

EXTRAORDINARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

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ADELAIDE, THURSDAY, 27 AUGUST 2009

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Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the South Australian Council on Reproductive Technology, pursuant to the provisions of the Reproductive Technology (Clinical Practices) Act 1988:

Member: (from 27 August 2009 until 26 August 2010)
Geraldine Mary Hannon

Deputy Member: (from 27 August 2009 until 26 August 2010)
Joseph William Wearing (Deputy to Hannon)

By command,
TOM KOUTSANTONIS, for Acting Premier

HEAC-2009-00050

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the State Crewing Committee, pursuant to the provisions of the Harbors and Navigation Act 1993:

Member: (from 27 August 2009 until 30 June 2011)
Walter Francis Ferrao
Susan Raelene Mattsson
Allan Arthur Andersen
Jamie Newlyn
Paul Francis Carr

Deputy Member: (from 27 August 2009 until 30 June 2011)
Carl Kavina (Deputy to Ferrao)
Leslie Allan Parsons (Deputy to Mattsson)
Robert Arthur Williams (Deputy to Carr)
Kevin Paul Menezes (Deputy to Andersen)

Presiding Member: (from 27 August 2009 until 30 June 2011)
Walter Francis Ferrao

Deputy Presiding Member: (from 27 August 2009 until 30 June 2011)
Susan Raelene Mattsson

By command,
TOM KOUTSANTONIS, for Acting Premier

MTR09/041

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Physiotherapy Board of South Australia, pursuant to the provisions of the Physiotherapy Practice Act 2005:

Member: (from 1 September 2009 until 31 August 2012)
Josephine Joy Bills
John Richard Camens
Jane Coffee
Kerry Jane Peek

By command,
TOM KOUTSANTONIS, for Acting Premier

HEAC-2009-00014

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Occupational Therapy Board of South Australia, pursuant to the provisions of the Occupational Therapy Practice Act 2005:

Member: (from 31 August 2009 until 30 August 2010)
Anne Louise Morgan

Member: (from 31 August 2009 until 30 August 2012)
Joanna Holden Butfield
Geraldine Linda Iwanicki
Nandkishore Vasudeo Nandoskar

By command,
TOM KOUTSANTONIS, for Acting Premier

HEAC-2009-00018

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Podiatry Board of South Australia, pursuant to the provisions of the Podiatry Practice Act 2005:

Member: (from 31 August 2009 until 30 August 2012)
Ryan Scott Causby
Fraser Jackson Warrick
Karen Peta O'Keefe

Member: (from 31 August 2009 until 3 July 2010)
Rolf Wilhelm Scharfbillig

Member: (from 31 August 2009 until 30 June 2011)
Catherine Jane Loughry

By command,
TOM KOUTSANTONIS, for Acting Premier

HEAC-2009-00016

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Independent Gambling Authority, pursuant to the provisions of the Independent Gambling Authority Act 1995:

Member: (from 28 August 2009 until 27 August 2010)
Margaret Julia Kelly

Deputy Presiding Member: (from 28 August 2009 until 27 August 2010)
Margaret Julia Kelly

By command,
TOM KOUTSANTONIS, for Acting Premier

MGA09/009SC

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Kevin Patrick Duggan, a Senior Puisne Judge of the Supreme Court of South Australia, as Acting Chief Justice for the period from 2 September 2009 to 25 September 2009 inclusive, pursuant to Section 10 of the Supreme Court Act 1935.

By command,
TOM KOUTSANTONIS, for Acting Premier

AGO0070/03CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint Gregory Charles Fisher and Brett Jonathon Dixon as Stipendiary Magistrates from 27 August 2009, pursuant to the provisions of the Magistrates Act 1983.

By command,
TOM KOUTSANTONIS, for Acting Premier

AGO0203/02CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to authorise Gregory Charles Fisher and Brett Jonathon Dixon to issue recognition certificates for the purposes of the Sexual Reassignment Act 1988, effective from 27 August 2009, pursuant to Section 7 of the Sexual Reassignment Act 1988.

By command,
TOM KOUTSANTONIS, for Acting Premier

AGO0203/02CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Michael Francis O'Brien, MP, Minister for Employment, Training and Further Education, Minister for Road Safety and Minister for Science and Information Economy to be also Acting Minister for Agriculture, Food and Fisheries, Acting Minister for Forests and Acting Minister for Regional Development for the period from 26 September 2009 to 11 October 2009 inclusive, during the absence of the Honourable Paul Caica, MP.

By command,
TOM KOUTSANTONIS, for Acting Premier

MAFF09/018CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the Honourable Michael John Wright, MP, Minister for Police, Minister for Emergency Services and Minister for Recreation, Sport and Racing to be also Acting Minister for Industrial Relations for the period from 26 September 2009 to 11 October 2009 inclusive, during the absence of the Honourable Paul Caica, MP.

By command,
TOM KOUTSANTONIS, for Acting Premier

MAFF09/018CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint Susan Mavis Fox as the Acting Registrar of the Teachers Registration Board of South Australia for a term commencing on 24 September 2009 and expiring on 30 October 2009, while the Registrar is unable to carry out the duties of the office, pursuant to Section 15 of the Teachers Registration and Standards Act 2004 and Section 36 of the Acts Interpretation Act 1915.

By command,
TOM KOUTSANTONIS, for Acting Premier

MEDU09/018CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has revoked the appointment of Barry Lavanda and Vincent Monterola as Visiting Inspectors for the purposes of the Correctional Services Act 1982, pursuant to Section 20 of the Correctional Services Act 1982 and Section 36 of the Acts Interpretation Act 1915.

By command,
TOM KOUTSANTONIS, for Acting Premier

MCS09/011SC

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint Ian Benjamin and Peter Edwards as Visiting Inspectors for the purposes of the Correctional Services Act 1982, pursuant to Section 20 of the Correctional Services Act 1982.

By command,
TOM KOUTSANTONIS, for Acting Premier

MCS09/011SC

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has been pleased to appoint the land valuers listed to the panels established in relation to the regions set out from 27 August 2009 to 26 November 2009, pursuant to Section 25A of the Valuation of Land Act 1971:

Name	Regions
Bruce Gibson Ballantyne, AAPI	City of Adelaide and Central
Denis Roland Gilbert Barrett, AAPI	Murraylands
Janet Rosemary Hawkes, BAPP SC (Valuation) MBA, AAPI	City of Adelaide and Central
Malcolm George Potts, AREI, APPI	City of Adelaide, Central and Murraylands

By command,
TOM KOUTSANTONIS, for Acting Premier

MF109/020

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has removed from the office of Justice of the Peace Malcolm Craig Newberry, effective from 27 August 2009, pursuant to Section 11 (5) (a) of the Justices of the Peace Act 2005.

By command,
TOM KOUTSANTONIS, for Acting Premier

JP09/042CS

Department of the Premier and Cabinet
Adelaide, 27 August 2009

HIS Excellency the Governor in Executive Council has varied the directions given on 8 June 2006 to the Committee appointed to administer the State Emergency Relief Fund by substituting the words 'Department for Families and Communities' for 'Department of the Premier and Cabinet' and the words 'Concessions and Anti Poverty Services in the Department for Families and Communities' for 'The Security and Emergency Management Office in the Department of the Premier and Cabinet', pursuant to Section 37 (4) of the Emergency Management Act 2004.

By command,
TOM KOUTSANTONIS, for Acting Premier

DFCCS/09/047

South Australia

Legal Practitioners (Corresponding Law) Revocation Proclamation 2009

under section 5 of the *Legal Practitioners Act 1981*

Part 1—Preliminary

1—Short title

This proclamation may be cited as the *Legal Practitioners (Corresponding Law) Revocation Proclamation 2009*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

Part 2—Revocation of *Legal Practitioners (Corresponding Law) Proclamation 2004*

3—Revocation of proclamation

The *Legal Practitioners (Corresponding Law) Proclamation 2004* is revoked.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

AGO0197/09CS

South Australia

Legal Practitioners (Corresponding Laws) Variation Proclamation 2009

under section 5 of the *Legal Practitioners Act 1981*

Part 1—Preliminary

1—Short title

This proclamation may be cited as the *Legal Practitioners (Corresponding Laws) Variation Proclamation 2009*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Variation provisions

In this proclamation, a provision under a heading referring to the variation of a specified proclamation varies the proclamation so specified.

Part 2—Variation of *Legal Practitioners (Corresponding Laws) Proclamation 2007*

4—Variation of clause 3—Declaration of corresponding laws

Clause 3—delete "*Legal Profession Act 1993* of Tasmania." and substitute:

Legal Profession Act 2007 of Tasmania;

Legal Profession Act 2008 of Western Australia.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

AGO0197/09CS

South Australia

Youth Court (Designation and Classification of Magistrates) Proclamation 2009

under section 9 of the *Youth Court Act 1993*

1—Short title

This proclamation may be cited as the *Youth Court (Designation and Classification of Magistrates) Proclamation 2009*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Designation and classification of Magistrates

The Stipendiary Magistrates named in Schedule 1 are—

- (a) designated as Magistrates of the Youth Court of South Australia; and
- (b) classified as members of the Court's ancillary judiciary.

Schedule 1—Magistrates of the Court

Brett Jonathon Dixon

Gregory Charles Fisher

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

AGO0203/02CS

South Australia

Administration and Probate Regulations 2009

under the *Administration and Probate Act 1919*

Contents

- 1 Short title
- 2 Commencement
- 3 Interest on pecuniary legacies (section 120A)

Schedule 1—Revocation of *Administration and Probate (Interest on Pecuniary Legacies) Regulations 1994*

1—Short title

These regulations may be cited as the *Administration and Probate Regulations 2009*.

2—Commencement

These regulations will come into operation on 1 September 2009.

3—Interest on pecuniary legacies (section 120A)

- (1) For the purposes of section 120A(1) of the *Administration and Probate Act 1919*, the rate of interest per annum fixed in any financial year is—
 - (a) for the 6 month period commencing on 1 July—the average mid 180 day bank bill swap reference rate published by AFMA as at the first business day of the period; and
 - (b) for the 6 month period commencing on 1 January—the average mid 180 day bank bill swap reference rate published by AFMA as at the first business day of the period.

- (2) In this regulation—

AFMA means the Australian Financial Markets Association Limited;

business day means every day except Saturday, Sunday or a public holiday.

Schedule 1—Revocation of *Administration and Probate (Interest on Pecuniary Legacies) Regulations 1994*

The *Administration and Probate (Interest on Pecuniary Legacies) Regulations 1994* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 222 of 2009

AGO0120/08CS

South Australia

Valuation of Land Variation Regulations 2009

under the *Valuation of Land Act 1971*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Valuation of Land Regulations 2005*

- 4 Substitution of Schedule 2
Schedule 2—Fees and allowances
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Valuation of Land Variation Regulations 2009*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Valuation of Land Regulations 2005*

4—Substitution of Schedule 2

Schedule 2—delete the Schedule and substitute:

Schedule 2—Fees and allowances

1—Interpretation

In this Schedule—

residential land means—

- (a) land designated on the valuation roll as being subject to residential land use; or
- (b) other vacant land (not exceeding 5 000 square metres) zoned for residential purposes under a Development Plan under the *Development Act 1993*.

2—Complexity categories

For the purposes of clause 4(2), the Valuer-General may, but need not, assign a complexity category to a review (with complexity category 1 being the least complex and complexity category 5 being the most complex) having regard to the following factors:

- (a) the number of hours required to conduct the review;
- (b) the nature and scale of improvements on the land;
- (c) the nature and scale of site contamination on the land;
- (d) the need for any additional investigation, consultation or expertise in relation to the review;
- (e) whether limited market evidence is available due to the uniqueness, specialisation or location of the land or improvements on the land;
- (f) the application of section 22A or 22B of the Act in relation to the valuation;
- (g) any other factor that affects the complexity of the review.

3—Fees

- | | |
|---|-------------|
| (1) For a copy of the valuation roll (section 21 of Act)—for each \$10 000 of capital value of the land to which the roll relates | 15.08 cents |
| (2) On an application for a review of a valuation (section 25B of Act)— | |
| (a) of land used by the applicant solely as his or her principal place of residence | \$85 |
| (b) of any other land | \$210 |
| (3) For a certified copy of, or extract from, any entry in a valuation roll (section 32 of Act) | \$32 |

4—Allowances for review of valuation under *Valuation of Land Act 1971* (section 25A(8)) or *Local Government Act 1999*

- | | |
|--|---------|
| (1) Base allowance for a review of a valuation— | |
| (a) of residential land— | |
| (i) if the valuation does not exceed \$1 000 000 | \$400 |
| (ii) if the valuation exceeds \$1 000 000 | \$600 |
| (b) of other land— | |
| (i) if the valuation does not exceed \$5 000 000 | \$800 |
| (ii) if the valuation exceeds \$5 000 000 but does not exceed \$20 000 000 | \$1 200 |
| (iii) if the valuation exceeds \$20 000 000 but does not exceed \$60 000 000 | \$1 600 |
| (iv) if the valuation exceeds \$60 000 000 but does not exceed \$90 000 000 | \$2 000 |
| (v) if the valuation exceeds \$90 000 000 | \$2 400 |

However, if the panel member has received a copy of the application for review and submissions of the applicant and Valuer-General but the review is not completed because the objection involves a question of law, the application for review is withdrawn or for some other reason approved by the Valuer-General, the base allowance is reduced to \$200.

- (2) Complexity allowance (if the review is assigned a complexity category under clause 2)—
- | | |
|---------------------------|---------|
| (a) complexity category 1 | \$200 |
| (b) complexity category 2 | \$400 |
| (c) complexity category 3 | \$600 |
| (d) complexity category 4 | \$800 |
| (e) complexity category 5 | \$1 000 |
- (3) Travel allowance—if the Valuer-General is satisfied that the panel member is reasonably required to visit the land for the purposes of the review, the panel member is entitled to the following allowances:
- (a) if the panel member travels by road vehicle—\$1 for each kilometre travelled over 200 kilometres
 - (b) if the Valuer-General is satisfied that travel by sea or air is reasonably required—the cost of that travel at economy class rates
 - (c) if the Valuer-General is satisfied that overnight accommodation for the panel member is reasonably required—expenses incurred for accommodation for a maximum of 2 nights and a maximum of \$110 per night

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 223 of 2009

MFI09/011

South Australia

Local Government (General) Variation Regulations 2009

under the *Local Government Act 1999*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Local Government (General) Regulations 1999*

- 4 Variation of Schedule 2—Prescribed fees
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (General) Variation Regulations 2009*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Local Government (General) Regulations 1999*

4—Variation of Schedule 2—Prescribed fees

Schedule 2, clause 2—delete the clause and substitute:

- 2 For the purposes of section 169(16) of the Act, the fee payable in relation to a review is the amount of the allowances payable under section 25A(8) of the *Valuation of Land Act 1971* in relation to the review

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 224 of 2009

MFI09/011

South Australia

Superannuation (Lyell McEwin Employees) Regulations 2009

under the *Superannuation Act 1988*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Contributors

Part 2—Modification of Act

- 5 Modification of Act
- 6 Amendment of section 4—Interpretation
- 7 Amendment of section 17—The Fund
- 8 Insertion of section 20ABAA
20ABAA Rollover accounts
- 9 Amendment of section 20B—Payment of benefits
- 10 Amendment of section 23—Contribution rates
- 11 Substitution of Part 4
Part 4—Superannuation benefits—Lyell McEwin contributors
 - 26 Application of this Part
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 - 27 Retirement, resignation and retrenchment
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 - 29 Total and permanent disablement and death before 60
 - 30 Death after 60
- 12 Repeal of sections 45 and 46

Schedule 1—Contributors

Schedule 2—Revocation of *Superannuation (Lyell McEwin Employees) Regulations 1999*

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Superannuation (Lyell McEwin Employees) Regulations 2009*.

2—Commencement

These regulations will come into operation on 1 September 2009.

3—Interpretation

In these regulations—

Act means the *Superannuation Act 1988*;

contributor means a person whose name appears in Schedule 1.

4—Contributors

A contributor continues to be a new scheme contributor for the purposes of the Act.

Part 2—Modification of Act

5—Modification of Act

For the purposes of clause 1(1)(b) of Schedule 1A of the Act, the provisions of the Act are modified in their application to contributors in the manner described in the following provisions of this Part.

6—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *contributor*—after "to that person under this Act" insert:

and also includes a person named in Schedule 1 of the *Superannuation (Lyell McEwin Employees) Regulations 2009*

- (2) Section 4(1)—after the definition of *deferred superannuation contributions surcharge* insert:

dependant in relation to a contributor means—

- (a) the spouse of the contributor; or
- (b) a child (whether natural or adopted) of the contributor; or
- (c) a child (whether natural or adopted) of the spouse, or a former spouse, of the contributor; or
- (d) any other person who, in the opinion of the Board, was, on the entitlement day, wholly or partially dependent on the contributor or entitled to be supported by the contributor;

- (3) Section 4(1)—after the definition of *invalidity* insert:

Lyell McEwin Employer Account means the account kept at the Treasury pursuant to an arrangement under section 5 of the Act between the Board and the Central Northern Adelaide Health Service Incorporated (formerly the North Western Adelaide Health Service) and referred to in regulation 4(4) of the revoked *Superannuation (Lyell McEwin Employees) Regulations 1999*;

- (4) Section 4(1)—after the definition of *retrenchment pension* insert:

rollover account in relation to a contributor means the rollover account maintained by the Board in the name of the contributor under section 20ABAA;

- (5) Section 4(1)—after the definition of *the Scheme* insert:

SIS Act means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

7—Amendment of section 17—The Fund

Section 17(4)(a)—delete "by contributors" and substitute:

by or on behalf of the contributors

8—Insertion of section 20ABAA

After section 20A insert:

20ABAA—Rollover accounts

- (1) The Board will maintain the rollover accounts opened under regulation 4(3) of the revoked *Superannuation (Lyell McEwin Employees) Regulations 1999* in the names of all contributors.
- (2) A contributor's rollover account must be debited with any payment that is, under this Act, to be charged against that account.
- (3) At the end of each financial year, each contributor's rollover account that has a credit balance will be varied to reflect a rate of return determined by the Board in relation to rollover accounts for the relevant financial year.
- (4) In determining a rate of return for the purposes of subsection (3), the Board should have regard to the net rate of return achieved by investment of money held by the Fund in rollover accounts.
- (5) If it is necessary to determine the balance of a contributor's rollover account and the Board has not yet determined a rate of return in relation to the relevant financial year, the balance will be determined by applying a percentage rate of return on accounts estimated by the Board.
- (6) A balance determined under subsection (5) will not be adjusted when a rate of return is subsequently determined under subsection (3).
- (7) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

9—Amendment of section 20B—Payment of benefits

Section 20B(2)—delete subsection (2) and substitute:

- (2) If any such payment, or a proportion of any such payment, is, under this Act, to be charged against the contributor's contribution account or rollover account or the Lyell McEwin Employer Account, the Treasurer may reimburse the Consolidated Account or special deposit account by charging—
 - (a) the relevant division of the Fund with the amount to be charged against the contribution account or rollover account; or
 - (b) the Lyell McEwin Employer Account with the amount to be charged against that account.

10—Amendment of section 23—Contribution rates

Section 23—delete subsections (1), (2), (2a), (2b), (3) and (3a) and substitute:

- (1) Subject to this section, a contributor will make contributions to the Treasurer at the rate set out in Schedule 1 of the *Superannuation (Lyell McEwin Employees) Regulations 2009* opposite the contributor's name until he or she reaches the age of 60 years.
- (2) Subject to subsection (3), contributions to be made by contributors will be paid to the Treasurer from the Lyell McEwin Employer Account.
- (3) If—
 - (a) after taking advice from an actuary, the Board forms the view that the Lyell McEwin Employer Account will, or may, not be able to meet the payment of the contributions under subsection (2) and the other amounts to be paid from the account; and
 - (b) the Board serves written notice of that opinion on the Treasurer, the Treasurer may direct that contributions no longer be paid from that account but instead be paid by individual contributors by deduction from their salary.
- (3a) A contributor who was employed on a part time basis on 1 January 1999 will, for the purposes of determining the amount of the contribution payable by the contributor, be taken to be receiving the salary that he or she would be receiving if he or she were employed on a full time basis.
- (3b) If, immediately before 1 January 1999 a contributor's contributions and benefits were based on a higher salary than that being received by the contributor because of a previous reduction in the contributor's salary, the contributor will be taken to have made an election under section 4(4) in respect of the reduction.

11—Substitution of Part 4

Part 4—delete the Part and substitute:

Part 4—Superannuation benefits—Lyell McEwin contributors

26—Application of this Part

This Part applies only to contributors to whom the *Superannuation (Lyell McEwin Employees) Regulations 2009* apply.

26A—Transition to retirement

- (1) A contributor may apply to the Board for the benefit of this section if—
 - (a) the contributor has reached—
 - (i) the age of 55 years; and
 - (ii) his or her preservation age; and
 - (b) the contributor has entered into an arrangement with his or her employer—

- (i) to reduce his or her hours of work; or
 - (ii) to alter his or her duties,
- or both, with the effect that there is a reduction in the contributor's salary; and
- (c) the purpose for establishing the arrangement referred to in paragraph (b) relates to the proposed retirement of the contributor in due course (including by allowing the contributor to scale down his or her work in the lead-up to retirement).
- (2) The Board may require that an application under subsection (1)—
- (a) be made in such manner as the Board thinks fit; and
 - (b) be accompanied by such information or other material specified by the Board to assist the Board to be satisfied as to the matters set out in paragraphs (b) and (c) of that subsection.
- (3) If the Board is satisfied that a valid application has been made under subsection (1), an entitlement will arise as follows:
- (a) the Board will determine a benefit (a **draw down benefit**) on the basis of the contributor's application and on the basis that the maximum draw down benefit to which the contributor is entitled will be determined as follows:

$$B = SP \times \frac{(FS - NS)}{FS}$$

where—

B is the maximum draw down benefit

FS is the contributor's actual salary immediately before the commencement of the arrangement envisaged by subsection (1)(b)

NS is the contributor's actual salary on the commencement of the arrangement envisaged by subsection (1)(b)

SP is the amount that would be payable under section 27 if the contributor had retired from employment immediately before the date of the determination;

- (b) the Board will then, according to an election made by the contributor as part of his or her application to the Board for the benefit of this section, invest (on behalf of and in the name of the contributor) the draw down benefit—
 - (i) with the Superannuation Funds Management Corporation of South Australia; or
 - (ii) with another entity that will provide a non-commutable income stream for the contributor while the contributor continues to be employed in the workforce,

so that the contributor receives (and only receives) a payment in the form of a pension or an annuity (a **draw down payment**) on account of the benefit.

- (4) The investment of a draw down benefit under subsection (3)(b)(i) will be on terms and conditions determined by the Board.
- (5) An entitlement to a draw down payment is not commutable.
- (6) However—
 - (a) a contributor may, after commencing to receive a draw down payment and before retiring from employment under this Act, take steps to bring the investment to an end and pay the balance of the investment into the contributor's rollover account (which may need to be re-established if the balance of the account maintained for the contributor under section 20ABAA has been paid); and
 - (b) the value of an investment under subsection (3)(b)(i) may be redeemed in due course under subsection (9); and
 - (c) a contributor who has reached the age of 65 years may commute an entitlement to a draw down payment so that investment of the draw down benefit on account of which the payment is made is brought to an end and the balance paid to the contributor.
- (7) When the Board has determined a draw down benefit—
 - (a) the account maintained by the Board in the name of the contributor under section 20A, and any account maintained for the purposes of section 20ABAA, will be immediately adjusted by a percentage equal to the percentage that the draw down benefit bears to the total benefit that would have been payable had the contributor retired from employment to take into account the payment of the draw down benefit; and
 - (b) the contributions payable by the contributor under section 23 will (despite any provision made by section 23 to the contrary)—
 - (i) be fixed on the basis of the contributor's salary under the arrangement established with his or her employer (for so long as the arrangement continues); and
 - (ii) as so fixed, be payable in respect of this salary from the first full pay period after the Board's determination of the draw down benefit; and
 - (iii) be at the rate at which the contributor is required to make contributions under that section.
- (8) If the employment arrangements of a contributor who is receiving a draw down payment under this section alter so that there is an alteration in his or her salary—
 - (a) in the case of a reduction in salary—the contributor may apply to the Board for a further benefit in accordance with the provisions of this section and this section will then apply to the application and with respect to the relevant arrangement—
 - (i) as if FS under subsection (3)(a) is the contributor's actual salary immediately before the relevant reduction in salary; and

- (ii) as if NS is the contributor's actual salary immediately after the relevant reduction in salary; and
 - (iii) by applying such other modifications as may be necessary for the purpose; and
 - (b) in the case of an increase in salary—the draw down payment will continue as if the increase had not occurred and where the contributor makes contributions to the scheme under this Act in respect of the increase in salary the contributions payable by the contributor and the value of the factor "P" in section 27, 29 or 30 (as the case requires) must be adjusted to take into account the increase.
- (9) When a contributor retires from employment (and is thus entitled to a benefit under section 27)—
 - (a) the contributor's entitlement under section 27 will be reduced to the extent necessary to take into account, to its full extent, the aggregate value of all draw down benefits determined for the contributor; and
 - (b) an investment being held under subsection (3)(b)(i) may, at the option of the contributor, be redeemed and paid to the contributor.
- (10) If the employment of a contributor for whom a draw down benefit has been determined is terminated by the contributor's death, an entitlement under section 29 or 30 will be reduced to the extent necessary to take into account, to its full extent, the aggregate value of all draw down benefits determined for the contributor.
- (11) When a contributor dies, an investment being held under subsection (3)(b)(i) is to be redeemed and paid, in the discretion of the Board—
 - (a) to such of the dependants of the contributor as the Board thinks fit and, if payment is made to 2 or more dependants, then in such shares as the Board thinks fit; or
 - (b) to the contributor's estate; or
 - (c) under paragraphs (a) and (b) in such proportions as the Board thinks fit.
- (12) Despite a preceding subsection, if the maximum draw down benefit under subsection (3)(a) is not sufficient to be invested under subsection (3)(b) to obtain a draw down payment—
 - (a) unless paragraph (b) applies—the draw down benefit must be an amount equal to the minimum required to obtain a draw down payment (and subsection (3)(a) will apply accordingly);
 - (b) if the minimum amount required to obtain a draw down payment is greater than SP under subsection (3)(a), the Board must reject the application under this section (and no entitlement will arise under subsection (3)).
- (13) The determination of a benefit under this section must take into account the operation of any provision under Part 5A.

27—Retirement, resignation and retrenchment

- (1) A contributor who retires from employment or whose employment is terminated by retrenchment is entitled to a superannuation payment made up of 2 components—
- (a) a component (the "rollover component") to be charged against the contributor's rollover account equivalent to the amount standing to the credit of that account; and
 - (b) a component calculated in accordance with subsection (2) to be charged firstly against the contributor's contribution account until that account is exhausted and then against the Lyell McEwin Employer Account.
- (2) The component referred to in subsection (1)(b) is determined in accordance with the following formula:

$$A = 4.25 \times FS \times \frac{M}{204} \times P$$

where—

A is the amount of the component

FS is the contributor's actual or attributed salary immediately before termination of the employment (expressed as an annual amount)

M is—

- (a) if the contributor reached the age of 65 years on or before 31 December 2010 or will reach that age (if he or she survives) on or before that date—the lesser of the following:
 - (i) 144;
 - (ii) the number of months between 31 December 1998 and the termination of the contributor's employment;
- (b) if the contributor reached the age of 65 years after 31 December 2010 or will reach that age (if he or she survives) after that date—the lesser of the following:
 - (i) 204;
 - (ii) the number of months between 31 December 1998 and the termination of the contributor's employment

P is—

- (a) in the case of a contributor who was in full time employment from 1 January 1999 until the termination of his or her employment—1;
- (b) in the case of a contributor who was in part time employment immediately before 1 January 1999—1;

- (c) in the case of a contributor who was in full time employment immediately before 1 January 1999 but whose employment subsequently changed to part time employment—the numerical value arrived at by expressing the contributor's employment between 31 December 1998 and the termination of the employment as a proportion of full time employment during that period.
- (3) On the retirement or resignation of a contributor—
 - (a) the provisions of the SIS Act relating to preservation of benefits will be taken to apply to, and in relation to, the contributor; and
 - (b) subject to compliance with those requirements, the contributor will be entitled to the immediate payment of benefits under this section.
 - (4) For the purposes of this section, a contributor retires from employment if—
 - (a) the contributor has reached the age of 55 years; and
 - (b) the contributor's employment terminates or is terminated for any reason except—
 - (i) the total and permanent disablement of the contributor before he or she reaches the age of 60 years; or
 - (ii) the contributor's death.

28—Disability pension

- (1) Subject to this section, a contributor who has not reached the age of retirement and who is totally disabled is entitled to a disability pension.
- (2) The pension is not payable in respect of the first 3 months of the period of total disablement.
- (3) A disability pension is not payable to a contributor who has received the benefits to which he or she is entitled under another provision of this Part.
- (4) The pension is 75% of the contributor's notional salary.
- (5) If in relation to a particular period—
 - (a) a contributor is receiving, or would but for this subsection be entitled to receive, a disability pension under this section; and
 - (b) the contributor is also receiving or entitled to receive income of 1 or more of the following kinds:
 - (i) weekly workers compensation payments;
 - (ii) payment of benefits under the *Social Security Act 1991* of the Commonwealth in relation to the contributor's disability;
 - (iii) payments by way of salary or wages in the circumstances referred to in subsection (6),

the pension will be reduced by the aggregate amount of those payments and if the aggregate amount exceeds the amount of the pension, the pension will be suspended.

- (6) If a contributor who is in receipt of a disability pension under this section returns to work at reduced hours because of the disability, the pension continues to be payable to the contributor but is subject to reduction under subsection (5).
- (7) If a contributor who was in receipt of a disability pension under this section returns to work without a reduction in hours but is subsequently forced by the same, or a related disability, to cease work within 6 months of returning, the pension will again become payable under this section at the expiration of 14 days after he or she ceases work.
- (8) For the purposes of this section a contributor will be regarded as totally disabled if—
 - (a) the Board is satisfied that the contributor is incapacitated by injury or illness from performing the duties of his or her employment and that the incapacity is likely to be temporary; and
 - (b) the incapacity is not, in the opinion of the Board, wholly or partly attributable to—
 - (i) intentional self injury; or
 - (ii) service in the armed forces; and
 - (c) the Board has not terminated the contributor's status as totally disabled under subsection (9).
- (9) The Board may review the status of the contributor from time to time and may, by notice in writing to the contributor, terminate his or her status as totally disabled—
 - (a) if it is satisfied that he or she can once again perform the duties of his or her employment; or
 - (b) if from the time when the pension was first paid the contributor has been totally disabled by reason of the same cause, or a related cause, for a continuous period of 2 or more years or for 2 or more periods that aggregate a period of 2 or more years and the Board is satisfied that the incapacity does not prevent the contributor from engaging in all remunerative employment for which he or she is reasonably qualified by education, training or experience; or
 - (c) with the contributor's consent.
- (10) A disability pension that a contributor was in receipt of immediately before 31 August 2009 will be taken to be a disability pension under this section.
- (11) A contributor is not required to make any contribution over a period for which the contributor receives a disability pension.

29—Total and permanent disablement and death before 60

- (1) A superannuation payment made up of the following components is payable to, or in relation to, a contributor whose employment is terminated by total and permanent disablement or by death before he or she reaches the age of 60 years:
- (a) a component ("the rollover component") to be charged against the contributor's rollover account equivalent to the amount standing to the credit of that account;
 - (b) a component calculated in accordance with subsection (2) to be charged firstly against the contributor's contribution account until that account is exhausted and then against the Lyell McEwin Employer Account.

- (2) The component referred to in subsection (1)(b) is determined in accordance with the following formula:

$$A = 4.25 \times FS \times \frac{M}{204} \times P$$

where—

A is the amount of the component

FS is the contributor's actual or attributed salary immediately before termination of the employment (expressed as an annual amount)

M is the lesser of the following:

- (a) 204;
- (b) the number of months between 31 December 1998 and the day on which the contributor would reach, or would have reached, the age of 60 years if he or she should live, or had lived, to that age

P is—

- (a) in the case of a contributor who was in full time employment from 1 January 1999 until the termination of his or her employment—1;
 - (b) in the case of a contributor who was in part time employment immediately before 1 January 1999—1;
 - (c) in the case of a contributor who was in full time employment immediately before 1 January 1999 but whose employment subsequently changed to part time employment—the numerical value arrived at by expressing the contributor's employment between 31 December 1998 and the termination of the employment as a proportion of full time employment during that period.
- (3) If the employment is terminated on the ground of total and permanent disablement, the superannuation payment will be made to the contributor.

- (4) If the employment is terminated by death, the superannuation payment may, in the discretion of the Board, be paid—
- (a) to such of the dependants of the contributor as the Board thinks fit and, if payment is made to 2 or more dependants, then in such shares as the Board thinks fit; or
 - (b) to the contributor's estate; or
 - (c) under paragraphs (a) and (b) in such proportions as the Board thinks fit.
- (5) A contributor will be regarded as totally and permanently disabled for the purposes of this section if—
- (a) he or she has suffered—
 - (i) the loss of 2 or more limbs; or
 - (ii) permanent loss of sight in both eyes; or
 - (iii) the loss of 1 limb and permanent loss of sight in 1 eye; or
 - (b) the Board is satisfied that—
 - (i) the contributor is, because of injury or illness, unable at the moment and unlikely in the future to engage in any remunerative employment for which he or she is reasonably qualified by education, training or experience; and
 - (ii) the contributor has been incapacitated by injury or illness from performing the duties of his or her employment for a continuous period of at least 6 months.
- (6) For the purposes of subsection (5)—
- (a) the loss of the whole of a hand or a foot will be taken to amount to the loss of a limb;
 - (b) permanent loss of sight in an eye is loss of sight that cannot be fully remedied by medical treatment or by the use of glasses or any other device.

30—Death after 60

- (1) A superannuation payment made up of the following components is payable in relation to a contributor whose employment is terminated by death on or after the day on which he or she reached the age of 60 years:
- (a) a component (the "rollover component") to be charged against the contributor's rollover account equivalent to the amount standing to the credit of that account;
 - (b) a component calculated in accordance with subsection (2) to be charged firstly against the contributor's contribution account until that account is exhausted and then against the Lyell McEwin Employer Account.

- (2) The component referred to in subsection (1)(b) is determined in accordance with the following formula:

$$A = 4.25 \times FS \times \frac{M}{204} \times P$$

where—

A is the amount of the component

FS is the contributor's actual or attributed salary immediately before termination of the employment (expressed as an annual amount)

M is—

- (a) if the contributor reached the age of 65 years on or before 31 December 2010 or would have reached that age (if he or she had survived) on or before that date—the lesser of the following:
 - (i) 144;
 - (ii) the number of months between 31 December 1998 and the termination of the contributor's employment;
- (b) if the contributor reached the age of 65 years after 31 December 2010 or would have reached that age (if he or she had survived) after that date—the lesser of the following:
 - (i) 204;
 - (ii) the number of months between 31 December 1998 and the termination of the contributor's employment

P is—

- (a) in the case of a contributor who was in full time employment from 1 January 1999 until the termination of his or her employment—1;
 - (b) in the case of a contributor who was in part time employment immediately before 1 January 1999—1;
 - (c) in the case of a contributor who was in full time employment immediately before 1 January 1999 but whose employment subsequently changed to part time employment—the numerical value arrived at by expressing the contributor's employment between 31 December 1998 and the termination of the employment as a proportion of full time employment during that period.
- (3) The superannuation payment may, in the discretion of the Board, be paid—
- (a) to such of the dependants of the contributor as the Board thinks fit and, if payment is made to 2 or more dependants, then in such shares as the Board thinks fit; or
 - (b) to the contributor's estate; or
 - (c) under paragraphs (a) and (b) in such proportions as the Board thinks fit.

12—Repeal of sections 45 and 46

Sections 45 and 46—delete the sections

Schedule 1—Contributors

Contributor	Contribution rate
Elizabeth Louise Bice	5.7%
Agnelo Francis De Sousa	6.0%
Norman Bruce Willoughby	5.8%

Schedule 2—Revocation of *Superannuation (Lyell McEwin Employees) Regulations 1999*

The *Superannuation (Lyell McEwin Employees) Regulations 1999* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 225 of 2009

T&F09/053CS

South Australia

Harbors and Navigation Regulations 2009

under the *Harbors and Navigation Act 1993*

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Part 1—Preliminary**1—Short title**

These regulations may be cited as the *Harbors and Navigation Regulations 2009*.

2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on 1 September 2009.
- (2) The following provisions of Schedule 9 will come into operation on 1 June 2010:
 - (a) clause 6(1)(b)(vi) and (vii);
 - (b) clause 6(3)(b)(viii) and (ix).

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

the Act means the *Harbors and Navigation Act 1993*;

AS or *Australian Standard* or *AS/NZS* or *Australian/New Zealand Standard* means a standard published by or under the authority of Standards Australia (alone or jointly with others);

boat operator's licence means a certificate of competency of the class for recreational vessels;

certificate of competency means a certificate of competency issued under Part 7 of the Act (and a reference to a certificate of competency will be taken to include, if the context permits, a reference to a replacement certificate of competency issued under these regulations);

certificate of registration, in relation to a vessel, means—

- (a) a certificate of registration issued in respect of the vessel under regulation 117; or

Note—

This includes a certificate of registration issued in respect of a vessel referred to in regulation 147.

