  - (b) must keep the site of the market clean and free from litter resulting from its operation.

Maximum penalty: 100 penalty units.

- (3) The stallholders association for a market must not allow the market or stalls in the market to be conducted in a way that:
- (a) obstructs the passage of pedestrians or vehicles; or
  - (b) is or is likely to be offensive to persons in or in the vicinity of the market.

Maximum penalty: 100 penalty units.

- (4) It is a defence to a prosecution for an offence against this by-law if the defendant establishes a reasonable excuse.

## **85 Stallholders permit**

- (1) A person must not sell goods or services from a stall without a stallholders permit.

Maximum penalty: 20 penalty units.

- (2) A person who proposes to sell goods or services from a stall that is not located in a market must apply to the Corporation for a stallholders permit under by-law 13.
- (3) A person who proposes to sell goods or services from a stall located in a market must apply for a stallholders permit to the stallholders association for the market.
- (4) An offence against clause (1) is a regulatory offence.

## **86 Obligations of stallholders**

- (1) A stallholder must not:
- (a) contravene the reasonable directions of the Corporation or an authorised person concerning the location and siting of the stallholder's stall; or

- (b) fail to maintain the stall in good order and condition, including by keeping the site of the stall clean and free from waste and litter resulting from its operation.

Maximum penalty:      100 penalty units.

- (2) A stallholder must not:

- (a) call, spruik or tout goods; or
- (b) leave or store packaging or goods except within the stallholder's stall; or
- (c) obstruct the passage of pedestrians or vehicles; or
- (d) fail to display the stallholder's name legibly and conspicuously on the stall.

Maximum penalty:      20 penalty units.

- (3) An offence against this by-law is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

## **Part 11                  Parking, roads, crossings and footpaths**

### **Division 1              Parking**

#### **87                      Off-street parking areas**

- (1) The Corporation may set aside an area that is not on a road or street to be an off-street parking area controlled by the Corporation.
- (2) To regulate parking in an off-street parking area, the Corporation may:
  - (a) determine the conditions for parking in the area; and
  - (b) notify the conditions on signs erected in the area.
- (3) The Corporation may also install meters or ticket vending machines in the area to regulate the parking.
- (4) A person must not stand or park a vehicle in an off-street parking area:
  - (a) in contravention of a sign in the area; or

- (b) with a space of less than 1 metre between it and another vehicle; or
- (c) if parking bays are marked in the area – with any part of the vehicle outside a parking bay; or
- (d) with any part of the vehicle outside the area.

Maximum penalty: 5 penalty units.

- (5) An offence against clause (4) is a regulatory offence.

**88 Application of *Traffic Regulations 1999* to off-street parking areas**

- (1) The following provisions (the ***relevant provisions***) of the *Traffic Regulations 1999*, as in force from time to time, are adopted in relation to an offence against by-law 87(4):
  - (a) Part 3, Division 1, to the extent to which it applies in relation to a parking infringement;
  - (b) Part 3, Division 2, except regulation 52(1);
  - (c) Part 3, Division 4.

*Note for clause (1)*

*The relevant provisions apply of their own force to on-street parking. This by-law therefore extends the operation of the relevant provisions to off-street parking.*

- (2) For clause (1), the relevant provisions apply with the following changes:
  - (a) a reference to a parking infringement is taken to be a reference to a contravention of by-law 87(4); and
  - (b) a reference to a sign or other manner of prescription under the *Traffic Regulations 1999* is taken to be a reference to a sign mentioned in by-law 87(4)(a); and
  - (c) a reference to a competent authority is taken to be a reference to:
    - (i) the Corporation; and
    - (ii) if an arrangement with the DCC is in force in relation to the service of parking infringement notices in the Precinct – the DCC; and

- (d) a reference to an officer of a competent authority is taken to be a reference to:
  - (i) an authorised person; or
  - (ii) if an arrangement mentioned in paragraph (c)(ii) is in force – an officer or employee of the DCC.

