



# TASMANIAN GOVERNMENT GAZETTE

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## Notices to Creditors

VALERIE GRACE BOOTH late of 5 Yollar Place Waverley in Tasmania widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Valerie Grace Booth who died on the eighth day of February 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

SUSAN McLAREN, Senior Trust Administrator.

GEOFFREY ALLEN HENRY late of Unit 2 113 Margaret Street Launceston in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Geoffrey Allen Henry who died between the fifteenth day of January 2011 and the seventeenth day of January 2011 are required by the Executors Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executors may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

SUSAN McLAREN, Senior Trust Administrator.

### Tasmanian Government Gazette

Text copy to be sent to Print Applied Technology Pty Ltd.  
Email: [govt.gazette@thepat.com.au](mailto:govt.gazette@thepat.com.au) Fax: (03) 6216 4294  
Mail: 123 Collins Street, Hobart TAS 7000

#### Order Information

When using this facility please ensure that your order and a copy of the material are faxed to Print Applied Technology Pty Ltd on (03) 6216 4294

#### Deadlines

All copy must be received by last mail Friday or 4pm Friday prior to publication. A proof will be emailed prior to publication. Please supply an email address in order for us to forward a proof. If your advertisement requires alterations, they are to be sent as soon as possible, but before 4pm on the Monday prior to publication. After this deadline Print Applied Technology Pty Ltd will not be held responsible for any errors and the advertisement will be printed.

#### Enquiries

Subscription and account enquiries phone (03) 6233 3148  
Gazette Notice enquiries phone (03) 6233 6110

#### Out of Hours Special Gazette Notification

Out-of-hours notification for Special Gazettes phone (03) 6233 2690

### TASMANIAN GOVERNMENT GAZETTE AND TASMANIAN STATE SERVICE NOTICES PUBLICATION AND COPY CLOSURE DATES

#### *Easter 2011*

COPY deadlines for the *Tasmanian Government Gazette* and *Tasmanian State Service Notices* to be published on Wednesday 27 April 2011:—

All copy for the General Gazette must be received by 12 noon on Thursday 21 April 2011.

All copy for the State Service Notices must be received by 12 noon on Thursday 21 April 2011.

MARY MAGDALENE HUNNIFORD late of Karingal Care Nursing Home Lovett Street Devonport in Tasmania retired retail salesperson widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Mary Magdalene Hunniford who died on the eleventh day of February 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

ANN SCOTT, Trust Administrator.

CYRIL LEONARD OAKLEY late of Glenview Home Windsor Street Glenorchy in Tasmania widower deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Cyril Leonard Oakley who died on the eighth day of December 2010 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

LETISHA LOVELL, Trust Administration Assistant.

ISOBEL RUTH PATMORE late of The Manor Nursing Home 2 Guy Street Kings Meadows in Tasmania carer/pensioner widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Isobel Ruth Patmore who died on the twenty-seventh day of January 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

REBECCA SMITH, Trust Administrator.

LINDSAY GORDON POLLARD late of 224 Browns Road North Lilydale in Tasmania single deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Lindsay Gordon Pollard who died on the first day of February 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

EWAN STEWART, Senior Trust Administrator.

DAPHNE PHYLLIS RALSTON late of Eliza Purton Nursing Home Ulverstone in Tasmania home duties widow deceased: Creditors next of kin and others having claims in respect of the property or Estate of the deceased Daphne Phyllis Ralston who died on the twentieth day of January 2011 are required by the Executor Tasmanian Perpetual Trustees Limited of 23 Paterson Street Launceston in Tasmania to send particulars to the said Company by the thirteenth day of May 2011 after which date the Executor may distribute the assets having regard only to the claims of which it then has notice.

Dated this thirteenth day of April 2011.

MIKALA DAVIES, Trust Administrator.

VIOLET MARY KILE late of 11 Paringa Road Glenorchy in Tasmania home duties/widow who died on the twenty-sixth day of July 2010: Creditors next of kin and others having claims in respect of the property of the abovenamed deceased are required by the Executors Charles James Kile and Ian Terence Kile care of Blissenden Lawyers of 120 Main Road Moonah in Tasmania to send particulars to the said Executors on or before the thirteenth day of May 2011 after which date the Executors may distribute the assets having regard only to the claims of which the Executors then have notice.

Dated this thirteenth day of April, 2011.

BLISSENDEN LAWYERS, Solicitors to the Estate.

ANGUS ALAN DOWNIE late of "Riverton" 8980 Channel Highway Huonville in Tasmania journalist/divorced man who died on the thirtieth day of November 2010: Creditors next of kin and others having claims in respect of the property of the abovenamed deceased are required by the Executors Roger John Linnell Christopher A Cowles Peter H Macfie and Timothy James Downie care of PO Box 1089 Bowen Queensland 4805 to send particulars to the said Executors on or before the thirteenth day of May 2011 after which date the Executors may distribute the assets having regard only to the claims of which the Executors then have notice.

Dated this thirteenth day of April, 2011.

BLISSENDEN LAWYERS, Solicitors to the Estate.

NOTICE is hereby given that the Public Trustee has filed in the office of the Registrar of the Supreme Court at Hobart an election to administer the estate(s) of

VALERIE BERNADETTE CLARK late of 1/2 Union Street Scottsdale in Tasmania Retired cook/divorced woman deceased.

Dated this thirteenth day of April 2011.

PETER MALONEY, Chief Executive Officer, Public Trustee.