- (b) in the case of a vessel registered in another jurisdiction—a corresponding certificate or other document issued in respect of the vessel by the marine authority of that jurisdiction,

(and a reference to a certificate of registration will be taken to include, if the context permits, a reference to a replacement certificate of registration issued under these regulations);

certificate of survey, in relation to a vessel, means a certificate of survey issued in respect of the vessel under Part 9 of the Act (and a reference to a certificate of survey will be taken to include, if the context permits, a reference to a replacement certificate of survey issued under these regulations);

channel, in relation to a harbor, means an area within the harbor regularly used as a course for vessels entering, leaving or moving within the harbor;

chief engineer means the most senior engineer on a vessel, responsible for the means of mechanical propulsion of the vessel;

chief mate means the deck officer on a vessel who is next in rank to the master and on whom command of the vessel will fall in the event of the incapacity of the master;

classification society means an association or body, approved by the CEO, that issues rules for the construction or machinery of vessels;

coast station means a shore-based facility—

- (a) established by the Minister for the purposes of communications by radio with vessels and maintaining a radio watch; or
- (b) approved by the Minister by notice in the Gazette for the purposes of this definition;

the Code means the *Uniform Shipping Laws Code*, endorsed by the Australian Transport Council and published by the National Marine Safety Committee, as in force from time to time;

container means a crate, box, tank, flat or cylinder that is designed and constructed—

- (a) for continuous use as an adjunct to cargo handling and transportation; and
- (b) to facilitate the transportation of goods from the place at which they are packed to the place at which they are to be unpacked without the need for the goods to be unloaded from or re-loaded into the crate, box, tank, flat or cylinder; and
- (c) to facilitate transportation by means of more than 1 mode of transport; and
- (d) with devices so as to enable it to be readily handled between 1 mode of transport and another; and
- (e) to carry a load the volume of which is at least 1 cubic metre;

deck officer means an officer of a vessel, other than the master, who has authority pursuant to his or her certificate of competency to take charge of a navigation watch on that vessel;

endorsement, in relation to a certificate of competency of a particular class, means—

- (a) a limitation on or extension of the duties appropriate to a certificate of that class that the holder is qualified to undertake; or
- (b) a limitation of the area within which, or a vessel or equipment (or a class of vessel or equipment) in relation to which, the holder is qualified to undertake the duties appropriate to a certificate of that class; or
- (c) a condition related to medical standards subject to which the holder is qualified to undertake the duties appropriate to a certificate of that class;

engineer means a marine engineer or marine engine driver;

EPIRB means an emergency position indicating radio beacon;

fishing apparatus means an implement, apparatus, device or substance for taking or facilitating the taking of an aquatic resource (within the meaning of the *Fisheries Management Act 2007*);

gross tonnage means—

- (a) in relation to a commercial vessel that is registered by a marine authority of the Commonwealth or a State or a Territory of the Commonwealth—the gross tonnage specified in the vessel's certificate of registration;
- (b) in relation to a commercial vessel that is not so registered—the amount of measured tonnage calculated in accordance with the *International Convention on Tonnage Measurements of Ships 1969* as set out in the Commonwealth Act;

hire and drive houseboat means a houseboat that is, or is to be, hired out and operated while hired out by a person other than the owner of the houseboat or an employee or agent of the owner;

hire and drive small vessel means—

- (a) a personal watercraft; or
- (b) a motorised dinghy having a length not exceeding 5 m,

that is, or is to be, hired out and operated while hired out by a person other than the owner of the vessel or an employee or agent of the owner;

hire and drive vessel means a hire and drive houseboat or a hire and drive small vessel;

houseboat—see subregulation (7);

identification mark, in relation to a vessel that is registered under these regulations, means the identification mark assigned to the vessel under regulation 118;

Note—

A HIN on a HIN plate affixed to a vessel in accordance with Part 11 Division 2 Subdivision 6 is not an identification mark within the meaning of this definition.

inland waters means navigable waterways or bodies of water in the State excluding any waters within the ebb and flow of the tide;

ISO means an International Standard, published by the International Organization for Standardization, as in force from time to time;

kiteboard means a vessel (being a surfboard or similar item) propelled by a kite tethered to the vessel or the operator of the vessel;

long blast means a blast of a whistle approximately 5 seconds in duration;

marine authority means a marine authority of the Commonwealth, a State or a Territory of the Commonwealth or a foreign country recognised by the CEO as having authority to issue certificates of competency, certificates of survey or other similar documents;

MF/HF radiotelephony equipment means radiotelephony equipment that operates at medium or high frequency;

moor means to make fast to the shore, a buoy, a jetty or a wharf or to anchor;

National Standard for Commercial Vessels or **NSCV** means the *National Standard for Commercial Vessels* endorsed by the Australian Transport Council and published by the National Marine Safety Committee, as in force from time to time (and includes any standard as in force from time to time referred to in the NSCV);

navigation pass, in relation to a bridge, means the marked channel under the bridge through which vessels are intended to navigate when passing under the bridge;

observation vessel means a structure that is designed to float in water and is used to observe marine life (but is not used in navigation);

owner of cargo or goods includes the consignor and consignee of the cargo or goods;

to park a vehicle includes to leave the vehicle standing;

partially smooth water—the waters specified in Schedule 1 Part 2 are partially smooth waters;

personal watercraft means a device that—

- (a) is propelled by a motor; and
- (b) has a fully enclosed hull; and
- (c) is designed not to retain water if capsized; and
- (d) is designed to be operated by a person who sits astride, stands, or kneels on the device,

and includes the device commonly referred to as a jet ski;

PFD Type 1 means—

- (a) a personal flotation device that complies with 1 or more of the following:
 - (i) AS 4758.1: Personal flotation devices—General requirements in relation to a PFD classified as providing level 100 or level 150 buoyancy (or more);
 - (ii) *Personal flotation devices—Type 1* AS 1512—1996, as in force on 1 January 2008;
 - (iii) appendix R of section 10 of the Code;
 - (iv) *European Standard* EN399-1993 Lifejackets-275N, as in force from time to time;
 - (v) *European Standard* EN396-1993 Lifejackets-150N, as in force from time to time;
 - (vi) *European Standard* EN395-1993 Lifejackets-100N, as in force from time to time;
 - (vii) *ISO 12402-2*, as in force from time to time;

- (viii) *ISO 12402-3*, as in force from time to time;
 - (ix) *ISO 12402-4*, as in force from time to time;
 - (x) in the case of a device intended for use by adults—*Canadian General Standards Board CAN/CGSB-65.11-M88*, as in force from time to time;
 - (xi) in the case of a device intended for use by children—*Canadian General Standards Board CAN/CGSB-65.15-M88*, as in force from time to time;
 - (xii) *Underwriters Laboratories Standards UL1180* Fully inflatable recreational personal flotation devices, as in force from time to time;
 - (xiii) *New Zealand Standard NZ5823:2001 Type 401*, as in force from time to time;
 - (xiv) any other standard or specification approved by the CEO by notice in the Gazette for the purposes of this paragraph; or
- (b) a personal flotation device that complies with the requirements of *Australian Maritime Safety Authority Marine Orders Part 25* related to the type of life-jackets required to be carried on Australian registered ships;

PFD Type 2 means a personal flotation device that complies with 1 or more of the following:

- (a) AS 4758.1: Personal flotation devices—General requirements, as that standard relates to a PFD classified as providing level 50 buoyancy;
- (b) *Personal Flotation Devices Type—2* AS1499—1996, as in force on 1 January 2008;
- (c) *European Standard EN393-1993* Lifejackets-50N, as in force from time to time;
- (d) *ISO 12402-5*, as in force from time to time;
- (e) any other standard or specification approved by the CEO by notice in the Gazette for the purposes of this paragraph;

PFD Type 3 means a personal flotation device that complies with 1 or more of the following:

- (a) AS 4758.1: Personal flotation devices—General requirements in relation to a PFD classified as providing level 50 special purpose (50S) buoyancy;
- (b) *Personal Flotation Devices Type—3* AS2260—1996, as in force on 1 January 2008;
- (c) any other standard or specification approved by the CEO by notice in the Gazette for the purposes of this paragraph;

planing attitude, in relation to a vessel, means the attitude of the vessel when buoyancy has ceased to be its sole support and a proportion of its weight is supported by the dynamic lift resulting from the speed of the vessel through the water;

Port River Expressway Bridges means—

- (a) the road bridge (including any fendering that forms part of the navigation pass of the bridge); and

- (b) the rail bridge (including any fendering that forms part of the navigation pass of the bridge),

constructed as part of the authorised project (within the meaning of the *Highways Act 1926*) known as the Port River Expressway Project (and a reference to a ***Port River Expressway Bridge*** will be taken to be a reference to the road bridge or the rail bridge (as the case requires));

potential speed, in relation to a vessel, means the maximum speed of which the vessel is capable—

- (a) when moving through the water under its own power without assistance or hindrance from tide, current or wind; and
- (b) when carrying no load apart from an operator and the equipment usually carried on the vessel;

Prevention of Collisions at Sea Regulations or ***COLREGS*** means the *International Regulations for Preventing Collisions at Sea 1972* constituted by the rules and other annexes attached to the *Convention on the International Regulations for Preventing Collisions at Sea 1972*, as corrected by the Procès-Verbal of Rectification dated 1 December 1973 (a copy of the English text of the articles of which is set out in Schedule 4 of the Commonwealth Act) and as affected by any amendment, other than an amendment objected to by Australia, made under Article VI of that Convention;

protected waters means inland waters other than Lakes Alexandrina and Albert;

qualifying entry voyage, in relation to an application for a pilotage exemption certificate, means a voyage into the harbor (or section of the harbor) in respect of which the application is made to a wharf, mooring or anchorage—

- (a) that has been undertaken with a licensed pilot (or a master with a current pilotage exemption certificate for that harbor or section of harbor) on board the vessel; and
- (b) that has, in the opinion of the CEO (formed after consultation with the relevant port operator), been satisfactorily completed; and
- (c) that has been undertaken not more than 1 year before the date on which the application is made;

qualifying exit voyage, in relation to an application for a pilotage exemption certificate, means a voyage out of the harbor (or section of the harbor) in respect of which the application is made from a wharf, mooring or anchorage—

- (a) that has been undertaken with a licensed pilot (or a master with a current pilotage exemption certificate for that harbor or section of harbor) on board the vessel; and
- (b) that has, in the opinion of the CEO (formed after consultation with the relevant port operator), been satisfactorily completed; and
- (c) that has been undertaken not more than 1 year before the date on which the application is made;

registered owner of a vessel means a person recorded in the register of vessels as the owner of the vessel;

Note—

The fact that a person is recorded as the registered owner of a vessel does not, in itself, confer proprietary rights on the person in respect of the vessel.

relevant port operator, in relation to a harbor, means the port operator (if any) operating a port comprising or including the whole or some of the land and waters constituting the harbor;

restricted area means an area of water identified in Schedule 5 Part 1;

restricted vessel means a fishing vessel that operates only within 1 or more of the areas specified in Schedule 2;

second engineer means the engineer next in rank to the chief engineer and on whom responsibility for the means of mechanical propulsion of the vessel falls in the event of the incapacity of the chief engineer;

semi-protected waters means waters inshore of a line 2 nautical miles seaward of the low water mark of a coast or of the banks of Lakes Alexandrina and Albert;

short blast means a blast of a whistle approximately 1 second in duration;

smooth water—the waters specified in Schedule 1 Part 1 are smooth waters;

surveyor means—

- (a) a person licensed under the Act as a surveyor; or
- (b) a person authorised by the CEO to carry out inspections or surveys for the purposes of these regulations.

trading vessel means a commercial vessel other than a fishing vessel;

underway, in relation to a vessel, means that the vessel is not moored or aground;

unprotected waters means waters offshore of a line 2 nautical miles seaward of the low water mark of a coast or of the banks of Lakes Alexandrina and Albert;

V distress sheet means a sheet of material—

- (a) that is not less than 1.8 m by 1.2 m in size; and
- (b) that is florescent orange-red in colour; and
- (c) on which is displayed the letter V in black, the V being not less than 0.8 m in height and the strokes forming the V being not less than 130 mm in breadth;

VHF FM radiotelephony equipment means radiotelephony equipment that operates at very high frequency using frequency modulation;

whistle means any sound signalling device capable of producing the sound signals required by these regulations.

- (2) For the purposes of these regulations, a reference in the Code or the NSCV to **the Authority** will be taken to be a reference to the CEO.
- (3) For the purposes of these regulations, a reference in the Code or the NSCV to **approved** will be taken to be a reference to approved by a surveyor.
- (4) For the purposes of these regulations, a reference to a vessel of a particular class is a reference to a vessel of that class as defined in Part B of the NSCV.
- (5) For the purposes of these regulations, unless the contrary intention appears, a reference to a **harbor** includes a reference to a port.
- (6) For the purposes of these regulations, vessels will be regarded as in sight of one another only when 1 can be observed visually from the other.

- (7) For the purposes of these regulations, a vessel will be taken to be a houseboat if—
- (a) the vessel has facilities for overnight accommodation; and
 - (b) —
 - (i) all the living facilities are on or above the deck of the vessel; or
 - (ii) although not all the living facilities are on or above the deck of the vessel, the vessel is designed and constructed as a river boat providing living facilities similar to that provided in a residential building and the CEO and the owner of the vessel agree that the vessel is to be classed as a houseboat.
- (8) For the purposes of these regulations, a reference to a particular Australian Standard will, unless the contrary intention appears, be taken to be a reference to that standard as in force from time to time.
- (9) For the purposes of these regulations, a requirement to wear a PFD 1, PFD 2 or PFD 3 or any other life-jacket or personal flotation device will be taken to include a requirement that the device be of an appropriate size for the wearer and properly adjusted.
- (10) For the purposes of these regulations, a reference to a PFD 1, PFD 2 or PFD 3 will, in relation to a personal flotation device worn or required to be worn by a child—
- (a) less than 12 years of age; or
 - (b) weighing less than 40 kg,
- be taken not to include a reference to a PFD 1, PFD 2 or PFD 3 that is designed to inflate automatically on immersion.
- (11) For the purposes of these regulations, a requirement that a person wear, or that a vessel be equipped with, a PFD 1, PFD 2 or PFD 3 or any other life-jacket or personal flotation device will, in the case of a device that is designed to inflate automatically on immersion and that has been so inflated, be taken to include a requirement that—
- (a) the device has been recharged in accordance with the manufacturer's instructions; and
 - (b) has not been inflated since being so recharged.
- (12) For the purposes of the definitions of *semi-protected waters* and *unprotected waters*, a reference to a *coast* will be taken to be a reference to—
- (a) the coast of the mainland; and
 - (b) the coast of Kangaroo Island.

4—Incorporation of codes and standards

- (1) A copy of a code or standard referred to or incorporated in these regulations must be kept available for inspection by members of the public, without charge and during normal office hours, at the head office in Adelaide of the department.
- (2) If an expression used in a provision of a code or standard referred to or incorporated in these regulations is not defined in the Act or in these regulations, the expression has, for the purposes of these regulations, the meaning (if any) assigned by the code or standard.
- (3) If a provision of a code or standard is referred to or incorporated in these regulations, any other code or standard that is incorporated into, or referred to in, that provision is also incorporated in these regulations to the extent necessary to give effect to that provision.

5—Application of Commonwealth Act

Pursuant to section 81 of the Act, Part 2 of the Commonwealth Act (except Divisions 1, 2A, 3, 15 and 19) and any regulations made under that Part apply in relation to the owners and crews of vessels that are required to have certificates of survey (except observation vessels and vessels that are less than 7.5 m in length) and that are in the jurisdiction as if—

- (a) a reference in the Commonwealth Act to a ship were a reference to a vessel; and
- (b) a reference in the Commonwealth Act to the Authority were a reference to the CEO; and
- (c) a reference in the Commonwealth Act to the Commonwealth were a reference to the State.

Part 2—Administration

6—Approvals

- (1) An application for an approval of the CEO or a port operator under these regulations must be made in a manner and form determined by the CEO or port operator (as the case requires).
- (2) An applicant under this regulation must provide to the CEO or port operator such information and records as the CEO or port operator reasonably requires.
- (3) An approval given by the CEO or a port operator for the purposes of these regulations—
 - (a) must be in writing or, if given orally, must be confirmed in writing as soon as practicable; and
 - (b) may be subject to such conditions as are specified by the CEO or port operator (including a condition fixing a fee to be paid to the CEO or port operator); and
 - (c) may be varied or revoked by the CEO or port operator (as the case requires) at any time.
- (4) If the CEO or a port operator gives approval subject to a condition, the person to whom approval is given must not contravene or fail to comply with the condition.
Maximum penalty: \$5 000.
- (5) In any legal proceedings, a certificate apparently signed by the CEO or a port operator certifying an approval or lack of approval under these regulations is, in the absence of proof to the contrary, proof of the matter certified.

7—Exclusion of property from vesting in Minister

For the purposes of section 15(3)(c) of the Act, the following real property is excluded from the ambit of that section:

- (a) all subjacent land underlying, and land adjacent to—
 - (i) the River Murray upstream of the sea mouth; and
 - (ii) all lakes, lagoons and channels connected with the River Murray;
- (b) all subjacent land underlying, and land adjacent to—
 - (i) the Onkaparinga River upstream of the seaward boundary of the area of the City of Onkaparinga; and
 - (ii) all lakes, lagoons and channels connected with the Onkaparinga River;

- (c) all subjacent land underlying, and land adjacent to—
 - (i) the Patawalonga Creek upstream of the seaward boundary of the area of the City of Holdfast Bay; and
 - (ii) all lakes, lagoons and channels connected with the Patawalonga Creek;
- (d) all subjacent land underlying, and land adjacent to, the Glenelg River in the Hundred of Caroline, County of Grey;
- (e) all subjacent land underlying, and land adjacent land to, any other inland waters except Lake Butler;
- (f) the land adjacent to the seashore situated above high water mark in the Hundreds of Copley, Gillen, Jenkins and Cultana from the south-eastern corner of the Government Town of Port Augusta West to the southern boundary of the Hundred of Cultana.

Part 3—Exemptions and exclusions from certain provisions of Act

8—Royal Australian Navy vessels

The following provisions of the Act do not apply in relation to vessels belonging to the Royal Australian Navy:

- (a) section 35;
- (b) Part 6;
- (c) Part 7;
- (d) Part 9;
- (e) section 65;
- (f) section 66;
- (g) section 68.

9—Licences for aquatic activities—River Murray, Adelaide Dolphin Sanctuary and marine parks

Pursuant to section 26(2c) of the Act, the following categories of licence are excluded from the operation of section 26(2a) of the Act:

- (a) a licence for an event that will not involve a motorised vessel (including any support vessel or vessels);
- (b) a licence for an event where only the support vessel or vessels will be motorised and the number of such motorised support vessels will not exceed 2;
- (c) a licence for an event where not more than 2 motorised vessels involved in the event will be operated at any particular time, and the number of motorised support vessels (if any) will not exceed 2;
- (d) a licence for an event where not more than 5 motorised vessels involved in the event will be operated at any particular time on waters that form part of the River Murray in circumstances where it is proposed that, when the vessels are on the River Murray, they will be spread over at least 2 kilometres of the river, and the number of motorised support vessels (if any) will not exceed 2.

Part 4—Vessels

10—Determination of length of vessels

- (1) Pursuant to section 4(3) of the Act, the length of a vessel is to be determined as follows:
 - (a) in the case of a commercial vessel that is required to have a certificate of survey—the length of the vessel is to be determined in accordance with Part B of the NSCV;
 - (b) in the case of a commercial vessel required to be registered under regulation 147—the length of the vessel is to be determined in accordance with Part B of the NSCV;
 - (c) in the case of a vessel in respect that is not required to have a certificate of survey and that is constructed of pontoons—the length of the vessel is the distance along the deck between the foremost transverse deck beam and the aftermost transverse deck beam;
 - (d) in any other case—the length of the vessel is the distance from the foremost part of the hull to the aftermost part of the hull taken at the upper side of the uppermost weather tight deck or, in the case of an open vessel, at the height of the gunwale.
- (2) In this regulation—

aftermost part of the hull means the trailing edge of the shell plating, planking or other structural material or, in the case of stem bars or posts, the intersection of the outside of the shell plating or planking with the stern bar or post but excluding, in all cases, any member added to the exterior of the hull (for example a fender, sponson or rubbing strip);

foremost part of the hull means the leading edge of the shell plating, planking or other structural material or, in the case of bar stems or stem posts, the intersection of the outside of the shell plating or planking with the stem bar or post but excluding, in all cases, any member added to the exterior of the hull (for example a fender, sponson or rubbing strip).

Part 5—Restricted areas and restrictions on use of certain waters

11—Restricted areas

- (1) A person who, without the approval of the CEO, contravenes or fails to comply in a restricted area with a control applying in the area under Schedule 5 is guilty of an offence.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) It is a defence to a charge of an offence against subregulation (1) if the defendant proves that he or she was taking part in—
 - (a) a rescue operation or otherwise acting in an emergency; or
 - (b) a surf life saving activity conducted by a surf life saving club.
- (3) If a vessel is involved in the commission of an offence against subregulation (1), the owner of the vessel is also guilty of an offence.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (4) It is a defence to a charge of an offence against subregulation (3) if the owner proves that the vessel was operated in the manner constituting the offence without the owner's consent.

- (5) If an offence against subregulation (1) is constituted of a person being towed by a vessel, the operator of the vessel is also guilty of an offence.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (6) This regulation does not apply in relation to an authorised person in the exercise of powers under the Act or these regulations.

12—Special rule in relation to sailing on Port Adelaide River

- (1) A person must not, without the approval of the CEO, operate a vessel in the waters of the Port Adelaide River south of the Port River Expressway Bridges under sail power alone.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that the defendant was taking part in a rescue operation or otherwise acting in an emergency.
- (3) Without limiting regulation 6, an application for approval under subregulation (1) may be made by an applicant on the applicant's own behalf or on behalf of a group of persons and, if an approval is granted to a group of persons, each member of the group is bound by the conditions (if any) to which the approval is subject.

13—Certain vessels not to be operated in unprotected waters

- (1) A person must not, without the approval of the CEO, operate—
 - (a) a personal watercraft; or
 - (b) a canoe, kayak or other similar small human-powered vessel (other than a rowboat),in unprotected waters.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) It is a defence to a charge of an offence under subregulation (1) for the defendant to prove that the defendant was taking part in a rescue operation or otherwise acting in an emergency.
- (3) Without limiting regulation 6, an application for approval under subregulation (1) may be made by an applicant on the applicant's own behalf or on behalf of a group of persons and, if an approval is granted to a group of persons, each member of the group is bound by the conditions (if any) to which the approval is subject.

Part 6—Activities in relation to wharves other than in harbors

Division 1—Preliminary

14—Interpretation

In this Part—

wharf means a wharf under the care, control and management of the Minister that is not within a harbor.

Division 2—General activities

15—Obstructions on wharves

- (1) A person must not, without the approval of the CEO, place anything on a wharf in a position that is likely to—
 - (a) obstruct the approaches or any entrance to, or exit from, the wharf; or
 - (b) obstruct the movement of cargo on, on to or from the wharf; or
 - (c) impede the free passage of any vehicle or pedestrian on the wharf.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) If an item is placed on a wharf in contravention of subregulation (1), an authorised person may—
 - (a) direct—
 - (i) the owner of the item; or
 - (ii) the owner, master or operator of a vessel from which the item has been unloaded or on which the item is to be loaded,
to remove the item from the wharf or to move it to another position on the wharf within a specified time; or
 - (b) if unable in the circumstances of the particular case to give a direction under paragraph (a) or if a direction is given under that paragraph but the person fails to comply with the direction—remove the item from the wharf or move it to another position on the wharf.
- (3) The cost of taking action under subregulation (2)(b) may be recovered as a debt from the owner of the item by the CEO.

16—Obstruction of landing places

- (1) A person must not, without the approval of the CEO, moor a vessel at or near a landing place for longer than—
 - (a) if the CEO has erected a sign regulating mooring at or near the landing place—the period specified by the sign; or
 - (b) if a direction is given by the CEO or an authorised person—the period specified in the direction; or
 - (c) in any other case—a total of 4 hours in any day.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that—
 - (a) the vessel was unable to be safely moved within the time allowed by subregulation (1) because of a mechanical or equipment failure or because of prevailing weather conditions; and
 - (b) the vessel was moved as soon as it was reasonably practicable to do so.

(3) In this regulation—

landing place means a ramp, public steps, platform or other landing place which is part of or adjacent to a wharf and gives access from the wharf to vessels.

17—Unauthorised activity on wharf

A person must not, without the approval of the CEO—

- (a) undertake any work on a wharf that is not related to the loading or unloading of cargo; or
- (b) sort, pack or repair cargo on a wharf; or
- (c) place or leave on a wharf anything other than cargo; or
- (d) carry on retail trade on a wharf; or
- (e) erect or post any notice or advertisement on a wharf; or
- (f) damage, remove or interfere with any notice or advertisement on a wharf; or
- (g) fish (for any aquatic organism by any means) in contravention of a notice erected on a wharf by the CEO or in contravention of a direction of an authorised person; or
- (h) light or maintain a fire on a wharf; or
- (i) damage or misuse any equipment provided on a wharf for lifesaving or firefighting purposes; or
- (j) smoke in or on a structure on a wharf; or
- (k) litter a wharf; or
- (l) damage a wharf in any manner.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 3—Vehicles and pedestrians

18—Application of Division

This Division applies in relation to the following places:

- (a) all adjacent land vested in the Minister that is not within a harbor;
- (b) all wharves, docks, jetties or other structures vested in the Minister that are not within a harbor.

19—Traffic signs

- (1) The CEO may erect signs on a place to which this Division applies giving directions for any 1 or more of the following purposes:
 - (a) regulating the route to be followed by vehicles;
 - (b) prohibiting or regulating the entry, exit or turning of vehicles (including vehicles over a certain mass);
 - (c) requiring vehicles to be stopped;
 - (d) requiring certain vehicles to give way to other vehicles;
 - (e) prohibiting or regulating the parking of vehicles;

- (f) imposing speed limits for vehicles;
 - (g) otherwise regulating vehicular traffic;
 - (h) prohibiting or regulating pedestrian traffic.
- (2) A direction under this regulation may be of general or limited application according to the class of vehicles, drivers or pedestrians to which it applies, the area in which it applies, the circumstances of its application, or any other specified factor.
- (3) The CEO may issue a permit exempting the holder from directions specified in the permit.
- (4) A person who contravenes or fails to comply with the directions displayed on a sign erected under this regulation is guilty of an offence unless the person holds a valid permit issued by the CEO exempting the person from the directions and the person complied with the terms of the permit.

Maximum penalty: \$1 250.

Expiation fee: \$160.

20—Traffic and other directions

- (1) An authorised person may, orally or by hand signals, give to any person (whether a driver of a vehicle, a rider of an animal or a pedestrian) on or approaching a place to which this Division applies reasonable directions for the orderly functioning of the place and activities conducted at the place.
- (2) An authorised person who suspects on reasonable grounds that a vehicle that exceeds a mass limit imposed in respect of an area is in, or is about to enter, that area may direct the person in charge of the vehicle—
- (a) to submit the vehicle forthwith for weighing by portable apparatus; or
 - (b) to take the vehicle by the shortest practicable route to a specified weighbridge.

21—Parking signs and markings

- (1) The CEO may delineate, by signs or pavement markings or a combination of signs and markings, an area on a place to which this Division applies as an area in which vehicles or vehicles displaying a permit issued by the CEO may be parked.
- (2) A person must not, without the approval of the CEO, park a vehicle on a place to which this Division applies unless—
- (a) the vehicle is within an area delineated under this regulation as an area in which vehicles may be parked; or
 - (b) the vehicle is being loaded or unloaded.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) A person must not park a vehicle in an area delineated under this regulation as an area in which vehicles displaying a permit issued by the CEO may be parked unless a valid permit is displayed in the vehicle and the vehicle is parked in accordance with the terms of that permit.

Maximum penalty: \$1 250.

Expiation fee: \$160.

22—Removal of vehicles

- (1) If a vehicle is parked in contravention of this Division and an authorised person believes on reasonable grounds that the vehicle is obstructing the proper use of a place to which this Division applies, or that it constitutes a risk to the safety of persons or property, the authorised person may cause the vehicle to be removed to a convenient place (but this does not empower the authorised person to break into the vehicle).
- (2) The cost of removing the vehicle may be recovered by the CEO as a debt from the owner of the vehicle or the person who parked the vehicle in contravention of this Division.

23—Signs

- (1) A sign erected on or in the vicinity of a place to which this Division applies that appears to have been erected for the purposes of this Division will, in the absence of proof to the contrary, be taken to have been erected in accordance with this Division.
- (2) A sign erected by the CEO, the Minister or the department on or in the vicinity of a place to which this Division applies before the commencement of this Division will be regarded as having been erected in accordance with this Division.
- (3) In determining the meaning of a direction displayed on a sign under this Division, regard must be given to the characteristics of the surrounding physical environment, including any pavement markings.
- (4) In a direction displayed on a sign erected under this Division—
maximum axle load, in relation to a vehicle, means the weight of the vehicle (including its load and the weight of the axle and wheels) borne by any axle of the vehicle;
maximum wheel load, in relation to a vehicle, means the weight of the vehicle (including its load) borne by any wheel of the vehicle;
permit means a permit issued by the CEO under this Division.

24—Permits

- (1) The CEO may issue permits for the purposes of this Division subject to such conditions as the CEO thinks fit (including a condition fixing a fee to be paid to the CEO).
- (2) The CEO may cancel a permit issued under this Division by notice in writing to the holder of the permit.
- (3) For the purposes of this Division, a permit is displayed in a vehicle only if the permit is displayed on the inside of the windscreen on the side opposite to the driver's position (or, if the vehicle does not have a windscreen, in some other prominent position) so that the permit is easily legible to a person standing beside the vehicle.
- (4) An authorised person may require a person apparently acting in a manner for which a permit is required under this Division to produce the permit for inspection forthwith or at a specified place and within a specified period.

25—Evidence

In any proceedings for an offence against this Division, an allegation in a complaint—

- (a) that a sign or marking was erected or made in accordance with this Division; or
- (b) that a specified person was the driver of a specified vehicle at the time of an alleged offence; or

- (c) that a specified vehicle was driven or parked in a specified manner or place at a specified time; or
- (d) that a specified person held or did not hold a permit under this Division; or
- (e) that a specified permit issued under this Division was subject to specified conditions,

will, in the absence of proof to the contrary, be proof of the matters so alleged.

Part 7—Harbors and Ports

Division 1—Preliminary

26—Interpretation

In this Part (except Division 3 and Division 4)—

adjacent land means adjacent land under the care, control and management of the Minister or a port operator;

contiguous land means land contiguous to a wharf and under the care, control and management of the Minister or a port operator;

harbor means a harbor, or that part of a harbor, under the care, control and management of the Minister or a port operator;

wharf means a wharf under the care, control and management of the Minister or a port operator that is within a harbor.

27—Definition of harbor boundaries

For the purposes of Schedule 1 of the Act, Schedule 3 defines the boundaries of the harbors referred to in clause 1(1) of that Schedule.

28—Constitution of ports

For the purposes of the definition of *port* in section 4(1) of the Act, each area of land and water described in Schedule 4 is constituted as a port.

Division 2—General activities

29—Obstructions on wharves

- (1) A person must not, without the approval of the CEO or the relevant port operator, place anything on a wharf in a position that is likely to—
 - (a) obstruct the approaches or any entrance to, or exit from, the wharf; or
 - (b) obstruct the movement of cargo on, on to or from the wharf; or
 - (c) impede the free passage of any vehicle or pedestrian on the wharf.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) If an item is placed on a wharf in contravention of subregulation (1), a port management officer may—
- (a) direct—
 - (i) the owner of the item; or
 - (ii) the owner, master or operator of a vessel from which the item has been unloaded or on which the item is to be loaded,
to remove the item from the wharf or to move it to another position on the wharf within a specified time; or
 - (b) if unable in the circumstances of the particular case to give a direction under paragraph (a) or if a direction is given under that paragraph but the person fails to comply with the direction—remove the item from the wharf or move it to another position on the wharf.
- (3) The cost of taking action under subregulation (2)(b) may be recovered as a debt from the owner of the item by—
- (a) if the port management officer was an officer or employee of the relevant port operator (other than the Minister)—the port operator; or
 - (b) in any other case—the CEO.

30—Obstruction of landing places

- (1) A person must not, without the approval of the CEO or the relevant port operator, moor a vessel at or near a landing place for longer than—
- (a) if the CEO or relevant port operator has erected a sign regulating mooring at or near the landing place—the period specified by the sign; or
 - (b) if a direction is given by the CEO, the relevant port operator or a port management officer—the period specified in the direction; or
 - (c) in any other case—a total of 4 hours in any day.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) It is a defence to a charge of an offence against subregulation (1) for the defendant to prove that—
- (a) the vessel was unable to be safely moved within the time allowed by subregulation (1) because of a mechanical or equipment failure or because of prevailing weather conditions; and
 - (b) the vessel was moved as soon as it was reasonably practicable to do so.
- (3) In this regulation—

landing place means a ramp, public steps, platform or other landing place which is part of or adjacent to a wharf and gives access from the wharf to vessels.

31—Unauthorised activity on wharf

A person must not, without the approval of the CEO or the relevant port operator—

- (a) undertake any work on a wharf that is not related to the loading or unloading of cargo; or

- (b) sort, pack or repair cargo on a wharf; or
- (c) place or leave on a wharf anything other than cargo; or
- (d) carry on retail trade on a wharf; or
- (e) erect or post any notice or advertisement on a wharf; or
- (f) damage, remove or interfere with any notice or advertisement on a wharf; or
- (g) fish (for any aquatic organism by any means) in contravention of a notice erected on a wharf by the CEO or the relevant port operator or in contravention of a direction of a port management officer; or
- (h) light or maintain a fire on a wharf; or
- (i) damage or misuse any equipment provided on a wharf for lifesaving or firefighting purposes; or
- (j) smoke in or on a structure on a wharf; or
- (k) litter a wharf; or
- (l) damage a wharf in any manner.

Maximum penalty: \$1 250.

Expiation fee: \$160.

32—Use of rail trolley

- (1) A person must not, without the approval of the CEO or the relevant port operator, use a trolley except for a purpose connected with the loading or unloading of a vessel or the maintenance of a vessel.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person must not propel a trolley at a dangerous speed or in a dangerous manner.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) A person who is propelling a trolley must give other persons effective warning of the approach of the trolley.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) A port management officer may give a person directions in relation to the use of trolleys.

- (5) In this regulation—

trolley means a truck or trolley supplied by the Minister or a port operator for use on rails laid on a wharf or contiguous land.

33—Removal of stevedoring gear after use

The master or operator of a vessel that is being loaded or unloaded on a wharf must ensure that all moveable equipment used in the loading or unloading is removed and stored appropriately on completion of the loading or unloading.

Maximum penalty: \$1 250.

Expiation fee: \$160.

34—Directions relating to dangerous or objectionable cargo

If a port management officer suspects on reasonable grounds that particular cargo on a vessel may present, if unloaded on to a wharf, a risk of injury to persons or damage to property, or a nuisance, the port management officer may give directions to the master or operator or owner of the vessel or the owner of the cargo—

- (a) prohibiting the unloading of the cargo on to the wharf; or
- (b) prohibiting the storage of the cargo on the wharf; or
- (c) regulating the manner in which the cargo is to be unloaded or stored on the wharf.

35—Damage etc caused by cargo

(1) If cargo on a wharf or contiguous land—

- (a) causes death or injury to a person; or
- (b) causes damage to the wharf or anything on the wharf or contiguous land; or
- (c) creates a nuisance or causes offence; or
- (d) hinders work on the wharf or contiguous land,

(whether by spillage, leakage or otherwise) the owner of the cargo must—

- (e) report the matter to—
 - (i) if the wharf or contiguous land is within a port—the relevant port operator; or
 - (ii) in any other case—the CEO; and
- (f) remove the cargo from the wharf or contiguous land, clean up any spillage and repair any damage to the wharf.

Maximum penalty: \$1 250.

Expiation fee: \$160.

(2) If a person fails to take the action required by subregulation (1)(f), a port management officer may take that action.

(3) The cost of taking action under subregulation (2) may be recovered as a debt from the person in default by—

- (a) if the port management officer was an officer or employee of a port operator (other than the Minister)—the port operator; or
- (b) in any other case—the CEO.

36—Discharge of liquid on wharves

The master or operator of a vessel moored at a wharf must cause a covering to be placed over each outlet on the vessel that is at or above the level of the deck of the wharf so as to prevent any liquid being discharged from the vessel on to the wharf.

Maximum penalty: \$1 250.

Expiation fee: \$160.

37—Abandoned cargo

The CEO or relevant port operator may take possession of cargo remaining on a wharf or contiguous land for more than 6 months and may deal with the cargo under the *Unclaimed Goods Act 1987*.

38—Unauthorised entry to wharf or contiguous land

A person must not, without the approval of the CEO or the relevant port operator, enter or remain in an area of a wharf or contiguous land to which the Minister or relevant port operator has restricted access by the erection of signs, barriers or by other means.

Maximum penalty: \$1 250.

Expiation fee: \$160.

39—Watch officers in harbors

- (1) A vessel that is 35 m or more in length and is moored in a harbor must, unless the CEO or relevant port operator approves otherwise, have at least 1 person on board for the purposes of communication with the CEO, the port operator or a port management officer.
- (2) If subregulation (1) is contravened, the master or operator of the vessel is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

40—Tugs

- (1) The master of a tug that is attending a vessel being navigated under the control or at the direction of a licensed pilot must comply with the directions of the pilot.
- (2) The master of a tug that is attending a vessel the master of which holds a current pilotage exemption certificate must comply with the directions of that master.