## **89 On-street parking**

- (1) To regulate parking on a road or street (***on-street parking***), the Corporation may:
  - (a) determine the conditions for on-street parking; and
  - (b) notify the conditions on signs erected on or near the road or street where on-street parking is regulated.
- (2) The Corporation may also install meters or ticket vending machines to regulate on-street parking.
- (3) In relation to the infringement notice scheme for parking infringements under Part 3 of the *Traffic Regulations 1999*, as applicable to on-street parking in the Precinct:
  - (a) a reference in that Part to a municipality as defined in section 7 of the *Local Government Act 2019* is taken to be a reference to the Precinct; and
  - (b) a reference in that Part to a competent authority is taken to be a reference to:
    - (i) the Corporation; and
    - (ii) if an arrangement mentioned in by-law 88(2)(c)(ii) is in force – the DCC; and
  - (c) a reference in that Part to an officer of a competent authority is taken to be a reference to:
    - (i) an authorised person; or
    - (ii) if an arrangement mentioned in by-law 88(2)(c)(ii) is in force – an officer or employee of the DCC.
- (4) If a person is prosecuted for a parking infringement in relation to on-street parking, as mentioned in regulation 51(3) of the *Traffic Regulations 1999*, the maximum penalty that may be imposed by a court in relation to the relevant offence is 5 penalty units.
- (5) An offence mentioned in clause (4) is a regulatory offence.

## **Division 2          Roads, crossings and footpaths**

### **90                  Damage to roads**

- (1) A person must not propel or drag anything over a road:
- (a) that is likely to damage the road; or
  - (b) in a way that is likely to endanger or disturb another person.

Maximum penalty:      100 penalty units.

- (2) Clause (1)(a) does not apply to a person acting in accordance with a permit.
- (3) A person must not spill on a road a substance likely to endanger a person or damage the road.

Maximum penalty:      100 penalty units.

- (4) An offence against this by-law is a regulatory offence.
- (5) It is a defence to a prosecution for an offence against this by-law if the defendant establishes a reasonable excuse.

### **91                  Safety lights on roads**

- (1) A person must provide safety lights in accordance with clause (2) if the person:
- (a) leaves or lays any material or structure on a road; or
  - (b) carries out work involving opening or breaking up the surface of a road.

Maximum penalty:      100 penalty units.

- (2) The lights must be:
- (a) of an approved type, colour and quantity; and
  - (b) placed near the material, structure or work until:
    - (i) the material or structure is removed; or
    - (ii) the work is complete and the road is restored; and
  - (c) illuminated from sunset to sunrise.
- (3) An offence against clause (1) is a regulatory offence.

- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

**92            Removal of kerbing from road**

- (1) A person must not remove a road kerb.

Maximum penalty:        100 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

**93            Corporation may require land adjoining road to be enclosed**

- (1) The Corporation may, by a notice under by-law 20, direct the owner or occupier of land adjoining a road to enclose the land.

- (2) An owner or occupier of land must not erect or maintain a fence containing barbed wire or similar material at a height lower than 2.33 metres from the ground:

- (a) on the boundary of the land; or
- (b) within 0.66 metres of a road or land under the control of the Corporation.

Maximum penalty:        100 penalty units.

- (3) Clause (2) does not apply to a person acting in accordance with a permit.
- (4) An offence against clause (2) is a regulatory offence.
- (5) It is a defence to a prosecution for an offence against clause (2) if the defendant establishes a reasonable excuse.

**94            Construction of crossing**

- (1) The owner or occupier of land that adjoins a public place must not construct a crossing from the land to the place except in accordance with:

- (a) a permit; or

(b) a notice given under by-law 20.

Maximum penalty: 100 penalty units.

- (2) An offence against clause (1) is a regulatory offence.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant establishes a reasonable excuse.

## **95 Vehicles to use approved crossings only**

- (1) A person must not:
- (a) drive or propel a motor vehicle over or across a footpath except at an approved crossing; or
- (b) park a vehicle on, or cause an obstruction to, an approved crossing.

Maximum penalty: 20 penalty units.

- (2) Clause (1) does not apply to a person acting in accordance with a permit.
- (3) An offence against clause (1) is a regulatory offence.
- (4) In this by-law:

***approved crossing*** means a crossing constructed:

- (a) by the Corporation; or
- (b) in accordance with:
- (i) a permit; or
- (ii) a notice given under by-law 20.

## **96 Heavy loads prohibited from crossings etc.**

- (1) The Corporation may determine the maximum weight of a load that may be carried over a crossing, culvert, road kerb or bridge.
- (2) The maximum weight must be notified on a sign at or near each approach to the crossing, culvert, road kerb or bridge.
- (3) A person must not drive, propel or drag a thing (including, for example, a vehicle and equipment) across a crossing, culvert, road kerb or bridge if the thing is:
- (a) likely to damage the crossing, culvert, kerb or bridge; or

(b) over the maximum weight.