## Administration and Probate

### ADMINISTRATION AND PROBATE ACT 1935

#### *Notice of Intention to Apply for Letters of Administration*

NOTICE is hereby given that after the expiration of fourteen days from the publication hereof application will be made to the Supreme Court of Tasmania in its Ecclesiastical Jurisdiction that Letters of Administration of the Estate of MARLENE JOAN LAREDO late of Unit 5 3 Broadview Crescent Bridgewater in Tasmania divorced/pensioner deceased intestate may be granted to Mark Ronald James Laredo of Unit 5 3 Broadview Crescent Bridgewater in Tasmania single/unemployed the lawful son to the deceased and Rosemarie Louisa Ann Laredo of 54 Cambridge Crescent Werribee in Victoria single/unemployed the lawful daughter to the deceased.

Dated this thirteenth day of April 2011.

BUTLER McINTYRE and BUTLER,  
Solicitors for the Applicant.

## Living Marine Resources

### LIVING MARINE RESOURCES MANAGEMENT ACT 1995

#### CLOSED AREA FOR THE NON-COMMERCIAL SCALLOP FISHERY

I, ROBERT GOTT - Director (Marine Resources), pursuant to the delegated authority under section 20(1) of the *Living Marine Resources Management Act 1995*, in accordance with the *Fisheries (Scallop) Rules 2010* hereby determine pursuant to Rule 12 (1) of those rules that the D'Entrecasteaux Channel is a specified area closed for the non-commercial scallop fishery.

Robert Gott

#### DIRECTOR (MARINE RESOURCES)

Dated this 7th day of April 2011

#### INFORMATION

- For recreational scallop fishing, all State waters, **except for areas where fishing is prohibited, such as closed areas**, reserves, research areas and marine farms, will be open from **16th April 2011 to 31st July 2011**.
- The closure status of the D'Entrecasteaux Channel for 2012 and beyond will be reviewed after considering the results of the annual scallop surveys.
- Recreational scallop licences can be purchased from Service Tasmania shops or online at the Department's sea fishing website pages <http://www.fishing.tas.gov.au/licence>.

For further information refer to:

- *The Recreational Sea Fishing Guide: 1 November 2010 – 31 October 2011* which is available from Service Tasmania shops (A scallop measuring gauge is available on request).
- [www.fishing.tas.gov.au](http://www.fishing.tas.gov.au); or
- Contact the Wild Fisheries Branch of the Department of Primary Industries, Parks, Water and Environment on 6233 7042 or toll free on 1300 368 550.

## Land Acquisition

### LAND ACQUISITION ACT 1993

#### NOTICE OF ACQUISITION

##### (Section 18)

PURSUANT to Section 18 of the *Land Acquisition Act 1993* (referred to as "the Act"), Transend Networks Pty Ltd (being an acquiring authority in accordance with the Act), does hereby declare that the "Drainage Easement and Restriction as to User of Land" described in the Second Schedule hereto over the land described in the First Schedule hereto is taken and vested in Transend Networks Pty Ltd absolutely under the Act, for an authorised purpose being to maintain and operate electricity infrastructure necessary for the transmission of electricity.

Dated this thirteenth day of April 2011.

For and on behalf of Transend Networks Pty Ltd,  
D. P. OXLEY, Company Secretary for  
Transend Networks Pty Ltd  
ABN 57 082 586 892  
7 Maria Street Lenah Valley, Tasmania, 7008

#### First schedule

ALL THAT parcel of land situate in the City of Launceston in Tasmania containing 12.38 hectares (area) or thereabouts delineated as Lot 1 on registered Sealed Plan No. 12750 being the land comprised in the Register Volume 12750 Folio 1 registered in the name of Smine Pty Ltd.

#### Second schedule

##### Drainage easement and restriction as to user of land means:

**FIRSTLY** the full and free right and liberty for Transend Networks Pty Ltd and its successors and its and their servants, agents, invitees and contractors ("Transend") at all times to clear the lands marked "Drainage Easement 'B'" on Survey Plan 161345 as served with this Notice to Treat, and:

- TO** lay, construct, replace, inspect, repair and maintain water pipes, valves, water stops, channels or drains on, under or over the land; and
- TO** enter at any time with workmen and machinery as may be reasonably necessary for any of those purposes; and
- TO** reticulate water through the pipes, valves, water stops, channels or drains, and the person or persons exercising such right shall do so in a manner so as to cause little damage and inconvenience as reasonably practicable and shall fill in any excavations and remove and carry away all sand, clay, gravel, stones and earth which may be excavated or taken out while carrying out any of those purposes and shall repair any damage done to the land marked "Drainage Easement 'B'" on the Plan or to other land on the Plan.

**SECONDLY** the benefit of a covenant for Transend and with the registered proprietor/s for themselves and their successors not to:

- erect any buildings; or
- place any structures or objects

within the servient land without the prior written consent of Transend. Transend may rescind its consent if in the opinion of Transend there are safety, access or operational concerns.