Maximum penalty: \$5 000.

41—Fuel in vehicles etc

- (1) Cargo consisting of a vehicle, vessel or machine that uses petroleum, or other liquid fuel, with a flash point below 60°C, must not be carried on a vessel unless each fuel tank of the vehicle, vessel or machine contains less than 50% of its capacity of fuel and is effectively sealed.
- (2) Cargo consisting of a vehicle, vessel or machine that uses petroleum or other liquid fuel with a flash point below 60°C must not be stored on a wharf or adjacent land unless each fuel tank of the vehicle, vessel or machine contains less than 5 litres of fuel and is effectively sealed.
- (3) If a vehicle, vessel or machine is carried or stored in contravention of this regulation, the consignor of the vehicle, vessel or machine is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) However, subregulation (3) does not apply to the carriage of a vehicle, vessel or machine on an open deck of—
- (a) a ferry; or
 - (b) a punt that cross a river or fairway by means of ropes or cables.
- (5) A person must not transfer petroleum or other liquid fuel into or out of the tank of a vehicle, vessel or machine—
- (a) on a wharf constructed of timber; or
 - (b) inside a structure on adjacent land under the care, control and management of the Minister or a port operator; or
 - (c) within 15 m of any such structure; or
 - (d) within 15 m of any cargo; or
 - (e) on a vessel or within 15 m of any vessel.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (6) Subregulation (5) does not apply to the transfer of petroleum or other liquid fuel into the tank of a vehicle, vessel or machine—
- (a) in accordance with any sign erected by the CEO or a port operator; or
 - (b) in accordance with any guidelines published by the CEO or the relevant port operator for the purposes of this subregulation.

42—Operation of motors in cargo spaces

A person responsible for the loading or unloading of cargo on a vessel is guilty of an offence if, during the loading or unloading—

- (a) an internal combustion engine or electric motor is operated in a cargo space in the vessel in contravention of *Appendix 8, Marine Order Part 32—Cargo Handling Equipment* under the Commonwealth Act; or
- (b) an internal combustion engine of a mechanical stowing appliance or other vehicle used is fuelled in a cargo space in the vessel in contravention of that Appendix.

Maximum penalty: \$2 500.

Expiation fee: \$210.

43—Mooring lines in harbors

- (1) The master or operator of a vessel moored by lines to a wharf or other structure in a harbor must ensure that—
- (a) the vessel is safely moored at all times; and
 - (b) the mooring lines are in good condition and properly adjusted.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person must not, without lawful authority, interfere with a line attached to any vessel, buoy, anchor, mooring, wharf or other structure or device in a harbor.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) The CEO or the relevant port operator may authorise a person to interfere with a line in a manner that would otherwise constitute a contravention of subregulation (2).

44—Use of vessel engines in harbors

- (1) The engine of a vessel that is more than 35 m in length and is moored at a wharf in a harbor must not, without the approval of the CEO or the relevant port operator—

- (a) be interfered with in such a manner that immobilises the vessel to the extent that the vessel cannot be made ready to be underway within 2 hours; or
- (b) be operated so as to turn a propeller or propellers.

- (2) If the engine of a vessel is interfered with or operated in contravention of subregulation (1), the master or operator of the vessel is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

45—Mooring and unmooring of vessels in certain harbors

- (1) A person must not, unless authorised for the purpose by the CEO or the relevant port operator, make fast or let go mooring lines of a vessel moored or to be moored to a wharf in a harbor.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) This regulation does not apply in relation to the following vessels:

- (a) a tug, barge or lighter ordinarily used within a harbor to which this regulation applies;
- (b) a vessel with a gross tonnage of less than 1 000 tons—
 - (i) ordinarily employed in trading or going between ports or places in the State; or
 - (ii) ordinarily used as a pleasure yacht in South Australian waters;
- (c) a vessel belonging to the Royal Australian Navy.

- (3) Nothing in these regulations prevents a fee being charged for services provided by a person authorised by the CEO or the relevant port operator under this regulation.

46—Swimming in harbors

A person must not, without the approval of the CEO or the relevant port operator, swim or dive in any harbor—

- (a) within 200 m of a vessel that is 15 m or more in length and is arriving or departing from a wharf, mooring or anchorage or is navigating in a channel; or
- (b) within 45 m of a vessel that is 15 m or more in length and is moored at a wharf; or

- (c) from any portion of a wharf not specifically set aside for entrance of a person into the water.

Maximum penalty: \$750.

Expiation fee: \$105.

Division 3—Vehicles and pedestrians

47—Application of Division

This Division applies in relation to the following places:

- (a) all adjacent land vested in the Minister that is within a harbor;
- (b) all wharves, docks, jetties or other structures vested in the Minister or a port operator that are within a harbor.

48—Traffic signs

- (1) The CEO or relevant port operator may erect signs on a place to which this Division applies giving directions for any 1 or more of the following purposes:
 - (a) regulating the route to be followed by vehicles;
 - (b) prohibiting or regulating the entry, exit or turning of vehicles (including vehicles over a certain mass);
 - (c) requiring vehicles to be stopped;
 - (d) requiring certain vehicles to give way to other vehicles;
 - (e) prohibiting or regulating the parking of vehicles;
 - (f) imposing speed limits for vehicles;
 - (g) otherwise regulating vehicular traffic;
 - (h) prohibiting or regulating pedestrian traffic.
- (2) A direction under this regulation may be of general or limited application according to the class of vehicles, drivers or pedestrians to which it applies, the area in which it applies, the circumstances of its application, or any other specified factor.
- (3) The CEO or the relevant port operator may issue a permit exempting the holder from directions specified in the permit.
- (4) A person who contravenes or fails to comply with the directions displayed on a sign erected under this regulation is guilty of an offence unless the person holds a valid permit issued by the CEO or the relevant port operator exempting the person from the directions and the person complied with the terms of the permit.

Maximum penalty: \$1 250.

Expiation fee: \$160.

49—Traffic and other directions

- (1) A port management officer may, orally or by hand signals, give to any person (whether a driver of a vehicle, a rider of an animal or a pedestrian) on or approaching a place to which this Division applies reasonable directions for the orderly functioning of the place and activities conducted at the place.

- (2) A port management officer who suspects on reasonable grounds that a vehicle that exceeds a mass limit imposed in respect of an area is in, or is about to enter, that area may direct the person in charge of the vehicle—
 - (a) to submit the vehicle forthwith for weighing by portable apparatus; or
 - (b) to take the vehicle by the shortest practicable route to a specified weighbridge.

50—Parking signs and markings

- (1) The CEO or relevant port operator may delineate, by signs or pavement markings or a combination of signs and markings, an area on a place to which this Division applies as an area in which vehicles or vehicles displaying a permit issued by the CEO or port operator may be parked.
- (2) A person must not, without the approval of the CEO or the relevant port operator, park a vehicle on a place to which this Division applies unless—
 - (a) the vehicle is within an area delineated under this regulation as an area in which vehicles may be parked; or
 - (b) the vehicle is being loaded or unloaded.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) A person must not park a vehicle in an area delineated under this regulation as an area in which vehicles displaying a permit issued by the CEO or the relevant port operator may be parked unless a valid permit is displayed in the vehicle and the vehicle is parked in accordance with the terms of that permit.

Maximum penalty: \$1 250.

Expiation fee: \$160.

51—Removal of vehicles

- (1) If a vehicle is parked in contravention of this Division and a port management officer believes on reasonable grounds that the vehicle is obstructing the proper use of a place to which this Division applies, or that it constitutes a risk to the safety of persons or property, the port management officer may cause the vehicle to be removed to a convenient place (but this does not empower the port management officer to break into the vehicle).
- (2) The cost of removing the vehicle may be recovered as a debt from the owner of the vehicle or the person who parked the vehicle in contravention of this Division by—
 - (a) if the port management officer was an officer or employee of a port operator (other than the Minister)—the port operator; or
 - (b) in any other case—the CEO.

52—Signs

- (1) A sign erected on or in the vicinity of a place to which this Division applies that appears to have been erected for the purposes of this Division will, in the absence of proof to the contrary, be taken to have been erected in accordance with this Division.
- (2) A sign erected by the CEO, the Minister, the department or a port operator on or in the vicinity of a place to which this Division applies before the commencement of this Division will be regarded as having been erected in accordance with this Division.

- (3) In determining the meaning of a direction displayed on a sign under this Division, regard must be given to the characteristics of the surrounding physical environment, including any pavement markings.
- (4) In a direction displayed on a sign erected under this Division—
maximum axle load, in relation to a vehicle, means the weight of the vehicle (including its load and the weight of the axle and wheels) borne by any axle of the vehicle;
maximum wheel load, in relation to a vehicle, means the weight of the vehicle (including its load) borne by any wheel of the vehicle;
permit means a permit issued by the CEO or a port operator under this Division.

53—Permits

- (1) The CEO or relevant port operator may issue permits for the purposes of this Division subject to such conditions as the CEO or port operator thinks fit (including a condition fixing a fee to be paid to the CEO or port operator).
- (2) The CEO or relevant port operator may cancel a permit issued under this Division by notice in writing to the holder of the permit.
- (3) For the purposes of this Division, a permit is displayed in a vehicle only if the permit is displayed on the inside of the windscreen on the side opposite to the driver's position (or, if the vehicle does not have a windscreen, in some other prominent position) so that the permit is easily legible to a person standing beside the vehicle.
- (4) A port management officer may require a person apparently acting in a manner for which a permit is required under this Division to produce the permit for inspection forthwith or at a specified place and within a specified period.

54—Evidence

In any proceedings for an offence against this Division, an allegation in a complaint—

- (a) that a sign or marking was erected or made in accordance with this Division; or
- (b) that a specified person was the driver of a specified vehicle at the time of an alleged offence; or
- (c) that a specified vehicle was driven or parked in a specified manner or place at a specified time; or
- (d) that a specified person held or did not hold a permit under this Division; or
- (e) that a specified permit issued under this Division was subject to specified conditions,

will, in the absence of proof to the contrary, be proof of the matters so alleged.

Division 4—Records

55—Notice of entry

- (1) The owner or master of a commercial vessel must, as soon as practicable after arrival of the vessel at a port, deliver a notice of entry to the relevant port operator.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A notice of entry—
 - (a) must be made in a manner and form determined by the relevant port operator; and
 - (b) must be signed by the master of the vessel.

56—Certain papers to be produced

- (1) The master of a commercial vessel must, at the request of a port management officer, produce the prescribed papers in respect of the vessel to the relevant port operator.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) Subregulation (1) does not apply in relation to a vessel that trades only within the jurisdiction if the prescribed papers in respect of the vessel have been produced to the relevant port operator in the previous 6 months.
- (3) In this regulation—

prescribed papers means—

 - (a) in the case of an Australian registered vessel that is not a vessel to which regulation 147 applies—the certificate of survey issued in respect of the vessel; or
 - (b) in the case of a vessel to which regulation 147 applies—the certificate of registration issued in respect of the vessel; or
 - (c) in the case of a foreign registered vessel—a document issued in respect of the vessel corresponding to a certificate of survey.

57—Notice of leaving

A person must not, without the approval of the relevant port operator, remove a commercial vessel of more than 35 m in length from a wharf, mooring or anchorage in a port.

Maximum penalty: \$1 250.

Expiation fee: \$160.

58—Cargo manifests

- (1) A manifest relating to cargo unloaded from a commercial vessel in a port must be given to the relevant port operator within 3 days after arrival of the vessel.
- (2) A manifest relating to cargo loaded on to a commercial vessel in a port must be given to the relevant port operator within 7 days after departure of the vessel.
- (3) A manifest—
 - (a) must be made in a manner and form determined by the relevant port operator; and
 - (b) if it is in writing, must be in English and must be legible; and
 - (c) must include, at least, the following information (given, if the relevant port operator so requires, by reference to codes or descriptions specified by the port operator):
 - (i) the name of the vessel and the number assigned to the vessel by the International Maritime Organization;
 - (ii) a description of the voyage being undertaken by the vessel;
 - (iii) a description of the cargo (including the mass and volume of the cargo) sufficient for the purposes of calculating the charges payable to the port operator in respect of the cargo;

- (iv) if the cargo includes a container—
 - (A) the number, type and dimensions of the container; and
 - (B) details of the kinds of goods carried in the container; and
 - (C) the gross weight of the goods carried in the container;
 - (v) in the case of a container or other cargo unloaded from the vessel in the port—
 - (A) the port of loading of the container or other cargo; and
 - (B) the country of origin of the packed container or other cargo; and
 - (C) if the country of destination of the packed container or other cargo is Australia, the State or Territory of destination; and
 - (D) if the container or other cargo has been restored on the vessel in the port (with the vessel continuing on the same voyage)—a statement to that effect; and
 - (E) if the container or other cargo has been or will be transhipped (ie reloaded on a vessel undertaking a different voyage) in the port—a statement to that effect;
 - (vi) in the case of a container or other cargo loaded on to the vessel in the port (other than a container or cargo that has been unloaded from that vessel and restowed, with the vessel continuing on the same voyage)—
 - (A) if the container or other cargo has been transhipped (ie unloaded from a vessel undertaking a different voyage and reloaded onto the vessel) in the port—a statement to that effect; and
 - (B) if the country of origin of the packed container or other cargo is Australia—the State or Territory of origin; and
 - (C) the port at which it is intended that the container or other cargo will be unloaded; and
 - (D) the country of destination of the packed container or other cargo; and
- (d) must be certified as correct by the master or owner of the vessel.
- (4) Any alteration or correction of a manifest must be notified to the relevant port operator as soon as possible.
 - (5) If an alteration or correction of a manifest is notified to the relevant port operator when it is not practicable by reason of the movement of the cargo for the alteration or correction to be verified by inspection of the cargo, the alteration need not be taken into account for the purposes of calculating the charges payable to the port operator in respect of the cargo.
 - (6) If a manifest is not received by the relevant port operator in accordance with this regulation, the charges payable to the port operator in respect of the cargo may be calculated on an estimate by the port operator of the size and nature of the cargo plus 10%.

- (7) If a manifest (or an alteration or correction of a manifest) is not given to the relevant port operator in accordance with this regulation, the master and the owner of the vessel are each guilty of an offence (but it is a defence to a charge of an offence against this regulation if the defendant proves that the defendant could not, by the exercise of reasonable diligence, have prevented the commission of the offence).

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (8) A person who views a manifest in the course of official duties connected with the administration of the Act must not divulge the contents of that manifest to any person except in the course of those duties.

Maximum penalty: \$1 250.

Expiation fee: \$160.

59—Production of documents relating to cargo

- (1) The master or owner of a commercial vessel must, at the request of a port management officer—

- (a) produce for inspection and copying all records and documents (including cartnotes, shipping notes and weigh notes) relating to the cargo of that vessel; and
- (b) provide the reference number for the bill of lading relating to that cargo.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person who views a record or document in the course of official duties connected with the administration of the Act must not divulge the contents of that record or document to any person except in the course of those duties.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 5—Pilotage

60—Licensing of pilots—qualifications

- (1) For the purposes of section 33 of the Act, a person is qualified to be licensed as a pilot if—

- (a) the person holds—

- (i) a certificate of competency that is in force issued by the marine authority of the Commonwealth of such kind as may be specified by the CEO for the purposes of this paragraph; or
- (ii) a qualification under the law of some other place recognised under the Commonwealth Act as equivalent to such a certificate of competency; and

- (b) the person has such experience or knowledge in relation to the operation of vessels in the harbor in respect of which the application is made as may be required by the CEO, after consultation with the relevant port operator, for the purposes of this paragraph; and

- (c) the person's eyesight complies with the following requirements:
 - (i) in the case of a person who does not use corrective lenses—the person must be able to read without the aid of corrective lenses all letters on the fifth line of a letter card based on Snellen's principle;
 - (ii) in the case of a person who uses corrective lenses—
 - (A) the person must be able to read with the aid of corrective lenses all letters on the sixth line of the letter card based on Snellen's principle and read without the aid of corrective lenses all letters on the fourth line of the card; and
 - (B) the sight in the person's better eye must not be worse than 6/6 on the basis of Snellen's principle;
 - (iii) the person must not suffer from a progressive eye disorder;
 - (iv) the person must be able to easily distinguish variously coloured lanterns; and
 - (d) the person does not suffer any mental or physical impairment that may, in the opinion of the CEO (formed after consultation with the relevant port operator), affect his or her ability to perform the duties of a pilot.
- (2) For the purposes of determining whether a person—
- (a) has the required knowledge in relation to the operation of vessels in the harbor in respect of which an application for a licence is made; or
 - (b) can easily distinguish variously coloured lanterns,
- the CEO may require the person to satisfactorily pass an examination set by the CEO.
- (3) A pass in an examination remains valid for the purposes of this regulation for a period of 12 months from the date of the examination, unless the CEO determines otherwise.
- (4) If a person fails an examination, the CEO may determine that no further attempt may be made by that person for a specified period.

61—Duration of pilot's licence

A pilot's licence remains in force until—

- (a) the licensee ceases to be qualified, in accordance with regulation 60, to hold a pilot's licence; or
- (b) the licensee dies; or
- (c) the licence is surrendered or cancelled,

whichever occurs first.

62—Pilotage exemption certificates

- (1) Pilotage exemption certificates will be of the following categories:
- (a) category 1—for vessels up to 65 m in length;
 - (b) category 2—for vessels up to 155 m in length;
 - (c) category 3—for vessels up to 185 m in length.

- (2) Subject to this regulation, the CEO may issue a pilotage exemption certificate to the master of a vessel in respect of a particular harbor or harbors if—
- (a) the master holds a certificate of competency for a trading or fishing vessel of the length appropriate to the category of certificate applied for; and
 - (b) the master has undertaken a qualifying voyage or voyages as follows:
 - (i) in the case of an applicant for a category 1 certificate who does not hold a current pilotage exemption certificate of any category—the master has undertaken, as master of a vessel over 35 m in length—
 - (A) 2 qualifying entry voyages during daylight hours; and
 - (B) 2 qualifying exit voyages during daylight hours;
 - (ii) in the case of an applicant for a category 2 or 3 certificate who does not hold a current pilotage exemption certificate of any category—either—
 - (A) the master has undertaken, as master of a vessel of not less than the length appropriate to the category—
 - 3 qualifying entry voyages during daylight hours; and
 - 3 qualifying exit voyages during daylight hours; and
 - 1 further qualifying entry voyage either during daylight hours or during the hours of darkness; and
 - 1 further qualifying exit voyage either during daylight hours or during the hours of darkness; or
 - (B) the master has undertaken, as master of a vessel of not less than the length appropriate to the category—
 - 2 qualifying entry voyages during daylight hours; and
 - 2 qualifying exit voyages during daylight hours,and, as first mate (actively on duty on the bridge of the vessel) of such a vessel—
 - 3 qualifying entry voyages during daylight hours; and
 - 3 qualifying exit voyages during daylight hours;
 - (iii) in the case of a master who holds a current pilotage exemption certificate of another category—the master has undertaken, as master of a vessel of at least the length appropriate to the new category sought—
 - (A) 2 qualifying entry voyages during daylight hours; and
 - (B) 2 qualifying exit voyages during daylight hours;
 - (iv) in the case of a master who applies for an endorsement for night navigation—
 - (A) if the application is for a category 1 certificate—the master has undertaken—
 - 1 further qualifying entry voyage of the kind required for the certificate but during the hours of darkness; and
 - 1 further qualifying exit voyage of the kind required for the certificate but during the hours of darkness;

- (B) if the application is for a category 2 or 3 certificate—the master has undertaken—
- 3 further qualifying entry voyages of the kind required for the certificate but during the hours of darkness; and
 - 3 further qualifying exit voyages of the kind required for the certificate but during the hours of darkness; and
- (c) the master would (apart from the certificate of competency and experience requirements) be eligible to be licensed as a pilot.
- (3) The CEO may only issue a pilotage exemption certificate in respect of a harbor for which there is a port operator after consultation with the port operator.
- (4) Without limiting subregulation (2) and subject to this regulation, the CEO may issue a pilotage exemption certificate (a *special pilotage exemption certificate*) to the master of a vessel in respect of a particular vessel over 185 m in length and in respect of a particular harbor if—
- (a) the master holds a certificate of competency appropriate to the vessel; and
- (b) the master has undertaken a qualifying voyage or voyages as follows:
- (i) the master has undertaken—
- (A) as master of a vessel of not less than the length of the relevant vessel—
- 3 qualifying entry voyages during daylight hours; and
 - 3 qualifying exit voyages during daylight hours; and
 - 1 further qualifying entry voyage either during daylight hours or during the hours of darkness; and
 - 1 further qualifying exit voyage either during daylight hours or during the hours of darkness; or
- (B) as master of a vessel of not less than the length of the relevant vessel—
- 2 qualifying entry voyages during daylight hours; and
 - 2 qualifying exit voyages during daylight hours,
- and, as first mate (actively on duty on the bridge of the vessel) of such a vessel—
- 3 qualifying entry voyages during daylight hours; and
 - 3 qualifying exit voyages during daylight hours;
- (ii) in the case of a master who holds a current pilotage exemption certificate of category 1, 2 or 3—the master has undertaken, as master of a vessel of at least the length of the relevant vessel—
- (A) 2 qualifying entry voyages during daylight hours; and
- (B) 2 qualifying exit voyages during daylight hours;

- (iii) in the case of a master who applies for an endorsement for night navigation—the master has undertaken—
 - (A) 3 further qualifying entry voyages of the kind required for the certificate but during the hours of darkness; and
 - (B) 3 further qualifying exit voyages of the kind required for the certificate but during the hours of darkness; and
 - (c) the master would (apart from the certificate of competency and experience requirements) be eligible to be licensed as a pilot.
- (5) The CEO may only issue a special pilotage exemption certificate in respect of a harbor for which there is a port operator on the recommendation of the port operator.
 - (6) If the CEO is satisfied that it is impracticable for an applicant for a category 1, 2 or 3 pilotage exemption certificate or special pilotage exemption certificate to complete a required qualifying entry or exit voyage, the CEO may exempt the person from that requirement subject to the condition that the person complete a further specified qualifying entry or exit voyage.
 - (7) The CEO may specify in a category 3 pilotage exemption certificate or special pilotage exemption certificate that the certificate is limited to vessels of a lesser length if the CEO considers that appropriate in relation to the harbor or section of harbor to which the application for the certificate relates.
 - (8) A category 1, 2 or 3 pilotage exemption certificate or special pilotage exemption certificate operates only in respect of navigation during daylight hours unless it is endorsed for night navigation.
 - (9) A category 1, 2 or 3 pilotage exemption certificate or special pilotage exemption certificate ceases to be in force if the holder does not navigate a vessel pursuant to the certificate (during daylight hours or the hours of darkness) for a period of not less than—
 - (a) in the case of a category 1 certificate—12 months; or
 - (b) in the case of a category 2 or 3 certificate—6 months; or
 - (c) in the case of a special pilotage exemption certificate—6 months.
 - (10) An endorsement for night navigation on a pilotage exemption certificate ceases to be in force if the holder does not navigate a vessel pursuant to the certificate during the hours of darkness for a period of not less than—
 - (a) in the case of a category 1 certificate—12 months;
 - (b) in the case of a category 2 or 3 certificate—6 months;
 - (c) in the case of a special pilotage exemption certificate—6 months,(but, to avoid doubt, nothing in this subregulation prevents the holder of the certificate from navigating vessels pursuant to the certificate during daylight hours).

63—Duration and renewal of pilotage exemption certificates

- (1) Subject to the Act and these regulations, a pilotage exemption certificate remains in force for 2 years and may be renewed, in accordance with any procedure determined by the CEO, for successive periods of 2 years.

- (2) The CEO must, on application made in accordance with these regulations, renew a pilotage exemption certificate if satisfied—
- (a) that the applicant complies with any eyesight and medical standards required for the issue of a pilot's licence; and
 - (b) that the applicant has navigated a vessel pursuant to the certificate at least as often as is required for the certificate to remain in force.
- (3) Despite subregulation (2), the CEO may renew a pilotage exemption certificate that has ceased to be in force pursuant to regulation 62(9), or that has expired, if—
- (a) less than 2 years has elapsed since the certificate ceased to be in force or expired; and
 - (b) subject to this regulation, the CEO is satisfied that the applicant has undertaken the following qualifying voyages in the period since the certificate ceased to be in force or expired:
 - (i) if the application relates to a category 1 certificate—the applicant has undertaken, as master of a vessel over 35 m in length—
 - (A) 1 qualifying entry voyage during daylight hours; and
 - (B) 1 qualifying exit voyage during daylight hours; and
 - (C) if the application includes an application for an endorsement for night navigation—1 further qualifying entry voyage during the hours of darkness, and 1 further qualifying exit voyage during the hours of darkness;
 - (ii) if the application relates to a category 2, 3 or 4 certificate—the applicant has undertaken, as master of a vessel of not less than the length appropriate to the category of certificate—
 - (A) if the period since the applicant last navigated a vessel pursuant to the certificate is less than 12 months—
 - 1 qualifying entry voyage during daylight hours; and
 - 1 qualifying exit voyage during daylight hours; and
 - if the application includes an application for an endorsement for night navigation—1 further qualifying entry voyage during the hours of darkness, and 1 further qualifying exit voyage during the hours of darkness; or
 - (B) if the period since the applicant last navigated a vessel pursuant to the certificate is 12 months or more but less than 24 months—
 - 2 qualifying entry voyages during daylight hours; and
 - 2 qualifying exit voyages during daylight hours; and
 - if the application includes an application for an endorsement for night navigation—2 further qualifying entry voyages during the hours of darkness and 2 further qualifying exit voyages during the hours of darkness; or

- (C) if the period since the applicant last navigated a vessel pursuant to the certificate is 24 months or more—
- 3 qualifying entry voyages during daylight hours; and
 - 3 qualifying exit voyages during daylight hours; and
 - if the application includes an application for an endorsement for night navigation—3 further qualifying entry voyages during the hours of darkness, and 3 further qualifying exit voyages during the hours of darkness; and
- (c) the CEO is satisfied that the applicant has visited the harbor, or the section of the harbor, in respect of which the application is made and satisfactorily updated his or her knowledge of the harbor and traffic in the harbor.
- (4) If the CEO is satisfied that it is impracticable for an applicant for renewal of a pilotage exemption certificate to complete a required qualifying entry or exit voyage, the CEO may exempt the person from that requirement subject to the condition that the person complete a further specified qualifying entry or exit voyage.

64—Application for pilot's licence or pilotage exemption certificate

- (1) An application for a pilot's licence, pilotage exemption certificate or renewal of a pilotage exemption certificate—
- (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must specify the harbor or the section of the harbor in respect of which the licence or certificate is sought; and
 - (c) in the case of an application for a pilotage exemption certificate or renewal of a pilotage exemption certificate—must specify whether or not the applicant requires endorsement for night navigation; and
 - (d) must be accompanied by the fee (if any) fixed by Schedule 14.
- (2) An applicant for a pilot's licence or pilotage exemption certificate must provide to the satisfaction of the CEO—
- (a) a reference from a suitable person as to the character of the applicant; and
 - (b) proof that the applicant meets the required eyesight standards, consisting of a report of a legally qualified medical practitioner or registered optician of the results of an optical examination of the applicant conducted within the previous 6 months; and
 - (c) proof that the applicant meets the required medical standards, consisting of a report of a legally qualified medical practitioner of the results of a medical examination of the applicant conducted within the previous 6 months; and
 - (d) any other information or records that the CEO reasonably requires for the purpose of determining the application.
- (3) An applicant for renewal of a pilotage exemption certificate must provide to the satisfaction of the CEO—
- (a) proof that the applicant meets the required eyesight standards, consisting of a report of a legally qualified medical practitioner or registered optician of the results of an optical examination of the applicant conducted within the previous 6 months; and

- (b) proof that the applicant meets the required medical standards, consisting of a report of a legally qualified medical practitioner of the results of a medical examination of the applicant conducted within the previous 6 months; and
- (c) a statement setting out and certifying—
 - (i) the date on which the person last navigated a vessel pursuant to the certificate and giving details of the voyage concerned; and
 - (ii) that the person has navigated a vessel pursuant to the certificate has been used at least as often as is required for the certificate to remain in force; and
- (d) any other information or records that the CEO reasonably requires for the purpose of determining the application.

65—Replacement licences and certificates

- (1) A replacement pilot's licence or pilotage exemption certificate must not be issued unless the original (or previous duplicate) licence or certificate is returned to the CEO or the CEO is satisfied that the licence or certificate has been lost, stolen or destroyed.
- (2) A replacement pilotage exemption certificate will only be issued on payment of the fee (if any) fixed by Schedule 14.

66—Obligations of pilot or master

A person who holds a pilot's licence or pilotage exemption certificate must—

- (a) on receiving the licence or certificate, sign it; and
- (b) notify the CEO as soon as practicable of—
 - (i) any change of his or her name or address; or
 - (ii) any physical or mental impairment that may affect his or her ability to navigate a vessel.

Maximum penalty: \$5 000.

Expiation fee: \$315.

67—Records to be kept by holder of pilotage exemption certificate

A person who holds a pilotage exemption certificate must keep a record of each occasion on which he or she navigates a vessel pursuant to the certificate (including the dates of the voyages concerned and the name of the vessel navigated).

Maximum penalty: \$750.

Expiation fee: \$105.

68—Compulsory pilotage

Section 35 of the Act applies in the following harbors:

- (a) Port Adelaide;

Note—

The pilot station is 2 nautical miles south-west of the channel entrance beacon.

- (b) Port Augusta;

Note—

The pilot station is 2 nautical miles west of the northern light beacon on Eastern Shoal latitude 33°04.55'S, longitude 137°45.5'E.

- (c) Port Bonython;

Note—

The pilot station is 2 nautical miles west of the northern light beacon on Eastern Shoal latitude 33°04.55'S, longitude 137°45.5'E.

- (d) Port Giles;

Note—

The pilot station is 2.5 nautical miles east of the seaward end of Port Giles jetty.

- (e) Port Lincoln;

Note—

The pilot station is 1.5 nautical miles east-south-east of Boston Point Light.

- (f) Port Pirie;

Note—

The pilot station is 2 nautical miles west of the northern light beacon on Eastern Shoal latitude 33°04.55'S, longitude 137°45.5'E.

- (g) Thevenard;

Note—

The pilot station is 1 nautical mile south-west of the entrance beacon.

- (h) Wallaroo;

Note—

The pilot station is 1.5 nautical miles west of the channel entrance beacon.

- (i) Whyalla.

Note—

The pilot station is 1.5 nautical miles south-east of the entrance beacon.

Part 8—Crewing

Division 1—Preliminary

69—Interpretation

For the purposes of this Part, a reference to a certificate of competency of a particular class (including a certificate of competency with a particular endorsement) includes a reference to a qualification under the law of some other place declared under these regulations to be equivalent to a certificate of competency of that class.

70—Positions of responsibility

For the purposes of the definition of *crew* in section 4(1) of the Act, the following positions are declared to be positions of responsibility:

- (a) mates on commercial vessels;
- (b) engineers on commercial vessels;
- (c) general purpose hands on commercial vessels.

71—Key positions on vessels

For the purposes of the definition of *key position* in section 4(1) of the Act, positions of the following classes are declared to be positions in relation to which a certificate of competency is required:

- (a) mates on commercial vessels;
- (b) engineers on commercial vessels.

72—Vessels to which crewing requirements apply

For the purposes of section 37 of the Act, Part 6 of the Act applies to the class of vessels comprising all commercial vessels (that is trading vessels and fishing vessels) except—

- (a) ferries or punts that cross a river or fairway by means of ropes or cables; and
- (b) fishing vessels that—
 - (i) are 7.5 m or less in length; and
 - (ii) are only operated within smooth or partially smooth water; and
 - (iii) are only used for or in connection with the propagation or rearing of molluscs in marine waters.

Division 2—Fishing vessels

73—Minimum crewing for fishing vessels

For the purposes of section 38(1) of the Act, the minimum requirements as to the number and respective qualifications of the crew that must be carried by a fishing vessel are as specified in Schedule 6.

74—Breach by crew of minimum qualifications requirement

- (1) If a certificate of competency of a particular class, or with a particular endorsement, is specified under this Division in relation to a fishing vessel as the minimum qualification to be held by a master or chief mate of a vessel, a person must not (except in an emergency at sea) take charge of a navigation watch on that vessel unless he or she has at least the minimum qualifications specified for 1 of those persons or is acting in accordance with an exemption under section 39 of the Act.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If a certificate of competency of a particular class, or with a particular endorsement, is specified under this Division in relation to a fishing vessel as the minimum qualification to be held by a chief or second engineer of a vessel, a person must not (except in an emergency at sea) take charge of the operation of the main propulsion machinery of the vessel unless he or she has at least the minimum qualifications specified for 1 of those persons or is acting in accordance with an exemption under section 39 of the Act.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Division 3—Trading vessels

75—Breach by crew of minimum qualifications requirement

- (1) If a certificate of competency of a particular class, or with a particular endorsement, is specified—

- (a) in a determination by the *State Crewing Committee* under the Act; or
- (b) in an exemption granted under section 39 of the Act,

as the minimum qualification to be held by a master, or chief or other mate of a trading vessel, a person must not (except in an emergency at sea) take charge of a navigation watch on that vessel unless he or she has at least the minimum qualifications specified for 1 of those persons.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If a certificate of competency of a particular class, or with a particular endorsement, is specified—

- (a) in a determination by the *State Crewing Committee* under the Act; or
- (b) in an exemption granted under section 39 of the Act,

as the minimum qualification to be held by a chief or other engineer of a trading vessel, a person must not (except in an emergency at sea) take charge of the operation of the main propulsion machinery of the vessel unless he or she has at least the minimum qualifications specified for 1 of those persons.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Division 4—Applications for exemptions

76—Application for exemption from crewing requirements

- (1) An application for an exemption of a kind from the obligation to comply with the requirements with regard to the minimum number and qualifications of the crew of the vessel or a determination of the *State Crewing Committee*—

- (a) must be made to the CEO in a manner and form determined by the CEO; and

- (b) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.

Note—

See section 39(1) of the Act.

- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

Part 9—Certificates of competency etc

Division 1—Preliminary

77—Vessels in relation to which certificates of competency required

For the purposes of section 46(b) of the Act, Part 7 of the Act applies to a commercial vessel (that is any trading vessel or fishing vessel) other than a ferry or punt that crosses a river or fairway by means of ropes or cables.

78—Classes of certificates of competency

Certificates of competency will be of the following classes:

- (a) for recreational vessels—boat operator's licence;
- (b) for commercial vessels—
 - (i) for trading vessels operating solely on the River Murray or inland waters—
 - (A) Master Class 4 River Murray and Inland Waters;
 - (B) Master Class 5 River Murray and Inland Waters;
 - (C) Master Class 5 River Murray and Inland Waters (Houseboats);
 - (D) Coxswain River Murray and Inland Waters;
 - (ii) for other trading vessels—
 - (A) Master Class 3;
 - (B) Master Class 4;
 - (C) Mate Class 4;
 - (D) Master Class 5;
 - (E) Coxswain;
 - (F) Marine Engineer Class 3;
 - (G) Marine Engine Driver Grade 1;
 - (H) Marine Engine Driver Grade 2;
 - (I) Marine Engine Driver Grade 3;

- (iii) for fishing vessels—
 - (A) Skipper Grade 1;
 - (B) Skipper Grade 2;
 - (C) Skipper Grade 3;
 - (D) Coxswain;
 - (E) Marine Engineer Class 3;
 - (F) Marine Engine Driver Grade 1;
 - (G) Marine Engine Driver Grade 2;
 - (H) Marine Engine Driver Grade 3.

Division 2—Applications under this Part

79—Applications under this Part

- (1) This regulation applies to an application for—
 - (a) a certificate of competency;
 - (b) a special permit;
 - (c) endorsement of a certificate of competency;
 - (d) recognition of a certificate of competency;
 - (e) re-validation of a certificate of competency;
 - (f) an exemption from the requirement to hold a certificate of competency of the relevant class;
 - (g) an exemption from the obligation to sit an examination for a certificate of competency.
- (2) An application to which this regulation applies—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) documentary proof, to the satisfaction of the CEO, of the identity of the applicant; and
 - (ii) such other information and records as the CEO may reasonably require; and
 - (iii) the fee (if any) fixed by Schedule 14.
- (3) Without limiting subregulation (2)(b), an applicant for a certificate of competency in relation to a commercial vessel must provide to the satisfaction of the CEO—
 - (a) proof of the experience required by these regulations in a form specified by the CEO; and
 - (b) proof that the applicant meets the required eyesight standards (consisting of a report by a legally qualified medical practitioner or registered optician of the results of an examination conducted within the previous 6 months); and

- (c) proof that the applicant meets the required medical standards (consisting of a report by a legally qualified medical practitioner of the results of an examination of the applicant conducted within the previous 6 months); and
- (d) a reference from a suitable person as to the character of the applicant; and
- (e) such further information and records as the CEO may reasonably require to determine the application.

