

# NORTHERN TERRITORY OF AUSTRALIA

## DARWIN WATERFRONT CORPORATION ACT

As in force at 1 July 2012

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 July 2012. Any amendments that commence after that date are not included.

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## DARWIN WATERFRONT CORPORATION ACT

An Act to establish the Darwin Waterfront Corporation and for related purposes

### Part 1 Preliminary matters

#### 1 Short title

This Act may be cited as the *Darwin Waterfront Corporation Act*.

#### 2 Objects of Act

The Darwin Waterfront Corporation is created by this Act for the achievement of the following objects:

- (a) to develop, manage and service the Precinct for the benefit of the community;
- (b) to promote the Precinct as a place of residence and business and a venue for public events and entertainment.

#### 3 Definitions

In this Act:

***by-laws*** means by-laws made under section 19.

***CEO***, see section 9(1).

***chairperson*** means the person holding or occupying the office of chairperson of the Corporation mentioned in section 6(3).

***committee*** means a committee established under section 11.

***common property*** means:

- (a) for a plan – the common property in relation to the plan as defined in section 4(1) of the *Unit Titles Act*, and

- (b) for a scheme – the common property of the scheme as defined in section 33 of the *Unit Title Schemes Act*.

**Corporation** means the Darwin Waterfront Corporation established by section 5(1).

**council** means a council constituted under the *Local Government Act*.

**land** includes:

- (a) a unit, lot and common property created by registration of a plan; and
- (b) a unit and common property created by registration of a scheme.

**meeting** means a meeting of the Corporation held under section 33.

**member** means a member of the Corporation mentioned in section 6.

**municipal services**, see section 13.

**plan** means a units plan, or building development plan, as defined in section 4(1) of the *Unit Titles Act*.

**Precinct** means the Darwin Waterfront Precinct specified under section 4.

**promotional activities**, see section 12(1)(c).

**scheme** means a unit title scheme as defined in section 10(1) of the *Unit Title Schemes Act*.

**staff member**, see section 23(1).

**unit** means:

- (a) for a plan – a unit of the plan as defined in section 4(1) of the *Unit Titles Act*; and
- (b) for a scheme – a unit of the scheme as defined in section 37 of the *Unit Title Schemes Act*.

#### 4 Darwin Waterfront Precinct

The regulations may specify the areas forming the Darwin Waterfront Precinct.

## **Part 2                  Darwin Waterfront Corporation**

### **Division 1              General matters**

#### **5                      Establishment**

- (1) The Darwin Waterfront Corporation is established.
- (2) The Corporation:
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) is capable, in its corporate name, of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (3) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the common seal affixed to a document; and
  - (b) presume the seal was duly affixed.

#### **5A                    Public office**

- (1) The Corporation must have a public office.
- (2) The public office must be open to the public at reasonable times determined by the Corporation.

#### **6                      Composition of Corporation**

- (1) The Corporation is constituted by at least 3 but not more than 7 members appointed by the Minister.
- (2) A member holds office for the period (not exceeding 3 years) specified in the appointment.
- (3) The Minister must appoint a member (other than the CEO) to be the chairperson of the Corporation.

#### **7                      Corporation not within shield of Crown**

The Corporation:

- (a) does not represent the Territory; and
- (b) does not enjoy any privileges, rights or immunities of the Crown in right of the Territory; and

- (c) is not within the shield of the Crown in right of the Territory.

## **8 Transfer of property**

- (1) The Territory may transfer the ownership or control of any of its property (whether situated in the Precinct or not) to the Corporation.
- (2) The Corporation may transfer the ownership or control of any of its property to the Territory.

## **9 Chief executive officer**

- (1) The Minister must appoint a person recommended by the Corporation to be its chief executive officer (the **CEO**).
- (2) The CEO holds office for the period and on terms and conditions as decided by the Minister.
- (3) The CEO may be a public sector employee.
- (4) The CEO must, under the Corporation's directions, exercise the Corporation's powers and perform the Corporation's functions.
- (5) The CEO is a member for section 6.

## **10 Termination of appointment of member**

- (1) The Minister may terminate a member's appointment on the grounds of inability, inefficiency, misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate a member's appointment if the member:
  - (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit; or
  - (b) is convicted in Australia of an offence punishable by imprisonment for 12 months or longer; or
  - (c) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Corporation; or
  - (d) fails to comply with section 34.

## **11 Committee**

- (1) The Corporation may establish a committee for one or more of its powers or functions.

- (2) Each committee consists of 2 or more members and any other persons appointed by the Corporation.

## **Division 2                  Functions and powers of Corporation**

### **12                  Functions of Corporation**

- (1) The functions of the Corporation are:
- (a) to do anything for the development of land in the Precinct that is owned or controlled by the Corporation; and
  - (b) to manage property (including land and marine infrastructure) in the Precinct that is owned or controlled by the Corporation; and
  - (c) to do anything (***promotional activities***) for the promotion of the Precinct as a place of residence and business and a venue for public events and entertainment; and
  - (d) to do anything for construction to be carried out in the Precinct; and
  - (e) to preserve good order in the Precinct; and
  - (f) to do anything for the provision of municipal services in the Precinct; and
  - (g) to do anything for the development and maintenance of other civic amenities and facilities in the Precinct (including the staging of public events and entertainment in the Precinct); and
  - (h) on the Minister's request, to advise the Minister about the Precinct; and
  - (i) to develop and manage land not forming part of the Precinct as directed by the Minister and in accordance with the regulations; and
  - (j) to perform other functions specified by regulation.
- (2) Without limiting subsection (1), the Corporation may:
- (a) as the owner or controller of land, give instructions to any Agency or other body that is engaged in the development of, or construction works on, the land; and
  - (b) consult with anyone in relation to the performance of any of its functions.