### LAND ACQUISITION ACT 1993

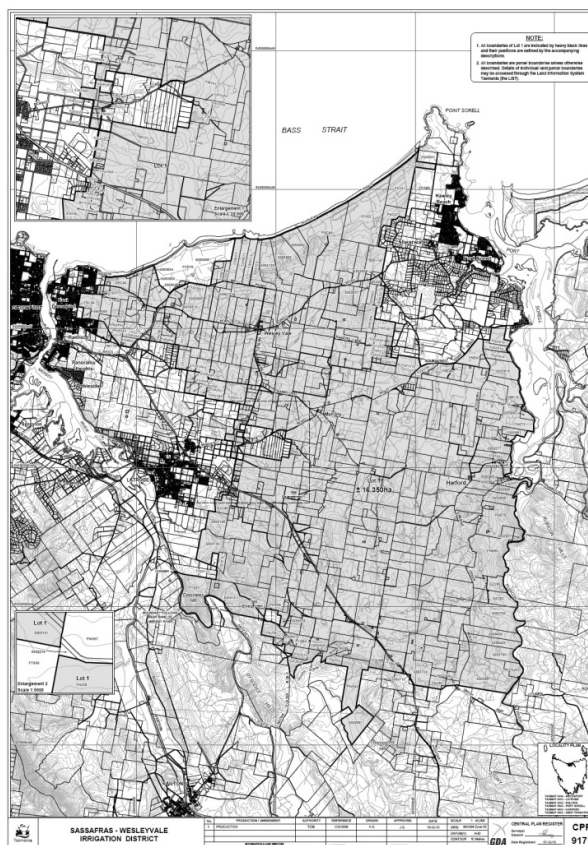
#### NOTICE OF ACQUISITION

##### (Section 18)

PURSUANT to Section 18 of the *Land Acquisition Act 1993* (referred to as "the Act"), Transend Networks Pty Ltd (being an acquiring authority in accordance with the Act), does hereby declare that the "Electricity Easement and Restriction as to User of Land" described in the Second Schedule hereto over the land described in the First Schedule hereto is taken and vested in Transend Networks Pty Ltd absolutely under the Act, for the authorised purpose of constructing, maintaining and operating electricity infrastructure necessary for the transmission of electricity.

Dated this thirteenth day of April 2011.

For and on behalf of Transend Networks Pty Ltd,  
D. P. OXLEY, Company Secretary for  
Transend Networks Pty Ltd  
ABN 57 082 586 892  
7 Maria Street Lenah Valley, Tasmania, 7008



## Rules Publication

### *Rules Publication Act 1953*

#### NOTICE OF THE MAKING OF STATUTORY RULES

IN ACCORDANCE with the provisions of the *Rules Publication Act 1953*, notice is given of the making of the following statutory rules:-

Title of Act (if any) under which statutory rules made	Number allotted to statutory rules	Title or subject matter of statutory rules
(1) <i>Administrative Arrangements Act 1990</i>	S. R. 2011, No. 22	<i>Administrative Arrangements Order 2011</i>
(2) <i>State Service Act 2000</i>	S. R. 2011, No. 23	<i>State Service Regulations 2011</i>
(3) <i>Water and Sewerage Industry Act 2008</i>	S. R. 2011, No. 24	<i>Water and Sewerage Industry Declaration Order 2011</i>
(4) <i>Water and Sewerage Industry Act 2008</i>	S. R. 2011, No. 25	<i>Water and Sewerage Industry Exemption Order 2011</i>

#### GENERAL PURPORT OR EFFECT OF THE ABOVEMENTIONED STATUTORY RULES

##### (1) *Administrative Arrangements Order 2011*

This order -

- (a) assigns to Ministers of the Crown the administration of Government departments and State authorities and Acts, or parts of Acts, and other instruments of a legislative character; and
- (b) specifies which Government department or State authority is responsible to a Minister in relation to the administration of those Acts or parts of Acts and other instruments.

##### (2) *State Service Regulations 2011*

These regulations -

- (a) prescribe conditions of service, not otherwise specified in awards, relating to the employment of persons in the State Service and other matters relating to the administration of the State Service; and
- (b) are made consequentially on the repeal of the *State Service Regulations 2001* under section 11 of the *Subordinate Legislation Act 1992*.

##### (3) *Water and Sewerage Industry Declaration Order 2011*

This order, made under the *Water and Sewerage Industry Act 2008*, prescribes that the activities of providing stormwater services, recycling of water or re-use of water are not regulated activities for the purposes of the Act.

##### (4) *Water and Sewerage Industry Exemption Order 2011*

This order exempts certain persons and activities from paragraphs (a) and (b) of section 30 of the *Water and Sewerage Industry Act 2008*, which would otherwise require the holding of a licence by the persons or in respect of the activities.

Copies of the abovementioned statutory rules may be purchased at Print Applied Technology Pty Ltd, 123 Collins Street, Hobart, Phone (03) 6233 3289 or Toll Free 1800 030 940; 80B Wilson Street, Burnie and State Offices, 68 Rooke Street, Devonport.

P. R. CONWAY, Chief Parliamentary Counsel

#### PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION

'Anyone who has problems with, or feels they are adversely affected by, any of the above Regulations can write to the Secretary of the Subordinate Legislation Committee, Legislative Council, Parliament House, Hobart, 7000.'

RUTH FORREST, MLC, Chairperson.

## Fees Unit

### DEPARTMENT OF JUSTICE

Fees set in accordance with the *Fee Units Act 1997*

Regulations Section headers and Fee number and descriptions	Current Fee (Exclusive of GST) (\$)	Fee to apply from 1 July 2011 (Exclusive of GST) (\$)	GST Applicable (Yes/No)	GST Amount (\$)	Fee to apply from 1 July 2011 (Inclusive of GST) (\$)
	Fee Unit = \$1.36	Fee Unit = \$1.40			
<b>MISCELLANEOUS</b>					
<b>Health Practitioners Tribunal Act 2010</b> <b>Health Practitioners Tribunal (Fees )</b> <b>Regulations 2010</b>					
<b>Section 21(6)(e)</b> Fee for an application under section 21(2) or (4)	\$204.00	\$210.00	No	\$0.00	\$210.00