Division 3—Provisions applying to certificates of competency for recreational vessels and special permits

80—Exemptions from section 47 of the Act

For the purposes of section 47(3) of the Act, the following persons are exempt from the requirement to hold a certificate of competency of the relevant class:

- (a) a person who holds a temporary boat operator's licence issued under this Division;
- (b) a person who is at least 12 years of age and who is operating a recreational vessel (other than a personal watercraft) at a speed of 10 knots or less under the direct supervision of a person who holds a boat operator's licence or a temporary boat operator's licence;
- (c) a person who—
 - (i) is usually resident in another State or a Territory of the Commonwealth; and
 - (ii) either—
 - (A) holds a licence, permit or other document issued under the law of another State or a Territory of the Commonwealth authorising him or her to operate a recreational vessel of a kind to which Part 7 of the Act would apply if the vessel were in this State; or
 - (B) is entitled, under a law of another State or a Territory of the Commonwealth recognised by the CEO for the purposes of this paragraph, to operate a recreational vessel of a kind to which Part 7 of the Act would apply if the vessel were in this State,

during a period of 90 days after the day on which the person first operates a vessel in the jurisdiction while visiting this State.

81—Requirements for applicants for boat operator's licence

- (1) For the purposes of section 48(2) of the Act, an applicant for a boat operator's licence must satisfy the following requirements:
 - (a) the applicant must be at least 16 years of age;
 - (b) the sight in the applicant's better eye must not be worse than 6/18 on the basis of Snellen's principle;
 - (c) the applicant must not suffer any mental or physical impairment that may affect his or her ability to operate or undertake duties on a vessel pursuant to a boat operator's licence;
 - (d) the applicant must satisfactorily pass any practical, written or oral examination set by the CEO for the purposes of this subregulation.

- (2) An applicant will be taken to meet the required eyesight and medical standards if the applicant meets the standards required for obtaining a motor vehicle driver's licence.
- (3) A pass in an examination remains valid for the purposes of the issue of a boat operator's licence for a period of 6 months from the date of the examination (unless the CEO determines otherwise).
- (4) If a person fails an examination, the CEO may determine that no further attempt may be made by that person until after a specified interval of time.
- (5) Despite subregulation (1), the CEO may issue a boat operator's licence to a person who fails to meet an eyesight or other medical standard required under that subregulation if the CEO is satisfied that the person can satisfactorily perform the duties required of the holder of a licence.

82—Endorsement of boat operator's licence

- (1) The CEO may, at any time by notice in writing, endorse a boat operator's licence with a condition based on an eyesight or medical standard required by these regulations, subject to which the holder may perform the duties normally authorised by the licence.
- (2) The CEO may, for the purposes of the endorsement of a boat operator's licence under subregulation (1), require an applicant for a licence or the holder of a licence person to meet such standards as the CEO thinks fit.
- (3) The holder of a boat operator's licence must, in operating a vessel, comply with an endorsement on his or her licence.
Maximum penalty: \$750.
Expiation fee: \$105.
- (4) For the purposes of this regulation, a reference to a boat operator's licence includes a reference to a qualification under the law of some other place declared under these regulations to be equivalent to a boat operator's licence.

83—Special permits

- (1) For the purposes of section 47(3), (3a) and (4) of the Act, the CEO may issue a special permit to operate a recreational vessel to a person who is not more than 15 years of age.

Note—

A special permit is not a certificate of competency.

- (2) An applicant for a special permit must satisfactorily pass any practical, written or oral examination set by the CEO for the purpose.
- (3) A special permit authorises the holder—
 - (a) to operate a recreational vessel that is less than 4 m in length and has a potential speed of 10 knots or less without supervision; and
 - (b) to operate any other recreational vessel (other than a personal watercraft) under the direct supervision of a person who holds a boat operator's licence or a temporary boat operator's licence.
- (4) A special permit may be issued subject to such conditions as the CEO thinks fit.

- (5) The holder of a special permit who contravenes or fails to comply with a condition of the permit is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.

84—Issue of temporary boat operator's licence

- (1) The CEO may issue a temporary boat operator's licence to an applicant for a boat operator's licence, pending full determination of the application, if satisfied that—
- (a) the application for a boat operator's licence has been properly made in accordance with this Part; and
 - (b) the applicant satisfies the requirements specified in regulation 81(1); and
 - (c) the applicant is a fit and proper person to hold a boat operator's licence.
- (2) A temporary boat operator's licence may be issued subject to such conditions as the CEO thinks fit.
- (3) A holder of a temporary boat operator's licence must not contravene or fail to comply with a condition of the licence.
Maximum penalty: \$750.
Expiation fee: \$105.
- (4) A temporary boat operator's licence remains in force—
- (a) for a period of 1 month; or
 - (b) until the relevant application for a boat operator's licence is determined,
- whichever is the lesser period.

85—Obligations of holder of boat operator's licence or special permit

- (1) A person who holds a boat operator's licence or special permit must sign the licence on receiving it.
Maximum penalty: \$750.
Expiation fee: \$105.
- (2) A person who holds a boat operator's licence or special permit must notify the CEO within 14 days of—
- (a) any change in his or her name or address; or
 - (b) any physical or mental impairment that may affect his or her capacity to operate a vessel.
- Maximum penalty: \$750.
Expiation fee: \$105.

86—Replacement boat operator's licence or special permit

- (1) A replacement boat operator's licence or special permit must not be issued unless the original (or previous replacement) licence or permit is returned to the CEO or the CEO is satisfied that the licence or permit has been lost, stolen or destroyed.
- (2) A replacement boat operator's licence or special permit will only be issued on payment of the fee (if any) fixed by Schedule 14.

Division 4—Provisions applying to certificates of competency for commercial vessels

87—Requirements for applicants for certificates of competency

- (1) For the purposes of section 48(2) of the Act, an applicant for a certificate of competency of a class appropriate to a trading vessel operating solely on the River Murray or inland waters must comply with the requirements (as to age, eyesight and other medical standards, experience and the passing of examinations) applicable to the relevant class of certificate as set out in Schedule 7.
- (2) For the purposes of section 48(2) of the Act, an applicant for a certificate of competency of a class appropriate to any other trading vessel must comply with the requirements (as to age, eyesight and other medical standards, experience and the passing of examinations) applicable to the particular class of certificate set out in Part D of the NSCV.
- (3) For the purposes of section 48(2) of the Act, an applicant for a certificate of competency of a class appropriate to a fishing vessel must comply with the requirements (as to age, eyesight and other medical standards, experience, and the passing of examinations) applicable to the particular class of certificate set out in Part D of the NSCV.
- (4) A pass in an examination required under a previous subregulation remains valid for the purposes of the issue, endorsement, recognition or re-validation of a certificate of competency—
 - (a) in the case of an oral or a practical examination—for a period of 12 months from the date of the examination; and
 - (b) in the case of a written examination—for a period of 5 years from the date of the examination,unless the CEO determines otherwise.
- (5) If a person fails an examination, the CEO—
 - (a) may determine that no further attempt may be made by that person until after a specified interval of time; and
 - (b) may require the person to complete a further period of experience during that interval.
- (6) Despite this regulation, the CEO may issue a certificate of competency to a person who fails to meet an eyesight or other medical standard required under this regulation if the CEO is satisfied that the person can satisfactorily perform the duties required of the holder of a certificate of competency of the relevant class.

88—Duration of certificate of competency of a class appropriate to a trading vessel

- (1) Subject to the Act, a certificate of competency of a class appropriate to a trading vessel issued—
 - (a) on or after 23 September 1999 but before the commencement of this regulation; or
 - (b) after the commencement of this regulation,remains in force for 5 years after the date of its issue and may be re-validated, in accordance with any procedure determined by the CEO, for further periods of 5 years.
- (2) Subject to this regulation, a certificate of competency of a class appropriate to a trading vessel issued before 23 September 1999 remains in force until cancelled.

- (3) The holder of a certificate of competency of a class appropriate to a trading vessel issued before 23 September 1999 is not required to apply for re-validation of the certificate but, if such an application is made, the following rules apply:
- (a) if the application is successful—the certificate ceases to be in force 5 years after the date of its re-validation but may be re-validated, in accordance with any procedure determined by the CEO, for further periods of 5 years;
 - (b) if the application is refused—the certificate ceases to be in force when the time for appealing against the decision to refuse the application expires or, if there is such an appeal, when the decision is confirmed on appeal or the appeal is discontinued.

89—Re-validation of certificates of competency of a class appropriate to a trading vessel

- (1) The CEO may re-validate a certificate of competency of a class appropriate to a trading vessel issued under the Act or the repealed *Harbors Act 1936* on the application of the holder of that certificate.
- (2) Subject to this regulation, the CEO must not re-validate a certificate of competency unless the holder of the certificate—
- (a) meets the eyesight and other medical standards—
 - (i) required by these regulations for the issue of a certificate of that class; or
 - (ii) where the certificate is not one referred to in these regulations, required by the CEO; and
 - (b) in the case of a master or deck officer—
 - (i) has completed a total of at least 1 year of experience (as a master or deck officer) approved by the CEO during the 5 years immediately preceding the application; or
 - (ii) has satisfactorily completed a course or an examination approved by the CEO; and
 - (c) in the case of an engineer—
 - (i) has completed a total of at least 1 year of experience (as an engineer) approved by the CEO during the 5 years immediately preceding the application; or
 - (ii) has satisfactorily completed a course or passed an examination approved by the CEO; or
 - (iii) has undertaken at least 3 months of experience (as an engineer) approved by the CEO—
 - (A) in a supernumary capacity; or
 - (B) in a rank lower than that for which the certificate is valid, immediately prior to the application; or
 - (iv) has performed functions appropriate to the class of certificate to the satisfaction of the CEO immediately prior to the application; and

- (d) has, to the satisfaction of the CEO, complied with any special training requirements or other conditions for experience on a class of vessels for which the certificate is endorsed required by an international agreement to which Australia is a party or with which compliance is required under a law of this State or the Commonwealth or by the CEO.
- (3) Despite subregulation (2), the CEO may re-validate a certificate of competency to a person who fails to meet an eyesight or other medical standard required under that subregulation if the CEO is satisfied that the person can satisfactorily perform the duties required of the holder of a certificate of competency of the relevant class.
- (4) The CEO may, before re-validating a certificate of competency, require the holder to satisfactorily complete a course or examination referred to in subregulation (2)(b)(ii) or (2)(c)(ii).
- (5) The CEO may, on the re-validation of a certificate of competency, issue a replacement certificate of competency or make a note of the period for which the certificate is re-validated on the certificate concerned.

90—Endorsement of certificates of competency

- (1) The CEO may, at any time, endorse a certificate of competency with—
 - (a) a limitation on or extension of the duties for which the certificate is valid; or
 - (b) an area, or the equipment, vessel, or type or class of equipment or vessel, for which the certificate is valid; or
 - (c) a condition, based on an eyesight or medical standard required by these regulations, subject to which the holder may perform the duties normally authorised by a certificate of that class.
- (2) The CEO may, for the purposes of the endorsement of a certificate of competency under subregulation (1), require a person applying for an endorsement, or the holder of a certificate of competency, to meet such requirements as to—
 - (a) age; and
 - (b) eyesight and other medical standards; and
 - (c) experience; and
 - (d) the satisfactory completion of courses or passing of examinations,as the CEO thinks fit.
- (3) The following limitations apply to the endorsement of a certificate of competency under this regulation:
 - (a) a certificate of competency of a class appropriate to a fishing vessel may not be endorsed so as to extend its application to a trading vessel;
 - (b) a certificate of competency of a class appropriate to a trading vessel may not be endorsed so as to extend its application to a fishing vessel.

- (4) The holder of a certificate of competency must, in operating or undertaking duties on a vessel, comply with—
- (a) an endorsement on his or her certificate; or
 - (b) a condition to which the recognition of his or her certificate is subject.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) This regulation does not apply to duties undertaken—
- (a) in accordance with an exemption granted under the Act; or
 - (b) in an emergency at sea.
- (6) For the purposes of this regulation, a reference to a certificate of competency includes a reference to a qualification under the law of some other place declared under these regulations to be equivalent to a certificate of competency.

91—Obligations of holder of certificate of competency

A person who holds a certificate of competency must notify the CEO within 14 days of—

- (a) any change in his or her name or address; or
- (b) any physical or mental impairment that may affect his or her capacity to operate or undertake duties on a vessel.

Maximum penalty: \$750.

Expiation fee: \$105.

92—Replacement certificate of competency

- (1) A replacement certificate of competency must not be issued unless the original (or previous replacement) certificate is returned to the CEO or the CEO is satisfied that the certificate has been lost, stolen or destroyed.
- (2) A replacement certificate of competency will only be issued on payment of the fee (if any) fixed by Schedule 14.

Division 5—Recognition of experience and qualifications etc

93—Equivalent experience and qualifications etc

- (1) If the CEO is satisfied that a person who applies to be examined for the issue of a certificate of competency has experience, training or educational qualifications that substantially comply with the requirements of these regulations as to experience and the passing of examinations, the CEO may, to the extent that he or she thinks fit, accept that experience or training or those educational qualifications as a substitute for compliance with those requirements.
- (2) The acceptance of experience, training or educational qualifications by the CEO under subregulation (1) may be subject to such conditions or additional requirements as the CEO thinks fit.

94—Recognition of other qualification as equivalent of certificate of competency

- (1) The CEO may, by notice in writing, declare a qualification under the law of some other place to be equivalent to a certificate of competency of a specified class.

- (2) A notice of recognition under subregulation (1)—
- (a) may relate to an individual certificate or to certificates of a specified class; and
 - (b) may be subject to such conditions as the CEO thinks fit and specifies in the notice, including conditions—
 - (i) limiting the period of recognition; or
 - (ii) specifying a class of certificate to which the certificate is recognised as equivalent; or
 - (iii) specifying the extent (if any) to which an endorsement on the certificate is recognised; or
 - (iv) specifying the duties, area, equipment or vessel (or type or class of equipment or vessel) for which the certificate is recognised; or
 - (v) based on eyesight or other medical standards.
- (3) The CEO may, for the purposes of a declaration under subregulation (1), require the holder of the qualification to meet such requirements as to—
- (a) age; and
 - (b) eyesight and other medical standards; and
 - (c) experience; and
 - (d) the satisfactory completion of courses or passing of examinations,
- as the CEO thinks fit.

Part 10—Hire and drive vessels

Division 1—Preliminary

95—Interpretation

In this Part—

certificate of inspection, in relation to a hire and drive houseboat, means the certificate of inspection issued by the CEO in relation to the houseboat under regulation 106;

hirer means a person who takes a hire and drive vessel on hire;

licence means a licence under Part 8 of the Act;

owner, in relation to a hire and drive vessel, means the person hiring out the vessel pursuant to a licence under Part 8 of the Act (but does not include a hirer of the vessel).

96—Application of Part 8 of the Act

For the purposes of section 51 of the Act, Part 8 of the Act applies to the following classes of vessels:

- (a) hire and drive small vessels;
- (b) hire and drive houseboats operated on the River Murray between the border of South Australia and a line joining the upstream sides of the landings used by the ferry at Wellington.

97—Exemptions from certain provisions of Act

- (1) A person operating a hire and drive houseboat is exempt from any requirement to hold a certificate of competency if the person—
 - (a) is at least 18 years of age; and
 - (b) —
 - (i) holds a current driver's licence under the *Motor Vehicles Act 1959* endorsed with the classification C or R; or
 - (ii) holds a current interstate licence or foreign licence (as defined in the *Motor Vehicles Act 1959*) authorising the person to drive motor vehicles of the kind that may be driven pursuant to a driver's licence referred to in subparagraph (i) and is, by virtue of section 97A of that Act, authorised to drive such motor vehicles on roads in this State; and
 - (c) has received practical instruction from the owner of the houseboat sufficient to meet the requirements of regulation 110.
- (2) A person operating a hire and drive small vessel is exempt from any requirement to hold a certificate of competency if the person—
 - (a) is at least 16 years of age; and
 - (b) has received practical instruction from the owner of the vessel sufficient to meet the requirements of regulation 110.
- (3) For the purposes of section 47(4) of the Act, a person is exempt from the requirement to hold a certificate of competency of the relevant class if he or she is a person who is exempt from any requirement to hold a certificate of competency under this regulation.

Division 2—Licences**98—Application for licence**

- (1) An application for a licence or renewal of a licence—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (2) The CEO may require an applicant—
 - (a) to undertake a practical demonstration relating to the applicant's capacity to satisfy the requirements of this Part; and
 - (b) to provide such other information or records that the CEO may reasonably require for the purpose of determining the application.

99—Limitations etc on granting licence

- (1) Subject to this regulation, the CEO must not grant a licence to a person unless satisfied—
 - (a) in the case of an applicant who is a natural person—the applicant is of or over 18 years of age and is a fit and proper person to hold a licence; or

- (b) in the case of an applicant who is a body corporate—that each director of the applicant is a fit and proper person to hold a licence.
- (2) The CEO may only grant a licence to a person in relation to the hiring out of hire and drive houseboats if the CEO has imposed the following conditions on the licence:
- (a) a condition preventing the hiring out of hire and drive houseboats pursuant to the licence other than the houseboats specified in the condition;
 - (b) a condition requiring the person not to hire out a hire and drive houseboat unless that houseboat is the subject of a current certificate of inspection;
 - (c) a condition requiring the person to maintain the register book required under regulation 108 in respect of any hire and drive houseboats hired out pursuant to the licence;
 - (d) a condition requiring the person not to contravene any provision of the Act or these regulations in relation to the hiring out of hire and drive houseboats.
- (3) For the purpose of determining whether a person is a fit and proper person to hold a licence, the CEO may have regard to—
- (a) the reputation, honesty and integrity (including the creditworthiness) of the person; and
 - (b) whether the person has appropriate knowledge, experience and skills; and
 - (c) any other matter the CEO thinks fit.

100—Duration of licence

A licence remains in force—

- (a) for a period of 12 months (or such shorter period as may be specified in the licence); or
- (b) until the licence is surrendered or cancelled,

whichever is the shorter period, and may be renewed, in accordance with any procedure determined by the CEO, for successive periods of 12 months.

101—Transfer of licence

A licence may, with the written approval of the CEO, be transferred to—

- (a) a natural person who is of or over 18 years of age and is a fit and proper person to hold a licence; or
- (b) a body corporate, each director of which is a fit and proper person to hold a licence.

102—Replacement licence

A replacement licence must not be issued unless the original (or previous replacement) licence is returned to the CEO or the CEO is satisfied that the licence has been lost, stolen or destroyed.

Division 3—Certificate of inspection

103—Inspections of hire and drive houseboats

Subject to this Division, a hire and drive houseboat to be hired out pursuant to a licence must be inspected in accordance with the requirements set out in regulation 105.

104—Application for inspection

- (1) The owner of a hire and drive houseboat may apply to the CEO for an inspection to be carried out on the houseboat.
- (2) An application under this regulation—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such information and records as the CEO may reasonably require; and
 - (ii) the application fee (if any) fixed by Schedule 14.
- (3) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

105—Inspections

- (1) Subject to these regulations, an inspection is to be carried out in accordance with any requirements determined by the CEO.
- (2) The fees (if any) fixed by Schedule 14 are payable by the owner of a hire and drive houseboat in relation to an inspection.
- (3) Without limiting subregulation (2), the owner of a hire and drive houseboat is also liable for the following costs in relation to an inspection:
 - (a) the cost of tests carried out by a third party on any material, machinery or equipment pursuant to the direction of a surveyor given during the course of inspecting the boat;
 - (b) the cost of slipping the boat for the purposes of an inspection;
 - (c) the travel, accommodation and meal expenses (at the rates applicable in the Public Service) incurred by a surveyor if—
 - (i) the surveyor attended at the place and time fixed for the inspection of the boat but the boat was not made available and the owner did not give 5 or more days notice to the surveyor that the boat would not be available; or
 - (ii) if the time or place nominated by the owner and fixed for the inspection of the boat falls outside any program fixed by the CEO for carrying out boat inspections.

106—Certificate of inspection

- (1) The CEO may issue a certificate of inspection in relation to a hire and drive houseboat if—
 - (a) the houseboat has been inspected in accordance with regulation 105; and
 - (b) either—
 - (i) the houseboat—
 - (A) is structurally sound and conforms with the requirements set out in Schedule 8; and
 - (B) has the equipment required by Schedule 8 and the equipment is in working order; or

- (ii) if the houseboat does not satisfy all requirements under Schedule 8—
 - (A) operation of the houseboat would not, in the opinion of the CEO, present a risk to the safety of any person; and
 - (B) either:
 - the CEO is satisfied that compliance with a particular requirement is, in the circumstances of the case, impracticable or unnecessary; or
 - the CEO is satisfied that any alternative action taken or provision made regarding a particular requirement is sufficiently effective in respect of the requirement; and
 - (c) subject to these regulations, the owner of the houseboat has paid to the CEO to any fees and costs in relation to the inspection for which the owner is liable.
- (2) If the CEO issues a certificate of inspection to which regulation 106(1)(b)(ii) applies, the CEO may, by notice in writing, require the owner of the houseboat—
 - (a) to take such action in respect of the houseboat as the CEO thinks fit for a purpose related to the relevant requirement; and
 - (b) provide evidence to the satisfaction of the CEO that such action has been taken (including requiring such evidence to be verified by statutory declaration).
- (3) A certificate of inspection must—
 - (a) state the maximum number of persons that the boat is permitted to carry while underway; and
 - (b) define the geographical limits of the waters within which the boat is permitted to operate.
- (4) Subject to these regulations, a certificate of inspection remains in force for 2 years.
- (5) The CEO may, on application by the owner of a hire and drive houseboat in respect of which a certificate of inspection is in force, by notice in writing made, extend the period for which a certificate of inspection is in force (for a period or periods not exceeding 3 months at a time and not exceeding 12 months in aggregate) if the CEO—
 - (a) is of the opinion that it is impractical or would cause unreasonable expense or inconvenience to the owner of the boat to inspect it prior to the expiry of the period; and
 - (b) is not aware of any grounds for suspecting that the boat is unsound.
- (6) An application under subregulation (5)—
 - (a) must be made to the CEO in the manner and form determined by the CEO not less than 5 business days before the certificate of inspection is due to expire; and
 - (b) must be accompanied by—
 - (i) such information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.

- (7) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (8) The CEO may require information provided in an application to be verified by statutory declaration.

107—Cancellation of certificate of inspection

- (1) The CEO may, by notice in writing, cancel a certificate of inspection issued in relation to a hire and drive houseboat if the CEO is satisfied that—
 - (a) the houseboat—
 - (i) is no longer structurally sound or no longer conforms with the requirements set out in Schedule 8; or
 - (ii) does not have the equipment required by Schedule 8 or such equipment is not in working order; or
 - (b) operation of the houseboat presents a risk to the safety of any person; or
 - (c) the owner of the houseboat fails to comply with a requirement under regulation 106(2).
- (2) If a certificate of inspection is cancelled under this regulation, the owner of the houseboat in relation to which the certificate of inspection was issued must—
 - (a) return the certificate of inspection to the CEO; or
 - (b) must destroy the certificate of inspection,

in accordance with any requirement set out in the notice under subregulation (1).

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 4—Obligations of owners of hire and drive vessel

108—Records etc to be kept available for inspection

- (1) The owner of a hire and drive vessel must maintain a register book (in the manner and form determined by the CEO) in respect of that vessel in accordance with this regulation.

Maximum penalty: \$1 250.

Expiation fee: \$160.
- (2) The register book must include copies of the following:
 - (a) the owner's licence;
 - (b) any notice varying or revoking a condition of the owner's licence;
 - (c) the certificate of inspection in relation to the houseboat;
 - (d) any notice extending the period for which a certificate of inspection relating to the houseboat remains in force, or cancelling the certificate of inspection in relation to the houseboat.

- (3) Without limiting subregulation (2), the register book in respect of a hire and drive houseboat must also contain the following particulars relating to each contract under which the houseboat is hired out on a hire and drive basis:
- (a) the name, address and specimen signature of the hirer;
 - (b) the period of the hiring;
 - (c) the day on which and the time at which the houseboat is taken by the hirer;
 - (d) the day on which and the time at which the houseboat is returned by the hirer;
 - (e) the maximum number of persons (including the hirer) stated by the hirer as the number that will be carried on the houseboat while it is underway;
 - (f) details of the hirer's—
 - (i) boat operator's licence or temporary boat operator's licence; or
 - (ii) driver's licence, interstate licence or foreign licence (as defined in the *Motor Vehicles Act 1959*).
- (4) The register book in respect of a hire and drive vessel must be kept at the premises from which the vessel is hired out.
- (5) The owner of a hire and drive vessel must produce the register book in respect of the vessel for inspection when requested to do so by an authorised person.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (6) The owner of a hire and drive vessel must produce the information referred to in subregulation (2) in respect of the vessel for inspection when requested to do so by a hirer of the vessel, or a person proposing to hire the vessel (however, to avoid doubt, nothing in this subregulation requires or authorises the production of the particulars referred to in subregulation (3) to a hirer or other person).

Maximum penalty: \$1 250.

Expiation fee: \$160.

109—Vessel not to be hired out nor possession handed over in certain circumstances

- (1) The owner of a hire and drive vessel must not hire out the vessel or hand over possession of the vessel to a hirer if—
- (a) more persons are to be carried on the vessel than the maximum number that the vessel is permitted to carry while underway; or
 - (b) the vessel is carrying, or the hirer has taken on board, anything that is prohibited by these regulations or any other law from being carried on board.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) The owner of a hire and drive vessel must not hire out the vessel or hand over possession of the vessel to a hirer unless—
- (a) the hirer—
 - (i) has an appropriate certificate of competency; or
 - (ii) is exempt from the requirement to hold a boat operator's licence; and

- (b) in the case of a hire and drive houseboat—
 - (i) the hirer has supplied the particulars required by regulation 108(3)(a), (e) and (f) and given his or her specimen signature; and
 - (ii) if fuel with a flash point lower than 60°C is to be carried on the houseboat otherwise than in fuel tanks associated with the engine or a generator—a flammable liquids cabinet is placed on the houseboat in accordance with Schedule 8.

Maximum penalty: \$1 250.

Expiation fee: \$160.

110—Information and instructions to be given to hirers

- (1) The owner of a hire and drive vessel must, before handing over possession of the vessel to a hirer—
 - (a) if the vessel is a hire and drive houseboat or if the hirer is a person referred to in regulation 97(2)—give practical instruction to the hirer in—
 - (i) getting the vessel underway; and
 - (ii) handling the vessel while it is underway; and
 - (iii) mooring the vessel; and
 - (b) in any case—give the hirer clear and concise written instructions on—
 - (i) the geographical limits of the waters within which the vessel is permitted to operate; and
 - (ii) the rules of navigation applicable to the vessel while it is being operated in the waters within which it is permitted to operate; and
 - (iii) the correct way of operating any machinery and fuel, gas and pumping systems on the vessel and any valves or other openings in the hull; and
 - (iv) the location and correct use of any lifesaving and fire appliances on the vessel; and
 - (v) the correct way of operating any communications equipment on the vessel; and
 - (vi) the maximum number of persons that can safely ride on or be in the vessel while it is underway; and
 - (vii) in the case of a hire and drive houseboat—the maximum number of persons that can safely be in the boat while it is moored; and
 - (viii) in the case of a hire and drive houseboat—the potential risks of harm to unsupervised children on the houseboat and ways to minimise such risks; and
 - (c) if the vessel is a hire and drive houseboat—produce the certificate of inspection issued in relation to the vessel to the hirer for inspection; and

- (d) require the hirer to sign a statement to the effect that the owner has complied with the requirements of this regulation; and
- (e) give the hirer a copy of the signed statement.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) The owner of a hire and drive vessel must keep a copy of the signed statement referred to in subregulation (1)(d) and produce it for inspection when requested to do so by an authorised person.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) For the purposes of this regulation, a reference to mooring a vessel includes, in the case of a vessel that is a personal watercraft, a reference to beaching the vessel.

111—Duties of licence holder

The holder of a licence must, within 7 days, give written notice to the CEO—

- (a) of any change in the licence holder's business address; or
- (b) of any change in ownership of a hire and drive vessel operated pursuant to the licence and the name and address of the new owner; or

Note—

The owner of the vessel is the person hiring out the vessel pursuant to a licence under Part 8 of the Act.

- (c) if a hire and drive houseboat specified in a condition of the licence under regulation 99(2)(a) is no longer being hired out pursuant to the licence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

112—Duty to report certain incidents to CEO

Without limiting the operation of Part 13 or any other provision of the Act or these regulations, or any other Act or law, the owner of a hire and drive vessel must, within 48 hours, give written notice to the CEO of—

- (a) the loss, theft or abandonment of the vessel; or
- (b) any structural or substantial damage to the vessel, whether due to grounding or any other cause; or
- (c) the death of or serious injury to any person apparently arising out of the use of the vessel or any equipment supplied with the vessel; or
- (d) damage to any property apparently arising out of the use of the vessel or any equipment supplied with the vessel.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 5—Obligations of hirer of hire and drive vessel

113—Use of hire and drive vessels

- (1) The hirer of a hire and drive vessel must at all times—
- (a) operate the vessel in a safe and responsible manner; and
 - (b) comply with any instructions given by the owner of the vessel for the safe operation of the vessel; and
 - (c) comply with any other conditions relating to the operation of the vessel imposed on the licence held by the owner of the vessel and communicated to the hirer by the owner; and
 - (d) comply with any directions given to the hirer by an authorised person in relation to the operation of the vessel; and
 - (e) if the vessel is a hire and drive houseboat—must ensure that the view of the person operating the houseboat is not obstructed; and
 - (f) if the vessel is a personal watercraft—
 - (i) while operating the vessel wear a PFD Type 2 or PFD Type 3; and
 - (ii) operate the vessel with not more than 1 person onboard or, if the vessel is designed to carry more than 1 person, with not more than 2 persons onboard; and
 - (iii) in the case of a vessel being operated by a person referred to in regulation 97(2)—only operate the vessel within the area defined in the licence as marked by coloured inflatable or polystyrene buoys or by some other means.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) The hirer of a hire and drive houseboat must not cause or permit—
- (a) more persons to be carried on the houseboat while it is underway than the maximum number of persons that the houseboat is permitted to carry while underway under its certificate of inspection; or
 - (b) the houseboat to be operated outside of the geographical limits within which the houseboat may be operated under its certificate of inspection; or
 - (c) the houseboat, or any equipment supplied with the houseboat, to be improperly handled or used; or
 - (d) fuel with a flash point lower than 60°C to be carried on the houseboat otherwise than in the fuel tanks associated with the engine or a generator or in a flammable liquids cabinet in accordance with Schedule 8; or
 - (e) fuel to be decanted on the houseboat; or
 - (f) flammable material (other than fuel or a liquefied petroleum gas cylinder) to be stored or left—
 - (i) in the same flammable liquids cabinet as fuel or a liquefied petroleum gas cylinder; or

- (ii) within 1 m of a liquefied petroleum gas cylinder,
on the houseboat.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Part 11—Registration, certificates of survey, loadline certificates and Australian Builders Plates

Division 1—Preliminary

114—Interpretation

In this Part—

owner of a vessel does not include a person who takes the vessel on hire.

Division 2—Provisions applying to recreational vessels

Subdivision 1—Registration of vessels

115—Application for registration

- (1) An application for registration of a vessel—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must correctly state—
 - (i) the full name of the owner of the vessel; and
 - (ii) if the owner of the vessel is a natural person, the address at which the owner is ordinarily resident and, in the case of an application for registration in a business name, the address of the principal place of business at which the owner carries on business in that business name; and
 - (iii) if the owner of the vessel is a body corporate, the address of the principal place of business in this State of the body corporate; and
 - (c) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

116—Grant of registration

- (1) Subject to this regulation, if a person applies for registration of a vessel in accordance with these regulations, the CEO must grant the application unless satisfied that the vessel—
 - (a) is not structurally sound or does not conform with the requirements of these regulations; or

- (b) does not have the equipment required by these regulations or that the equipment is not in working order; or
 - (c) is unsafe; or
 - (d) has been stolen or unlawfully obtained.
- (2) The CEO may only register a vessel in the name of—
- (a) a natural person who is of or above 16 years of age; or
 - (b) a body corporate.
- (3) The CEO must not—
- (a) grant the initial application to register a vessel under this Subdivision; or
 - (b) grant an application to transfer the registration of a vessel, or to re-register a vessel, under this Subdivision,
- unless the CEO is satisfied—
- (c) that HIN plates have been fixed to the hull of the vessel (or, in the case of a multi-hulled vessel, to 1 of the hulls of the vessel) in accordance with Subdivision 6; or
 - (d) that—
 - (i) letters and numbers identifying the vessel in a form approved by the CEO have been fixed in accordance with a law of another State or Territory of the Commonwealth or of another country that corresponds with Subdivision 6; and
 - (ii) those letters and numbers have been recorded against the vessel by the appropriate authority pursuant to that law.
- (4) Subregulation (3) does not apply if—
- (a) more than 1 person is registered as the owner of a vessel; and
 - (b) an application is made to transfer the registration to 1 or more of those registered owners or to re-register the vessel in the name of 1 or more of those registered owners.
- (5) The CEO may refuse to register a vessel pending investigations (which may include inspection of the vessel) to verify any information disclosed in the application or any evidence provided by the applicant in response to a requirement of the CEO.
- (6) If, on investigation under this regulation, the CEO finds that any information disclosed in the application or any evidence provided by the applicant in response to a requirement of the CEO is incorrect, the CEO may refuse to register the vessel.
- (7) Subject to these regulations, registration of a vessel under this Subdivision remains in force for a period of 1 year and may be renewed in accordance with any procedure determined by the CEO.
- (8) The CEO may fix a common expiry date in respect of the registration of a number of vessels owned by the same person and may fix registration periods of such length, and adjust registration fees, as may be necessary for that purpose.

117—Certificate of registration and registration label

The CEO must, on registering a vessel under this Subdivision, issue to the applicant for registration—

- (a) a certificate of registration; and
- (b) a registration label.

118—Marking of vessel

- (1) The CEO must, on registering a vessel under this Subdivision, assign an identification mark to the vessel (if a mark has not already been assigned).
- (2) The CEO may, at any time on his or her own initiative or on application by the registered owner of a vessel, assign a new identification mark in substitution for a mark previously assigned and, on doing so, must issue a new certificate of registration.
- (3) An application for assignment of a new identification mark—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) by the fee (if any) fixed by Schedule 14.
- (4) A vessel registered under this Subdivision must, as soon as practicable and in any event within 14 days of registration, have its identification mark painted or otherwise displayed as high as practicable on the outside of each bow, or in such other positions as are approved by the CEO, as follows:
 - (a) the identification mark must be in a colour that contrasts with the surface on which it is painted or displayed;
 - (b) in the case of numbers included in the identification mark—the numbers must be in figures;
 - (c) all characters in the identification mark must be at least —
 - (i) if the vessel is less than 3 m in length—100 mm in height; or
 - (ii) if the vessel is 3 m or more in length—150 mm in height;
 - (d) the identification mark must be clearly legible at a distance of not less than 50 m in clear weather conditions while the vessel is underway.
- (5) If the identification mark of a vessel is substituted, the new mark must be displayed on the vessel in accordance with this regulation—
 - (a) if the reason for the substitution is a proposed transfer of ownership of the vessel—as soon as practicable but in any event before ownership of the vessel is transferred; or
 - (b) in any other case—as soon as practicable.
- (6) A vessel must not be marked with—
 - (a) the identification mark of another vessel; or
 - (b) a mark that could be mistaken for an identification mark of a vessel.

- (7) If a vessel is marked in contravention of subregulation (6), the owner of the vessel is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.
- (8) If a vessel that is marked in contravention of subregulation (6) is operated in the jurisdiction, the operator of the vessel is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.

119—Registration label

- (1) The registration label of a vessel must be affixed adjacent to the vessel's steering position so as to be clearly visible and legible in daylight.
- (2) Despite subregulation (1), a registration label is not required to be affixed to a vessel if—
- (a) payment of any fee payable for registration or renewal of registration has been made; and
 - (b) the registration label has not been received by the registered owner of the vessel or the registered owner's agent; and
 - (c) not more than 21 days have elapsed from the date the payment was made.
- (3) A vessel must not have affixed or displayed on it—
- (a) a registration label issued in respect of another vessel; or
 - (b) a label that could be mistaken for a registration label issued under these regulations.
- (4) If a vessel does not have a label affixed to it as required by this regulation or has a label affixed to, or displayed on, it contrary to this regulation, the owner of the vessel is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.
- (5) If a vessel is operated in the jurisdiction without a label affixed to it as required by this regulation or with a label affixed to, or displayed on, it contrary to this regulation, the operator of the vessel is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.

120—Transfer of registration

- (1) If ownership of a registered vessel is transferred, the new owner must, within 14 days of the transfer, or within such longer period as the CEO may allow, apply for the registration of the vessel to be transferred to the new owner's name.
Maximum penalty: \$750.
Expiation fee: \$105.
- (2) An application for transfer of registration—
- (a) must be made to the CEO in a manner and form determined by the CEO; and

- (b) subject to subregulation (3), must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (3) Without limiting the power of the CEO to waive or reduce fees under these regulations, the CEO must, if he or she is satisfied that an application for transfer of registration of a vessel has been lodged only for the purpose of transferring registration of the vessel into the name of 1 or more of the vessel's joint owners following the death of a joint owner of the vessel, waive the fee fixed by Schedule 14 in respect of the application.
- (4) If a person applies for transfer of registration of a vessel in accordance with this regulation, the CEO must grant the application.

121—Refund of registration fees

If registration of a vessel under this Subdivision is refused, the registration fee paid on application for registration will be refunded to the applicant less any amount accountable to a period of temporary registration (rounded to the nearest dollar).

