

Local Government Act 1995

SHIRE OF ROEBOURNE

TIDEPOLE ISLAND LOCAL LAW 2007

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Roebourne resolved on *19 November 2007* to make the following local law.

PART 1 - PRELIMINARY

Citation

1. This local law may be cited as the Shire of Roebourne Tidepole Island Local Law 2007.

Definitions

2. In this local law unless the context otherwise requires -

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

"**animal**" means any living thing that is not a human being or plant;

"**applicant**" means a person who applies for a permit under clause 6;

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

"**CEO**" means the chief executive officer of the local government;

"**commencement day**" means the day on which this local law comes into operation;

"**Council**" means the council of the local government;

"**Daylight Hours**" means between the hours of 6am and 6pm from 1 October to 31 March and between 7am and 5pm from 1 April to 30 September;

"**district**" means the district of the local government;

"**fauna**" means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

"Lease" means the Special Lease for Mining Operations L3116/3469 (Crown Lease 713/1966) issued pursuant to the State Agreement to the Sub-Lessor over land including Tidepole Island;

"local government" means the Shire of Roebourne;

"permit" means a permit issued under this local law;

"permit holder" means a person who holds a valid permit;

"person" does not include the local government;

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

"sign" includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

"State Agreement" means the agreement scheduled to the *Iron Ore (Hamersley Range) Agreement Act 1963* (WA);

"Sub-Lessor" means Hamersley Iron Pty Limited (ABN 49 004 558 276) in its capacity as Sub-Lessor in a Sub-Lease dated 4 August 2006 over Tidepole Island entered into with the Shire of Roebourne as Sub-Lessee;

"Tidepole Island" is the island commonly referred to as "Sam's Island" located off the western coast of Dampier, Western Australia at latitude 20°38'53"9S and longitude 116 °42'24"1E and includes the sea adjoining the island for a distance of 100 metres seawards from the low water mark at ordinary spring tides.

Application

- 3. This local law applies to Tidepole Island.

Local law not to derogate from Lease or Sub-Lease

- 4. Nothing in this Local Law shall be taken to derogate from the rights of the Lessor under the Lease or the rights of the Sub-Lessor under the Sub-Lease.

PART 2 – ACCESS TO TIDEPOLE ISLAND

No Access to Tidepole Island without Valid Permit

5. A person other than an authorised person shall not enter upon Tidepole Island except in accordance with a valid permit issued under this Local Law.

Application for Permit

6. (1) An application for a permit shall-
- (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (3) The local government may refuse to consider an application for a permit which is not in accordance with subclause (1).

Determination of Application

7. (1) The local government may:
- (a) approve an application for a permit subject to such conditions as it considers appropriate; or
 - (b) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause 7(1)(a), it is to issue to the applicant a permit in the form determined by the local government.
- (4) A permit is valid for the period of time stipulated on the permit unless and until it is cancelled under this local law.

Compliance with and variation of conditions

8. (1) Where an application for a permit has been approved subject to conditions, the permit holder and any person authorised by the permit to accompany the permit holder, shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder, and any person authorised by the permit to accompany the permit holder, shall comply with those conditions as varied.

Cancellation of permit

9. (1) A permit may be cancelled by the local government if the permit holder has not complied with a –
 - (a) condition of the permit; or
 - (b) any provision of this local law.
- (2) On the cancellation of a permit the permit holder -
 - (a) shall return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) Where a permit is cancelled whilst the permit holder is on Tidepole Island, the permit holder shall leave Tidepole Island as soon as it is reasonably practicable to do so.

Permit not transferable

10. A permit is personal to the permit holder and is not transferable.

Production of permit

11. A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

PART 3 – BEHAVIOUR ON TIDEPOLE ISLAND

Prohibited behaviour on Tidepole Island

12. Without the prior written authorisation of the local government, visitors to Tidepole Island shall not:
 - (a) remove any thing from Tidepole Island;
 - (b) destroy, deface or damage any thing on Tidepole Island;

- (c) light any fire;
- (d) take, injure or kill or attempt to take, injure or kill any fauna;
- (e) leave or deposit any rubbish, refuse or litter of any kind;
- (f) remain on Tidepole Island outside of Daylight Hours;
- (g) lodge at or occupy any structure at night for the purpose of sleeping on Tidepole Island;
- (h) erect any tent, camp, hut or similar structure other than a beach shade or windbreak erected for use during Daylight Hours and which is dismantled during those hours on the same day;
- (i) behave in a manner which interferes or is likely to interfere with the lawful activities of a person on Tidepole Island;
- (j) bring or transport any animal onto Tidepole Island;

Signs

- 13. (1) The local government may erect a sign specifying any conditions of use, as provided for in this local law, which apply to persons on Tidepole Island.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is not to be inconsistent with any provision of this local law or the requirements of any permit.