- (3) The Corporation may enter into an arrangement with the Darwin City Council or another person for the performance by the Council or person of specified functions of the Corporation.
- (3A) The arrangement may provide for the Council or person to exercise powers of the Corporation for the arrangement.
- (4) The Corporation must perform its functions having regard to the objects of this Act.

### **13            Municipal services**

- (1) The Corporation must ensure services and amenities relating to the following are provided for the Precinct:
  - (a) sanitation, garbage collection and street cleaning;
  - (b) roads, footpaths, parking and traffic control;
  - (c) public places (including parks and public toilets);
  - (d) storm drainage;
  - (e) street lighting;
  - (ea) the maintenance of the quality of:
    - (i) any enclosed body of sea water (whether treated or untreated) that is designed as a feature of the Precinct; and
    - (ii) the water in any water feature or recreational facility on land owned or controlled by the Corporation in the Precinct;
  - (f) any other matters specified by regulation.
- (2) The Corporation may also arrange for the provision of other services and amenities for the Precinct as are specified by regulation.
- (3) Services and amenities provided under this section are municipal services.

### **14            General powers of Corporation**

- (1) The Corporation may do anything necessary or convenient for the performance of its functions.

- (2) Without limiting subsection (1), the Corporation may:
- (a) with the Treasurer's approval:
    - (i) borrow, lend, raise or invest money under section 29; and
    - (ii) form or participate in the formation of an incorporated body or partnership; and
    - (iii) grant guarantees or indemnities for, or otherwise assume responsibility for, the obligations of a person; and
  - (b) engage persons to assist the Corporation; and
  - (c) consult with and enter into arrangements with other persons or bodies (including Agencies); and
  - (d) grant registrations and issue permits and licences.

## **15                Rates for municipal services**

- (1) The Corporation may impose rates on land in the Precinct for the funding of municipal services.
- (2) However, before the end of 2020, the Corporation may only impose the rates specified in subsection (3) and may only do so as provided in subsections (4), (5), (6) and (7).
- (3) For subsection (2), there are 2 rates that may be imposed:
  - (a) rates on all land other than common property; and
  - (b) rates on all land other than units.
- (4) The rates mentioned in subsection (3)(a) must be of the same rate and based on the same method of calculation for rates imposed on land in the central business district of the municipality of Darwin.
- (5) Land that would have been exempt from rates under the *Local Government Act* is exempt from the rates mentioned in subsection (3).
- (6) However, the rates mentioned in subsection (3)(b) may be imposed on the common property of a plan or scheme.

- (7) The rates mentioned in subsection (3)(b) must be imposed on the following basis:
- (a) for the common property of a plan or scheme – the rates mentioned in subsection (3)(b) that are imposed on the common property for a financial year must not exceed 20% of the sum of the rates mentioned in subsection (3)(a) that are imposed on all the units of the plan or scheme for that year;
  - (b) for any other land – the rates mentioned in subsection (3)(b) that are imposed on the land for a financial year must not exceed 20% of the rates mentioned in subsection (3)(a) that are imposed on the land for that year.

*Note for section 15*

*Part 3 contains further provisions relating to rates.*

## **16                  Levy for promotional activities**

- (1) The Corporation may impose a levy for the funding of promotional activities.
- (2) The levy may only be imposed on a person prescribed by regulation.
- (3) The by-laws may make provision about the levy.
- (4) The regulations may provide for the maximum amount of the levy that may be imposed on a person for a year (including specifying how that amount must be worked out).

## **17                  Fees for services**

- (1) The Corporation may charge fees for services provided by or for the Corporation (whether the services are municipal services or not).
- (2) The by-laws may make provision about the fees.

## **18                  Exemption from certain taxes and charges**

- (1) The Corporation, as the owner or controller of land in the Precinct:
  - (a) is not liable for any rates, levy or fees arising from section 15, 16 or 17; and
  - (b) is exempt from other requirements (for example, licensing or registration requirements) imposed by the by-laws.
- (2) In addition, the Corporation is not liable for any stamp duty imposed under the *Stamp Duty Act* in relation to the land.

- (3) Except as otherwise provided by a law of the Territory, a lessee of land owned by the Corporation is not exempt from the liabilities and requirements mentioned in subsections (1) and (2).

## **19 By-laws**

- (1) The Corporation may make by-laws, not inconsistent with this Act or any other law of the Territory, for any of the following matters:
- (a) any matter relating to its common seal, meetings or procedures;
  - (b) promotional activities;
  - (c) controlling the Precinct (including the use of the land and water within the Precinct) and access to any part of it;
  - (d) care and maintenance of all or any part of the Precinct;
  - (e) preserving good order in the Precinct;
  - (f) regulating conduct (including omissions) occurring in the Precinct;
  - (g) prescribing a fine not exceeding 200 penalty units for an offence against the by-laws;
  - (h) providing for an offence against the by-laws to be a regulatory offence;
  - (i) providing for:
    - (i) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against the by-laws; and
    - (ii) the service of a notice relating to payment of the amount on a person alleged to have committed the offence; and
    - (iii) the particulars to be included in the notice;
  - (j) any other matter for the exercise of any of its powers or the performance of any of its functions under this Act;
  - (k) any other matter required or permitted by a law of the Territory.
- (2) The by-laws may apply, adopt or incorporate (with or without changes) the whole or part of an Act or other instrument (including the by-laws of a council) as in force or existing at a particular time or from time to time.