122—Replacement certificates of registration and registration labels

- (1) The CEO must not issue a replacement certificate of registration, or replacement registration label, in respect of a vessel unless—
 - (a) the original (or previous replacement) certificate or label for the vessel has been returned to the CEO; or
 - (b) the CEO is satisfied that the certificate or label has been lost, stolen or destroyed.
- (2) A replacement certificate of registration or replacement registration label will only be issued on payment of the fee (if any) fixed by Schedule 14.

123—Notification of change of address

The registered owner of a vessel must give written notice to the CEO within 14 days of any change in the registered owner's name or address.

Maximum penalty: \$750.

Expiation fee: \$105.

Subdivision 2—Temporary registration

124—Temporary registration

- (1) The CEO may, pending determination of an application for registration under Subdivision 1, grant temporary registration of a vessel.
- (2) Temporary registration of a vessel under this regulation—
 - (a) remains in force—
 - (i) until the application for registration is determined; or
 - (ii) for a period, not exceeding 21 days, specified in the certificate of temporary registration,whichever period is shorter; and
 - (b) may be granted on such conditions as the CEO thinks fit.

- (3) The CEO must, on registering a vessel under this regulation, issue to the applicant for registration a certificate of temporary registration.
- (4) If a vessel that is registered under this regulation is operated in the jurisdiction contrary to any condition of such registration, the owner of the vessel, and the operator of the vessel, are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent).
Maximum penalty: \$750.
Expiation fee: \$105.

Subdivision 3—Cancellation of registration etc

125—Cancellation of registration

- (1) The CEO may, by notice in writing, cancel the registration, or temporary registration, of a vessel under these regulations—
 - (a) if satisfied—
 - (i) that the registration was obtained improperly; or
 - (ii) that the vessel was, at the time that it was registered or temporarily registered, stolen or unlawfully obtained; or
 - (iii) that the vessel has been destroyed or is no longer operational; or
 - (iv) that the vessel is no longer of a class that must be registered under these regulations; or
 - (b) on application by the registered owner of the vessel made in a manner and form determined by the CEO.
- (2) The CEO must not, under subregulation (1)(b), cancel the registration of a vessel in relation to which a registration label has been issued unless the label has been returned to the CEO or the CEO is satisfied that the label has been lost, stolen or destroyed.
- (3) If registration of a vessel is cancelled under subregulation (1)(b), the proportion of the registration fee corresponding to the unexpired period of registration less the cancellation fee (if any) fixed by Schedule 14 (rounded to the nearest dollar) will be refunded to the applicant.

Note—

A levy payable under Part 15 is not refundable on cancellation of registration under this regulation.

126—Return of certificate of registration or registration label

- (1) The CEO may, by notice in writing, require the registered owner of a vessel to return the certificate of registration or registration label of the vessel by a specified date—
 - (a) if the registration of the vessel is cancelled; or
 - (b) if the CEO wishes to issue a replacement certificate or label (including a replacement issued for the purposes of substituting the identification mark of the vessel).
- (2) A person who fails to comply with a requirement of the CEO under this regulation is guilty of an offence.
Maximum penalty: \$750.
Expiation fee: \$105.

Subdivision 4—Exemptions from requirement that vessel be registered

127—Application for exemption

- (1) For the purposes of section 55(3) of the Act, the following provisions apply in relation to an application for an exemption from the requirements of that section:
 - (a) the applicant must be—
 - (i) a natural person who is of or above 16 years of age; or
 - (ii) a body corporate;
 - (b) the application must be made to the CEO in a manner and form determined by the CEO;
 - (c) the application must correctly state—
 - (i) the full name of the owner of the vessel; and
 - (ii) —
 - (A) if the owner of the vessel is a natural person—the address at which the owner is ordinarily resident and, in the case of an application for an exemption in a business name, the address of the principal place of business at which the owner carries on business in that business name; or
 - (B) if the owner of the vessel is a body corporate—the address of the principal place of business in this State of the body corporate;
 - (d) the application must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

128—Exemptions from requirement to be registered and marked

- (1) A vessel is not required to be registered and marked in accordance with these regulations if—
 - (a) —
 - (i) the vessel is registered under the law of another State or a Territory of the Commonwealth and is marked in accordance with that law; and
 - (ii) not more than 90 days have passed since the day on which the vessel was first operated after being brought into the jurisdiction; or
 - (b) —
 - (i) the vessel is owned by a person to whom the CEO has issued trade plates; and
 - (ii) all conditions on which the trade plates have been issued by the CEO have been, and are being, complied with; and
 - (iii) a pair of trade plates and a trade plate label issued by the CEO are affixed to the vessel in accordance with Subdivision 5.

- (2) If the owner or operator of a vessel that is exempt under subregulation (1)(a) from the requirement to be registered is requested by an authorised person to produce satisfactory evidence of registration of the vessel under the law of another State or a Territory of the Commonwealth, the owner or operator must produce that evidence either—
- (a) forthwith to the person who made the request; or
 - (b) within 48 hours after the making of the request, at a police station or office of the department conveniently located for the owner or operator, specified by the authorised person at the time of making the request.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) In any legal proceedings, a document apparently signed by the Commissioner of Police and certifying that evidence has not been produced as required by this regulation is, in the absence of proof to the contrary, proof of the matter so certified.

Subdivision 5—Trade plates

129—Trade plates

- (1) A person is exempt from the operation of section 55 of the Act in respect of a vessel that is not registered and marked in accordance with these regulations if the person—
- (a) has been issued trade plates under this regulation; and
 - (b) the trade plates are in force; and
 - (c) the person operates the vessel in accordance with any condition imposed in relation to the trade plates under this regulation.
- (2) The CEO may, on the application of a person, issue trade plates to the person if satisfied that the person is engaged in a business in which trade plates are reasonably required for 1 or more of the following purposes:
- (a) demonstration of a vessel to a prospective purchaser;
 - (b) testing of a vessel prior to delivery of the vessel to a purchaser of the vessel;
 - (c) testing of a vessel in the course of repairs or servicing or the making of alterations or additions to the vessel;
 - (d) demonstration of a vessel while the vessel is on display at a boating show or other similar event.
- (3) An application for trade plates—
- (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (4) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (5) Trade plates may be issued subject to such conditions as the CEO thinks fit and specifies in the certificate of issue of trade plates.

- (6) The CEO may, by notice in writing to the holder of trade plates, vary or revoke a condition of the trade plates.
- (7) A person who holds trade plates must not contravene or fail to comply with a condition of the trade plates.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (8) The CEO may, by notice in writing to the holder of trade plates, cancel the trade plates for breach of a condition.
- (9) Subject to this regulation, trade plates remain in force for a period of 12 months (and may be renewed, in accordance with any procedures determined by the CEO for further periods of 12 months).
- (10) The CEO must, on issuing trade plates to an applicant, also issue to the applicant—
 - (a) a certificate of issue of trade plates; and
 - (b) a trade plate label.
- (11) Trade plates and a trade plate label must be affixed to a vessel as follows:
 - (a) 1 plate must be securely fixed to the forepart of each side of the vessel;
 - (b) the trade plate label must be affixed on to the trade plate that is on the starboard side of the vessel, aligned with that edge of the trade plate that is closest to the stern of the vessel;
 - (c) the plates must be fixed to the vessel in such a manner that every figure and letter on the plate is clearly visible and legible up to a distance of at least 50 m in clear weather conditions while the vessel is underway.
- (12) The holder of trade plates may surrender them to the CEO at any time.
- (13) If the holder of trade plates ceases to carry on the business in relation to which the plates were issued, the person must, within 7 days of ceasing to carry on that business—
 - (a) surrender the plates to the CEO; and
 - (b) if the business is purchased or acquired by another person—notify the CEO in writing of the name and address of that other person and the date of the sale or acquisition.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (14) If the holder of trade plates surrenders the trade plates to the CEO under this regulation, the CEO must refund to the person the proportion of the fee paid for issue of the plates corresponding to the unexpired period of their remaining in force, less the fee (if any) fixed by Schedule 14 for surrender of the plates (the total refundable amount being rounded to the nearest dollar).

130—Return of trade plates, certificates of issue of trade plates or trade plate labels

- (1) The CEO may, by notice in writing, require the holder of trade plates to return the trade plates, a certificate of issue of trade plates or a trade plate label by a specified date—
 - (a) if the relevant trade plates are cancelled or otherwise cease to be in force; or

- (b) if the CEO wishes to issue replacement trade plates, certificate of issue of trade plates or trade plate label.
- (2) A person who fails to comply with a requirement of the CEO under this regulation is guilty of an offence.
- Maximum penalty: \$750.
Expiation fee: \$105.

131—Replacement trade plates, certificates of issue of trade plates or trade plate labels

- (1) The CEO must not issue replacement trade plates, certificates of issue of trade plates or trade plate labels unless—
- (a) the original (or previous replacement) trade plates, certificate or label has been returned to the CEO; or
 - (b) the CEO is satisfied that the trade plates, certificate or label have been lost, stolen or destroyed.
- (2) Replacement trade plates, certificates of issue of trade plates or trade plate labels will only be issued on payment of the fee (if any) fixed by Schedule 14.

Subdivision 6—Hull identification numbers (HIN)

132—Interpretation

- (1) In this Subdivision—

boat code agent means a person whose appointment as a boat code agent under this Subdivision is in force;

boat code examiner means a person whose approval as a boat code examiner under this Subdivision is in force;

business day means every day except—

- (a) Saturday, Sunday or a public holiday; or
- (b) a day which falls between 25 December in 1 year and 1 January in the following year;

HIN means a series of letters and numbers that identify the vessel to which they are attached or on which they are inscribed and that—

- (a) indicate that the vessel is registered in Australia; and
- (b) identify the authority that issued the HIN; and
- (c) identify the boat code agent who fixed the HIN plate to the vessel; and
- (d) identify the year in which the HIN plate was fixed;

HIN plate means a plate issued by the CEO on which part of a HIN is inscribed at the time of issue.

- (2) For the purposes of this Subdivision—
- (a) a reference to fixing a HIN plate to a vessel includes a reference to the forming of the letters and numbers comprising a HIN into the fabric of the hull of a vessel in the course of manufacturing it; and

- (b) a reference to a HIN plate includes (if the context permits) a reference to a HIN that is not inscribed on a plate but is, or is to be, formed into the fabric of the hull of a vessel.

133—Fixing HIN plates to vessels

- (1) Only—

- (a) a boat code agent; or
- (b) a boat code examiner acting on behalf of the boat code agent by whom he or she is employed,

may fix a HIN plate to a vessel.

- (2) A person who is not a boat code agent, or a boat code examiner acting on behalf of the boat code agent by whom he or she is employed, who fixes a HIN plate to a vessel is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A person, whether a boat code agent or a boat code examiner or not, who fixes anything to a vessel that appears to be a HIN plate, but is not a HIN plate, is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) 2 HIN plates must be fixed to the hull of each vessel (or, in the case of a multi-hulled vessel, to 1 of the hulls of the vessel).

- (5) 1 plate must be fixed by the boat code agent—

- (a) in the case of a vessel that has a transom—on the outside of the starboard side of the transom so that—

- (i) the top edge of the plate is not more than 50mm below the top edge of the transom; and
- (ii) the plate is clearly visible;

- (b) in the case of a vessel that does not have a transom—on the outside of the starboard side of the vessel's hull as close as reasonably practicable to the stern of the vessel so that—

- (i) the top edge of the plate is not more than 50mm below the top of the gunwale; and
- (ii) the plate is clearly visible.

- (6) The other HIN plate must be fixed by the boat code agent—

- (a) in a position on the inside of the vessel's hull that is not likely to be found without searching; and

- (b) to a part of the hull—

- (i) that is not likely to be damaged in the normal course of using the vessel; and
- (ii) that can not be easily removed.

- (7) HIN plates must be fixed to the hull of a vessel—
- (a) in a manner that prevents removal of the plate without causing visible damage to the vessel; and
 - (b) in accordance with written directions (if any) of the CEO that are in force for the time being.
- (8) Before fixing a HIN plate to the hull of a vessel the boat code agent must add the letters and numbers to complete the HIN on the plate in accordance with the directions of the CEO under regulation 137.
- (9) A HIN plate must not be fixed to a vessel that—
- (a) is not a recreational vessel; or
 - (b) is a recreational vessel but is not fitted with an engine (but a HIN plate may be fixed to a vessel in the course of manufacturing it if it is designed to be fitted with an engine).
- (10) A boat code agent must not fix HIN plates to a vessel that is not registered, or temporarily registered, under these regulations.
- (11) Subregulation (10) does not apply in the following circumstances:
- (a) a boat code agent who carries on the business of dealing in new or used vessels may fix HIN plates to a vessel supplied to him or her in the course of carrying on that business despite the fact that the vessel is not registered or temporarily registered;
 - (b) a boat code agent, whether he or she carries on the business of dealing in new or used vessels or not, may, at the request of a person who does carry on that business, fix HIN plates to a vessel supplied to the dealer in the course of carrying on that business despite the fact that the vessel is not registered or temporarily registered;
 - (c) a boat code agent who manufactures vessels may—
 - (i) fix HIN plates to a vessel; or
 - (ii) form the letters and numbers comprising a HIN into the fabric of the hull of a vessel,
in the course of manufacturing it;
 - (d) if a vessel—
 - (i) was previously registered under this Act but is not registered now; and
 - (ii) is still owned by the same person who was last registered as its owner under this Act,
a boat code agent may, with the approval of the CEO, fix HIN plates to the vessel as though it were registered, or temporarily registered.
- (12) A boat code agent must not form the letters and numbers comprising a HIN into the fabric of the hull of a vessel after it has been manufactured.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (13) A boat code agent must return to the CEO HIN plates issued to him or her by the CEO as soon as is reasonably practicable after it becomes certain, or likely, that the boat code agent will not use them for fixing to a vessel.
- Maximum penalty: \$2 500.
Expiation fee: \$210.
- (14) As soon as is reasonably practicable after a boat code agent has formed the letters and numbers comprising a HIN appearing on a HIN plate issued to the agent by the CEO into the fabric of the hull of a vessel, the agent must inform the CEO in writing of the HIN concerned.
- Maximum penalty: \$2 500.
Expiation fee: \$210.

134—Unauthorised removal of a HIN plate

A person who removes a HIN plate, or interferes with a HIN plate, without being authorised in writing by the CEO to do so is guilty of an offence.

Maximum penalty: \$2 500.
Expiation fee: \$210.

135—Appointment of boat code agents

- (1) A person may apply to the CEO to be appointed as a boat code agent.
- (2) An application must—
- (a) be made in a manner and a form determined by the CEO; and
 - (b) be accompanied by—
 - (i) such information as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (3) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (4) The CEO may only grant an application under this regulation if—
- (a) in the case of an applicant who is a natural person—the applicant is of or over 18 years of age and is, in the opinion of the CEO, a fit and proper person to hold a licence; or
 - (b) in the case of an applicant who is a body corporate—each director of the applicant is, in the opinion of the CEO, a fit and proper person to hold a licence.
- (5) The appointment of a boat code agent—
- (a) is subject to such conditions as the CEO thinks fit and specifies when the application is granted; and
 - (b) is for such term as is specified by the CEO; and
 - (c) may be revoked by the CEO at any time by 7 days written notice served on the agent.
- (6) A boat code agent must carry out his or her functions as a boat code agent in accordance with any directions given to the agent in writing from time to time by the CEO.

136—Boat code examiners

- (1) If a boat code agent does not fix HIN plates personally to a vessel, he or she can only fix HIN plates to a vessel through the agency of another person if that person is an employee of the agent and is approved by the CEO as a boat code examiner.
- (2) An application for approval as a boat code examiner must—
 - (a) be made in a manner and a form determined by the CEO; and
 - (b) be accompanied by—
 - (i) such information as the CEO may reasonably require; and
 - (ii) the fee (if any) fixed by Schedule 14.
- (3) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (4) The CEO may grant an application under this regulation if, in his or her opinion, the applicant is a suitable person to be a boat code examiner.
- (5) The approval of a boat code examiner—
 - (a) is subject to such conditions as the CEO thinks fit and specifies when the application is granted; and
 - (b) is for such term as is specified by the CEO; and
 - (c) may be revoked by the CEO at any time by 7 days written notice served on the examiner and the boat code agent.

137—Adding letters and numbers to HIN

Without limiting regulation 135(6), the CEO may give directions to a boat code agent specifying—

- (a) the letters and numbers and the dimensions of the letters and numbers that must be added by the agent to a HIN plate issued to the agent by the CEO to identify—
 - (i) the agent; and
 - (ii) the year in which the HIN plate is fixed; and
- (b) the manner in which those letters and numbers are to be added to the HIN plate.

138—Forming a HIN into the fabric of a vessel

Without limiting regulation 135(6), the CEO may give directions to a boat code agent who manufactures vessels and who wishes to form the letters and numbers comprising a HIN into the fabric of the hull of a vessel, specifying—

- (a) the dimensions of the letters and numbers; and
- (b) the manner in which they are to be formed into the fabric of the hull of the vessel.

139—Interim boat code certificate

- (1) Within 5 business days after fixing HIN plates to a vessel the boat code agent must—
 - (a) complete an interim boat code certificate in relation to those plates; and
 - (b) give the certificate to the CEO.

- (2) An interim boat code certificate must be in a form approved by the CEO and must include the following information:
- (a) the HIN to which the certificate relates including the letters and numbers added by the agent;
 - (b) a short description of the vessel to which the HIN plates have been fixed including—
 - (i) the name of the person who manufactured the vessel; and
 - (ii) the class to which it belongs; and
 - (iii) its length; and
 - (iv) the material of which it is primarily constructed; and
 - (v) the vessel's primary method of propulsion; and
 - (vi) if the vessel is registered or temporarily registered—the registration number;
 - (c) the position in the vessel in which the HIN plate that is hidden has been fixed;
 - (d) any other information required by the CEO.

140—Boat code certificate

- (1) After receiving an interim boat code certificate from a boat code agent the CEO must issue a boat code certificate to the owner of the vessel.
- (2) The boat code certificate must include the information included in the interim boat code certificate, and may include any other information the CEO thinks fit.

141—Register of HINs and vessels

- (1) The CEO must maintain a register of HINs and the vessels to which HIN plates are fixed.
- (2) The register must record the following information:
 - (a) all HIN plates issued by the CEO and the date on which each plate was issued and the name of the boat code agent to which each plate was issued;
 - (b) a short description of the vessel to which each HIN plate has been fixed including—
 - (i) the name of the person who manufactured the vessel; and
 - (ii) the class to which it belongs; and
 - (iii) its length; and
 - (iv) the material of which it is primarily constructed; and
 - (v) the vessel's primary method of propulsion; and
 - (vi) if the vessel is registered, or temporarily registered—the registration number;
 - (c) the individual plates (identified by the HIN on them) which have been fixed to each vessel;
 - (d) the position in each vessel in which the HIN plate that is hidden has been fixed;
 - (e) the name and address of the person in whose name the vessel is for the time being registered or temporarily registered.

- (3) The CEO may maintain the register as a separate register or may combine it with the register of vessels.

Subdivision 7—Australian Builders Plate

142—Interpretation

In this Subdivision—

ABP Standard means the *National Standard for the Australian Builders Plate for Recreational Boats* endorsed by the Australian Transport Council and published by the National Marine Safety Committee as modified by this Division, as in force from time to time (and includes any standard as in force from time to time referred to in the ABP Standard);

aquatic toy means an object designed primarily for play in or on the water, but does not include a personal watercraft or other power-driven vessel;

National Marine Manufacturers Association Inc. means the not for profit organisation of that name established in the United States of America;

NMMA Certification Handbook means the book of that name published by the National Marine Manufacturers Association Inc. as in force from time to time.

143—Vessels to which Part 9 Division 4 of Act applies

For the purposes of section 64B of the Act, vessels other than the following are declared to be a class of vessels in respect of which an Australian Builders Plate is required:

- (a) sailing vessels (whether or not the vessel has an auxiliary means of propulsion);
- (b) personal watercraft designed to carry not more than 2 persons;
- (c) personal watercraft bearing a clearly visible plate or marking displaying the following information:
 - (i) the total weight (in kilograms) of persons and equipment that may be carried by the personal watercraft;
 - (ii) the maximum number of persons that may be carried by the personal watercraft,as recommended by the builder;
- (d) inflatable boats to which *ISO 6185* applies bearing—
 - (i) a plate attached in accordance with *European Directive 94/25/EC*—Recreational Craft Directive as in force from time to time; or
 - (ii) a plate attached in accordance with the requirements set out in the NMMA Certification Handbook that certifies that the inflatable boat complies with the relevant requirements of that handbook;
- (e) surf row boats;
- (f) rowing shells designed solely for racing in organised events or a purpose associated with such racing;
- (g) canoes, kayaks, surf skis and similar vessels designed to be powered by a paddle;
- (h) sailboards, kiteboards and similar vessels;
- (i) hydrofoils or hovercraft;

- (j) amphibious vehicles;
- (k) submersibles;
- (l) pedal-powered vessels;
- (m) aquatic toys;
- (n) water skis;
- (o) vessels that are the subject of a certificate of survey or an application for a certificate of survey;
- (p) hire and drive houseboats in relation to which a certificate of inspection issued under Part 10 is in force, or in relation to which an application for such a certificate has been made under the Act;
- (q) ferries or punts that cross a river or fairway by means of ropes or cables.

144—Australian Builders Plate

For the purposes of section 64B of the Act, an Australian Builders Plate must be affixed to a vessel in accordance with, and must contain the information required by and determined in accordance with, the ABP Standard.

145—Certain vessels declared to be constructed before commencement of section 64B of the Act

For the purposes of section 64B(2)(a) of the Act, the following vessels are declared to be vessels constructed before the commencement of that section:

- (a) in the case of a keel vessel—a vessel the keel of which was laid before the commencement of that section;
- (b) in any other case—a vessel that, before the commencement of that section—
 - (i) was identifiable as a vessel of a particular class before the commencement of that section; and
 - (ii) had not less than 50 tonnes or 1% of the estimated total mass of the completed vessel (whichever is the lesser) constructed.

146—Modification of ABP Standard

For the purposes of these regulations the ABP Standard is modified as follows:

- (a) a reference to "boat" in the ABP Standard will be taken to be a reference to a vessel;
- (b) after clause 8.1(b) insert:
 - (ba) either—
 - (i) if the person affixing the plate is an employee of the company or business who manufactured or imported the vessel—the name of the person who caused the person to affix the ABP to the boat to which it is affixed and the name of the company or business; or

- (ii) if the person affixing the plate is not an employee of the company or business who manufactured or imported the vessel—the name of the person who affixed the ABP to the boat to which it is affixed (and details of the person's occupation or qualifications insofar as they may be relevant to the determination by the person of any of the information contained on the ABP);
- (c) delete the following words from clause 8.1(h):

In addition, if the boat has a build date prior to 1 July 2006, the term "inadequate flotation" may be used.
- (d) after clause 8.2(b) insert:
 - (ba) either—
 - (i) if the person affixing the plate is an employee of the company or business who manufactured or imported the vessel—the name of the person who caused the person to affix the ABP to the boat to which it is affixed and the name of the company or business; or
 - (ii) if the person affixing the plate is not an employee of the company or business who manufactured or imported the vessel—the name of the person who affixed the ABP to the boat to which it is affixed (and details of the person's occupation or qualifications insofar as they may be relevant to the determination by the person of any of the information contained on the ABP);
- (e) delete clause 9.2(f) and substitute:
 - (f) any other standard approved by the CEO for the purposes of this clause
- (f) delete clause 9.3(g) and substitute:
 - (g) any other standard approved by the CEO for the purposes of this clause
- (g) delete clause 9.5(f) and substitute:
 - (f) any other standard approved by the CEO for the purposes of this clause

Division 3—Provisions relating to commercial vessels

Subdivision 1—Certain commercial vessels to be registered

147—Certain commercial vessels to be registered

- (1) For the purposes of section 54 of the Act, vessels of the following classes are declared to be classes of vessels to which Part 9 Division 1 of the Act applies:
 - (a) a fishing vessel that—
 - (i) is 7.5 m or less; and
 - (ii) is only operated within smooth or partially smooth water; and

(iii) is only used for or in connection with the propagation or rearing of molluscs in marine waters.

(b) a restricted vessel that is 7.5 m or less in length.

Note—

These commercial vessels do not require a certificate of survey.

(2) Subject to this regulation, Division 2 (other than regulations 116(3), 116(4), 116(7), 117(b), 118, 119, Subdivision 2, Subdivision 5 and Subdivision 6) applies to a vessel referred to in subregulation (1) as if the vessel were a recreational vessel with an engine fitted.

(3) The following provisions apply in relation to the registration of a vessel referred to in subregulation (1):

(a) a restricted vessel must be inspected, in accordance with any requirements determined by the CEO, before initial registration;

Note—

This inspection is to ensure that the restricted vessel complies with the requirements of Schedule 9 Part 2.

(b) the registration of such a vessel remains in force for a period of 2 years and may be renewed in accordance with any procedure determined by the CEO.

Subdivision 2—Certificates of survey

148—Vessels requiring certificate of survey

(1) For the purposes of section 56 of the Act, the following classes of vessels are declared to be classes of vessels in respect of which a certificate of survey is required:

(a) commercial vessels of the following classes:

Class 1A	Class 2A	Class 3A
Class 1B	Class 2B	Class 3B
Class 1C	Class 2C	Class 3C
Class 1D	Class 2D	Class 3D
Class 1E	Class 2E	Class 3E;

(b) observation vessels.

(2) However, a certificate of survey is not required in respect of commercial vessels of the following classes:

(a) ferries or punts that cross a river or fairway by means of ropes or cables;

(b) vessels referred to in regulation 147(1).

149—Application for certificate of survey

(1) An application for a certificate of survey—

(a) must be made to the CEO in a manner and form determined by the CEO; and

- (b) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the application fee (if any) fixed by Schedule 14.
- (2) Without limiting subregulation (1), the CEO or an authorised person may require an applicant to do any or all of the following in relation to the application:
 - (a) have the vessel surveyed by a surveyor;
 - (b) provide to a surveyor—
 - (i) any certificate issued in respect of the vessel; and
 - (ii) any other relevant information or records in respect of the vessel;
 - (c) provide a certificate relating to the radio equipment of the vessel from a person of a class specified by a surveyor who has examined and tested the equipment as required by the surveyor (although such a certificate may not be required from an applicant for a certificate of survey more frequently than at 2 year intervals);
 - (d) withdraw the vessel from the water and position the vessel to enable a surveyor to make an external examination;
 - (e) open up and have available for inspection all machinery necessary for the safe working of the vessel;
 - (f) in the case of an observation vessel—
 - (i) have the flotation chambers opened for inspection; and
 - (ii) have the mooring chains and anchors ranged for inspection; and
 - (iii) otherwise have the vessel cleaned, cleared and available for inspection;
 - (g) in any other case—
 - (i) clear all holds and place all hull ladders in position; and
 - (ii) clear all bilges and strum boxes; and
 - (iii) remove all access doors from tanks and fore and aft peaks; and
 - (iv) clear and open up all chain lockers; and
 - (v) clean, clear and have available for inspection all decks and accommodation; and
 - (vi) clear, open up and have available for inspection all boilers and pressure vessels; and
 - (vii) otherwise have the vessel cleaned, cleared and available for inspection;
 - (h) take such other specified action, or provide such further information and records, as the CEO or an authorised person reasonably requires.
- (3) The fees (if any) fixed by Schedule 14 are payable by the applicant in relation to an application for a certificate of survey.

- (4) Without limiting subregulation (3), the applicant is also liable for the following costs in relation to an application for the issue of a certificate of survey:
- (a) the cost of tests carried out by a third party on any material, machinery or equipment pursuant to the direction of a surveyor given during the course of surveying the vessel;
 - (b) the cost of slipping the vessel for the purposes of a survey;
 - (c) the travel, accommodation and meal expenses (at the rates applicable in the Public Service) incurred by a surveyor if—
 - (i) the surveyor attended at the place and time fixed for the survey of the vessel but the vessel was not made available and the owner did not give 5 or more days notice to the surveyor that the vessel would not be available; or
 - (ii) if the time or place nominated by the owner and fixed for the survey of the vessel falls outside any program fixed by the CEO for carrying out surveys.
- (5) A certificate of survey will not be issued until all fees and costs for which the applicant is liable have been paid to the CEO.

150—Certificate of survey to be displayed

- (1) The certificate of survey of a vessel must be displayed—
- (a) in the case of a Class 1 vessel—in a prominent position that is visible to passengers;
 - (b) in the case of an observation vessel—in a prominent position visible to persons boarding the vessel;
 - (c) in any other case—in a prominent position adjacent to the steering position or in such other prominent position as is approved by the CEO in a particular case.
- (2) If a vessel that is required to have a certificate of survey is operated in the jurisdiction without a current certificate of survey displayed as required by this regulation, the owner and the master of the vessel are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent).
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) For the purposes of this regulation, a reference to a certificate of survey includes a reference to a certificate or document issued under some other law but recognised under these regulations as equivalent to a certificate of survey.

151—Replacement certificates of survey

- (1) A replacement certificate of survey must not be issued unless the original (or previous replacement) certificate is returned to the CEO or the CEO is satisfied that the certificate has been lost, stolen or destroyed.
- (2) A replacement certificate of survey will only be issued on payment of the fee (if any) fixed by Schedule 14.

152—Notification of change of address etc

- (1) If ownership of a vessel in respect of which a certificate of survey is in force is transferred, the transferee must, within 14 days of the transfer, notify the CEO of his or her name and address.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) The owner of a vessel in respect of which a certificate of survey is in force must notify the CEO as soon as practicable of—
- (a) a change of his or her name or address; and
 - (b) any proposed withdrawal of the vessel from industrial, commercial or scientific operations; and
 - (c) any proposed transfer of the vessel's operations into the jurisdiction of another marine authority for an extended period or permanently; and
 - (d) any proposed changes in the manner or area of operation of the vessel; and
 - (e) any proposed alterations to the structure or equipment of the vessel (including alterations to the wiring of radiotelephony equipment); and
 - (f) the loss, theft, destruction or defacement of the certificate of survey.

Maximum penalty: \$750.

Expiation fee: \$105.

153—Application for consent to alter vessel

- (1) An application for a consent contemplated by section 59(3) of the Act—
- (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such information, plans and specifications as are set out in Annex D of Part B of the NSCV; and
 - (ii) such other information and records as the CEO may reasonably require; and
 - (iii) the application fee (if any) fixed by Schedule 14.
- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (3) Regulation 149 applies to an application for consent as if it were an application for a certificate of survey.

154—Application for exemption from requirement to be surveyed

- (1) An application for an exemption from the requirement to be surveyed under Part 9 Division 2 of the Act—
- (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—

- (i) such information, plans and specifications as are set out in Annex D of Part B of the NSCV; and
- (ii) such other information and records as the CEO may reasonably require; and
- (iii) the application fee (if any) fixed by Schedule 14.

Note—

See section 60(4) of the Act.

- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

Subdivision 3—Loadline certificates

155—Vessels requiring a loadline certificate

- (1) For the purposes of section 61 of the Act, the following classes of vessels are declared to be classes of vessels in respect of which a loadline certificate is required:
 - (a) commercial vessels of the following classes:

Class 1A	Class 2A
Class 1B	Class 2B
Class 1C	Class 2C;
 - (b) any other vessel declared by the CEO by notice in the Gazette to be a vessel in respect of which a loadline certificate is required.
- (2) However, a loadline certificate is not required in respect of a commercial vessel—
 - (a) that is less than 24 m in length; or
 - (b) that operates solely within any port or on any lake or river within the State.

156—Application for loadline certificate

- (1) An application for a loadline certificate—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) such other information and records as the CEO may reasonably require; and
 - (ii) the application fee (if any) fixed by Schedule 14.
- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (3) The fees and costs (if any) fixed by Schedule 14 are payable by the applicant in relation to an application for a loadline certificate.
- (4) A loadline certificate will not be issued until all fees and costs for which the applicant is liable have been paid to the CEO.

157—Loadline certificate to be kept on board

- (1) The loadline certificate in respect of a vessel required to have a loadline certificate must be kept in a readily accessible place on board the vessel.
- (2) If a vessel that is required to have a loadline certificate is operated in the jurisdiction without a current loadline certificate on board the vessel as required by this regulation, the owner and the master of the vessel are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The master of a vessel that is required to have a loadline certificate must, at the request of any person on board the vessel, produce the current loadline certificate of the vessel for inspection by that person.

Maximum penalty: \$750.

Expiation fee: \$105.

- (4) For the purposes of this regulation, a reference to a loadline certificate includes a reference to a certificate or document issued under some other law but recognised under these regulations as equivalent to a loadline certificate.

158—Replacement loadline certificates

- (1) A replacement loadline certificate must not be issued unless the original (or previous replacement) certificate is returned to the CEO or the CEO is satisfied that the certificate has been lost, stolen or destroyed.
- (2) A replacement loadline certificate will only be issued on payment of the fee (if any) fixed by Schedule 14.

159—Marking requirements

- (1) For the purposes of section 63(1) of the Act, a vessel must, in relation to markings displayed for the purposes of determining whether the vessel is properly loaded, comply with section 7 of the Code as modified by subregulation (2).
- (2) The application of section 7 of the Code is subject to the following modifications:
 - (a) delete clause 3.15 of Part 1;
 - (b) delete clauses 74.4, 74.5, 74.7 and 74.8 of Part 14.

160—Application for exemption from requirement to have a loadline certificate

- (1) An application for an exemption from the requirement to have a loadline certificate issued in respect of a vessel under Part 9 Division 3 of the Act—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) in the case of an application in relation to a commercial vessel—such information, plans and specifications as are set out in Annex D of Part B of the NSCV; and

- (ii) such other information and records as the CEO may reasonably require; and
- (iii) the application fee (if any) fixed by Schedule 14.

Note—

See section 64(4) of the Act.

- (2) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.

Subdivision 4—Miscellaneous

161—Equivalent requirements

If the CEO is satisfied—

- (a) that a requirement of this Part has been substantially complied with; or
- (b) that compliance with the requirement is, in the circumstances of the case, impracticable or unnecessary; or
- (c) that the action taken or provision made regarding the subject matter of that requirement is sufficiently effective, or is as effective as, or more effective than, actual compliance with the requirement,

the CEO may direct that compliance with the requirement be dispensed with under such conditions and for such period as the CEO thinks fit.

162—Recognition of other certificates etc as certificates of survey and loadline certificates

- (1) The CEO may, by notice in writing, recognise a certificate or document issued under some other law as equivalent to a certificate of survey or a loadline certificate.
- (2) A notice of recognition under subregulation (1)—
 - (a) may relate to an individual certificate or document or to certificates or documents of a specified class;
 - (b) may be subject to such conditions as the CEO thinks fit and specifies in the notice, including conditions—
 - (i) limiting the period of recognition; or
 - (ii) specifying the extent (if any) to which a condition or endorsement on the certificate or document is recognised; or
 - (iii) specifying the type or class of vessel for which the certificate is recognised.
- (3) A condition imposed under subregulation (2) is to be taken to be a condition of a certificate of survey or loadline certificate (as the case may require).
- (4) The CEO may, for the purposes of the recognition of an individual certificate or document under subregulation (1), require the holder of that certificate to produce such information and records as the CEO reasonably requires.

Part 12—Safety

Division 1—Structural and equipment requirements

163—Structural and equipment requirements for vessels

For the purposes of sections 59(1) and 65(1)(b) of the Act, a vessel—

- (a) in the case of a vessel required to have a certificate of survey—is required to comply with any structure requirements set out in Schedule 9 in relation to vessels of the relevant class; and
- (b) in any case—is required to have the equipment and markings set out in Schedule 9 in relation to vessels of the relevant class.

164—Emergency position indicating radio beacons (EPIRBs)

(1) For the purposes of section 65A(1) of the Act, the following classes of vessels are specified:

- (a) commercial vessels of Classes 1A, 1B, 1C, 2A, 2B, 2C, 3A, 3B and 3C being operated more than 3 nautical miles from a coast;
- (b) all other vessels being operated in prescribed unprotected waters.

(2) For the purposes of section 65A(1) of the Act, the following requirements relating to emergency position indicating radio beacons are specified:

- (a) the beacon must be capable of transmitting on a frequency of 406 megahertz;
- (b) the beacon must comply with AS/NZS 4280.1:2003: *406 MHz satellite distress beacons - Marine emergency position-indicating radio beacons (EPIRBs)*;
- (c) the beacon must be currently registered with the Australian Maritime Safety Authority;

Note—

The procedures for obtaining and renewing registration of EPIRBs as required by this regulation are set out by the Australian Maritime Safety Authority.