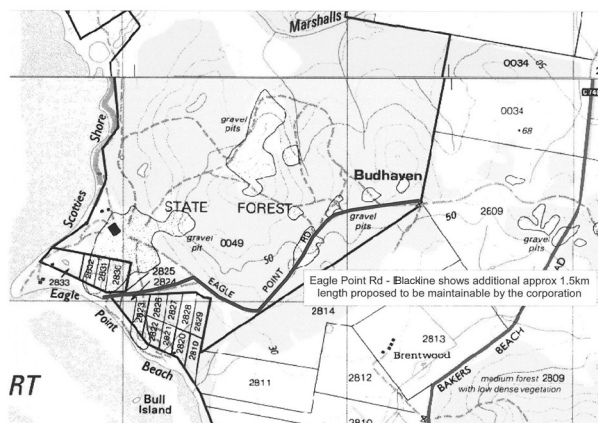
## Cities/Councils

AT A MEETING of the Latrobe Council held on the eighth day of November 2010, the Council resolved that Eagle Point Road shall become a highway maintainable by the corporation. For the purpose of this resolution Eagle Point Road is a formed roadway of approximately 1.5 kilometres in length that runs in a general westerly direction from a point approximately one kilometre from the Bakers Beach Road where that road enters the State Forest and then terminates at Eagle Point Beach. A map of the road is annexed to this resolution.

From this publication in the *Tasmanian Government Gazette*, Eagle Point Road will cease to be a forest road and will become a local highway maintainable by the Latrobe Council.

Dated this thirteenth day of April 2011.

MR. G. MONSON, General Manager, Latrobe Council.



<b>Cities/Councils</b>
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## KINGBOROUGH COUNCIL

**MARINE FACILITIES BY-LAW**

BY-LAW No.1 OF 2011

BY-LAW MADE UNDER SECTION 145  
OF THE LOCAL GOVERNMENT ACT 1993FOR THE PURPOSE OF REGULATING CONDUCT ON MARINE FACILITIES IN  
THE KINGBOROUGH MUNICIPAL AREA**PART 1 - PRELIMINARY****Short Title**

- 1 — This By-law may be cited as the *Marine Facilities By-Law 2011*.

**Application**

- 2 — (1) This By-law applies to the municipal area of the Council.
- (2) This By-law does not apply to a councillor or an employee of the Council or a contractor or agent of the Council where such person is carrying out activities on the marine facility in the course of their duties for and on behalf of the Council.
- (3) This By-law does not apply to any marine facility which is the subject of a lease from the Council to a person under Division 1 of Part 12 of the *Local Government Act 1993*.

**Interpretation**

- 3 — In this By-law:-
- “**Act**” means the *Local Government Act 1993*;
- “**article**” means anything that has been removed under clause 38 of the By-law and includes a vessel removed under clause 5;
- “**authorised officer**” means an employee of the Council authorised by the Council or the General Manager for the purposes of this By-law or a police officer;
- “**Council**” means Kingborough Council;
- “**General Manager**” means the General Manager appointed by the Council or an employee of the Council with the written delegation of the General Manager to act on behalf of the General Manager for the purposes of this By-law;
- “**land**” includes a marine facility;
- “**marine facility**” includes any facility, structure or equipment owned by or under the management and control of the Council that is designed for, or used for or in relation to, the launching and mooring of vessels and any

### *Marine Facilities By-Law*

associated landing stage, slipway, boat launching ramp, jetty, wharf or breakwater and any curtilage to that facility, structure or equipment;

**"municipal area"** means the area of land under the control of the Council and defined in section 16 of the Act;

**"owner"** includes:-

a) in the case of a vehicle:

- i) a joint owner or part owner; or
- ii) a person who has the use of the vehicle under a hiring or a hire purchase agreement; or
- iii) a person in whose name as owner the vehicle is registered under the *Vehicle and Traffic Act 1999* or any corresponding enactment of a State or Territory of the Commonwealth; or
- iv) a person who is in charge of the vehicle at the time at which there is alleged to have been a contravention of this By-law involving the vehicle; and

b) in the case of a vessel:

- i) a joint owner or part owner; or
- ii) a person who has the use of the vessel under a hiring or a hire purchase agreement; or
- iii) a person who is in charge of the vessel at the time at which there is alleged to have been a contravention of this By-law involving the vessel;

**"penalty unit"** means a sum provided for under the provisions of the *Penalty Units and Other Penalties Act 1987*;

**"permit"** means a permit granted under Part 3 or Part 4 of this By-law;

**"permit holder"** means a person who has obtained a permit from the Council for any purpose under this By-law;

**"road"** includes a road with a constructed surface suitable for the use of vehicles and an area set aside by the Council as a parking place for vehicles;

**"specified offence"** means an offence against a clause specified in Column 1 of Schedule 1;

**"user agreement"** means an agreement entered into for the hire, lease or use of any marine facility under clause 23 of this By-law;

**"vehicle"** means a vehicle as defined in section 3(1) of the *Vehicle and Traffic Act 1999*;

**"vessel"** includes a boat, ship, craft, hovercraft, aircraft or platform and any trailer used to transport any of them; and a vehicle that is capable of use in or on water whether floating, partly submersible and whether or not self-propelled; and

## **PART 2 – USE OF MARINE FACILITIES**

### ***DIVISION 1 – UNIMPEDED PUBLIC ACCESS***

#### **Obstruction of a marine facility**

- 4 — (1) A person must not moor or leave a vessel at a marine facility:
- (a) in a manner that obstructs another vessel coming alongside, using or leaving the marine facility; or
  - (b) in a manner which constitutes a nuisance as defined in section 199 of the *Local Government Act 1993*; or

*Marine Facilities By-Law*

- (c) for a period in excess of any time limit specified on a Council-authorised sign; or
- (d) other than for so long only as is required to set down or take up passengers or goods without waiting.

Penalty: Fine not exceeding 5 penalty units and in the case of a continuing offence, a further daily penalty of 1 penalty unit

(2) A vessel that is the subject of a commercial use permit will be given priority in mooring at any marine facility over vessels that are not the subject of a commercial use permit.