**20                      Direction by Minister**

- (1) The Minister may give directions to the Corporation for the exercise of any of its powers or the performance of any of its functions.
- (2) The Corporation must comply with the direction.

**21                      Minister's approval required for acquisition or disposal of real property**

The Corporation must not, without the Minister's approval, acquire or dispose of any real property or interest in real property.

**22                      Effect of non-compliance**

- (1) The validity of an act of the Corporation is not affected by a failure of the Corporation to:
  - (a) obtain an approval of the Treasurer as required by section 14(2)(a); or
  - (b) comply with a direction of the Minister given under section 20; or
  - (c) obtain an approval of the Minister as required by section 21.
- (2) Without limiting subsection (1), the validity of a contract for a matter mentioned in section 14(2)(a) is not affected by a failure of the Corporation to obtain an approval of the Treasurer for that contract.

**23                      Staff members**

- (1) The Corporation may be assisted by each of the following (a ***staff member***) in exercising its powers or performing its functions:
  - (a) a person who:
    - (i) is a public sector employee; and
    - (ii) is made available to the Corporation with the agreement of the Commissioner for Public Employment;
  - (b) a person employed or engaged by the Corporation.
- (2) A person employed by the Corporation as mentioned in subsection (1)(b):
  - (a) must be employed on terms and conditions as decided by the Corporation; and
  - (b) may be a public sector employee.

**24        Staff member may enter land for certain purposes**

- (1) A staff member may enter any land or building within the Precinct as required or permitted under this Act for an inspection or the carrying out of works.
- (2) The staff member may only do so:
  - (a) during reasonable hours; and
  - (b) except with the consent of the occupant of the land or building – at least 24 hours after written notice for the entry has been given by the CEO to the occupant.

**25        Corporation may compound**

The Corporation may compound with any of the following persons for an amount of money or other consideration as the Corporation considers appropriate:

- (a) a person who has entered into a contract with the Corporation;
- (b) a person who has commenced or intends to commence proceedings against the Corporation;
- (c) a person against whom the Corporation has commenced or intends to commence proceedings.

**Division 3        Financial matters**

**26        Money of Corporation**

The money of the Corporation consists of:

- (a) amounts appropriated for the Corporation; and
- (b) dividends on shares owned by the Corporation; and
- (c) interest on investments held by the Corporation; and
- (d) proceeds from the disposal of the Corporation's property; and
- (da) the following amounts that are received or recovered by the Corporation:
  - (i) rates imposed under section 15;
  - (ii) interest that has accrued on rates under section 52;
  - (iii) costs reasonably incurred by the Corporation in recovering, or attempting to recover, rates; and

- (e) amounts imposed or charged under section 16 or 17 that are received by the Corporation; and
- (f) any other amounts that become available for use by the Corporation under a law of the Territory.

## **27 Application of money**

- (1) The money of the Corporation must be applied only for the exercise of its powers or performance of its functions.
- (2) An amount of rates mentioned in section 15, or interest mentioned in section 52, that is received by the Corporation may only be used for the provision of municipal services.
- (3) An amount of levy mentioned in section 16 that is received by the Corporation may only be used for the funding of promotional activities.
- (4) An amount of fees mentioned in section 17 that is received by the Corporation may only be used for the provision of the service relating to the fees.

## **28 Account keeping**

- (1) The Corporation must ensure:
  - (a) proper accounts and records of the Corporation's transactions and financial affairs are kept; and
  - (b) there are adequate controls over the incurring of the Corporation's liabilities; and
  - (c) all payments out of the Corporation's money are correctly made and properly authorised; and
  - (d) adequate control is maintained over:
    - (i) the Corporation's property; and
    - (ii) property in the Corporation's custody, control or management.
- (2) The Treasurer may request the Corporation to give the Treasurer any information the Treasurer reasonably requires to accurately assess the Corporation's financial position and financial affairs.
- (3) The Corporation must comply with the request.

## **29 Treasurer's approval required for certain contracts**

- (1) The Corporation must not enter into a contract for any of the following without the Treasurer's approval:
  - (a) borrowing of money by the Corporation;
  - (b) lending of money by the Corporation;
  - (c) raising of money, otherwise than by borrowing, by the Corporation in a manner that is not specified for subsection (2);
  - (d) investing the Corporation's money, otherwise than by lending, in a class of investment that is not specified for subsection (2).
- (2) The Treasurer may in writing specify:
  - (a) a manner of raising money for which the Treasurer's approval is not required; and
  - (b) a class of investment for which the Treasurer's approval is not required.

## **Division 4 Reporting requirements**

### **30 Annual report**

- (1) For each financial year, the Corporation must prepare an annual report on its operation during that year.
- (2) The report must include:
  - (a) the record of each Ministerial direction given under section 20(1) during that year; and
  - (b) financial statements relating to the Corporation's operation for that year that are prepared because of section 31; and
  - (c) the Auditor-General's report on the financial statements given to the Corporation under section 32.
- (3) The Corporation must give the annual report to the Minister within:
  - (a) one month after receiving the Auditor-General's report; or
  - (b) another period specified by the Minister.
- (4) The Minister must table in the Legislative Assembly a copy of the annual report within 6 sitting days after receiving it.