- (d) the beacon must be suitably located and secured on the relevant vessel having regard to the need for access to the beacon and the need to protect the beacon from accidental damage or loss;
 - (e) the beacon must be maintained in good working order.
- (3) In this regulation—

coast means—

- (a) the coast of the mainland; and
- (b) the coast of Kangaroo Island;

prescribed unprotected waters means—

- (a) those unprotected waters more than 5 nautical miles seaward of the low water mark of the coast in the waters of Spencer Gulf or Gulf St. Vincent; or

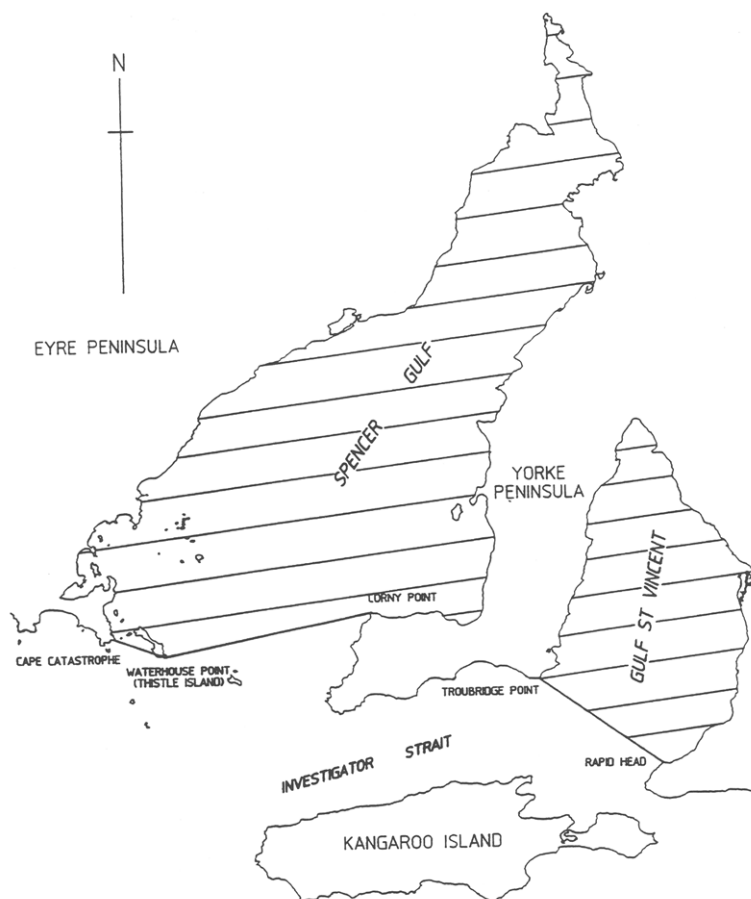
- (b) those unprotected waters more than 3 nautical miles seaward of the low water mark of the coast in the waters of any other area except Lakes Alexandrina and Albert.

the waters of Spencer Gulf or Gulf St. Vincent means—

- (a) for Spencer Gulf—the waters in that gulf north of a line drawn from Cape Catastrophe on Eyre Peninsula to Waterhouse Point on Thistle Island and then to Corny Point on Yorke Peninsula (see following map);
- (b) for Gulf St. Vincent—the waters in that gulf north of a line drawn from Troubridge Point on Yorke Peninsula to Rapid Head on Fleurieu Peninsula (see following map).

Note—

The following map is provided for convenience of reference only.

Waters of Spencer Gulf and Gulf St. Vincent**Division 2—General rules of navigation****165—Navigation at sea**

- (1) The Prevention of Collisions at Sea Regulations are incorporated in these regulations and apply to all vessels in any part of the jurisdiction except inland waters.
- (2) If a vessel is operated in the jurisdiction contrary to the Prevention of Collisions at Sea Regulations, the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) If—
 - (a) a vessel fitted with navigation lights is operated in any part of the jurisdiction (other than inland waters); and
 - (b) the navigation lights are not fitted and exhibited in accordance with the Prevention of Collisions at Sea Regulations,

the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) Subregulation (3) does not apply in relation to a vessel being used by an authorised person—
- (a) in accordance with an approval of the CEO for the purposes of this subregulation; and
 - (b) in a manner that does not cause undue risk to other vessels.
- (5) It is a defence to a charge of an offence against this regulation brought against the owner for the owner to prove that the vessel was operated without the owner's consent.

166—Navigation in inland waters

- (1) Section 17 of the Code (River Murray Traffic Regulations) is incorporated in these regulations and applies to all vessels in inland waters.
- (2) If a vessel is operated in the jurisdiction contrary to section 17 of the Code (River Murray Traffic Regulations), the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) If—
- (a) a vessel fitted with navigation lights is operated in inland waters; and
 - (b) the navigation lights are not fitted and exhibited in accordance with section 17 of the Code (River Murray Traffic Regulations),

the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) Subregulation (3) does not apply in relation to a vessel being used by an authorised person—
- (a) in accordance with an approval of the CEO for the purposes of this subregulation; and
 - (b) in a manner that does not cause undue risk to other vessels.
- (5) It is a defence to a charge of an offence against this regulation brought against the owner for the owner to prove that the vessel was operated without the owner's consent.

167—Navigation in rivers and channels

- (1) The master or operator of a vessel proceeding along the course of a river or channel must keep the vessel as near to the outer limit of the river or channel which lies on its starboard side as is safe and practicable.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The master or operator of a vessel which can safely navigate outside a channel must not allow the vessel to hamper the safe passage of a vessel which can safely navigate only inside the channel.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) The master or operator of a vessel engaged in fishing must not allow the vessel to impede the passage of any other vessel navigating within a channel.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) The master or operator of a vessel must not, except in an emergency, anchor the vessel in a channel.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (5) If a vessel is anchored in a channel in an emergency, the master or operator of the vessel must, as soon as practicable, move the vessel to the side of the channel.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (6) The master or operator of a vessel navigating in a channel must only overtake another vessel if this can be done safely.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (7) A person must not, except with the approval of the CEO, cause or permit a cable, chain, hawser or rope to be placed across a channel.
Maximum penalty: \$5 000.
Expiation fee: \$315.

Division 3—Speed restrictions

168—Speed restrictions

- (1) A person who operates a vessel at a speed in excess of 4 knots—
 - (a) in or through a mooring area or boat haven; or
 - (b) within 30 m of a jetty, wharf or other place at which a vessel is being removed from the water or placed into the water; or
 - (c) within 30 m of any vessel that may be adversely affected by the wash of the vessel; or
 - (d) within 50 m of—
 - (i) a person in the water; or
 - (ii) a vessel or buoy on which is displayed a flag indicating that there is a diver below (International Code Flag A); or

- (iii) a person in or on a canoe, kayak, surf ski, surf board, sailboard, kiteboard or similar small unpowered recreational vessel; or
- (e) within 100 m of a ferry crossing,
is guilty of an offence.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) A person who operates a vessel within the waters specified in Schedule 10 at a speed in excess of that applicable to those waters in accordance with that Schedule is guilty of an offence.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (3) It is a defence to a charge of an offence under this regulation for the defendant to prove that the defendant was taking part in a rescue operation or otherwise acting in an emergency, or taking part in a surf life saving activity conducted by a surf life saving club.
- (4) In this regulation—
boat haven has the same meaning as in Part 14.

Division 4—Rules of special application to recreational vessels

169—Personal flotation devices to be worn on certain recreational vessels

- (1) Each occupant of—
 - (a) a vessel (other than a surfboard, surf ski or racing shell) that can only carry the operator and no other person; or
 - (b) a surfboard, surf ski or similar vessel that is being operated in inland waters; or
 - (c) a sailboard or kiteboard; or
 - (d) a canoe, kayak or other similar small human-powered vessel (other than a rowboat); or
 - (e) a mono-hulled sailing dinghy or a similar small multi-hulled sailing vessel (being a dinghy or vessel that is not more than 6 m in length); or
 - (f) a personal watercraft; or
 - (g) a tender vessel while it is being used in conjunction with another vessel and is 1 500 m or more from the shore,must, at all times while the vessel is underway, wear—
 - (h) in the case of a vessel being operated in unprotected waters—a PFD Type 1; or
 - (i) in the case of a vessel (other than a personal watercraft) that is being operated in semi-protected waters—a PFD Type 1, PFD Type 2 or PFD Type 3; or
 - (j) in the case of a sailboard or kiteboard—
 - (i) being operated more than 400 m from the shore—
 - (A) before 1 June 2010—a PFD Type 1, PFD Type 2 or PFD Type 3;
 - (B) on or after 1 June 2010—a PFD Type 1; or

- (ii) being operated not more than 400 m from the shore—a PFD Type 1, PFD Type 2 or PFD Type 3; or
- (k) in the case of a personal watercraft—a PFD Type 2 or PFD Type 3; or
- (l) in the case of a tender vessel being used in conjunction with another vessel and being operated 1 500 m or more from the shore—
 - (i) before 1 June 2010—a PFD Type 1, PFD Type 2 or PFD Type 3;
 - (ii) on or after 1 June 2010—a PFD Type 1; or
- (m) in any other case—a PFD Type 1, PFD Type 2 or PFD Type 3.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Note—

A personal flotation device must be of an appropriate size for the wearer and properly adjusted—see regulation 3(9) and (10).

A personal flotation device that is designed to inflate automatically on immersion and that has been so inflated must be recharged in accordance with the manufacturer's instructions before being used again—see regulation 3(11).

- (2) If subregulation (1) is contravened by an occupant of a vessel other than the operator, the operator of the vessel is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

170—Personal watercraft must display approved notice

- (1) A personal watercraft must not be operated in the jurisdiction unless a notice specifying obligations of operators of personal watercraft (in a form and containing the information approved by the CEO) is affixed to the vessel so as to be clearly visible and legible, in daylight, from the steering position of the vessel.
- (2) If a personal watercraft is operated in contravention of subregulation (1)—
 - (a) the registered owner; and
 - (b) if the operator is a person who is required to hold a boat operator's licence—the operator,

of the vessel are each guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

171—Personal watercraft only to be used during certain hours

- (1) Subject to this regulation, a person must not operate a personal watercraft—
 - (a) after sunset or 8 pm (whichever is the earlier) on any day; or
 - (b) before 9 am on a Sunday or before 8 am on any other day.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A person may operate a personal watercraft on the River Murray for the purpose of towing another person at any time between sunrise and sunset on any day.

- (3) It is a defence to a charge of an offence under this regulation for the defendant to prove that the defendant was taking part in a rescue operation or otherwise acting in an emergency, or taking part in a surf life saving activity conducted by a surf life saving club.

172—Means of escape from recreational vessel

The operator of a recreational vessel must ensure that all hatches and doors on the vessel are kept unlocked and are clear of obstruction at all times while the vessel is underway.

Maximum penalty: \$1 250.

Expiation fee: \$160.

173—Excess persons on recreational vessel

- (1) The operator of a recreational vessel must ensure that the number of persons carried on the vessel does not exceed such number as can be carried safely in all the circumstances, and in any case must not exceed the maximum number—
- (a) in the case of a vessel fitted by the manufacturer with a compliance plate stating the maximum number of persons that may be safely carried as determined in accordance with AS 1799.1—stated on that plate; or
 - (b) if no such compliance plate is fitted but the vessel is fitted with an Australian Builders Plate—stated on the Australian Builders Plate; or
 - (c) if neither a compliance plate nor an Australian Builders Plate is fitted to the vessel—specified in Schedule 11 in relation to a vessel of the relevant class.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) The operator of a recreational vessel must not cause or permit a load to be carried on the vessel while it is underway or moored greater than can safely be carried in all the circumstances.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 5—Communication rules for commercial vessels

Note—

See Schedule 9 clause 23 for details as to the communications equipment required to be carried on commercial vessels.

174—Communication with coast station

The master of a commercial vessel that is required to have a certificate of survey must ensure, unless the CEO approves otherwise, that contact is made with a coast station by use of the radiotelephony equipment of the vessel—

- (a) as soon as practicable after leaving a harbor on a voyage; and
- (b) as soon as practicable on entering a harbor at the conclusion of a voyage; and
- (c) at least once during each day that the vessel is at sea.

Maximum penalty: \$1 250.

Expiation fee: \$160.

175—Radio watch

- (1) Subject to this regulation, a radio watch must be maintained on a commercial vessel that is required to have a certificate of survey at all times while the vessel is at sea.
- (2) In the case of Class 1A, 2A or 3A commercial vessels, the radio watch must be maintained in accordance with *Marine Orders Part 27 (Radio Equipment)* under the Commonwealth Act.
- (3) In the case of any other vessel, the radio watch must be maintained by continuous listening on the radiotelephony equipment of the vessel on the frequency determined as follows:
 - (a) in the case of MF/HF radiotelephony equipment—
 - (i) while the vessel is west of longitude 132°—8291 kHz;
 - (ii) in any other case—1 of the following frequencies:
 - (A) 4125 kHz;
 - (B) 6215 kHz;
 - (C) 8291 kHz;
 - (b) in the case of VHF FM radiotelephony equipment—on VHF Channel 16 (156.8 MHz).
- (4) A radio watch is not required—
 - (a) if the vessel is moored; or
 - (b) if the vessel is exchanging communications with a coast station or another vessel; or
 - (c) if the master believes on reasonable grounds that conditions are such that a radio watch would interfere with the safe navigation or safe working of the vessel; or
 - (d) in any other circumstances approved by the CEO in relation to the particular vessel.
- (5) If a radio watch is not maintained as required by this regulation, the master of the vessel is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

176—Log-book of distress calls received

The master of a commercial vessel that is required to have a certificate of survey must ensure that a log-book is kept recording the details of each distress call received on the radiotelephony equipment of the vessel including—

- (a) the date and time at which the call was received; and
- (b) the frequency on which it was received; and
- (c) any call sign used; and
- (d) the name and position of the vessel in distress; and
- (e) the nature of the distress; and
- (f) any action taken in respect of the call.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 6—Water skiing and similar activities

177—Obligations of person towed by vessel

- (1) No more than 1 prescribed device may be towed by a vessel at any one time.
- (2) No more than 3 persons may be towed by a vessel (whether on a prescribed device or not) at any one time.
- (3) A person who is being towed by a vessel must wear a PFD Type 2 or PFD Type 3.
- (4) A person must not be towed by a vessel between sunset and sunrise.
- (5) A person must not be towed by a vessel unless another person (the observer) on the vessel is continuously observing the person being towed and giving such directions to the operator of the vessel as may be necessary to prevent injury or risk of injury to the person being towed or to other persons.
- (6) The observer must not be the operator of the vessel.
- (7) Either—
 - (a) both the operator of the vessel and the observer must be not less than 16 years of age; or
 - (b) the observer must hold a special permit issued under regulation 83 and the operator of the vessel must be not less than 18 years of age.
- (8) The CEO may, subject to such conditions as the CEO thinks fit, exempt a person from any of the requirements of this regulation.
- (9) If this regulation is contravened, the operator of the vessel, each person being towed by the vessel (whether or not on a device), and the observer (if any) are each guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (10) In this regulation—

prescribed device means a device (whether inflatable or otherwise)—

- (a) that is designed, constructed or adapted to be towed behind a vessel while carrying a person or persons; and
- (b) the direction of which is not capable of being effectively controlled by a person being so towed.

Note—

Examples of a prescribed device include an inner tube or a device commonly known as a donut.

Examples of items that are not prescribed devices include water skis, kneeboards and wakeboards.

178—Obligation of person being towed

If a person being towed by a vessel falls into the water, the person must, if practicable, hold an arm, ski or other device vertically in the air to signal his or her presence.

Maximum penalty: \$750.

Expiation fee: \$105.

179—Obligation of operator of vessel towing a person

- (1) The operator of a vessel that is towing a person must, in any area being used by more than 1 vessel for the purpose of commencing or finishing towing of a person—
 - (a) on leaving such an area—
 - (i) keep the vessel to the starboard side of the waterway; and
 - (ii) keep the vessel clear of any vessel returning to the area; and
 - (b) on returning to such an area—
 - (i) access the area from the starboard side of the waterway; and
 - (ii) clear the area as soon as is reasonable practicable after finishing towing the person.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The operator of a vessel that has finished towing a person must, before returning to any area being used by more than 1 vessel for the purpose of commencing or finishing towing of a person, ensure that all apparatus used in connection with towing the person is back on board the vessel and is not trailing in the water or outside the vessel.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) This regulation is in addition to, and does not derogate from, any other requirement the operator must comply with under the Act or these regulations in relation to the operation of the vessel.

180—Obligation of operator of vessel around water skiers etc

- (1) The operator of a vessel (being a vessel that is not towing a person) must, on leaving or returning to an area being used by more than 1 vessel for the purpose of commencing or finishing towing of a person, keep the vessel clear of any vessel towing a person in the area.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) This regulation is in addition to, and does not derogate from, any other requirement the operator must comply with under the Act or these regulations in relation to the operation of the vessel.

181—Operating another vessel too close to person being towed

- (1) A person who operates a vessel within 100 m directly behind a person who is being towed by another vessel is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) This regulation is in addition to, and does not derogate from, any other requirement the operator must comply with under the Act or these regulations in relation to the operation of the vessel.

Division 7—Diving signals

182—Signal when divers working

- (1) The master or operator of a vessel that is over 10 m in length must, at all times while a diver is operating from the vessel, display in a conspicuous position on the vessel the International Code Flag A.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (2) The master or operator of a vessel that is 10 m or less in length must, at all times while a diver is operating from the vessel, display in a conspicuous position on the vessel a rigid replica of International Code Flag A, at least 750 mm by 600 mm in size.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (3) A diver who is operating in a harbor independently of a vessel must ensure that a rigid replica of International Code Flag A, at least 300 mm by 200 mm in size, is displayed, at all times, from a buoy or float which is moored within 30 m of the diver or is attached to a line and towed by the diver.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (4) A diver must not operate in a harbor, independently of a vessel, in a marked channel used by vessels.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (5) The master or operator of a vessel navigating in the vicinity of a vessel, float or buoy displaying an International Code Flag A or a replica of that flag, or a light or shape required by Rule 27 of the COLREGS, must navigate so as to avoid injury to the diver or interference with the vessel, float or buoy.
Maximum penalty: \$1 250.
Expiation fee: \$160.
- (6) If this regulation requires an International Code Flag A or a replica to be displayed, the person who is required to display the flag or replica must ensure that it is illuminated during the hours of darkness.
Maximum penalty: \$1 250.
Expiation fee: \$160.

Division 8—Fishing nets, yabbie pots and set lines

183—Interpretation

In this Division—

drop net, *drum net*, *hoop net*, *mesh net*, *set line*, *shrimp trap* and *yabbie pot* have the same meanings as in the *Fisheries Management Act 2007*.

184—Mesh nets and set lines

- (1) The following provisions apply in relation to a mesh net or set line that is being used in the waters of Lake Alexandrina, Lake Albert, the Coorong, or in any contiguous waterway downstream of Wellington:
 - (a) 1 extremity must be marked by 2 black buoys;
 - (b) the other extremity must be marked by a yellow buoy;
 - (c) if the mesh net or set line exceeds 50 m in length—it must be marked by red buoys placed at intervals not exceeding 50 m.
- (2) The following provisions apply in relation to a mesh net or set line that is being used in the River Murray upstream of Wellington or in any contiguous waterway where the mesh net or set line is placed at a depth beneath the water of less than 1.7 m:
 - (a) the extremity that is closest to the shore must be marked by a yellow buoy;
 - (b) the extremity that is furthest from the shore must be marked by a white buoy;
 - (c) if the mesh net or set line exceeds 50 m in length—it must be marked by red buoys placed at intervals not exceeding 50 m.
- (3) The following provisions apply in relation to a mesh net or set line that is being used in the River Murray upstream of Wellington or in any contiguous waterway where the mesh net or set line is placed at a depth beneath the water of not less than 1.7 m:
 - (a) the extremity that is closest to the shore must be marked by a yellow buoy;
 - (b) a white buoy must be placed at a distance of at least 3 m from the yellow buoy, indicating the direction in which the net or set line is placed.
- (4) For the purposes of this regulation, a buoy—
 - (a) must be approximately spherical in shape; and
 - (b) must be of a volume of not less than 4 litres; and
 - (c) must be made of plastic, polystyrene foam, rubber or other material approved by the CEO.

185—Drop nets, drum nets, hoop nets, shrimp traps and yabbie pots

A drop net, drum net, hoop net, shrimp trap or yabbie pot that is set away from the shore in inland waters must be marked by a buoy that is—

- (a) white; and
- (b) approximately spherical in shape; and
- (c) of a volume of not less than 2 litres; and
- (d) made of plastic, polystyrene foam, rubber or other material approved by the CEO.

186—Positioning of fishing apparatus

- (1) In inland waters (other than the main stream of the River Murray upstream of Wellington) fishing apparatus must not be placed in a manner that prevents navigation of vessels in those waters or, if there is in those waters a recognised navigable channel, in that channel.
- (2) In the River Murray upstream of Wellington, fishing apparatus must not extend on the surface for more than half the width of the river.

187—Offence of using fishing apparatus contrary to this Division

A person using fishing apparatus in inland waters must ensure that this Division is complied with in relation to the apparatus.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Division 9—Rules for certain bridges**188—Birkenhead Bridge**

- (1) The master or operator of a vessel approaching the Birkenhead Bridge during its operating times and requiring the bridge to be opened must contact the person operating the bridge in accordance with any procedure determined by the CEO for the purposes of this subregulation—
 - (a) by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation; or
 - (b) by VHF radio on a frequency determined by the CEO for the purposes of this subregulation.
- (2) The master or operator of a vessel who does not intend to navigate under the bridge after requesting the opening of the bridge in accordance with subregulation (1) must immediately notify the person operating the bridge of that fact—
 - (a) by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation; or
 - (b) by VHF radio on a frequency determined by the CEO for the purposes of this subregulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The master or operator of a vessel must not allow the vessel to approach within 100 m of the bridge with the intention of passing through the bridge until the bridge is fully opened.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) Subject to any direction of the operator of the bridge to the contrary, the master or operator of a vessel must ensure that the vessel, when being navigated under the bridge, is only operated within the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (5) The master or operator of a vessel must not cause or allow the vessel to approach the bridge or attempt to negotiate the navigation pass unless the vessel can be maintained under safe control throughout the manoeuvre.
Maximum penalty: \$5 000.
Expiation fee: \$315.

- (6) If 2 vessels are approaching the bridge from opposite directions simultaneously, the master or operator of the vessel proceeding upstream must give the vessel proceeding downstream priority of passage through the navigation pass unless it is safe for both vessels to pass through the navigation pass simultaneously.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) In this regulation—

operating times, in relation to the Birkenhead Bridge, means the operating times determined by the CEO for the purposes of this regulation.

189—Port River Expressway Bridges

- (1) The master or operator of a vessel approaching a Port River Expressway Bridge during its operating times and requiring the bridge to be opened must contact the person operating the bridge in accordance with the procedure determined by the CEO for the purposes of this subregulation—

- (a) by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation; or
- (b) by VHF radio on a frequency determined by the CEO for the purposes of this subregulation.

- (2) Without limiting subregulation (1), the procedure determined by the CEO for the purposes of that subregulation may include a requirement that the master or operator of a vessel provide the person operating the bridge with the following information:

- (a) the registration number or other identification number of the vessel;
- (b) the name of the vessel;
- (c) a description of the vessel;
- (d) the location of the vessel;
- (e) a mobile phone number, or a VHF radio frequency, on which the master or operator can be contacted.

- (3) The CEO may, by notice in the Gazette, exempt the master or operator of a vessel, or class of vessels, referred to in subregulation (1) from complying with the requirements of that subregulation in the circumstances set out in the notice.

- (4) The master or operator of a vessel who does not intend to navigate under a Port River Expressway Bridge after requesting the opening of the bridge in accordance with subregulation (1) must immediately notify the person operating the bridge of that fact—

- (a) by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation; or
- (b) by VHF radio on a frequency determined by the CEO for the purposes of this subregulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The master or operator of a vessel approaching or navigating under a Port River Expressway Bridge during its operating times and requiring the bridge to be opened must, if the vessel is fitted with a VHF radio, cause a radio watch to be maintained on the frequency determined by the CEO for the purposes of this subregulation while the vessel is within 100 m of the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (6) The master or operator of a vessel navigating under a Port River Expressway Bridge, or approaching a Port River Expressway Bridge, must comply with the following provisions:
- (a) he or she must comply with any vessel traffic control signals operating at the time on, or in relation to, the bridge;
 - (b) he or she must comply with any directions of the person operating the bridge;
 - (c) he or she must not allow the vessel to approach within 100 m of the bridge with the intention of navigating under the bridge while the bridge is in the process of opening or closing;
 - (d) without limiting paragraph (a) or (b), if the vessel does not require the bridge to be opened to navigate under the bridge, he or she must give way to any vessel approaching a Port River Expressway Bridge or passing through the navigation pass of a Port River Expressway Bridge that does require the bridge to be so opened;
 - (e) if no vessel traffic control signals are operating at the time on, or in relation to, the bridge and the vessel is approaching the bridge proceeding upstream, he or she must give any vessel proceeding downstream priority of passage through the navigation pass (and he or she must wait until the vessel proceeding downstream is clear of the bridge before proceeding under the bridge) unless it is safe for both vessels to pass through the navigation pass simultaneously;
 - (f) subject to any direction of the person operating the bridge to the contrary, he or she must ensure that the vessel, when being navigated under the bridge, is only operated within the navigation pass;
 - (g) subject to any direction of the person operating the bridge to the contrary, he or she must not reverse direction while passing through the navigation pass;
 - (h) he or she must not approach the bridge or attempt to navigate under the bridge unless the vessel can be maintained under safe control throughout the manoeuvre;
 - (i) he or she must not remain in—
 - (i) the navigation pass; or
 - (ii) the area within 100 m of the bridge,unless intending to navigate under the bridge (and, having navigated under the bridge, must not remain in the area within 100 m on the opposite side of the bridge);
 - (j) he or she must not allow the vessel to approach within 100 m of the bridge or attempt to navigate under the bridge with the vessel's sail or sails (if any) wholly or partly raised or unfurled;

- (k) in the case of a vessel with a beam of more than 10 m, or a displacement of more than 200 tonnes—he or she must not allow the vessel to approach within 100 m of the bridge or attempt to pass through the navigation pass without the approval of the CEO.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) Subject to this regulation, a person who contravenes a provision of subregulation (6) is guilty of an offence.
- (8) Subregulation (6)(i)(ii) does not apply to the master or operator of a vessel entering or leaving a lawfully constructed temporary berthing facility located within 100 m of a Port River Expressway Bridge.
- (9) It is a defence to a charge of an offence under subregulation (6) for the defendant to prove that the defendant was taking part in a rescue operation or otherwise acting in an emergency.
- (10) If a vessel appears from evidence obtained through the operation of a camera installed by the CEO on, or in the immediate vicinity of, the Port River Expressway Bridges to have been involved in the commission of an offence against subregulation (6), the owner of the vessel is guilty of an offence against this subregulation unless it is proved—
 - (a) that although the vessel appears to have been involved in the commission of the offence, no such offence was in fact committed; or
 - (b) that the owner, or, if the owner is a body corporate, an officer of the body corporate acting with the authority of the body corporate, has furnished to the CEO a statutory declaration stating the name and address of some person other than the owner who was the master or operator of the vessel at the time; or
 - (c) that—
 - (i) if the owner is a body corporate—the vessel was not being operated at the time by any officer or employee of the body corporate acting in the ordinary course of his or her duties as such; and
 - (ii) the owner does not know and could not by the exercise of reasonable diligence have ascertained the identity of the person who was operating the vessel at the time; and
 - (iii) the owner, or, if the owner is a body corporate, an officer of the body corporate acting with the authority of the body corporate, has furnished to the CEO a statutory declaration stating the reasons why the identity of the master or operator is not known to the owner and the inquiries (if any) made by the owner to identify the master or operator.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (11) If there are 2 or more owners of the same vessel—
 - (a) a prosecution for an offence against subregulation (10) may be brought against 1 of the owners or against some or all of the owners jointly as co-defendants; and
 - (b) if the case for the prosecution is proved and a defence is not established under subregulation (10)(a), the defendant or each of the defendants who does not establish a defence under subregulation (10)(b) or (c) is liable to be found guilty of an offence against subregulation (10).

- (12) If an offence against subregulation (6) or (10) is alleged, and the allegation is based (wholly or in part) on evidence obtained through the operation of a camera installed by the CEO on, or in the immediate vicinity of, the Port River Expressway Bridges, an expiation notice, an expiation reminder notice or summons in respect of the offence must be accompanied by a notice containing the information set out in Schedule 13.
- (13) If—
- (a) an expiation notice for an offence against subregulation (6) is given to a person named as the alleged master or operator in a statutory declaration under this regulation; or
 - (b) proceedings for an offence against subregulation (6) are commenced against a person named as the alleged master or operator in such a statutory declaration,
- the notice or summons, as the case may be, must be accompanied by a notice setting out particulars of the statutory declaration that named the person as the alleged master or operator.
- (14) The particulars of the statutory declaration provided to the person named as the alleged master or operator must not include the address of the person who provided the statutory declaration.
- (15) If a person is found guilty of, or expiates, an offence against subregulation (6), neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against subregulation (10) in relation to the same incident.
- (16) If a person is found guilty of, or expiates, an offence against subregulation (10), neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against subregulation (6) in relation to the same incident.
- (17) A person who, without proper authority or reasonable excuse, interferes with a camera installed on, or in the immediate vicinity of, the Port River Expressway Bridges by the CEO, or a vessel traffic control signal, or the proper functioning of such devices, is guilty of an offence.
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (18) In proceedings for an offence against this regulation—
- (a) a data storage device produced by the prosecution will be admitted in evidence if the images recorded on the device were recorded by a camera installed by the CEO on, or in the immediate vicinity of, the Port River Expressway Bridges, and a denotation as to date, time and location that appears as part of such a device, or on such images, is, in the absence of proof to the contrary, proof of the date, time and location at which the images on the device were recorded by the camera;
 - (b) a certificate produced by the prosecution and apparently signed by the CEO or a delegate of the CEO certifying that a specified camera used at a specified location during a specified period was a camera installed by the CEO is, in the absence of proof to the contrary, proof of that fact;
 - (c) a certificate produced by the prosecution and apparently signed by the CEO or a delegate of the CEO that a specified camera was designed and set to operate according to a specified system during that period is, in the absence of proof to the contrary, proof that the camera was designed and set to operate according to that system during that period and did, in fact, so operate;

- (d) a certificate produced by the prosecution and apparently signed by the CEO or a delegate of the CEO certifying that a specified vessel traffic control signal—
 - (i) was designed and set to operate automatically according to a specified system during a particular period; or
 - (ii) was designed and set to be operated manually according to a specified system during a particular period,is, in the absence of proof to the contrary, proof that the vessel traffic control signal was designed and set to operate automatically or manually (as the case requires) according to the system and did, in fact, so operate;
 - (e) a certificate produced by the prosecution and apparently signed by the CEO or a delegate of the CEO certifying that a specified person was the person operating a Port River Expressway Bridge at a specified time and on a specified date is, in the absence of proof to the contrary, proof of the matters so certified;
 - (f) a certificate produced by the prosecution and apparently signed by the CEO or a delegate of the CEO certifying that a specified vessel traffic control signal was operated manually in a specified manner at a specified time and on a specified date by the person operating a Port River Expressway Bridge is, in the absence of proof to the contrary, proof of the matters so certified.
- (19) For the purposes of this regulation, the master or operator of a vessel complies with a vessel traffic control signal if he or she complies with the following provisions:
- (a) the master or operator of a vessel that is more than 100 m from a Port River Expressway Bridge must not approach to within 100 m of the bridge if a vessel traffic control signal is showing an illuminated solid or flashing red light to vessels travelling in the same direction as the vessel;
 - (b) the master or operator of a vessel that is within 100 m of a Port River Expressway Bridge must navigate through the navigation pass of the bridge if a vessel traffic control signal is showing an illuminated solid green light to vessels travelling in the same direction as the vessel;
 - (c) subject to a direction of the person operating the bridge to the contrary, the master or operator of a vessel that is within 100 m of a Port River Expressway Bridge but outside of the navigation pass of that bridge—
 - (i) must not enter the navigation pass of the bridge; and
 - (ii) must immediately reverse direction and exit the area within 100 m of the bridge,if a vessel traffic control signal is showing an illuminated solid red light to vessels travelling in the same direction of the vessel (whether or not the vessel traffic control signal was showing an illuminated solid green light to vessels travelling in the same direction as the vessel at the time the vessel approached to within 100 m of the bridge);
 - (d) subject to a direction of the person operating the bridge to the contrary, the master or operator of a vessel that is within 100 m of a Port River Expressway Bridge but outside of the navigation pass of that bridge must either—
 - (i) pass through the navigation pass; or
 - (ii) immediately reverse direction and exit the area within 100 m of the bridge,

if a vessel traffic control signal is showing an illuminated flashing red light to vessels travelling in the same direction of the vessel (whether or not the vessel traffic control signal was showing an illuminated solid green light to vessels travelling in the same direction as the vessel at the time the vessel approached to within 100 m of the bridge);

- (e) in the case of a vessel traffic control signal consisting of a sign (whether electronic or otherwise) displaying directions in writing to vessels approaching a Port River Expressway Bridge—the master or operator of a vessel within 100 m of a Port River Expressway Bridge must comply with any direction displayed on the vessel traffic control signal.
- (20) Subregulation (19)(b), (c) and (d) do not apply to the master or operator of a vessel moored at a lawfully constructed temporary berthing facility located within 100 m of the bridge.
- (21) In this regulation—

operating times, in relation to a Port River Expressway Bridge, means the operating times determined by the CEO for the purposes of this regulation;

owner of a vessel means—

- (a) a person who is the sole owner, a joint owner or a part owner of the vessel; or
- (b) a person who has possession or use of the vessel under a credit, hire-purchase, lease or other agreement, except an agreement requiring the vessel to be registered in the name of someone else,

and includes a registered owner of the vessel;

registered owner, in relation to a vessel, means the person to whom a certificate of registration for the vessel has been issued;

vessel traffic control signal means a visual or audible device, or a combination of visual and audible devices, (whether electronic or otherwise) installed on, or in the immediate vicinity of, a Port River Expressway Bridge regulating 1 or more of the following:

- (a) entry of vessels to the area lying within 100 m of a Port River Expressway Bridge;
- (b) navigation of vessels (including direction of travel) within the area lying within 100 m of a Port River Expressway Bridge;
- (c) entry to and exit from the navigation pass of a Port River Expressway Bridge;
- (d) any other matter related to the prevention of damage to a Port River Expressway Bridge.

190—Exemptions

- (1) The CEO may, on such conditions as the CEO thinks fit, exempt the owner or master of a vessel from the obligation to comply with a requirement of regulation 189.
- (2) The CEO may, by notice in writing to the holder of an exemption, revoke the exemption or impose further conditions if there are, in the CEO's opinion, proper reasons for doing so.

191—Hindmarsh Island Bridge

- (1) This regulation applies to a vessel that is more than 10 m in length and the master or operator of which intends to navigate under Hindmarsh Island Bridge.

- (2) The master or operator of a vessel must ensure that the vessel, when being navigated under the bridge, is only operated within the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) The master or operator of a vessel must proceed with caution in the navigation pass and maintain a mid-channel course through the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) The master or operator of a vessel must ensure that the vessel does not come into contact with a support pier of the bridge.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (5) The master or operator of a vessel must not cause or allow the vessel to approach the bridge or attempt to negotiate the navigation pass unless the vessel can be maintained under safe control throughout the manoeuvre.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (6) If 2 vessels are approaching the bridge simultaneously, the master or operator of the vessel proceeding upstream must give the vessel proceeding downstream priority of passage through the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (7) The master or operator of a vessel proceeding upstream that has had to wait for a vessel proceeding downstream to pass under the bridge must wait until the vessel proceeding downstream is clear of the bridge before proceeding under the bridge.
Maximum penalty: \$5 000.
Expiation fee: \$315.

192—Jervois Bridge

- (1) The master or operator of a vessel must ensure that the vessel, when being navigated under the Jervois Bridge, is only operated within the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (2) The master or operator of a vessel must not approach the bridge or attempt to navigate under the bridge unless the vessel can be maintained under safe control throughout the manoeuvre.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (3) If 2 vessels are approaching the bridge from opposite directions simultaneously, the master or operator of the vessel proceeding upstream must give the vessel proceeding downstream priority of passage through the navigation pass.
Maximum penalty: \$5 000.
Expiation fee: \$315.

- (4) The master or operator of a vessel proceeding upstream that has had to wait for a vessel proceeding downstream to navigate under the bridge must wait until the vessel proceeding downstream is clear of the bridge before proceeding under the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

193—Kingston Bridge

- (1) This regulation applies to a vessel that is more than 10 m in length and the master or operator of which intends to navigate under Kingston Bridge.

- (2) The master or operator of a vessel must ensure that the vessel, when being navigated under the Kingston Bridge, is only operated within the navigation pass.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The master or operator of a vessel must proceed with caution in the navigation pass and maintain a mid-channel course through the navigation pass.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) The master or operator of a vessel must ensure that the vessel does not come into contact with a support pier of the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The master or operator of a vessel must not cause or allow the vessel to approach the bridge or attempt to negotiate the navigation pass unless the vessel can be maintained under safe control throughout the manoeuvre.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (6) The master or operator of a vessel must sound 1 long blast when the vessel is within 0.5 nautical miles of the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) The master or operator of a vessel approaching the bridge must, if a long blast is heard apparently from an approaching vessel, respond with 1 long blast.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (8) The master or operator a vessel must not cause or allow the vessel to pass another vessel within 0.25 nautical miles of the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (9) If 2 vessels are approaching the bridge simultaneously, the master or operator of the vessel proceeding upstream must give the vessel proceeding downstream priority of passage through the navigation pass.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (10) The master or operator of a vessel proceeding upstream that has had to wait for a vessel proceeding downstream to pass under the bridge must wait until the vessel is clear of the bridge and then again sound 1 long blast before proceeding under the bridge.

Maximum penalty: \$5 000.

Expiation fee: \$315.

194—Paringa Bridge

- (1) The master or operator of a vessel approaching the Paringa Bridge during its operating times and requiring the bridge to be opened must contact the person operating the bridge (in accordance with any procedure determined by the CEO for the purposes of this subregulation) by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation.

- (2) The master or operator of a vessel who does not intend to navigate under the bridge after requesting the opening of the bridge in accordance with subregulation (1) must immediately notify the person operating the bridge of that fact by mobile phone on a telephone number determined by the CEO for the purposes of this subregulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The person operating the bridge will indicate his or her intention to open the bridge by activating a rotating red light installed on, or in the immediate vicinity of, the bridge.