(3) Mooring arrangements for vessels referred to in sub-clause (2) that are the subject of a commercial use permit may be displayed on a sign or notice located at or alongside the marine facility.

**Removal of vessel**

5 — (1) An authorised officer may, after giving notice as provided in clause 6, (sub-clause move or cause to be moved a vessel that is moored to or using a marine facility if the authorised officer is of the opinion that the vessel is moored to or using the marine facility in contravention of clause 4.

(2) Notwithstanding clause 5(1), where a vessel constitutes a nuisance as defined in Section 199 of the *Local Government Act 1993*, notice need not be given before removing the vessel if the General Manager is of the opinion that urgent action is required.

(3) A vessel moved under clause 5 may be moved to a place of safe anchorage.

(4) The Council may recover from the owner of the vessel the costs of any action undertaken under clause 5 and any costs incurred by the Council in moving and maintaining the vessel in the place of safe anchorage as a debt due to it.

**Notice before removal**

6 — (1) At least 3 days prior to moving a vessel under clause 5(1), an authorised officer must give notice to the vessel's owner stating:

- (a) that the vessel will be moved;
- (b) the reason for its removal;
- (c) the place to which it will be moved; and
- (d) that the costs associated with the removal are payable by the owner.

(2) Where a vessel is moved under clause 5(2) the authorised officer must, as soon as practicable after moving the vessel, notify the owner of the place to which the vessel has been moved.

**Obstruction of access on to or on a marine facility**

7 — A person must not obstruct the passage of persons, vehicles or goods on or off a marine facility.

*Marine Facilities By-Law*

Penalty: Fine not exceeding 5 penalty units

**Vehicles on a marine facility**

- 8 — Unless authorised by a permit to do so, a person must not park or leave any vehicle on a marine facility, or in any way obstruct a marine facility, other than to launch a boat, to load or off-load materials or passengers, or for other similar purposes of short duration.

Penalty: Fine not exceeding 5 penalty units

**Cargo and other material on a marine facility**

- 9 — Unless authorised by a permit to do so, a person must not place or store cargo or other material on, or in such a way as to obstruct, a marine facility unless and until a vessel is alongside to receive this cargo or other material.

A person must not unload cargo or other material onto, or in such a way as to obstruct, a marine facility from a vessel until a vehicle is there to receive it.

Penalty: Fine not exceeding 5 penalty units

**Repairing and maintaining vessels**

- 10 — (1) Unless authorised by a permit to do so, a person must not carry out repairs or maintenance to a vessel while that vessel is on or adjacent to any marine facility.

Penalty: Fine not exceeding 5 penalty units

(2) Sub-clause (1) does not apply to repairs of an emergency nature that are necessary to allow the vessel to immediately depart from the marine facility.

**Peaceable use of the marine facility**

- 11 — A person must not do any act or thing which unreasonably interferes, or is likely to interfere with the peaceable use by the public of any marine facility.

Penalty: Fine not exceeding 5 penalty units

**Fishing and swimming**

- 12 — A person must not swim or fish from or near any marine facility in such a manner as to obstruct or impede vessels or vehicular or pedestrian traffic on or adjacent to the marine facility.

Penalty: Fine not exceeding 5 penalty units

***DIVISION 2 – DAMAGE TO A MARINE FACILITY*****Damage to marine facility**

- 13 — (1) A person must not do any act or thing which causes, or is likely to cause, any damage or disfigurement to any marine facility.

*Marine Facilities By-Law*

Penalty: Fine not exceeding 10 penalty units

(2) An authorised officer may give a notice or direction to a person who has contravened sub-clause (1) requiring that person to undertake such works to repair the marine facility as the authorised officer considers necessary.

(3) If a person who has received a notice or direction under sub-clause (2) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may undertake such works as are necessary to repair the marine facility and may recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

**Prohibition of certain vessels**

**14—** A person must not use a marine facility with a vessel or vehicle that by reason of its size, design, the type of trade or service in which it is engaged or otherwise, may present an undue risk of damage to the marine facility.

Penalty: Fine not exceeding 10 penalty units

**Unauthorised alteration of marine facility**

**15—** (1) Unless authorised by a permit to do so, a person must not add to or alter the structure of a marine facility.

Penalty: Fine not exceeding 10 penalty units

(2) Unless authorised by a permit to do so, a person must not install cranes, fuel dispensing equipment, water lines, gas lines, electric power outlets or any other service facility on a marine facility.

Penalty: Fine not exceeding 5 penalty units

(3) An authorised officer may give a notice or direction to a person who has contravened sub-clause (1) or (2) requiring that person to undertake such works as the authorised officer considers necessary to remove or repair anything added, altered or installed in contravention of this clause.

(4) If a person who has received a notice or direction under sub-clause (3) fails to comply with the notice or direction within a reasonable time, or any time provided in the notice or direction, the Council may undertake such works as are necessary to repair or remove anything added, altered or installed and may recover the cost of doing so as a debt payable to it from the person who has contravened this clause.

**Signs and advertising material**

**16—** Unless authorised by a permit to do so, a person must not erect, exhibit, or display a notice, sign, bill, poster or advertisement on any marine facility.

Penalty: Fine not exceeding 5 penalty units

*Marine Facilities By-Law***DIVISION 3 - GENERAL AND MISCELLANEOUS PROVISIONS****Closure of marine facility**

- 17 — The General Manager may close a marine facility or any part thereof if he considers it to be necessary for public safety or convenience or for the protection of the marine facility.

**Entry onto marine facility when closed**

- 18 — Unless authorised by a permit to do so, a person must not enter onto or use a marine facility or any part of any marine facility that is closed.