### **31 Application of Corporations Act**

- (1) The accounting and reporting obligations imposed on a public company under the Corporations Act 2001 apply to the Corporation as if:
  - (a) the Corporation were a public company; and
  - (b) the Territory were the shareholders of the company.
- (2) To avoid doubt, the obligations mentioned in subsection (1) include obligations to prepare financial statements and the application of the relevant standards for those obligations.

### **32 Auditor to be given financial statements**

- (1) The Corporation must give the Auditor-General the financial statements prepared because of section 31 for a financial year within:
  - (a) 2 months after the end of that year; or
  - (b) another period specified by the Minister.
- (2) The Auditor-General must:
  - (a) audit the financial statements; and
  - (b) report to the Corporation on the financial statements.
- (3) The Auditor-General must do so within:
  - (a) 2 months after receiving the financial statements; or
  - (b) another period specified by the Administrator.

## **Division 5 Meetings**

### **33 Meetings**

- (1) The chairperson must convene as many meetings as are necessary to perform its functions.
- (2) The Minister may direct the chairperson to convene a meeting to deal with a matter specified by the Minister.
- (3) The chairperson must comply with the direction.
- (4) The quorum for a meeting of the Corporation is a majority of its members.

- (5) Questions arising at a meeting are determined by a majority of votes.
- (6) A member nominated by the chairperson must preside at a meeting in which the chairperson is absent.
- (7) At a meeting, the presiding member:
  - (a) has a deliberative vote; and
  - (b) in the event of an equality of votes, also has the casting vote.
- (8) The procedures for meetings must be determined by the Corporation.

### **34 Disclosure of interests**

- (1) If a member has a direct or indirect interest in a matter being considered, or about to be considered, by the Corporation, the member must disclose the nature of the interest in a meeting as soon as practicable after the relevant facts come to the member's knowledge.
- (2) The disclosure must be recorded in the Corporation's minutes.
- (3) Subject to a resolution of the Corporation to the contrary, the member:
  - (a) must not, while the member has the interest, take part in any deliberation or decision of the Corporation relating to the matter; and
  - (b) must be disregarded for constituting the quorum of the Corporation for any deliberation or decision of the Corporation relating to the matter.
- (4) The Corporation must maintain a register of the interests of the members.

## **Division 6 Other administrative matters**

### **35 Delegation**

The Corporation may delegate any of its powers or functions to one or more of the following:

- (a) a member;
- (b) a staff member;

- (c) a committee.

### **36 Protection from liability**

- (1) This section applies to a person who is or has been a member.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (3) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Corporation in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.
- (4) Subsections (2) and (3) do not affect any liability the Territory or the Corporation would, apart from those subsections, have for the act or omission.

## **Division 7 Review of Corporation's operation**

### **37 Review**

- (1) The Corporation must conduct a review of its operation and the operation of this Act within 12 months after an occupancy permit has been issued under the *Building Act* for a residential dwelling in the Precinct for the first time.
- (2) The Corporation must prepare a report of the review, incorporating any recommendations on the following:
  - (a) the management of the Precinct;
  - (b) the representation of individuals and groups in the membership of the Corporation;
  - (c) the devolution of the Corporation's powers and functions to another body;
  - (d) any other matter for which the Minister has requested a recommendation;
  - (e) any other matter the Corporation considers appropriate.

## Part 3            Matters relating to rates

### Division 1        Definitions

#### 38            Definitions

In this Part:

***administrative review committee***, see section 69(1).

***allotment***, see section 41.

***assessment record*** means the assessment record kept by the Corporation under section 45.

***nominal owner***, of an allotment, means:

- (a) if the allotment is common property – the body corporate that, under the by-laws, is liable to pay the rates imposed on the common property; or
- (b) if the allotment is held from the Territory under a lease – the lessee; or
- (c) if the allotment is held from the Corporation under a lease – the lessee; or
- (d) otherwise – the registered owner of the allotment.

***occupier***, of an allotment, means a person who is, either jointly or alone, in possession of the allotment to the substantial exclusion of others.

***principal ratepayer***, for an allotment, see section 44(1).

***rate concession***, see section 54(1).

***rateable***, see section 39(1).

***ratepayer*** means a person who pays, or is liable to pay, rates imposed on an allotment under this Act.

***registered owner***, of an allotment, means the registered owner (as defined in section 4 of the *Land Title Act*) of a lot that comprises or includes the allotment.

## Division 2            General matters

### 39            Rateability of land in Precinct

- (1) All land in the Precinct is **rateable** except land specified in subsection (2).
- (2) For subsection (1), the following land is specified:
  - (a) land that is exempt from rates under section 15(5);
  - (b) land of the Corporation, other than land that is leased for a purpose that does not give rise to an exemption from rates under section 15(5);
  - (c) land of the Commonwealth, other than land that the Commonwealth has agreed be rateable.

### 40            Commonwealth land

If the Commonwealth agrees that its land be rateable, the land is rateable on conditions agreed by the Commonwealth.

### 41            Allotments

- (1) An **allotment** is a lot or part of a lot for which the Corporation proposes to make a separate assessment and imposition of rates.
- (2) The Corporation may only divide a lot that is subject to the same ownership into separate allotments if:
  - (a) the allotments are subject to separate occupation; or
  - (b) the allotments fall within different zones; or
  - (c) there is some other good reason for dividing the lot into separate allotments.