Maximum penalty: 100 penalty units.

- (4) Clause (3) does not apply to a person acting in accordance with a permit.
- (5) An offence against clause (3)(b) is a regulatory offence.
- (6) It is a defence to a prosecution for an offence against clause (3)(b) if the defendant establishes a reasonable excuse.

#### **97 Footpath designated as bicycle restriction areas**

- (1) The Corporation may, by sign, designate a footpath as a bicycle restriction area.
- (2) A person must not ride a bicycle or tricycle in a bicycle restriction area.

Maximum penalty: 5 penalty units.

- (3) An offence against clause (2) is a regulatory offence.

### **Part 12 Public libraries**

#### **98 Corporation may declare libraries**

The Corporation may declare a library (which may be outside the Precinct) to be a library for use by occupants of the Precinct.

#### **99 By-laws applying to use of library**

If a library declared under by-law 98 is located outside the Precinct and controlled by a council, the by-laws of the council that relate to the use of the library, as in force from time to time, apply to the occupants of the Precinct.

### **Part 13 Advertising signs**

#### **100 Definitions**

In this Part:

***advertiser*** means:

- (a) if a permit is in force for an advertising sign – the permit holder; or



- (b) otherwise – the person who authorises or causes an advertising sign to be exhibited.

**Code** means the code approved under by-law 101.

### **101 Outdoor Advertising Signs Code**

- (1) The Corporation may approve a code relating to outdoor advertising signs, to be known as the Darwin Waterfront Corporation Outdoor Advertising Signs Code.
- (2) The Corporation must make the Code available for inspection by the public at the Corporation's offices during ordinary business hours.
- (3) If the Corporation amends or replaces the Code, the Corporation must publish a notice in a newspaper circulating in the Precinct stating that the amendment or replacement has been made.

### **102 Exhibiting advertising signs**

- (1) A person must not exhibit an advertising sign:
  - (a) without a permit; or
  - (b) in contravention of the Code.

Maximum penalty: 20 penalty units.

- (2) An offence against clause (1) is a regulatory offence.

### **103 Notice to repair or remove sign**

- (1) If the Corporation or an authorised person is of the opinion that an advertising sign is not secure or not in good repair, the Corporation or authorised person may, by written notice, direct the advertiser to repair or remove the sign.
- (2) The advertiser must not contravene the notice.

Maximum penalty: 100 penalty units.
- (3) An offence against clause (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant establishes a reasonable excuse.

**104 Notice of contravention**

- (1) If an advertising sign is exhibited in contravention of this Part, an authorised person may, by written notice, direct the advertiser to correct the contravention or remove the sign.
- (2) The advertiser must not contravene the notice.  
Maximum penalty: 100 penalty units.
- (3) An offence against clause (2) is a regulatory offence.
- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant establishes a reasonable excuse.

**105 Form of notice**

A notice given under by-law 103 or 104 must:

- (a) specify the work to be carried out to repair the sign or correct the contravention; and
- (b) specify the period of time within which the work must be completed or the sign removed; and
- (c) include a statement that a contravention of the notice may result in the impoundment of the sign.

**106 Revocation of permit**

- (1) The Corporation may, by written notice to a person, revoke a permit for an advertising sign held by the person if:
  - (a) the person contravenes this Part; or
  - (b) the character of the public area in which, or in view of which, the sign is exhibited has changed and the sign is no longer consistent with that character; or
  - (c) the sign, in conjunction with other signs exhibited by the same or other advertisers, seriously detracts from the character of the public area in which, or in view of which, the sign is exhibited.
- (2) The notice may direct the person to remove the sign.
- (3) The person must not contravene the notice.  
Maximum penalty: 100 penalty units.
- (4) An offence against clause (3) is a regulatory offence.

- (5) It is a defence to a prosecution for an offence against clause (3) if the defendant establishes a reasonable excuse.

#### **107 Removal and impoundment of sign with notice**

- (1) If a person contravenes a notice given under this Part, an authorised person may remove and impound the advertising sign to which the notice relates.
- (1A) If necessary, the authorised person may carry out demolition or other work necessary to remove the advertising sign.
- (2) If the advertiser can be identified and found, the Corporation must give the advertiser written notice of the impoundment and place of impoundment as soon as practicable after the impoundment.
- (3) If the advertiser cannot be identified and found and does not claim the sign within 28 days after the impoundment, the Corporation must publish notice of the impoundment in a newspaper circulating in the Precinct.
- (4) If the advertiser does not reimburse the Corporation for all costs relating to the removal and impoundment of the sign within 28 days after notice of the impoundment is given, the Corporation may dispose of the sign.