Penalty: Fine not exceeding 5 penalty units

**Sale of goods, chattels or property**

- 19 — Unless authorised by a permit to do so, a person must not set up a stall, or sell or offer for sale any goods, chattels, property or any thing on any marine facility.

Penalty: Fine not exceeding 5 penalty units

**Leasing**

- 20 — Unless authorised by a permit to do so, a person must not let or hire any goods, vessels or property or any thing on any marine facility.

Penalty: Fine not exceeding 5 penalty units

**Commercial use**

- 21 — Unless authorised by a permit to do so, a person must not use a marine facility for a commercial use or as a base from which to conduct a commercial business.

Penalty: Fine not exceeding 10 penalty units

**Refuelling at a Marine Facility**

- 22 — (1) Unless authorised by a permit to do so, a person must not refuel a vessel at a marine facility.

(2) An application for a permit to refuel a vessel at a marine facility must be accompanied by a safety management plan that addresses all areas of potential risk associated with the activity, and any risk to other public users of the marine facility.

(3) In assessing a permit to refuel a vessel at a marine facility the Council may consider whether the proposed use of the marine facility will be carried out in an environmentally sound manner.

(4) A person must not refuel a vessel at a marine facility without a permit.

Penalty: Fine not exceeding 10 penalty units

*Marine Facilities By-Law***PART 3 – COMMERCIAL USE PERMITS****Applications**

- 23 —** (1) A person may apply to the Council for a commercial use permit.
- (2) An application for a commercial use permit is to be made in writing and, where applicable, be accompanied by the following:
- (a) the name and registration number of the vessel to which a commercial use permit is to apply; and
  - (b) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant; and
  - (c) a scaled drawing showing the location and extent of the proposed occupation or activity; and
  - (d) a safety management plan that addresses all areas of potential risk, particularly refuelling practices and any risk to other public users of the marine facility; and
  - (e) any fee payable; and
  - (f) such other information as the General Manager requires.

**Grant and conditions of permit**

- 24 —** (1) The Council may grant or refuse to grant a commercial use permit for which an application has been made under clause 22.
- (2) The Council may grant a commercial use permit subject to such terms and conditions as the Council considers appropriate.
- (3) In assessing any application for a commercial use permit, the Council may consider:
- (a) whether the capacity of the existing marine facility and any associated land-based infrastructure is sufficient to cater for the proposed use;
  - (b) whether public access to and public use of the marine facility would be provided in a safe manner and to a reasonable and acceptable level;
  - (c) whether a preference should be given to existing users, with particular consideration of their record of satisfactory performance;
  - (d) whether there are any Crown lease or license restrictions on the use of the marine facility;
  - (e) whether the proposed use of the marine facility will be carried out in an environmentally sound manner.
- (4) A commercial use permit may be subject to the provision of appropriate insurance cover as required by the General Manager.
- (5) A commercial use permit holder must comply with the terms and conditions of a permit.

**Penalty:** Fine not exceeding 5 penalty units

- (6) The Council may require a person to sign a user agreement as a condition of granting a permit under this clause and, upon signing, the provisions of such a user agreement shall be incorporated with and form part of the terms and conditions of the permit.

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(7) The Council may impose such terms and conditions in a user agreement as the Council considers appropriate.

**Competing applications**

25 — (1) If there are competing applications for a permit for the use of any marine facility, the Council may determine which application for a permit is to be granted, if any.

(2) The Council may determine that a prior or later application for a permit to use the same marine facility is to be granted in preference to any other application.

**PART 4 – PERMITS GENERALLY****Applications**

26 — Any application for a permit pursuant to this By-law should be made to the Council and be accompanied by the following:

- (a) a statement in writing of the type and nature of the activity proposed to be undertaken by the applicant;
- (b) a scaled drawing showing the location and extent of the proposed occupation or activity;
- (c) a safety management plan or a description of any necessary safety measures that are appropriate for the proposed activity; and
- (d) such other information as the Council may reasonably require.

**Factors to be considered when granting a permit**

27 — In deciding whether or not to grant a permit pursuant to this Part the Council may have regard to the following:

- (a) the potential for damage to Council infrastructure
- (b) public amenity and safety;
- (c) public access in the area;
- (d) the maintenance of public order in the area;
- (e) the potential for environmental impact;
- (f) the movement of traffic in the area;
- (g) the manner of any proposed advertising;
- (h) the nature, size, shape, extent and location of any proposed road furniture;
- (i) the availability of suitable parking for motor vehicles in the area;
- (j) representations made by a police officer;
- (k) any other relevant matters.

**Conditions of permit or approval**

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- 28 — A permit or approval issued under this By-law may be subject to such conditions as the Council considers appropriate

**Compliance with terms and conditions**

- 29 — The holder of a permit issued under this By-law must comply with the terms and conditions thereof.

Penalty: Fine not exceeding 5 penalty units

**Grant and conditions of permit**

- 30 — (1) A permit or user agreement may require the permit holder or hirer to obtain insurance cover as directed by the Council.
- (2) The Council may require a person to sign a user agreement in place of granting a permit under this clause.
- (3) The Council may impose such terms and conditions in a user agreement as the Council determines.
- (4) A hirer is to comply with the terms and conditions in a user agreement.

Penalty: Fine not exceeding 5 penalty units.

**Permits generally**

- 31 — Every permit granted pursuant to this By-law is to:
- (a) be in writing and may be in the form of a letter;
  - (b) bear the date on which it was issued;
  - (c) include such terms and conditions as the Council may consider necessary;
  - (d) remain in force for the period for which it was issued, unless it is cancelled or surrendered;
  - (e) be carried by the permit holder at all times while undertaking the activity approved under the permit;
  - (f) be surrendered to the Council if it is cancelled or suspended or when it is due for renewal.