- (4) The master or operator of a vessel must not allow the vessel to approach within 100 m of the bridge with the intention of passing through the bridge until—

- (a) the bridge is fully opened; and
- (b) a green light installed on, or in the immediate vicinity of, the bridge is illuminated to vessels travelling in the same direction as the vessel.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) Subject to any direction of the operator of the bridge to the contrary, the master or operator of a vessel must ensure that the vessel, when being navigated under the bridge, is only operated within the navigation pass.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (6) The master or operator of a vessel must not cause or allow the vessel to approach the bridge or attempt to negotiate the navigation pass unless the vessel can be maintained under safe control throughout the manoeuvre.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) The master or operator of a vessel that does not require the bridge to be opened to navigate under the bridge must give way to any vessel approaching the bridge or passing under the bridge that does require the bridge to be so opened.
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (8) If 2 vessels are approaching the bridge from opposite directions simultaneously, the master or operator of the vessel proceeding upstream must give the vessel proceeding downstream priority of passage through the navigation pass unless it is safe for both vessels to pass through the navigation pass simultaneously.
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (9) In this regulation—
- operating times*, in relation to the Paringa Bridge, means the operating times determined by the CEO for the purposes of this regulation.

Division 10—Miscellaneous

195—Vessels excluded from vicinity of oil rigs

- (1) Vessels are prohibited from entering or remaining in waters within 500 m of a vessel or structure engaged in petroleum exploration consisting of—
- drilling, or operations associated with drilling, subjacent land; or
 - tests carried out subsequently for the purposes of discovering petroleum or ascertaining the quality and quantity of petroleum discovered (including tests involving the recovery of petroleum).
- (2) The distance referred to in subregulation (1) is to be measured from each point of the outer edge of the vessel or structure or any anchor, buoy or other equipment deployed from the vessel or structure.
- (3) If a vessel enters or remains in waters in contravention of this regulation, the owner and the master or operator of the vessel are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated in the manner constituting the offence without the owner's consent).
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) This regulation does not apply to vessels used in connection with the operations of the vessel or structure engaged in petroleum exploration.
- (5) In this regulation—
- petroleum* has the same meaning as in the *Petroleum Act 2000*.

196—Vessels excluded from vicinity of vessels engaged in transfer of petroleum

- (1) Vessels are prohibited from entering or remaining in waters within 1 nautical mile of a vessel to which petroleum is being transferred from another vessel or from which petroleum is being transferred to another vessel.

- (2) The distance referred to in subregulation (1) is to be measured from each point of the outer edge of a vessel engaged in the transfer of petroleum or any anchor, buoy or other equipment deployed from such a vessel.
- (3) If a vessel enters or remains in waters in contravention of this regulation, the owner and the master or operator of the vessel are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated in the manner constituting the offence without the owner's consent).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) This regulation does not apply to vessels used in connection with the operations of a vessel engaged in the transfer of petroleum to or from another vessel.
- (5) In this regulation—

petroleum has the same meaning as in the *Petroleum Act 2000*.

197—Vessels excluded from vicinity of transshipment points in Spencer Gulf

- (1) Vessels are prohibited from entering or remaining in waters within 0.5 nautical miles of a prescribed vessel while the prescribed vessel is, or is about to be, engaged in loading operations at a prescribed transshipment point.
- (2) The distance referred to in subregulation (1) is to be measured from each point of the outer edge of the prescribed vessel or any anchor, buoy or other equipment deployed from the prescribed vessel.
- (3) If a vessel enters or remains in waters in contravention of this regulation, the owner and the master or operator of the vessel are each guilty of an offence (but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated in the manner constituting the offence without the owner's consent).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) This regulation does not apply to vessels used in connection with the operations of prescribed vessels at the prescribed transshipment points.
- (5) In this regulation—

prescribed transshipment point means a transshipment point in Spencer Gulf at, or in the vicinity of, either of the following locations:

- (a) latitude 33°09'12"S, longitude 137°38'21"E (the *Cape Vessel Transshipment Point*);
- (b) latitude 33°06'12"S, longitude 137°38'30"E (the *Panamax Vessel Transshipment Point*);

prescribed vessel means—

- (a) in the case of the Cape Vessel Transshipment Point—a vessel of the class of vessels known as Cape-size vessels; or
- (b) in the case of the Panamax Vessel Transshipment Point—a vessel of the class of vessels known as Panamax-size vessels.

198—Nuisance

A person who operates a vessel in the vicinity of any person in or near the water or on a vessel in a manner that is likely to cause nuisance or annoyance to the other person is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

199—Use of spot lights

- (1) A person must not, without reasonable excuse, direct a beam of light from a vessel on to another vessel.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) If subregulation (1) is contravened, the master or operator of the vessel from which the light is directed is also guilty of an offence (but it is a defence if the defendant proves that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the offence).

Maximum penalty: \$1 250.

Expiation fee: \$160.

200—Emissions and discharges

- (1) If a vessel emits smoke or vapour to the extent that it causes danger to any other person, the owner of the vessel and the master or operator of the vessel are each guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) If any offensive material is discharged from a vessel directly or indirectly into waters in the jurisdiction or on adjacent land under the care, control and management of the Minister, the owner of the vessel and the master or operator of the vessel are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) It is a defence to a charge brought against the owner of a vessel of an offence against this regulation committed while the vessel was being operated in the jurisdiction for the owner to prove that the vessel was operated without the owner's consent.

- (4) In this regulation—

offensive material includes oil, tar, spirit, other inflammable material, refuse, wire, rope, plastic, the carcass of any animal, sludge from ballast tanks and any matter that may cause pollution, a nuisance or offence.

201—Work involving flame or flash

- (1) A person must not do any work on a vessel by means of a device that produces a flame or flash exposed to the air unless—

- (a) the work has been authorised in writing by the owner of the vessel or the owner's agent; and

- (b) the work is carried out in a safe and professional manner; and
- (c) no vessel is being refuelled within 10 m of the vessel.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) If subregulation (1) is contravened, the master or operator of the vessel on which the work was done is also guilty of an offence (but it is a defence for the master or operator to prove that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the offence).

Maximum penalty: \$750.

Expiation fee: \$105.

202—Misuse of signals

- (1) A person who uses, displays or activates, or causes another to use, display or activate, a signal required under these regulations in circumstances not contemplated by these regulations is guilty of an offence.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) A person who responds to a signal used or displayed in contravention of subregulation (1) may recover the costs of that response, as a debt, from the person who contravened the subregulation.

- (3) In this regulations—

signal includes a flare, an EPIRB or a similar device.

203—Smoking and use of combustion equipment in hold

- (1) A person must not, in the hold of a commercial vessel or within 6 m of any open hatch of a commercial vessel—

- (a) smoke, strike a match or use a cigarette lighter; or
- (b) use any other device that produces a flame or a flash exposed to the air without the approval of—
 - (i) if the vessel is within a port—the relevant port operator; or
 - (ii) in any other case—the CEO.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If subregulation (1) is contravened, the master of the vessel is also guilty of an offence (but it is a defence for the master to prove that the master could not, by the exercise of reasonable diligence, have prevented the commission of the offence).

Maximum penalty: \$5 000.

Expiation fee: \$315.

204—Gangways

- (1) The master of a vessel engaged in trade or plying for hire when lying alongside a wharf, riverbank or another vessel must ensure that there is a gangway in place to provide safe access between the vessel and the wharf, riverbank or other vessel, and a safety net rigged over the gap between the vessel and the wharf, riverbank or other vessel, in accordance with this regulation.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) A gangway must comply with the following requirements:
- (a) the gangway must be provided with a closely boarded walkway at least 550 mm in clear width and fitted with transverse treads at suitable and equally spaced intervals;
 - (b) the gangway must be fenced on each side of its entire length with upper and intermediate side rails supported by stanchions that are not more than 2 m apart and fitted with a locking device to prevent accidental dislodgment;
 - (c) the side rails must not be more than 0.61 m apart and the upper rail must be at a height of not less than 1.07 m (measured from the surface of the treads, perpendicular to the longitudinal axis of the gangway);
 - (d) the side rails may be fixed rails or taut ropes or chains and any covering material used on ropes or chains must be capable of removal to allow inspection of the condition of the ropes or chains;
 - (e) the sides of the gangway must be fitted with screens or netting;
 - (f) the upper end of the gangway must be fitted with suitable means to effectively secure it to the vessel;
 - (g) if the gangway requires the use of a derrick or crane to position or stow it, the gangway must be provided with suitable lifting attachments so located as to balance it whilst it is freely suspended.
- (3) A safety net must comply with *Appendix 9, Marine Order Part 21 (Safety of Navigation and Emergency Procedures)*, under the Commonwealth Act.
- (4) This regulation does not apply to a hire and drive houseboat hired out pursuant to a licence under Part 8 of the Act.

205—Anchors not to be used in certain areas

The master or operator of a vessel must not cause or allow the vessel to be anchored or an anchor to be used in any of the following areas:

- (a) the area comprising the full width of the Port Adelaide River which lies within 70 m of a line from a point on the western bank of the river distance 490 m and bearing 314° from No 11 front inward leading beacon to a point on the eastern bank of the river distance 215 m and bearing 22° from No. 11 front inward leading beacon;
- (b) the area comprising the full width of the Port Adelaide River which lies within 60 m of a line from a point on the western bank of the river distance 410 m and bearing 273° from No 12 rear inward leading beacon to a point on the eastern bank of the river distance 210 m and bearing 204° from No 12 rear inward leading beacon;

- (c) the area comprising the area of the Port Adelaide River situated within a radius of 70 m from the control towers of the Birkenhead Bridge;
- (d) the area comprising the area of the Port Adelaide River situated within 100 m from a Port River Expressway Bridge;
- (e) the area of Spencer Gulf within 1½ miles either side of a line joining a point latitude 33°39.6'S and longitude 137°12.8'E (adjacent to Shoalwater Point) and a point latitude 33°52.4'S and longitude 137°36.4'E (adjacent to Point Riley);
- (f) the area of Backstairs Passage within 1½ miles either side of a line joining a point latitude 35°38.0'S and longitude 138°6.9'E (Fishery Bay, Kangaroo Island) and a point latitude 35°44.3'S and longitude 138°1.4'E (Cuttlefish Bay, Kangaroo Island).

Maximum penalty: \$2 500.

206—General defence

It is a defence to a charge of an offence against this Part if it is proved that the contravention or non-compliance with the Part was justified in the circumstances in order to avoid immediate danger having regard to all the dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved.

Part 13—Accidents

207—Minor accidents involving vessels need not be reported

For the purposes of section 75(1) of the Act, minor injury or damage of the following kinds is excluded from the ambit of that section:

- (a) an injury that does not require medical attention;
- (b) property damage that does not exceed \$300.

208—Particulars required in accident report

For the purposes of section 75(2) of the Act, the following particulars are required:

- (a) particulars of the vessels involved;
- (b) in the case of a recreational vessel—the name and address of the owner and the operator of the vessel involved;
- (c) in the case of a commercial vessel—the name and address of the owner and any agent of the owner of the vessel and the name, address and qualifications of the master of the vessel and of any other member of the crew of the vessel whose action may have been a factor contributing to the accident;
- (d) the time and place of the accident;
- (e) the circumstances of the accident;
- (f) the name and address (if known) of each person killed or injured in the accident;
- (g) the name and address (if known) of each witness to the accident.

Part 14—Boat havens

209—Interpretation

In this Part—

boat haven means an area of water specified in Schedule 12;

owner of a mooring means—

- (a) if a permit to moor a vessel on the mooring is in force—the holder of a permit; or
- (b) in any other case—the person who laid the mooring down or caused the mooring to be laid down;

permit means a permit to moor a vessel in a boat haven issued under this Part.

210—Moorings not to be laid without approval

- (1) A person must not lay down a mooring, or cause a mooring to be laid down, in a boat haven except in accordance with the approval of the CEO.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) The owner of a mooring in a boat haven must, at the request of the CEO, relocate or remove the mooring as required by the CEO.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) If the owner of a mooring in a boat haven fails to comply with an request under subregulation (2), the CEO may remove the mooring from the boat haven and recover the costs of doing so, as a debt, from the owner of the mooring.

211—Permit to moor vessel in boat haven

- (1) The CEO, on an application being made in accordance with this regulation—

- (a) if the applicant is the person who laid down the mooring or caused the mooring to be laid down—must issue a permit to moor a specified vessel on the mooring unless the CEO is of the opinion that the vessel is unseaworthy; or
- (b) in any other case—may issue a permit to moor a specified vessel at a specified mooring site in a boat haven.

- (2) The CEO may refuse to issue a permit under subregulation (1)(b)—

- (a) if the CEO is of the opinion that—
 - (i) there is no suitable mooring site available; or
 - (ii) all mooring sites are required for fishing vessels or for vessels used in connection with fishing vessels; or
 - (iii) the vessel is not seaworthy; or
- (b) for any other reason the CEO thinks fit.

- (3) A person must not moor a vessel, or cause or permit a vessel to be moored, in a boat haven except in accordance with a permit issued under this regulation.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) An application for a permit—
 - (a) must be made to the CEO in a manner and form determined by the CEO; and
 - (b) must be accompanied by—
 - (i) proof, in a manner and form determined by the CEO, that the vessel to which the application relates is seaworthy; and
 - (ii) such other information and records as the CEO may reasonably require; and
 - (iii) the application fee (if any) fixed by Schedule 14.
- (5) An applicant under this regulation must provide the CEO with such further information and records as the CEO may reasonably require to determine the application.
- (6) A permit—
 - (a) must specify the vessel to which it relates and the mooring site to which it relates; and
 - (b) remains in force for the period specified in the permit (and may be renewed in accordance with any procedure determined by the CEO); and
 - (c) is not transferable.
- (7) It is a condition of a permit issued under this regulation that a vessel moored at a mooring pursuant to the permit be maintained in a seaworthy condition.
- (8) A permit issued under subregulation (1)(b) may be subject to such further conditions as the CEO specifies in the permit.
- (9) The CEO may, by notice in writing, vary or revoke a condition of a permit issued under subregulation (1)(b).
- (10) The holder of a permit issued under this regulation must not contravene or fail to comply with a condition of the permit.

Maximum penalty: \$1 250.
Expiation fee: \$160.
- (11) In determining which mooring site in a boat haven to allocate to an applicant for a permit, the CEO must give special consideration to the convenience of applicants and permit holders who moor or will moor a fishing vessel, or a vessel used in connection with a fishing vessel, in the boat haven.
- (12) A person who holds a permit—
 - (a) must produce it at the request of an authorised person; and
 - (b) must notify the CEO as soon as practicable of any of the following:
 - (i) a change of name or address of the owner of the vessel to which the permit relates;
 - (ii) the transfer of ownership of the vessel and the name and address of the new owner;

- (iii) any intention to no longer moor the vessel at the mooring site;
- (iv) the loss, theft, destruction or defacement of the permit.

Maximum penalty: \$1 250.

Expiation fee: \$160.

212—Cancellation of permits

- (1) If the holder of a permit has contravened or failed to comply with this Part, the CEO may, by notice in writing to the permit holder, cancel the permit.
- (2) The CEO may, on the application of the holder of a permit, cancel the permit.
- (3) If a permit is cancelled on the application of the holder of the permit, the proportion of the fee for the permit corresponding to the unexpired period of the permit will be refunded to the applicant.
- (4) If a permit is cancelled, the permit holder must cause the vessel to which the permit relates to be removed from the boat haven.

Maximum penalty: \$1 250.

Expiation fee: \$160.

213—Orders

- (1) If the CEO is of the opinion that a vessel moored in a boat haven is in such a state of disrepair that it is in danger of sinking or causing environmental harm (within the meaning of the *Environment Protection Act 1993*), the CEO may issue an order requiring that the registered owner of the vessel—
 - (a) take action to repair the vessel; or
 - (b) remove the vessel from the waters of the jurisdiction.
- (2) If a vessel moored in a boat haven—
 - (a) is, in the opinion of the CEO, obstructing navigation in the boat haven; or
 - (b) is not the subject of a current permit,the CEO may issue an order requiring that the registered owner of the vessel remove the vessel from the boat haven.
- (3) An order issued under this regulation—
 - (a) must be in the form of a written notice served on the registered owner of the vessel; and
 - (b) must specify the vessel that is the subject of the order; and
 - (c) must specify a period within which the registered owner of the vessel must comply with the order.
- (4) A vessel that has been ordered to be removed from the waters of the jurisdiction under subregulation (1) must not be returned to the water until it is in a seaworthy condition.
- (5) The CEO may, by written notice served on the registered owner of a vessel to whom an order has been issued, vary or revoke the order.

- (6) A registered owner of a vessel to whom an order is issued must not fail to comply with the order.

Maximum penalty: \$5 000.

Expiation fee: \$315.

214—Removal of vessel and disposal of vessel if unclaimed

- (1) If the registered owner of a vessel fails to comply with an order under regulation 213, the CEO may remove the vessel from the waters of the jurisdiction and recover the costs of doing so, as a debt, from the registered owner of the vessel.
- (2) The CEO must notify the registered owner of the vessel of its removal and of the place to which the vessel was removed—
- (a) by written notice—
 - (i) served on the registered owner personally; or
 - (ii) sent by registered post to the registered owner's last-known residential address,forthwith after the removal of the vessel; or
 - (b) by public notice published in a newspaper circulating generally in the State within 14 days after the removal of the vessel.
- (3) If the registered owner of the vessel does not, within 1 month after service or publication of the notice relating to the removal of the vessel—
- (a) take possession of the vessel; and
 - (b) pay all expenses in connection with the removal, custody and maintenance of the vessel and of serving, posting or publishing the notice,
- the CEO may, subject to subregulation (4), offer the vessel for sale by public auction.
- (4) If—
- (a) the vessel is offered for sale by public auction but is not sold at the auction; or
 - (b) the CEO reasonably believes that the proceeds of the sale of the vessel would be unlikely to exceed the costs incurred in selling the vessel,
- the CEO may dispose of the vessel in such manner as the CEO thinks fit.
- (5) The CEO must apply any proceeds of sale of the vessel as follows:
- (a) firstly, in payment of the costs of and incidental to the sale;
 - (b) secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vessel and of the notice served, posted or published under this regulation;
 - (c) thirdly, in payment of the balance to the registered owner of the vessel.
- (6) If after reasonable inquiry following sale of the vessel the registered owner of the vessel cannot be found, the balance of the proceeds of the sale will be paid to the Treasurer to be credited to the Consolidated Account.

Part 15—Recreational Boating Facilities Fund

215—Facilities levy

- (1) The levy fixed by Schedule 14 in relation to recreational vessels must be paid on the registration of a recreational vessel and the vessel will not be registered until the levy is paid.
- (2) A levy payable under this regulation is in addition to any other fee or charge relating to the vessel that is payable under these regulations.

216—Recreational Boating Facilities Fund

- (1) All levies recovered under these regulations in relation to recreational vessels must be paid into a separate fund.
- (2) That fund is to be applied by the Minister (after consultation with the *Boating Facility Advisory Committee*) for the purpose of establishing, maintaining and improving recreational boating facilities and may only be applied for that purpose.

217—Boating Facility Advisory Committee

- (1) The *Boating Facility Advisory Committee* continues in existence.
- (2) The Committee consists of 7 or 8 members appointed by the Minister, of whom—
 - (a) 1 must be a person nominated by the Boating Industry Association of South Australia Inc.;
 - (b) 1 must be a person nominated by the South Australian Recreational Boating Council Inc.;
 - (c) 1 must be a person nominated by the South Australian Recreational Fishing Advisory Council Inc.;
 - (d) 2 must be persons nominated by the South Australian Fishing Industry Council;
 - (e) 1 must be a person nominated by the Local Government Association of South Australia.
- (3) At least 1 member of the Committee must be a woman and 1 a man.
- (4) The Minister may appoint a person to be a deputy of a member of the Committee and the deputy may act as a member of the Committee in the absence or during a temporary vacancy in the office of that member.
- (5) If a person is appointed as a member of the Committee on the nomination of a body, a person appointed as his or her deputy must also be appointed on the nomination of that body.
- (6) If a body fails to nominate a person within 6 weeks of a written request to do so from the Minister, the Minister may appoint such person as the Minister thinks fit and that person will be taken to have been duly appointed as a member or deputy member (as the case may require) of the Committee.
- (7) A member of the Committee will be appointed for a term not exceeding 2 years and, at the expiration of a term of appointment, will be eligible for reappointment.
- (8) A member of the Committee is entitled to such fees and allowances as may be determined by the Minister.

- (9) The Minister may remove a member of the Committee from office on any ground that the Minister considers sufficient.
- (10) The office of a member of the Committee becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is removed from office by the Minister under subregulation (9).
- (11) An act of the Committee is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.
- (12) The Minister will appoint 1 member of the Committee to be the presiding member of the Committee and may appoint 1 member to be the deputy presiding member.
- (13) The presiding member of the Committee or, in his or her absence, the deputy presiding member (if a deputy presiding member has been appointed), will preside at any meetings of the Committee.
- (14) Subject to these regulations and the directions of the Minister, the Committee may conduct its business in such manner as it thinks fit.
- (15) The functions of the Committee are to advise the Minister on the amounts of the levies imposed by this Part and the application of the funds established under this Part.

Part 16—Miscellaneous

218—Discharging ballast water prohibited in specified waters

- (1) The Minister may, by notice in the Gazette, prohibit the discharge, without the approval of—
 - (a) in the case of the discharge of ballast water within a port—a port management officer; or
 - (b) in any other case—an authorised person,of ballast water, or ballast water of a specified class, from any vessel in the whole or a specified part of the jurisdiction.
- (2) If ballast water is discharged from a vessel in contravention of subregulation (1), the master or operator of the vessel is guilty of an offence.
Maximum penalty: \$5 000.
Expiation fee: \$315.

219—Directions relating to ballast water

- (1) Without limiting regulation 218, an authorised person or port management officer may give the master or operator of a vessel in the jurisdiction directions relating to any ballast water carried on the vessel.
- (2) Without limiting subregulation (1), a direction may—
 - (a) prohibit the discharge of ballast water in specified waters; or
 - (b) require ballast water to be discharged in specified waters or in a specified manner (including that it be treated in a specified manner prior to discharge); or

- (c) require ballast water to be exchanged in specified waters; or
 - (d) make any requirement in relation to the loading of ballast water.
- (3) A master or operator of a vessel who, without reasonable excuse, fails to obey a direction under subregulation (1) is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

220—Court of Marine Enquiry assessors

For the purposes of section 77(4) of the Act, the Court of Marine Enquiry must choose 2 assessors from the panel of expert assessors established by the Minister to sit with the Court in relation to a matter before it as follows:

- (a) the assessors must have knowledge or experience relevant to the kind of matter before the Court;
- (b) the assessors must not have a personal interest or a direct or indirect pecuniary interest in the matter before the Court.

221—False statements

A person must not, in providing any information required under these regulations, make a statement that is false or misleading in a material particular.

Maximum penalty: \$2 500.

Expiation fee: \$210.

222—Notices

- (1) A notice or other document required or authorised to be given to or served on a person under these regulations may be given or served as follows:
- (a) by personal service on the person or the agent of the person;
 - (b) by leaving it for the person at his or her place of residence or, in the case of a company, at the company's registered office, with someone apparently over the age of 16 years;
 - (c) by serving it by registered post on the person or an agent of the person at his or her last known address.
- (2) A request made by the CEO under these regulations may be made by notice in writing served on the person of whom the request is made.
- (3) Service by post is effected by addressing, prepaying and posting the notice or document and service will be taken to have occurred when the notice or document, or notice that the notice or document is available for collection, would be delivered in the ordinary course of post.

223—Signs

- (1) A sign erected on or in the vicinity of a place that appears to have been erected for the purposes of these regulations will, in the absence of proof to the contrary, be taken to have been erected in accordance with these regulations.
- (2) A sign erected by the CEO, the Minister, the department or a port operator on or in the vicinity of a place before the commencement of this regulation will be regarded as having been erected in accordance with these regulations.

- (3) In determining the meaning of a direction displayed on a sign under these regulations, regard must be given to the characteristics of the surrounding physical environment.
- (4) In proceedings for an offence against these regulations, an allegation in a complaint that—
- (a) a specified sign was erected by the CEO or a port operator; or
 - (b) a specified sign erected by the CEO or a port operator contained a specified direction or specified information,
- will be accepted, in the absence of proof to the contrary, as proof of the matter so alleged.

224—Waiver, remission and reduction of fees and payment in instalments

- (1) The CEO may waive, remit or reduce a fee payable by a person under these regulations if the CEO considers the circumstances of the particular case justify the waiver, remission or reduction.
- (2) The CEO may allow a person to pay a fee in instalments.

Note—

This regulation does not apply in relation to a levy payable under Part 15.

Schedule 1—Smooth and partially smooth waters

Part 1—Smooth waters

Area	Smooth Water Limits
Eyre Peninsula	Baird Bay, Lake Newland, Round Lake, Lake Hamilton, Lake Greenly and Sleaford Mere.
Port Lincoln	Boston Bay and Port Lincoln south of a line joining Hayden Point to Cape Donnington and west of a line joining Maria Point to Point Boston.
Cowell	Franklin Harbor north of a line joining Germein Point to Victoria Point.
Port Augusta	North of a line joining Curlew Point to latitude 32°32.52' South and longitude 137°46.8' East.
Port Pirie	Port Pirie Harbor and approaches south of a line joining Mangrove Point to Mount Ferguson.
Port Adelaide	Port Adelaide river north of a line drawn 270° from Outer Harbor Signal Station and Barker Inlet not north of a line drawn 050°T ↔ 230°T through Point Grey Light Beacon.
River Murray	The River Murray north of Wellington, Lake Bonney, the Goolwa channel and the Coorong.
Lakes in the South East of South Australia	Lake Leake, Lake Bonney, Lake George, Lake St. Claire, Lake Eliza, Lake Robe, Lake Fellmongery, Lake Batte, Valley Lake.
Lakes and rivers in the North of South Australia	Coopers Creek, Lake Eyre, Lakes Frome, Lake Gairdner, Lake Torrens
Other inland areas	All other inland waters except waters designated by this Schedule as partially smooth.

Part 2—Partially smooth waters

Area	Partially Smooth Water Limits
Thevenard	Tourville Bay, Murat Bay, D'Ecres Bay and Smoky Bay bounded by a line drawn from the southern extremity of Peter Point to the Yatala Channel Fairway Beacon then to the north-west extremity of St. Peter Island then from the north-eastern extremity of St. Peter Island to Cape Missiessy.
Streaky Bay	Streaky Bay south of a line drawn from the northern extremity of Cape Bauer through the South Channel Beacon to the shore at Perlubie.
Venus Bay	Venus Bay east of a line drawn northerly from the north-eastern extremity of South Head to the shore line east of Point Weyland.
Coffin Bay	Coffin Bay south of a line drawn from Sir Isaac Point easterly to Mount Dutton.
Port Lincoln	Louth Bay and adjacent waters which lie west of a line from Pt. Bolingbroke to Cape Donnington.
Tumby Bay	Adjacent to Tumby Bay west of a line drawn from the southern extremity of Massena Bay to the eastern extremity of Tumby Island then 020°T to the shore.
Port Neill	Dutton Bay west of a line drawn from Cape Burr 020°T to the shore.
Arno Bay	Arno Bay west of a line drawn from Cape Driver 040°T to the shore.
Port Gibbon	North of a line drawn from Point Gibbon to the Knob.
Port Augusta	The approaches to Port Augusta north of a line drawn from Lowly Point Light House to Ward Spit Beacon.
Port Pirie	Germein Bay east of a line drawn from Ward Spit Beacon to Point Jarrold.
Port Broughton	The approaches to Port Broughton including Tickera Bay east of a line drawn from Point Jarrold to the Mundoora Channel (Point Broughton) Entrance Beacon then to Point Riley.
Wallaroo	Wallaroo Bay east of a line drawn from Point Riley to Warburto Point.
Moonta Bay and Point Hughes	Tipara Bay east of a line drawn from Warburto Point to Cape Elizabeth.
Port Victoria	The approaches to Port Victoria bounded by a line drawn from Reef Point to Goose Island then to Cliff Point on Wardang Island then to Gawler Point.
Port Turton	South of a line drawn from Corny Point Light House to Port Minlacowie Jetty.
From Edithburgh coastwise to Port Noarlunga including Adelaide and Environs	St. Vincent Gulf which lie towards the shore from a line commencing at Troubridge Point then to Troubridge Shoal Light House then through Middle Spit Beacon at Port Vincent to join a line drawn eastwards from the silo at Ardrossan which joins a line drawn northerly from Long Spit Beacon then from Long Spit Beacon to Port Adelaide Fairway Beacon then to Onkaparinga Point.
Kangaroo Island	The waters of Nepean Bay but not seaward of a line from Marsden Point to latitude 35°43.1' South and longitude 137°58' East. The waters of Emu Bay but not seaward of a line from Cape D'estrainge to latitude 35°34' South and longitude 130°34.3' East.
River Murray	The lower reaches of the River Murray south of Wellington including Lake Alexandrina and Lake Albert.

Schedule 2—Operational areas for restricted vessels

West Coast Eyre Peninsula Area

All that area of the coastal waters of the west coast of the Eyre Peninsula lying eastwards of a line from James Point to the south-western extremity of Goat Island, then to the most southerly point of Franklin Island, then to a position 3 nautical miles south-west of Brown Point, then to a position 3 nautical miles south-west of Westall Point, then to a position 3 nautical miles south-west of Cape Blanche, then to a position 3 nautical miles south-west of Cape Labatt, then following the coast in a general south-easterly direction at a distance of 3 nautical miles from the shore to a position 3 nautical miles south of Cape Catastrophe.

Spencer Gulf and Gulf St. Vincent Area

All that area lying to the north and west of a line from a position 3 nautical miles south of Cape Catastrophe then to Waterhouse Point on the south-easternmost point of Thistle Island then to the light on Dangerous Reef then to the easternmost point of Spilsby Island then to Winceby Island light; and the waters of north Spencers Gulf north of a line from Winceby Island light to a position 3 nautical miles west of Wardang Island; and the coastal waters east and north of a line from a position 3 nautical miles west of Wardang Island to a position 3 nautical miles west of Corny Point then following the coast line at a distance of 3 nautical miles from the shore of southern Yorke Peninsula terminating at Marion Reef light; and the waters of Gulf St. Vincent north of a line from Marion Reef light to a position 3 nautical miles west of Port Stanvac jetty, and east of a line from 3 nautical miles west of Port Stanvac jetty following the coast at a distance of 3 nautical miles from the shore to a position 3 nautical miles north of Rapid Head.

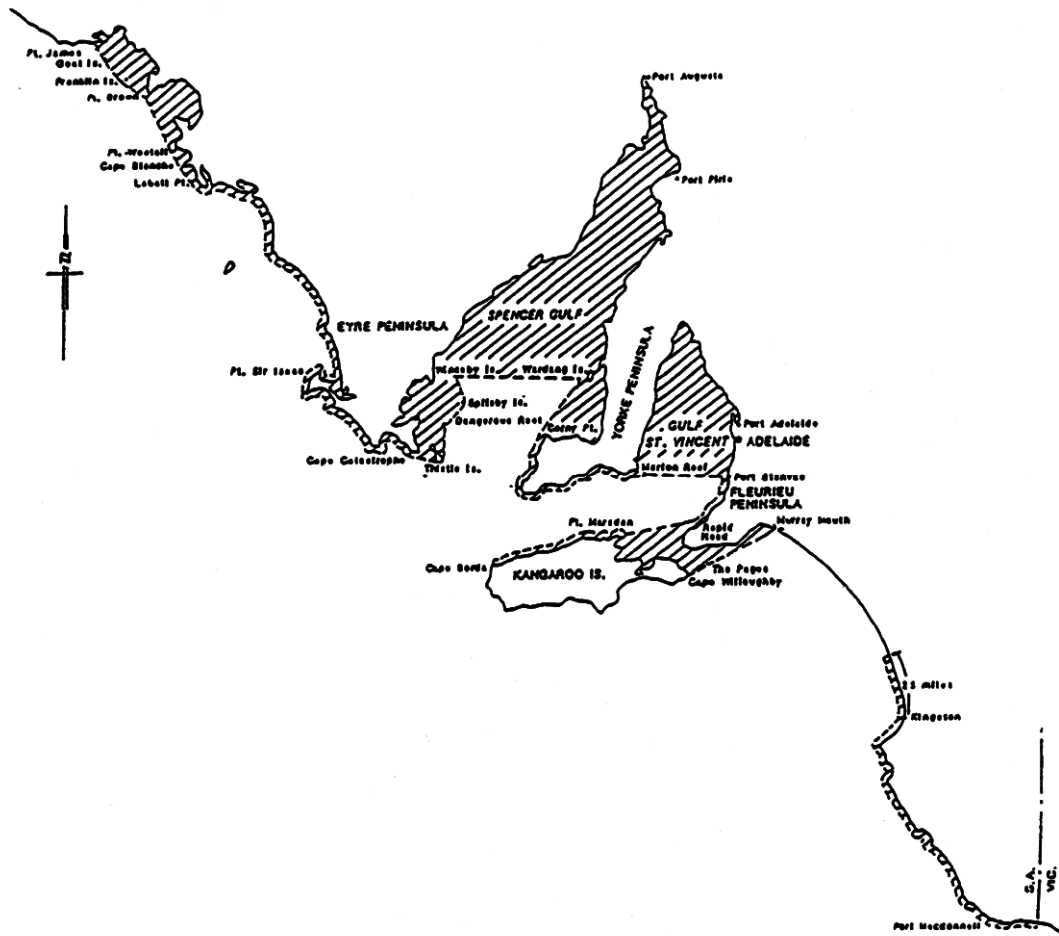
Kangaroo Island and Backstairs Passage Area

All that area of Investigator Strait and Backstairs Passage lying east and south of a line from Cape Borda light to a point 3 nautical miles to the north then to a point 3 nautical miles to the north of Cape Cassini, then to a point 3 nautical miles north-east of Marsden Point light, then to a point 3 nautical miles north of Rapid Head; and north of a line from Cape Willoughby light to the southernmost islet of the Pages Group then to the Murray Mouth.

South East Area

All that area lying to the east of a line commencing at a point on the coast 25 nautical miles north of Kingston projecting seaward for 3 nautical miles, then southward following the coastline at a distance of 3 nautical miles from the shore terminating at the border of South Australia with Victoria.

The following map is provided for convenience of reference only.



Schedule 3—Definition of harbor boundaries

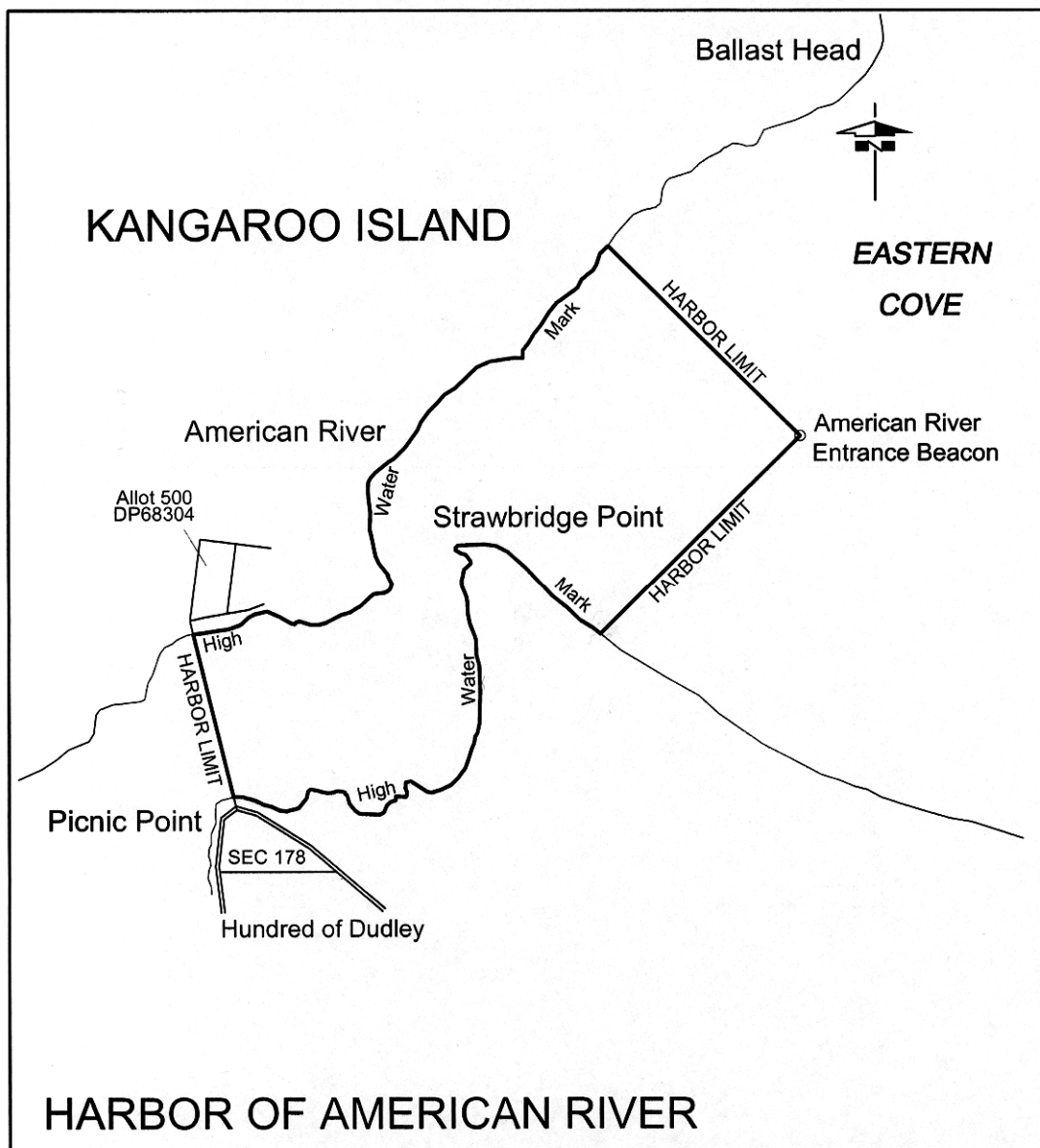
Note—

Unless the contrary intention appears, the maps in this Schedule are provided for convenience of reference only.