#### **108 Removal and impoundment of sign without notice**

- (1) An authorised person may remove and impound an advertising sign without notice to the advertiser if the sign:
- (a) is exhibited without a permit; or
  - (b) in the opinion of the authorised person, creates a hazard or risk to life or property; or
  - (c) contravenes this Part and, as a result, in the opinion of the Corporation, it is necessary to remove the sign immediately.
- (2) If a sign is impounded under clause (1), by-law 107(1A) to (4) applies to the impoundment.

#### **110 Cost recovery**

- (1) This by-law applies to the costs reasonably incurred by the Corporation under this Part in relation to an advertising sign, including for the following:
- (a) removing and impounding the sign;

- (b) keeping custody of and maintaining the sign;
  - (c) giving or publishing a notice under by-law 107;
  - (d) disposing of the sign.
- (2) The costs are recoverable as a debt due and payable by the advertiser to the Corporation.

## **Part 14            Offences and evidentiary matters**

### **Division 1        Infringement offences and infringement notices**

#### **111            Application of Division**

This Division does not apply in relation to an infringement notice relating to:

- (a) an offence against the Adopted Animal Management By-laws;  
or
- (b) an offence to which Part 11, Division 1 applies.

*Note for by-law 111*

*See by-laws 59, 88 and 89(3).*

#### **112            Infringement offence and prescribed amount payable**

- (1) An ***infringement offence*** is an offence against a provision specified in the Schedule, column 1.
- (2) The prescribed amount payable for an infringement offence is the amount specified opposite the offence in the Schedule, column 2.

#### **113            When infringement notice may be served**

If an authorised person reasonably believes a person has committed an infringement offence, the authorised person may serve a notice on the person.

#### **114            Contents of infringement notice**

- (1) The infringement notice, as approved by the Corporation, must specify the following particulars:
  - (a) the name and address of the alleged offender, if known;
  - (b) the date of the infringement notice;

- (c) the date, time and place of the infringement offence;
  - (d) a description of the infringement offence and the prescribed amount payable for the offence;
  - (e) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the alleged offender may expiate the infringement offence and avoid further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after service of the notice;
  - (b) the alleged offender may elect, under section 21 of the *Fines and Penalties (Recovery) Act 2001*, to have the matter dealt with by a court instead of under that Act by completing a statement of election and serving it on the specified enforcement agency;
  - (c) if the alleged offender is the owner of a motor vehicle used in the commission of the offence who was not in control of the vehicle when the offence was committed, the alleged offender may give the CEO a statutory declaration under by-law 117 within 28 days after service of the notice;
  - (d) if the alleged offender does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001* including (but not limited to) action for the following:
    - (i) suspension of the alleged offender's permit to drive;
    - (ii) suspension of the alleged offender's vehicle registration;
    - (iii) seizure of personal property of the alleged offender;
    - (iv) deduction of an amount from the alleged offender's wages or salary;
    - (v) registration of a statutory charge on land owned by the alleged offender;
    - (vi) making of a community work order for the alleged offender which may result in imprisonment of the alleged offender if the alleged offender breaches the order.

- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b).

**115 Payment by cheque**

If the alleged offender tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

**116 Withdrawal of infringement notice**

- (1) The CEO may withdraw the infringement notice by written notice served on the alleged offender.
- (2) The notice must be served within 28 days after service of the infringement notice but before payment of the prescribed amount.

**117 Liability of owner of motor vehicle**

- (1) This by-law applies if:
- (a) an infringement offence involving the use of a motor vehicle is committed; and
  - (b) the name of the alleged offender is not known when the infringement notice is issued for the offence.
- (2) The owner of the vehicle at the time the offence occurs is taken to have committed the offence even if the actual offender is someone else.
- (3) However, the owner of the vehicle is not taken to have committed the offence if, within 28 days after receiving the infringement notice, the owner gives the CEO a statutory declaration complying with:
- (a) clause (4) or (5); and
  - (b) if the owner is a body corporate – clause (7).
- (4) A statutory declaration complies with this clause if it states:
- (a) the name and address of the individual in control of the vehicle when the offence was committed; or
  - (b) if the name and address of that person are not known to the owner – all information known to the owner that may help in identifying or finding the person.
- (5) A statutory declaration complies with this clause if it states facts establishing the vehicle had been stolen, or was being used without the owner's consent, when the offence was committed.