Authorised person to be obeyed

- 14. A person on Tidepole Island shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.

Persons may be directed to leave Tidepole Island

- 15. An authorised person may direct a person to leave Tidepole Island where she or he reasonably suspects that the person has contravened a provision of any written law.

Disposal of lost property

- 16. Any thing left on Tidepole Island, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

Liability for damage on Tidepole Island

17. (1) Where a person unlawfully damages any property or thing on Tidepole Island, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –
- (a) reinstating the property or thing to the state it was in prior to the occurrence of the damage; or
 - (b) replacing that property or thing.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 4 - OBJECTIONS AND APPEALS

Application of Division 1, Part 9 of the Act

18. When the local government makes a decision as to whether it will -
- (a) grant a person a permit or consent under this local law; or
 - (b) renew, vary, or cancel a permit or consent that a person has under this local law,
- the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 5 - ENFORCEMENT

Offences and general penalty

19. (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

Prescribed offences

20. (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

Form of notices

- 21. (1) For the purposes of this local law -
 - (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (b) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

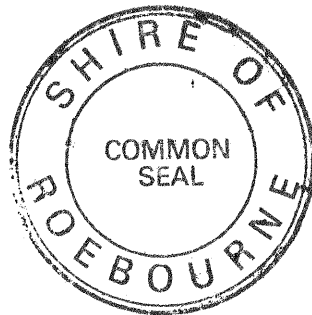
SCHEDULE 1

PRESCRIBED OFFENCES

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
5	Entry to Tidepole Island without valid permit	125
8(1)	Failure to comply with condition of permit	125
12	Behaving in a prohibited manner on Tidepole Island	125
13(2)	Failure to comply with a sign	125
14	Failure to comply with a lawful direction of an authorised person	125
15	Failure to leave Tidepole Island where directed by an authorised person to do so	125


Dated this 26 day of November 2007

The Common Seal of
the Shire of Roebourne
was affixed in the presence of: }





Brad Snell
SHIRE PRESIDENT



Allan Moles
CHIEF EXECUTIVE OFFICER

TIDEPole ISLAND LOCAL LAW 2007

TIDEPole ISLAND VISITOR'S PERMIT

This permit is to:(full name)

..... (address)
("the permit holder")

This permit authorises the permit holder together with a maximum number of _____
accompanying persons ("the visitors") to visit and enter upon Tidepole Island subject to the
conditions stipulated below:

Conditions

- 1. The visitors shall comply with the conditions of this permit and the requirements of the
Shire of Roebourne Tidepole Island Local Law 2007.
2. The visitors shall comply with any signs erected by the Shire of Roebourne on Tidepole
Island.
3. The visitors shall not whilst on Tidepole Island:
(a) remove any thing;
(b) destroy, deface or damage any thing;
(c) light any fire;
(d) take, injure or kill or attempt to take, injure or kill any fauna;
(e) leave or deposit any rubbish, refuse or litter of any kind;
(f) remain on Tidepole Island outside of Daylight Hours;
(g) lodge at or occupy any structure at night for the purpose of sleeping on Tidepole
Island;
(h) erect any tent, camp, hut or similar structure other than a beach shade or windbreak
erected for use during Daylight Hours and which is dismantled during those hours on
the same day;
(i) behave in a manner which interferes or is likely to interfere with the lawful activities
of a person on Tidepole Island;
(j) bring or transport any animal onto Tidepole Island;
4. Notwithstanding the issue of this permit, the permit holder may not visit Tidepole Island
during any time when a cyclone alert has been issued by the Bureau of Meteorology. It is
the responsibility of the permit holder to check boating conditions before departing.
5. The permit holder, individually and on behalf of any accompanying persons authorised by
this permit, acknowledges that the visit to Tidepole Island is undertaken at the OWN RISK
of the visitors and as consideration for being permitted to visit Tidepole Island the permit
holder AGREES TO INDEMNIFY and hold indemnified the Crown, Hamersley Iron Pty
Ltd and the Shire of Roebourne against any claim for any loss, damage or injury however
arising from the visit to Tidepole Island authorised by this permit.

This permit is valid from the day ofand expires at 12:00 o'clock
midnight on..... or on the sooner cancellation of this permit.

Issued this day of.....

.....
CHIEF EXECUTIVE OFFICER