*Example for subsection (2)(a)*

*If a lot comprises a block of flats and the flats are owned by one person but separately occupied, the Corporation could either:*

- (a) treat the block of flats as a single allotment and impose rates on the block as a whole; or*
- (b) treat each flat as a separate allotment and impose rates on each flat.*

- (3) In this section:

**lot**, see section 4 of the *Land Title Act*.

**zone**, see section 3(1) of the *Planning Act*.

**42                      Apportionment if allotment rateable for part of financial year**

- (1) If an allotment becomes, or ceases to be, rateable during the course of a financial year:
  - (a) the allotment is liable to rates under section 15 for the financial year; but
  - (b) the amount of rates payable is the amount that is proportionate to the part of the financial year during which the allotment is rateable.
- (2) The Corporation must make any refund or remission of rates necessary to give effect to this section.

**43                      Joint and several liability**

- (1) The nominal owner and the occupier (if not the nominal owner) of an allotment are jointly and severally liable for rates imposed on the allotment.
- (2) However, the occupier does not become liable for the rates unless, under section 44, the occupier is designated in the assessment record as the principal ratepayer for the allotment.

**44                      Principal ratepayer for allotment**

- (1) The *principal ratepayer* for an allotment is the nominal owner of the allotment but, if a person other than the nominal owner is, under this section, designated in the assessment record as the principal ratepayer for the allotment, that person is the principal ratepayer.
- (2) If, under subsection (1), 2 or more people would be the principal ratepayer for an allotment, the CEO may designate one or more of them in the assessment record as the principal ratepayer for the allotment.
- (3) On the application of an occupier of an allotment, the CEO may designate the occupier in the assessment record as the principal ratepayer for the allotment.
- (4) If the occupier subsequently applies for the designation to be removed from the assessment record, the CEO must remove the designation.
- (5) A ratepayer designated under subsection (2) or (3) as the principal ratepayer for an allotment is the principal ratepayer to the exclusion of others.

- (6) If rates are paid by, or recovered from, a ratepayer who is not the principal ratepayer for an allotment, the ratepayer may, subject to any relevant agreement, recover the amount of the rates from the principal ratepayer or set the amount off against any liability owed to the principal ratepayer.

#### **45            Assessment record**

- (1) The Corporation must keep an assessment record.
- (2) The assessment record must contain the following information for each allotment:
- (a) a brief description of the allotment;
  - (b) if rates for the allotment are to be calculated as a proportion of the value of the allotment – a statement of the value;
  - (c) the name and postal address of the registered owner of the allotment;
  - (d) if the registered owner is not the nominal owner of the allotment – the name and postal address of the nominal owner;
  - (e) if the nominal owner is not the principal ratepayer for the allotment – the name and postal address of the principal ratepayer;
  - (f) if the allotment is subject to a differential rate on the basis of its use – a statement of the use;
  - (g) other information the Corporation resolves to include in the record.

*Note for paragraph (b)*

*Section 15(4) and (7) specifies how rates are to be calculated.*

- (3) The assessment record may be kept in the form the Corporation considers appropriate.
- (4) A copy of the assessment record must be available for inspection, free of charge, by any member of the public at the Corporation's public office.
- (5) The CEO must, at the request of a person to whom an entry in the assessment record relates, suppress the person's name or address (or both) from the publicly available copy of the record.

#### **46            Notices to be given by ratepayers**

- (1) If a person becomes the principal ratepayer for a particular allotment, the person must, within 28 days of becoming the principal ratepayer, give the CEO written notice of that fact and of the person's postal address.

Maximum penalty:        20 penalty units.

- (2) If a principal ratepayer's postal address changes, the principal ratepayer must, within 28 days of the change, give the CEO written notice of the new address.

Maximum penalty:        20 penalty units.

- (3) If a person ceases to be the principal ratepayer for a particular allotment, the person must, within 28 days of ceasing to be the principal ratepayer, give the CEO written notice of that fact.

Maximum penalty:        20 penalty units.

- (4) An offence against subsection (1), (2) or (3) is a regulatory offence.

#### **47            Correction of record**

- (1) A person may apply to the Corporation for correction of an entry in the assessment record.
- (2) The application may be made on one or more of the following grounds:
- (a) the entry wrongly classifies an allotment that is not rateable as rateable;
  - (b) the entry wrongly records the use of an allotment;
  - (c) the entry contains some other relevant misclassification or misdescription of an allotment;
  - (d) the entry wrongly records ownership or occupation of an allotment;
  - (e) the entry wrongly designates the applicant as the principal ratepayer for an allotment;
  - (f) the entry contains some other relevant error.

- (3) The application must be in writing and state:
  - (a) the applicant's interest in the allotment to which the application relates; and
  - (b) the nature of the amendment that should, in the applicant's opinion, be made.
- (4) If the application is uncontroversial, the CEO may decide the application on behalf of the Corporation but, if it raises matters of possible controversy, the application is to be dealt with by the Corporation or a Corporation committee.
- (5) The CEO must give the applicant written notice of the decision on the application as soon as practicable.