- (6) If a statutory declaration made for clause (4) states that the owner had sold or otherwise disposed of the vehicle before the offence was committed, the statutory declaration must state the following:
- (a) the name and address of the person to whom the vehicle was sold or disposed of;
  - (b) the date and, if relevant, the time of the sale or disposal;
  - (c) if the sale or disposal was made through an agent – the name and address of the agent.
- (7) If the owner of the vehicle is a body corporate, a statutory declaration under this by-law must be made by:
- (a) if the owner of the vehicle is a body politic or statutory corporation – a person properly authorised for the purpose; or
  - (b) if the owner of the vehicle is another body corporate – a director, secretary or manager of the body corporate.

#### **118 Evidentiary certificate**

In proceedings for an infringement offence, a certificate signed by the CEO stating any of the following is evidence of the matter:

- (a) a stated person was an authorised person having stated powers under these by-laws at a stated time;
- (b) a stated document is made, or a stated notice is given, at a stated time;
- (c) a stated thing has been identified as stated in the certificate.

#### **119 Application of Division to proceedings and other matters**

- (1) This Division does not prejudice or affect the start or continuing of proceedings for an infringement offence unless the offence is expiated.
- (2) Also, this Division does not prevent more than one infringement notice for the same infringement offence being served on an alleged offender and, to expiate the offence, it is sufficient for the alleged offender to pay the prescribed amount in accordance with any of the notices.
- (3) In addition, this Division does not:
  - (a) require an infringement notice to be served; and

- (b) does not affect the liability of a person to be prosecuted in a court for an infringement offence for which an infringement notice has not been served.

## **Division 2      Evidentiary matters**

### **120      Evidentiary matters**

In any proceedings:

- (a) a document given under by-law 19(3) is evidence of a matter contained or stated in it; and
- (b) a signature purporting to be the signature of the registrar is evidence of the signature it purports to be; and
- (c) a statement signed by the registrar concerning particulars of entries in a register is evidence of those particulars.



**Schedule      Infringement offences and prescribed amounts**

by-law 112

Column 1 Infringement offence	Column 2 Prescribed amounts in penalty units
By-law 15(1)	1
By-law 17(3)	2
By-law 24(3)	1
By-law 25(2)	2
By-law 27(3)	1
By-law 29	2
By-law 31(3)	1
By-law 33(1)	1
By-law 34(1)	1
By-law 34(2)	1
By-law 35(1)	1
By-law 37(1)	2
By-law 37(3)	1
By-law 38(1)	3
By-law 39(2)	2
By-law 39(4)	4
By-law 39(5)	1
By-law 40(1)	2
By-law 41(1)	2
By-law 42(1)	4

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By-law 43(1)	4
By-law 44(1)	4
By-law 46(1)	1
By-law 46(3)	1
By-law 60(1)	3
By-law 61(1)	3
By-law 62(1)	3
By-law 63(1)	1
By-law 63(3)	1
By-law 65(1)	1
By-law 65(3)	1
By-law 65(7)	2
By-law 65(8)	1
By-law 66(1)	1
By-law 66(2)	1
By-law 67(1)	1
By-law 67(4)	3
By-law 68(1)	1
By-law 69(1)	1
By-law 69(2)	1
By-law 70(1)	1
By-law 70(2)	1
By-law 70(3)	3
By-law 70(4)	3
By-law 70(5)	1

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By-law 72(1)	1
By-law 73(2)	1
By-law 74(1)	3
By-law 74(3)	1
By-law 75(1)	1
By-law 75(1A)	2
By-law 76(1)	1
By-law 78	1
By-law 79(1)	5
By-law 80(1)	1
By-law 81(1)	2
By-law 81(4)	2
By-law 82(2)	2
By-law 84(1)	3
By-law 84(2)	3
By-law 84(3)	3
By-law 85(1)	1
By-law 86(1)	3
By-law 86(2)	1
By-law 90(1)	4
By-law 90(3)	4
By-law 91(1)	4
By-law 92(1)	3
By-law 93(2)	1
By-law 94(1)	2

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By-law 95(1)	1
By-law 96(3)	3
By-law 97(2)	1
By-law 102(1)	2
By-law 103(2)	3
By-law 104(2)	3
By-law 106(3)	3

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Darwin Waterfront Corporation By-Laws (SL No. 15, 2010)***