**Cancellation and suspension of permits**

- 32 — (1) The Council may cancel or suspend a permit if a permit holder fails to comply with or offends against this By-law or any condition of a permit.
- (2) The Council may cancel or suspend a permit if the permit holder is:
- (a) convicted of any offence involving dishonesty; or
  - (b) convicted of any offence involving a breach of public order.
- (3) To cancel or suspend a permit, the Council is to serve a notice on the permit holder stating that the permit is cancelled or suspended and the reason for that cancellation or suspension.
- (4) Cancellation or suspension of any permit is effective from the day the notice is served on the permit holder or the date specified in the notice, whichever is the later.

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(5) The Council may cancel or suspend a permit if this is required due to the exercise or intended exercise of any local government functions, powers, rights or duties by the Council.

(6) Notwithstanding, sub-clauses (3) and (4), the Council may cancel or suspend a permit by any communication conveyed to the permit holder by any means including notice by radio or television in emergency situations or in a situation considered appropriate by the Council.

**Production of the permit**

**33 —** A permit holder must produce the permit immediately when requested to do so by an authorised officer.

Penalty: Fine not exceeding 5 penalty units

**Assignment of permit**

**34 —** A permit must not be assigned to any person except with the written consent of the General Manager.

**PART 5 - ENFORCEMENT****Ban**

**35 —** (1) The General Manager may by notice ban a person who he reasonably believes is offending or has offended against this By-law from entering on or using a specified marine facility for such period of time as the General Manager determines.

(2) A person who has been banned from entering on or using a specified marine facility under sub-clause (1) must not enter upon or use that marine facility during the period for which the ban applies.

Penalty: Fine not exceeding 10 penalty units

(3) The General Manager may at any time withdraw a ban made under sub-clause (1).

**Supply of name and address**

**36 —** (1) An authorised officer may require a person to give his or her name and address if the authorised officer reasonably believes that the person is offending or has offended against this By-law.

(2) A person who fails or refuses to comply with a request to give his or her name and/or address is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units.

**Abuse or obstruction of an authorised officer**

**37 —** A person must not:

*Marine Facilities By-Law*

- (a) threaten, intimidate or use abusive language to an authorised officer in or on land owned by or under the control of the Council while the officer is acting in the course of his or her duties; or
- (b) assault, resist or obstruct an authorised officer in the execution of his or her duty.

Penalty: Fine not exceeding 10 penalty units.

**Arrest**

38. A police officer may arrest a person who is on land owned by, or under the control of, the Council and whom the police officer reasonably believes is offending against this By-law.

**Enforcement and removal of articles**

39 — (1) An authorised officer may:

- (a) refuse to admit a person to any land owned by, or under the control of, the Council whom the authorised officer reasonably believes is offending or has offended against this By-law;
- (b) direct any person to leave any land owned by, or under the control of, the Council whom the authorised officer reasonably believes is offending or has offended against this By-law;
- (c) remove anything which is on any land owned by, or under the control of, the Council without the approval of the Council;
- (d) remove any person from any land owned by, or under the control of the Council whom the authorised officer reasonably believes is offending against this By-law.

- (2) A person who fails to comply with a direction under sub-clause (1)(b) is guilty of an offence.

Penalty: Fine not exceeding 5 penalty units

**Removed articles**

40 — (1) If an article is not claimed by the owner or a person on behalf of the owner within 48 hours following its removal under this Part, the General Manager is to give notice to the owner of the article.

(2) A notice under sub-clause (1) is to give the following details:

- (a) a description of the article and any distinguishing features of it;
- (b) the place from which it was removed;
- (c) the date on which it was removed;
- (d) the place from which the article may be claimed;
- (e) the fees, costs and charges payable in respect of the removal, maintenance and storage of the article;
- (f) that if not claimed within 14 days that the article may be disposed of by the Council.

(3) If the owner of the removed article cannot be ascertained or found, and if the General Manager is of the opinion that the value of the article warrants the cost of advertising, the General Manager is to publish on at least one

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occasion a notice containing the particulars specified in sub-clause (2) in a newspaper circulating in the municipal area.

**Fees, costs and charges**

- 41 —** (1) The owner of an article is liable to pay:
- (a) any fees, costs and charges specified in a notice under this Part; and
  - (b) any further fees, costs and charges incurred in the storage and further maintenance of an article removed under this Part.
- (2) Any unpaid fees, costs and charges are a debt due to the Council and may be recovered by the Council in a court of competent jurisdiction.
- (3) The Council may retain an article until any fees, costs and charges specified in a notice are paid.

**Disposal of unclaimed articles**

- 42 —** (1) The Council may dispose of an article if:
- (a) the article is not claimed within 14 days of the issue of a notice given under this Part; or
  - (b) any fees, costs and charges specified in a notice under this Part have not been paid within 14 days of that notice.
- (2) An article may be disposed of under sub-clause (1):
- (a) by tender or public auction following notification in a local newspaper circulating in the municipal area; or
  - (b) in such manner as the General Manager determines if:
    - (i) the General Manager has a reasonable belief that the article has a value that does not warrant the costs of a tender or a public auction; or
    - (ii) no tender is received or no bid is made at a public auction.
- (3) If an article is disposed of under this clause the General Manager must notify the owner of the article as soon as possible if the owner can be ascertained or found by reasonable enquiries.
- (4) If the owner of the article so requests, then the proceeds obtained from the disposal or sale of the article must be paid to the owner, less any fees that are due to the Council, advertising costs, and any other costs incurred by the Council in the removal and disposal of the article.