*Note for subsection (5)*

*A person who is adversely affected by the decision may apply for a review under Division 5.*

## **Division 3            Imposition of rates**

### **48            Declaration and notification of rates**

- (1) To impose rates under section 15 for a financial year, the Corporation must, on or before 31 July in that financial year, declare rates on allotments in the Precinct.
- (2) The declaration must state the following:
  - (a) the basis or bases of the rates;
  - (b) if the rates may be paid by instalment – the number of instalments payable and the date on which each instalment will fall due for payment;
  - (c) if a discount or other form of concession or benefit is to be given for prompt payment of rates in full:
    - (i) details of the discount, concession or benefit; and
    - (ii) the conditions on which it is to be given.
- (3) Within 21 days after declaring rates, the Corporation must publish notice of the declaration of rates and the matters specified in subsection (2):
  - (a) on its website; and

(b) in a newspaper circulating generally in the Precinct.

- (4) Failure to publish the notice within the time limit fixed by subsection (3) does not invalidate the declaration.

#### **49        Rates notice**

- (1) At least 28 days before the payment of the rates, or the first instalment of the rates, falls due, the Corporation must issue an account for the payment of rates (a ***rates notice***) for each allotment.
- (2) The rates notice must be given to the principal ratepayer for an allotment or, if it is not practicable to do so, to any other ratepayer for the allotment.
- (3) The rates notice must:
- (a) state the due date for payment of the rates or, if the rates may be paid by instalment, the due date for payment of each instalment; and
  - (b) if a discount is to be given for prompt payment of rates in full – state:
    - (i) the percentage discount; and
    - (ii) the conditions on which the discount will be given; and
    - (iii) both the discounted and undiscounted amount payable; and
  - (c) if another form of concession or benefit is to be given for prompt payment of rates in full – state:
    - (i) details of the concession or benefit; and
    - (ii) the conditions on which it will be given; and
  - (d) contain any other information prescribed by the by-laws; and
  - (e) be given at least 28 days before the payment of the rates, or the first instalment of the rates, falls due.
- (4) Failure to give the rates notice within the time limit fixed by subsection (3)(e) does not invalidate the rates notice.

## 50                      **Payment by instalment**

- (1) If the Corporation allows payment of rates by instalment:
  - (a) each instalment must be paid by the due date for payment; but
  - (b) if a ratepayer fails to pay an instalment by the due date – all remaining instalments become immediately due.
- (2) However, the Corporation may relieve a ratepayer, or ratepayers generally, from the consequences of a failure to pay an instalment to an extent decided by the Corporation.

## 51                      **Validity of declaration**

- (1) The Minister may, by *Gazette* notice, declare that rates have been validly declared, or declared and levied, by the Corporation despite a particular procedural non-compliance or some other irregularity or error of a minor or technical nature.
- (2) The declaration validates the rates from the date of their purported declaration.

## 52                      **Accrual of interest on overdue rates**

- (1) If rates are not paid by the due date for payment, interest accrues on the amount of the unpaid rates at the relevant interest rate.

*Note for subsection (1)*

*If the ratepayer defaults in payment of an instalment of rates, all remaining instalments become due and payable. Therefore, interest accrues on the total amount of the unpaid rates and not merely the amount of the instalment. (See section 50(1)).*

- (2) Interest is calculated on a daily basis on the amount of the unpaid rates (exclusive of interest) from the due date until the date of payment.
- (3) In this section:

***relevant interest rate*** means the rate of interest fixed by the Darwin City Council as the relevant interest rate under section 162(4) of the *Local Government Act*.

## 53                      **Remission of interest**

The Corporation may remit interest wholly or partly.

## **54            Rate concessions generally**

- (1) A *rate concession* is:
- (a) a waiver in whole or part of rates or a component of rates; or
  - (b) a deferment in whole or part of a liability to pay rates or a component of rates; or
  - (c) both.
- (2) The Corporation may, by written notice, grant a rate concession under section 55, 56 or 57 unconditionally or on conditions determined by the Corporation.
- (3) If the Corporation grants a rate concession on conditions and the ratepayer fails to comply with a condition, the Corporation may by written notice to the ratepayer:
- (a) withdraw the concession; and
  - (b) require the ratepayer to pay an amount, on or before a date specified in the notice, to neutralise any benefit to the ratepayer of the rate concession.

## **55            Alleviation of financial hardship**

- (1) The Corporation may grant a rate concession to alleviate financial hardship.
- (2) The Corporation may grant the rate concession on application by a person who establishes to the Corporation's satisfaction that the person will suffer financial hardship if the concession is not granted.

## **56            Correction of anomaly in operation of rating system**

- (1) The Corporation may grant a rate concession to a ratepayer or ratepayers of a particular class if satisfied it is necessary to do so in order to correct an anomaly in the operation of the rating system.
- (2) The Corporation may grant the rate concession on the Corporation's own initiative or on application by an affected ratepayer.

## **57            Public benefit**

- (1) The Corporation may grant a rate concession to advance one or more of the following purposes:
- (a) securing the proper development of the Precinct;

- (b) preserving buildings or places of historical interest;
  - (c) protecting the environment;
  - (d) encouraging cultural activities;
  - (e) promoting community health or welfare;
  - (f) providing recreation or amusement for the public.
- (2) However, the rate concession:
- (a) may only be granted if authorised under a policy formally adopted by resolution of the Corporation; and
  - (b) is subject to limitations and conditions specified in that policy.
- (3) The Corporation may grant the rate concession on its own initiative or on application by a ratepayer.

## **Division 4            Recovery of rates**

### **Subdivision 1      Definition**

#### **58                    Definition**

In this Division:

*rates* includes, if the rates are overdue:

- (a) accrued interest; and
- (b) costs reasonably incurred by the Corporation in recovering, or attempting to recover, the rates.