Notified	1 July 2010
Commenced	1 July 2010 (bl 2, r 2 <i>Darwin Waterfront Corporation Regulations</i> (SL No. 36, 2009) and Gaz S34, 1 July 2010)

***Darwin Waterfront Corporation Amendment By-Laws 2011 (SL No. 23, 2011)***

Notified	25 May 2011
Commenced	25 May 2011

***Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)***

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 <i>Local Court (Repeals and Related Amendments) Act 2016</i> (Act No. 9, 2016) and Gaz S34, 29 April 2016)

***Local Government Act 2019 (Act No. 39, 2019)***

Assent date	13 December 2019
Commenced	pt 8.6: 1 July 2022; rem: 1 July 2021 (Gaz S27, 30 June 2021)

**Amending Legislation*****Statute Law Revision Act 2020 (Act No. 26, 2020)***

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

***Local Government Amendment Act 2021 (Act No. 15, 2021)***

Assent date	25 May 2021
Commenced	26 May 2021 (s 2)

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**3****GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: bl 1, 2, 6, 8, 88, 89 and 114.

**4****LIST OF AMENDMENTS**

bl 3	amd Act No. 39, 2019, s 370
bl 15	amd No. 23, 2011, bl 3
bl 17	amd No. 23, 2011, bl 51
bl 24	amd No. 23, 2011, bl 4
bl 25	amd No. 23, 2011, bl 5
bl 26	amd No. 23, 2011, bl 6; Act No. 8, 2016, s 45
bl 27	amd No. 23, 2011, bl 7
bl 29	amd No. 23, 2011, bl 51
bl 31	amd No. 23, 2011, bl 8
bl 33	sub No. 23, 2011, bl 9
bl 34	amd No. 23, 2011, bl 51
bl 35	amd No. 23, 2011, bl 10
bl 37	amd No. 23, 2011, bl 51
bl 38	amd No. 23, 2011, bl 11
bl 39	amd No. 23, 2011, bl 12
bl 40	amd No. 23, 2011, bl 13
bl 41	amd No. 23, 2011, bl 14
bl 42	amd No. 23, 2011, bl 15
bl 43	amd No. 23, 2011, bl 16
bl 44	amd No. 23, 2011, bl 17
bl 46	amd No. 23, 2011, bl 51
bl 60	amd No. 23, 2011, bl 18
bl 61	amd No. 23, 2011, bl 19
bl 62	amd No. 23, 2011, bl 20
bl 63	amd No. 23, 2011, bl 21
bl 64	rep No. 23, 2011, bl 22
bl 65	amd No. 23, 2011, bl 23
bl 66	amd No. 23, 2011, bl 24
bl 67	amd No. 23, 2011, bl 25
bl 68	amd No. 23, 2011, bl 51
bl 69	sub No. 23, 2011, bl 26
bl 70	sub No. 23, 2011, bl 26
bl 72	amd No. 23, 2011, bl 27
bl 73	amd No. 23, 2011, bl 28
bl 74	amd No. 23, 2011, bl 51
bl 75	amd No. 23, 2011, bl 29
bl 76	amd No. 23, 2011, bl 30
bl 80	amd No. 23, 2011, bl 31
bl 81	amd No. 23, 2011, bl 32
bl 82	amd No. 23, 2011, bl 33
bl 84	amd No. 23, 2011, bl 34
bl 85	amd No. 23, 2011, bl 35
bl 86	amd No. 23, 2011, bl 36
bl 87	amd No. 23, 2011, bl 51
bl 89	amd No. 23, 2011, bl 51; Act No. 39, 2019, s 370
bl 90	amd No. 23, 2011, bl 37
bl 91	amd No. 23, 2011, bl 38
bl 92	amd No. 23, 2011, bl 39
bl 93	amd No. 23, 2011, bl 40

## ENDNOTES

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bl 94	amd No. 23, 2011, bl 41
bl 95	amd No. 23, 2011, bl 51
bl 96	amd No. 23, 2011, bl 42
bl 97	amd No. 23, 2011, bl 43
bl 102	amd No. 23, 2011, bl 44
bl 103	amd No. 23, 2011, bl 45
bl 104	amd No. 23, 2011, bl 46
bl 106	amd No. 23, 2011, bl 47
bl 107	amd No. 23, 2011, bl 48
bl 108	amd No. 23, 2011, bl 51
bl 109	rep No. 23, 2011, bl 49
sch	sub No. 23, 2011, bl 50