**Article required for prosecution**

- 43 —** (1) Where an article is required by the Council for the prosecution of an offence under this By-law, the article is to be released to the owner following the completion of the prosecution proceedings and on payment of any relevant fees, costs and charges unless otherwise directed by a court.
- (2) The Council may, in accordance with clause 41, dispose of an article required under sub-clause 42(1) which is not claimed by the owner or in relation to which fees, costs and charges have not been paid, within 30 days of the completion of court proceedings.

*Marine Facilities By-Law***PART 6 – NOTICES AND DIRECTIONS****Notices and directions generally**

- 44** — (1) A notice given under this By-law is to be given in writing, which may be in the form of a letter, and is to be given in accordance with section 29AB(1)(a) of the *Acts Interpretation Act 1931*.
- (2) A direction given under this By-law may be given verbally or in writing and may be in the form of a letter.
- (3) A notice or direction given under this By-law may be subject to such conditions and requirements and allow such period for action as the General Manager or authorised officer may determine.
- (4) Unless otherwise specified in a notice or direction, a person to whom a notice or direction is given is to comply with the notice or direction at the cost of that person.
- (5) A notice or direction given under this By-law requiring a person to carry out or undertake action or work may direct that the action or work be in or of such materials, carried out within the periods, and carried out in the manner the Council or an employee or agent of the Council directs, or be done only by a person with a specified appropriate qualification.
- (6) The Council may require the person carrying out the work to pay the Council, or enter into a bond for payment to the Council of an amount it thinks fit to provide security against costs which it may incur as a result of the execution of the work.

**Non compliance with notice or direction**

- 45** — (1) A person to whom a notice or direction has been given under this By-law must comply with that notice or direction within the time period specified in the notice or direction.

Penalty: Fine not exceeding 10 penalty units

- (2) The Council may undertake any work required to be carried out in a notice or direction given pursuant to this By-law if the person to whom a notice or direction is given fails to comply with the notice or the direction within the time specified in the notice or direction.

**PART 7 - INFRINGEMENT NOTICES****Infringement Notices**

- 46** — (1) In this clause –  
“specified offence” means an offence against a clause specified in Column 1 of Schedule 1.
- (2) An infringement notice may be issued in respect of a specified offence and the monetary penalty set out adjacent to the offence in Column 3 of

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Schedule 1 is the penalty payable under the infringement notice for that offence.

(3) Payment of the monetary penalty set out in an infringement notice must be made to the Council.

(4) The monetary penalty set out in an infringement notice must be paid within 28 days of the service of the infringement notice, after which time the infringement notice may be referred to the Director, Monetary Penalties Enforcement Service.

(5) The General Manager or an authorised officer may:

- (a) issue an infringement notice to a person who the General Manager or authorised officer believes on reasonable grounds has committed a specified offence; and
- (b) issue a single infringement notice in respect of more than one specified offence.

(6) The *Monetary Penalties Enforcement Act 2005* applies to an infringement notice issued under this By-law.

**Debt due**

- 47 — All monies payable to the Council under this By-law are a debt due to the Council and recoverable at law.

**Offences**

- 48 — A person who contravenes or fails to comply with a provision of this By-law is guilty of an offence and is liable on conviction to a penalty as specified in this By-law in respect of such an offence.
- 49 — In addition to a penalty imposed in relation to a failure to comply with or a contravention of this By-law, an expense incurred by the Council in consequence of that failure or contravention is recoverable by the Council as a debt payable by the person so failing to comply or contravening.

*Marine Facilities By-Law***SCHEDULE 1****INFRINGEMENT NOTICE OFFENCES**

Column 1 CLAUSE	Column 2 OFFENCE  GENERAL DESCRIPTION OF OFFENCE	Column 3 INFRINGEMENT NOTICE PENALTY  Penalty Units
4(1)	Obstruction of a marine facility	1
7	Obstruction of access on to a marine facility	1
8	Vehicles on a marine facility	1
9	Cargo and other material on a marine facility	1
10(1)	Repairing and maintaining vessels	1
11	Peaceable use of a marine facility	1
12	Fishing in a manner that obstructs others	1
13(1)	Damage of a marine facility	2
14	Prohibition of certain vessels that are likely to cause damage	2
15(1)	Unauthorised alteration of marine facility	2
15(2)	Installation of unauthorised equipment to a marine facility	1
16	Erection of signs and advertising material	1
18	Entry on to marine facility when closed	1
19	Sale of goods on a marine facility	1
20	Hiring of goods or vessels from a marine facility	1
21	Regular commercial use of a marine facility	2
22	Refuelling without a permit	2
24(5)	Permit holder to comply with terms and conditions of permit	1
29	Compliance with terms and conditions of permit	1
30(3)	Compliance with terms and conditions of user agreement	1
33	Permit holder to produce copy of permit	1
35(2)	Banned person must not enter on to marine facility	2
36(2)	Person must supply name and address to authorised officer	1
37	Obstruction of an authorised officer	2
39(2)	Removal of articles	1
45(1)	Non-compliance with notice or direction	2

*Marine Facilities By-Law*

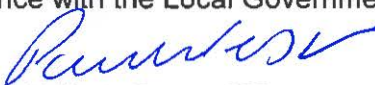
Certified as being in accordance with the law by:



Penelope Ikedife, Legal Practitioner

Dated this 29th day of March, 2011 at Hobart


Certified as being made in accordance with the Local Government Act 1993:



Paul West, General Manager

Dated this 29th day of March, 2011 at Hobart

The Common Seal of Kingborough Council was hereunto affixed in the presence of:



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..... Deputy Mayor.



..... General Manager.





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[sales@thepat.com.au](mailto:sales@thepat.com.au)  
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