### **Subdivision 2      Court action**

#### **59                    Recovery by court action**

- (1) Rates imposed on an allotment may be recovered as a debt due to the Corporation from the principal ratepayer for the allotment, or any other ratepayer for the allotment, by action in a court of competent jurisdiction.
- (2) The proceedings may be commenced at any time within 6 years after the rates were imposed.

### **Subdivision 3    Overriding statutory charge**

#### **60                Application of Subdivision**

This Subdivision does not apply to rates imposed on common property.

#### **61                Overdue rates to be charge on allotment**

- (1) If rates imposed on an allotment are not paid by the due date, the rates become a charge on the allotment.
- (2) However, the rates do not become a charge if the registered owner of the allotment is not a ratepayer who is liable for the rates that are in arrears.

#### **62                Registration of charge**

- (1) If rates imposed on an allotment are a charge on the allotment and have been in arrears for at least 6 months, the Corporation may apply to the Registrar-General for registration of the charge.
- (2) The Registrar-General must, on payment of the appropriate fee by the Corporation:
  - (a) register the charge as an overriding statutory charge; and
  - (b) notify all persons with a registered interest in or over the allotment of the registration of the charge.
- (3) Failure to give notice of the registration of the overriding statutory charge under subsection (2)(b) does not invalidate the registration of the charge.
- (4) The Registrar-General must, on payment of the appropriate fee, cancel the registration of the overriding statutory charge if the Corporation applies for the cancellation.
- (5) The Corporation must apply for the cancellation if the liability to which the overriding statutory charge relates is fully satisfied, and may apply for the cancellation for any other reason.

#### **63                Effect of registered charge**

While a charge is registered as an overriding statutory charge under this Subdivision, it has priority over all other registered and unregistered mortgages, charges and encumbrances except a previously registered overriding statutory charge.

## **Subdivision 4    Sale of allotment**

### **64                Power to sell allotment for non-payment of rates**

The Corporation may sell an allotment if:

- (a) rates imposed on the allotment have been in arrears for at least 3 years; and
- (b) an overriding statutory charge securing liability for the rates is registered over the allotment and has been registered for at least 6 months.

### **65                Pre-conditions of sale**

- (1) Before selling an allotment for non-payment of rates, the Corporation must give notice to the principal ratepayer for the allotment at the address recorded in the assessment record.
- (2) The notice must:
  - (a) state the period for which rates have been in arrears; and
  - (b) state the amount of rates currently outstanding on the allotment; and
  - (c) warn that if that amount is not paid in full within a stated period (which must not be less than 30 days) after the date of the notice, the Corporation will sell the allotment for non-payment of rates.
- (3) A copy of the notice must be given to:
  - (a) any other person with a registered interest in the allotment; and
  - (b) if the allotment is held from the Territory under a lease – the Minister administering the legislation under which the lease was granted.
- (4) If the whereabouts of a person to whom a notice (or copy) is required to be given is, after reasonable inquiries, not ascertained by the Corporation, the notice may be given by:
  - (a) publishing it in a newspaper circulating generally throughout the Territory; and
  - (b) leaving a copy of the notice in a conspicuous place at the allotment.

## **66                Sale of allotment**

- (1) If the outstanding rates for an allotment are not paid within the period allowed by a notice given under section 65, the Corporation may sell the allotment.
- (2) The sale must be by public auction.
- (3) However, if the allotment is held from the Territory under a lease, the sale must be made as approved by the Minister administering the legislation under which the lease was granted.
- (4) A public auction must be advertised:
  - (a) on the Corporation's website; and
  - (b) on at least 2 separate occasions in a newspaper circulating generally throughout the Territory.
- (5) If, before the date of the sale, the outstanding rates (including costs incurred by the Corporation with a view to sale of the allotment) are paid, the Corporation must call off the sale.
- (6) If an auction fails, the Corporation may sell the allotment by private contract for the best price that it can reasonably obtain.
- (7) If the Corporation sells an allotment under this section, the Corporation may execute a conveyance of the allotment under its common seal.
- (8) On registration of the conveyance, title to the allotment vests in the purchaser freed and discharged from all mortgages, charges and encumbrances securing the payment of money.

## **67                Proceeds of sale**

- (1) The Corporation must apply the proceeds of the sale of an allotment under this Subdivision as follows:
  - (a) firstly, in the payment of the costs incurred in selling the allotment;
  - (b) secondly, in the payment of all liabilities secured on the allotment (including the liability to the Corporation) in the order of their priority;
  - (c) thirdly, in payment to the registered owner of the allotment.

- (2) If the Corporation fails, after reasonable inquiry, to discover the identity or whereabouts of a person entitled to payment under this section, the Corporation may make the payment to the Public Trustee as unclaimed property.
- (3) A payment made to the Public Trustee under subsection (2) vests in the Public Trustee as mentioned in section 59A of the *Public Trustee Act*.

## **Division 5            Review and appeal**

### **68            Right to apply for review**

- (1) A person who is adversely affected by a decision mentioned in section 47(5) may, within 14 days after the date of the decision, apply to the CEO for a review of the decision.
- (2) The application must:
  - (a) be in writing; and
  - (b) set out in detail the grounds on which the decision should, in the applicant's opinion, be reconsidered.
- (3) The CEO may extend the period allowed for making an application under subsection (1) if the CEO is satisfied there are exceptional circumstances justifying the extension.

### **69            Consideration of application by administrative review committee**

- (1) The CEO must, on receiving an application under section 68, refer the application to a committee established by the Corporation for inquiring into such applications (an ***administrative review committee***).
- (2) The administrative review committee may summarily reject the application if satisfied the application is frivolous, vexatious or lacking in substance.
- (3) If it does not reject the application, the administrative review committee must:
  - (a) inquire into the matters raised by the application; and
  - (b) recommend to the Corporation that the Corporation does one of the following:
    - (i) confirm the decision under review;

- (ii) amend the decision under review;
- (iii) revoke the decision under review;
- (iv) make a further decision to mitigate the effect of the decision under review.

## **70 Corporation's decision on recommendation and appeal**

- (1) After receiving a recommendation from an administrative review committee, the Corporation must make a final decision on an application under section 68.
- (2) The decision need not be consistent with the administrative review committee's recommendation.
- (3) The CEO must notify the applicant of the Corporation's final decision on the application.
- (4) The applicant may, within 28 days after the date of the notice of the Corporation's final decision on the application, appeal against the decision to the Local Government Tribunal continued under Part 18.2 of the *Local Government Act*.

## **Part 4 Miscellaneous matters**

### **71 Acquisition on just terms**

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

### **72 Regulations**

- (1) The Administrator may make regulations under this Act.
- (2) The regulations may:
  - (a) prescribe a fine not exceeding 200 penalty units for an offence against the regulations; and

- (b) provide for an offence against this Act to be a regulatory offence; and
- (c) apply, adopt or incorporate (with or without changes) the whole or part of a document as in force or existing at a particular time or from time to time.

## **Part 5                      Transitional matter for Darwin Waterfront Corporation Amendment Act 2012**

### **73                      Rates imposed before commencement**

- (1) The amended Act continues to apply in relation to rates imposed by the Corporation before 1 July 2012, and to matters in relation to those rates dealt with in the amended Act, as if Part 2 of the *Darwin Waterfront Corporation Amendment Act 2012* had not commenced.
- (2) In this section:

***amended Act*** means the *Darwin Waterfront Corporation Act* as in force immediately before 1 July 2012.

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## ENDNOTES

### 1 KEY

Key to abbreviations

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

### 2 LIST OF LEGISLATION

***Darwin Waterfront Corporation Act 2006* (Act No. 25, 2006)**

Assent date	19 September 2006
Commenced	19 September 2006

***Darwin Waterfront Corporation Amendment Act 2008* (Act No. 1, 2008)**

Assent date	11 March 2008
Commenced	11 March 2008

***Local Government (Consequential Amendments) Act 2008* (Act No. 28, 2008)**

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

***Unit Title Schemes Act 2009* (Act No. 14, 2009)**

Assent date	26 May 2009
Commenced	pt 2.3, div 3, sdiv 4 and s 135 (to ext ins s 54C): 1 January 2010; s 111: 1 July 2010; rem: 1 July 2009 (s 2, <i>Gaz</i> S30, 26 June 2009, p 1, s 2 <i>Land Title and Related Legislation Amendment Act 2008</i> (Act No. 3, 2008) and <i>Gaz</i> S30, 26 June 2009, p 1)

***Darwin Waterfront Corporation Amendment Act 2012* (Act No. 10, 2012)**

Assent date	27 April 2012
Commenced	1 July 2012 (s 2)

### 3 LIST OF AMENDMENTS

s 3	amd No. 28, 2008, s 8; No. 10, 2012, s 4
s 5A	ins No. 10, 2012, s 5
s 12	amd No. 1, 2008, s 3
s 13	amd No. 1, 2008, s 4
s 15	amd No. 28, 2008, s 9; No. 14, 2009, s 129; No. 10, 2012, s 6
s 18	amd No. 1, 2008, s 5

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s 19	amd No. 28, 2008, s 10
s 26	amd No. 10, 2012, s 7
s 27	amd No. 10, 2012, s 8
pt 3 hdg	ins No. 10, 2012, s 11
pt 3	
div 1 hdg	ins No. 10, 2012, s 11
s 38	ins No. 10, 2012, s 11
pt 3	
div 2 hdg	ins No. 10, 2012, s 11
ss 39 – 47	ins No. 10, 2012, s 11
pt 3	
div 3 hdg	ins No. 10, 2012, s 11
ss 48 – 57	ins No. 10, 2012, s 11
pt 3	
div 4 hdg	ins No. 10, 2012, s 11
pt 3	
div 4	
sdiv 1 hdg	ins No. 10, 2012, s 11
s 58	ins No. 10, 2012, s 11
pt 3	
div 4	
sdiv 2 hdg	ins No. 10, 2012, s 11
s 59	ins No. 10, 2012, s 11
pt 3	
div 4	
sdiv 3 hdg	ins No. 10, 2012, s 11
ss 60 – 63	ins No. 10, 2012, s 11
pt 3	
div 4	
sdiv 4 hdg	ins No. 10, 2012, s 11
ss 64 – 67	ins No. 10, 2012, s 11pt 3
div 5 hdg	ins No. 10, 2012, s 11
ss 68 – 70	ins No. 10, 2012, s 11
s 71	ins No. 10, 2012, s 12
pt 4 hdg	renum No. 10, 2012, s 9
s 72	renum No. 10, 2012, s 10
pt 5 hdg	ins No. 10, 2012, s 13
s 73	ins No. 10, 2012, s 13