American River

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks, and inlets to high water mark of American River and Eastern Cove bounded as follows:

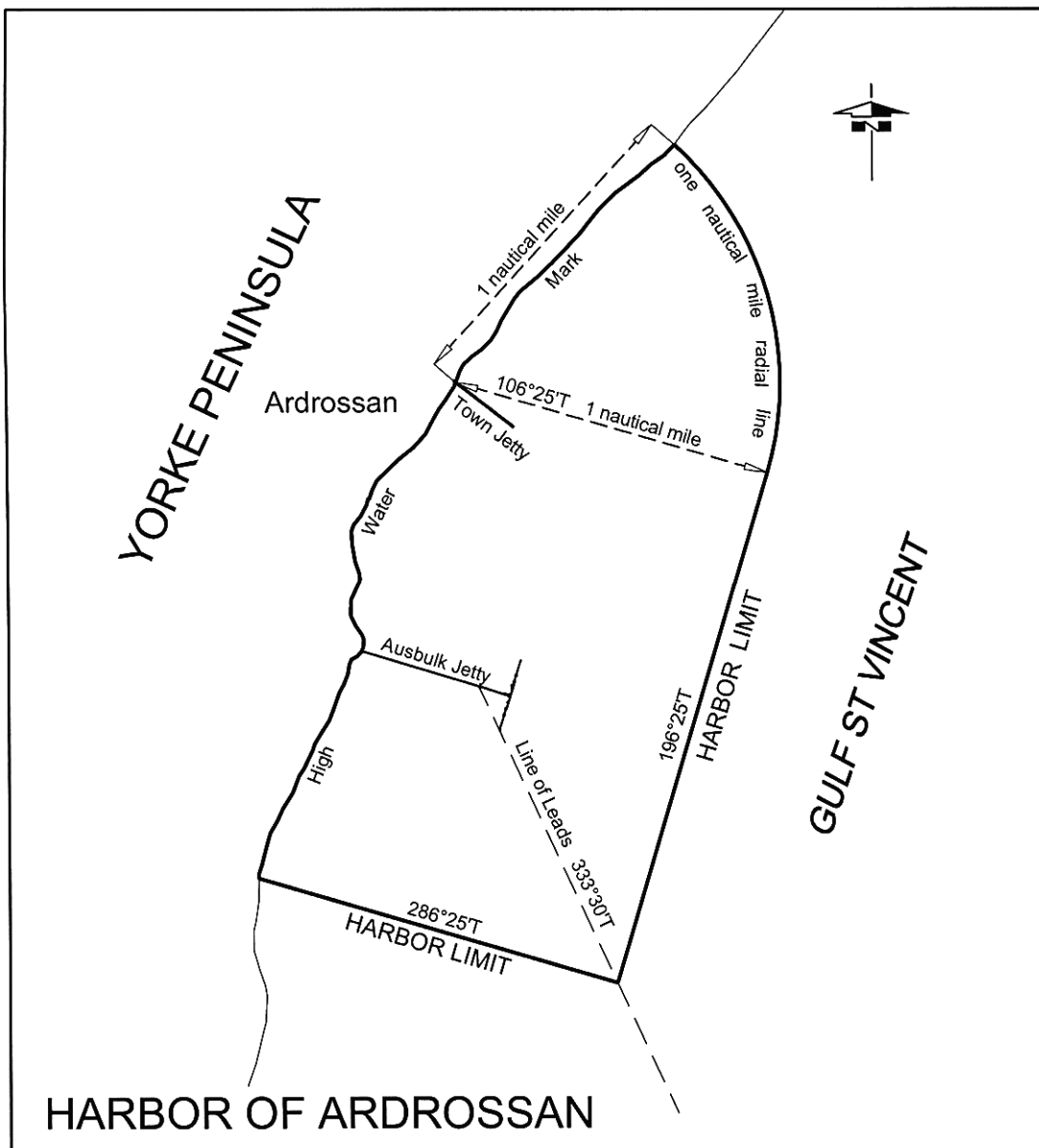
on the north by a line running north-west from the American River Entrance Beacon to intersect with high water mark on the western side of Eastern Cove then generally south-west along high water mark to its intersection with a straight line drawn from the south-west corner of Allotment 500 in Deposited Plan No 68304 to the most northerly point of Section 178, Hundred of Dudley; then south-easterly along the line to its intersection with high water mark; then generally easterly and northerly along high water mark on the eastern side of American River to Strawbridge Point, then easterly along high water mark to its intersection with a line running south-west from the Entrance Beacon, then along this line to the point of commencement.



Ardrossan

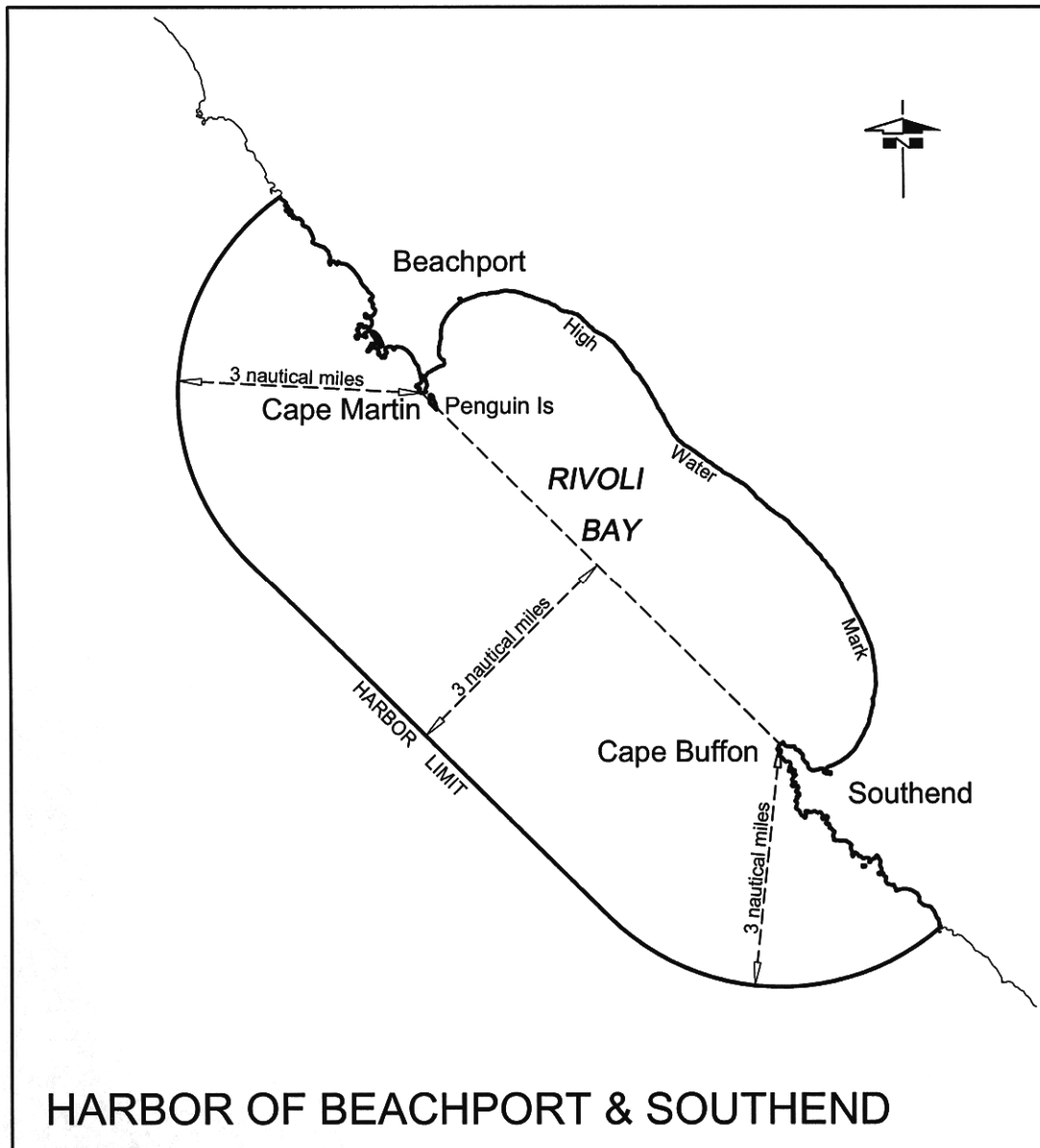
The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Gulf St. Vincent bounded as follows:

commencing at a point on a line bearing $106^{\circ}25'T$ and distance 1 nautical mile from the intersection of the centre line of the Ardrossan town jetty and high water mark; then by a line bearing $196^{\circ}25'T$ to its intersection with the Ausbulk jetty line of leads bearing $333^{\circ}30'T$; then by a line bearing $286^{\circ}25'T$ to its intersection with high water mark; then generally north-north-easterly along high water mark to a point distant 1 nautical mile north-north-easterly and radial from the intersection of high water mark and centre line of the Ardrossan town jetty; then by a 1 nautical mile radial line to the point of commencement.



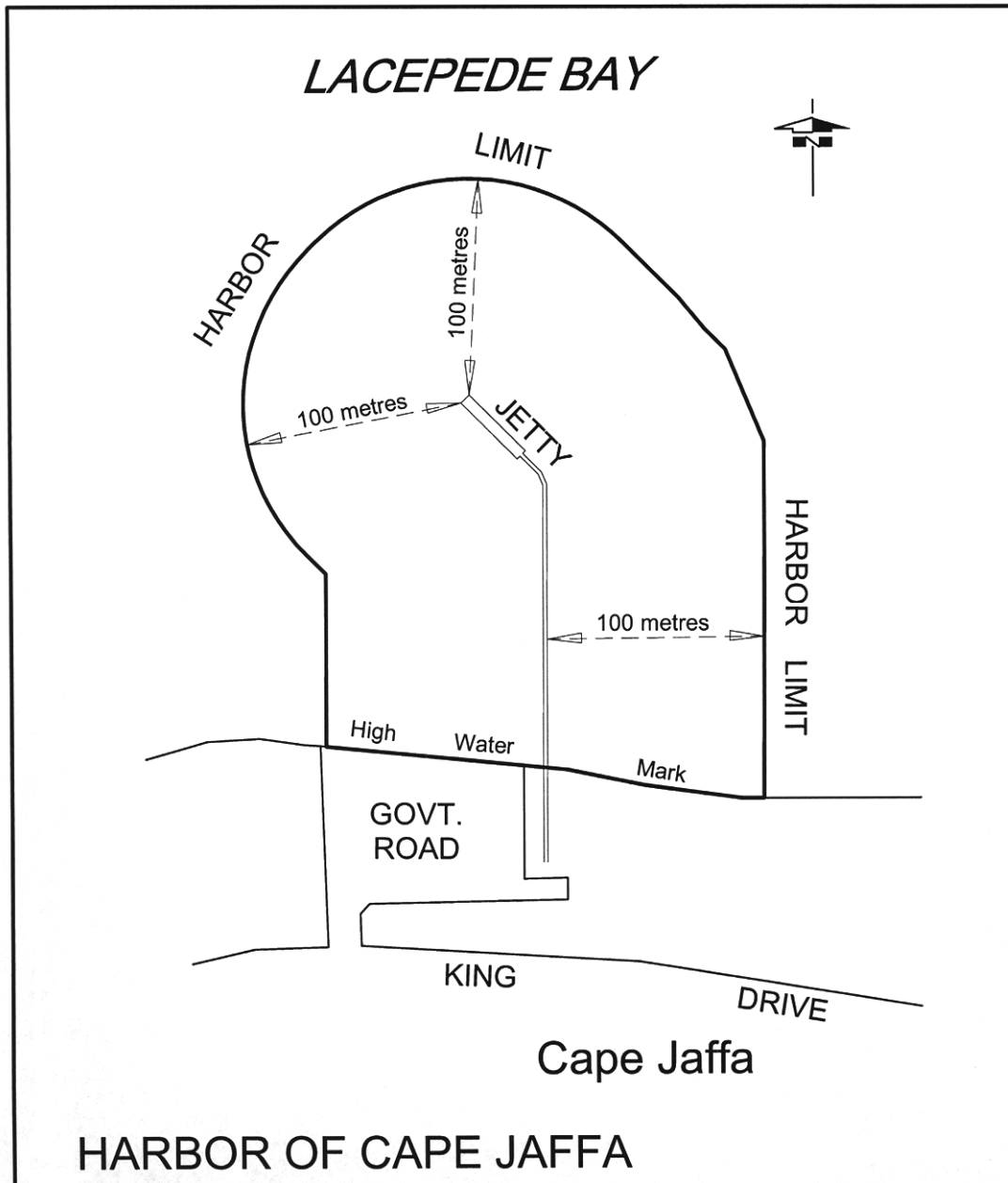
Beachport and Southend

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark on the coast within 3 nautical miles from any point on a straight line between Cape Martin and Cape Buffon.



Cape Jaffa

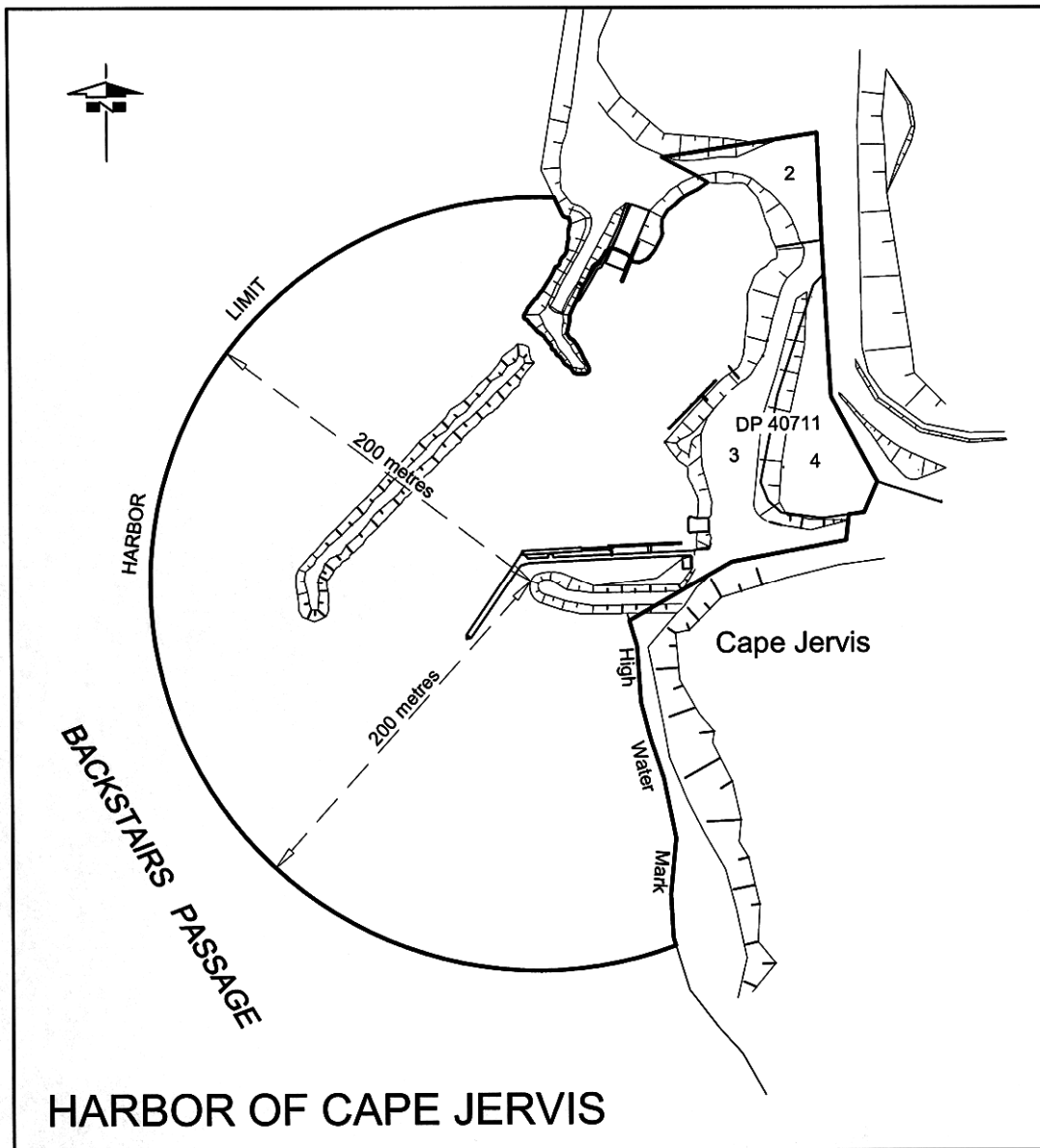
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark within 100 m seaward of any part of the Cape Jaffa Jetty.



Cape Jervis

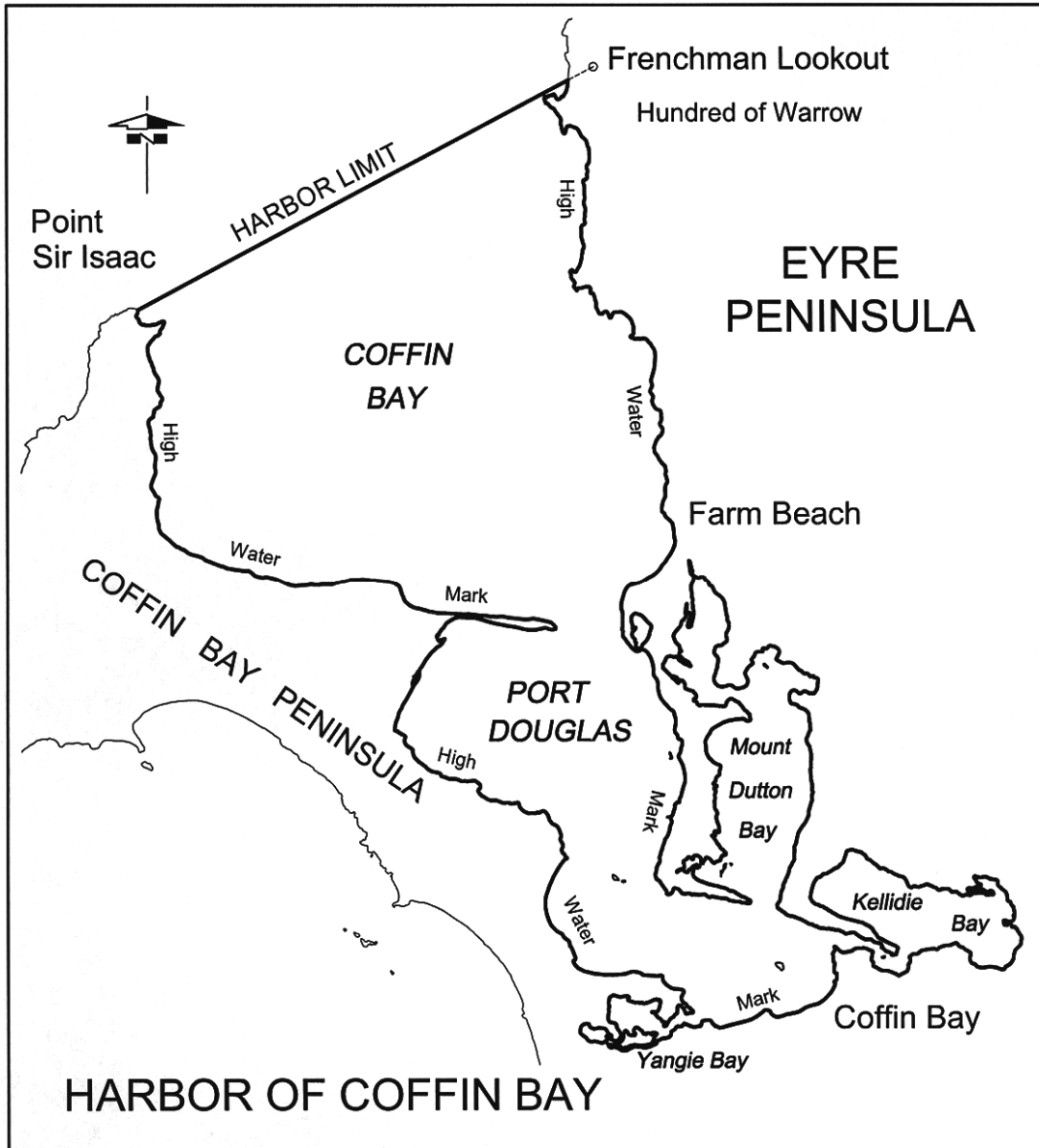
The following areas:

- (a) the subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark within a distance of 200 m from the western tip of the south-eastern breakwater at Cape Jervis;
- (b) allotments 2, 3 and 4 of Deposited Plan No 40711.



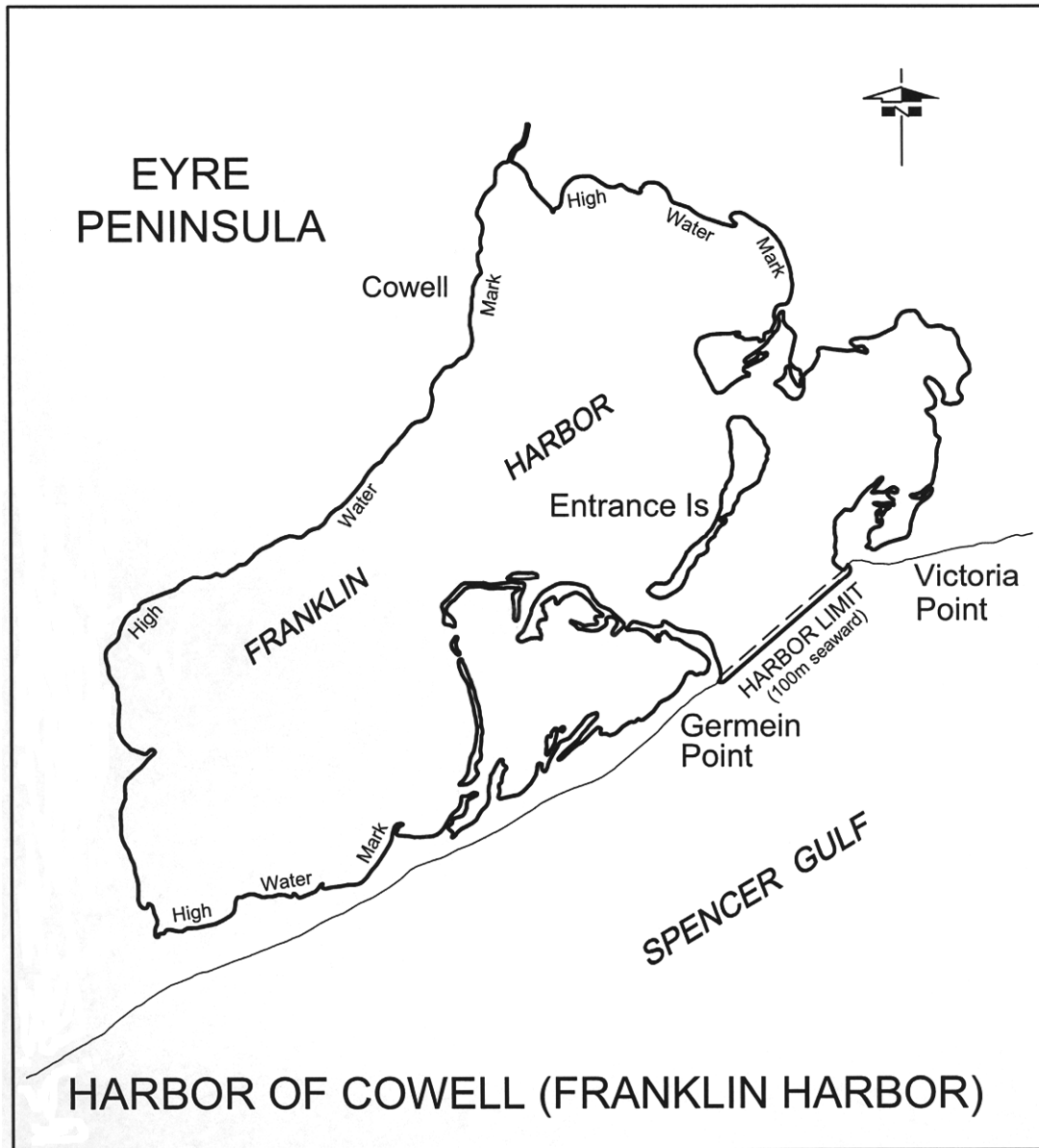
Coffin Bay

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Coffin Bay, Port Douglas, Mount Dutton Bay and Kellidie Bay, contained within a line drawn from Point Sir Isaac to a hill known as "Frenchman Lookout" in the Hundred of Warrow.



Cowell (Franklin Harbor)

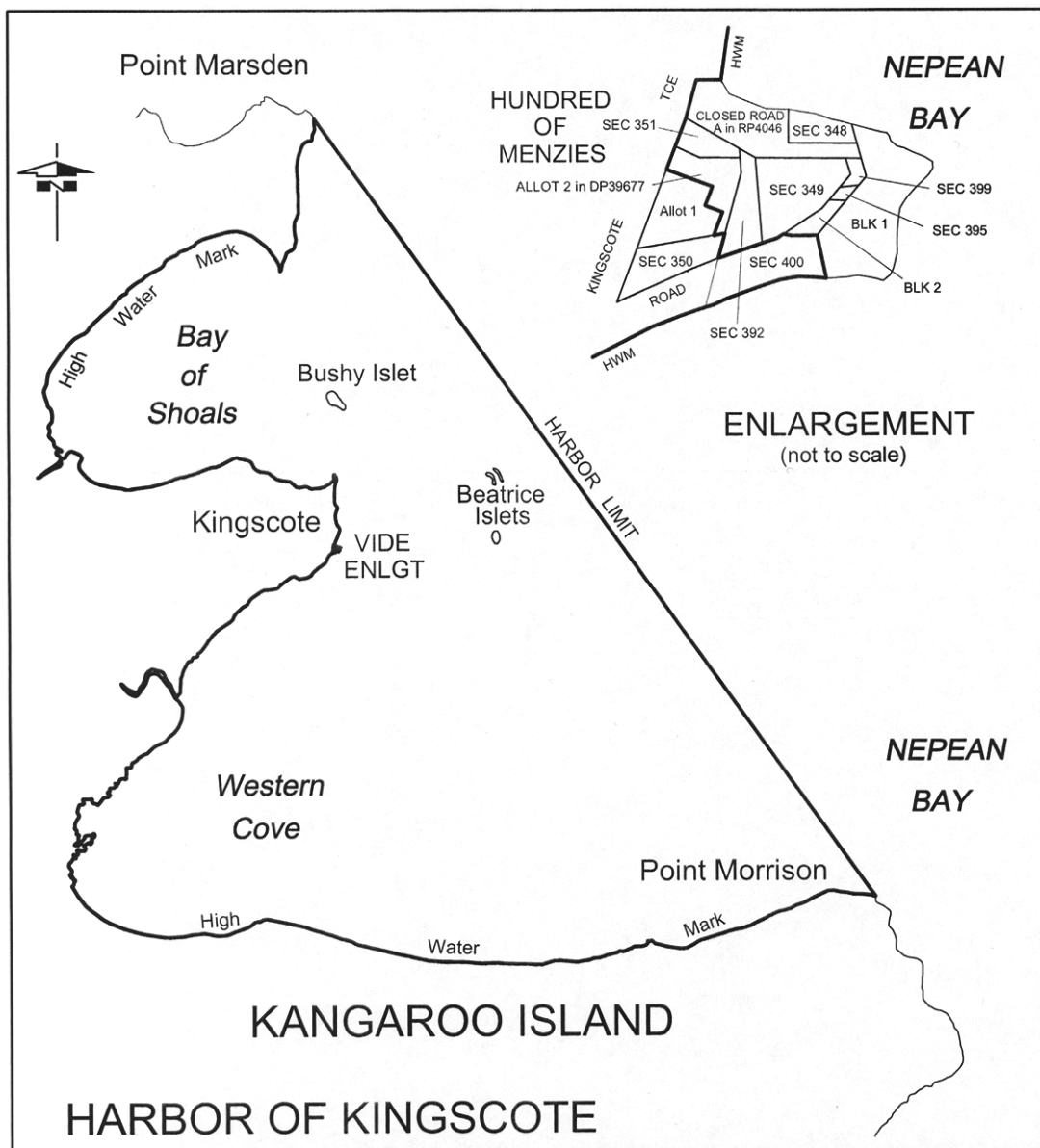
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Franklin Harbor and within a straight line from Germein Point to Victoria Point, and 100 m to seaward of any point on that line.



Kingscote

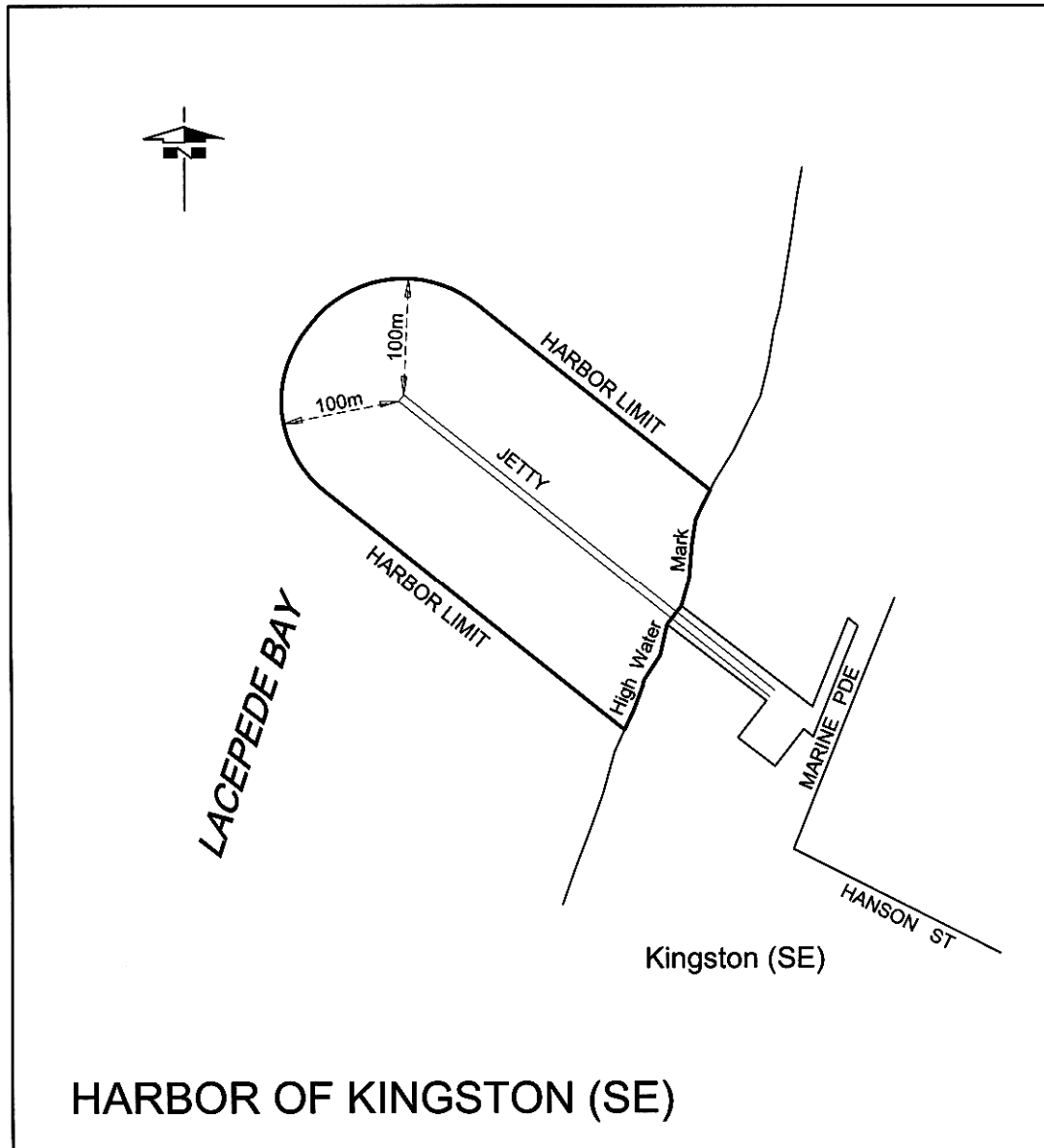
The following areas:

- (a) the subjacent land underlying, and the adjacent land extending from, waters, rivers, creeks and inlets to high water mark in Nepean Bay, Kangaroo Island and west of a straight line from Point Marsden to Point Morrison;
- (b) the following parcels of land:
 - Sections 351, 348, 349, 392, 395, 399 and Blocks 1 and 2 in the Hundred of Menzies
 - Allotment 2 in Deposited Plan No 39677
 - Closed Road A in Road Plan 4046.



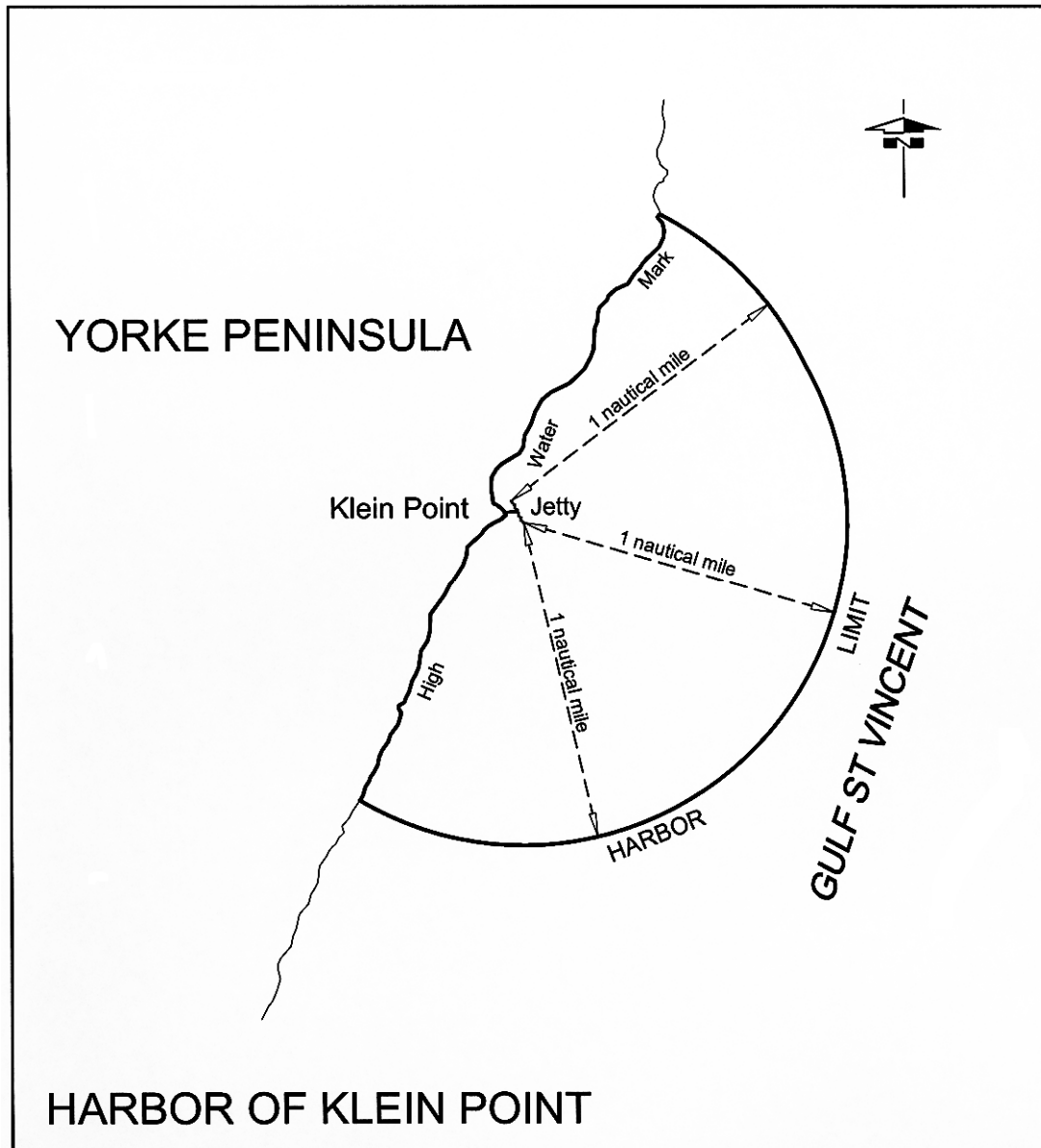
Kingston (SE)

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark within 100 m seaward of any part of the Kingston Jetty.



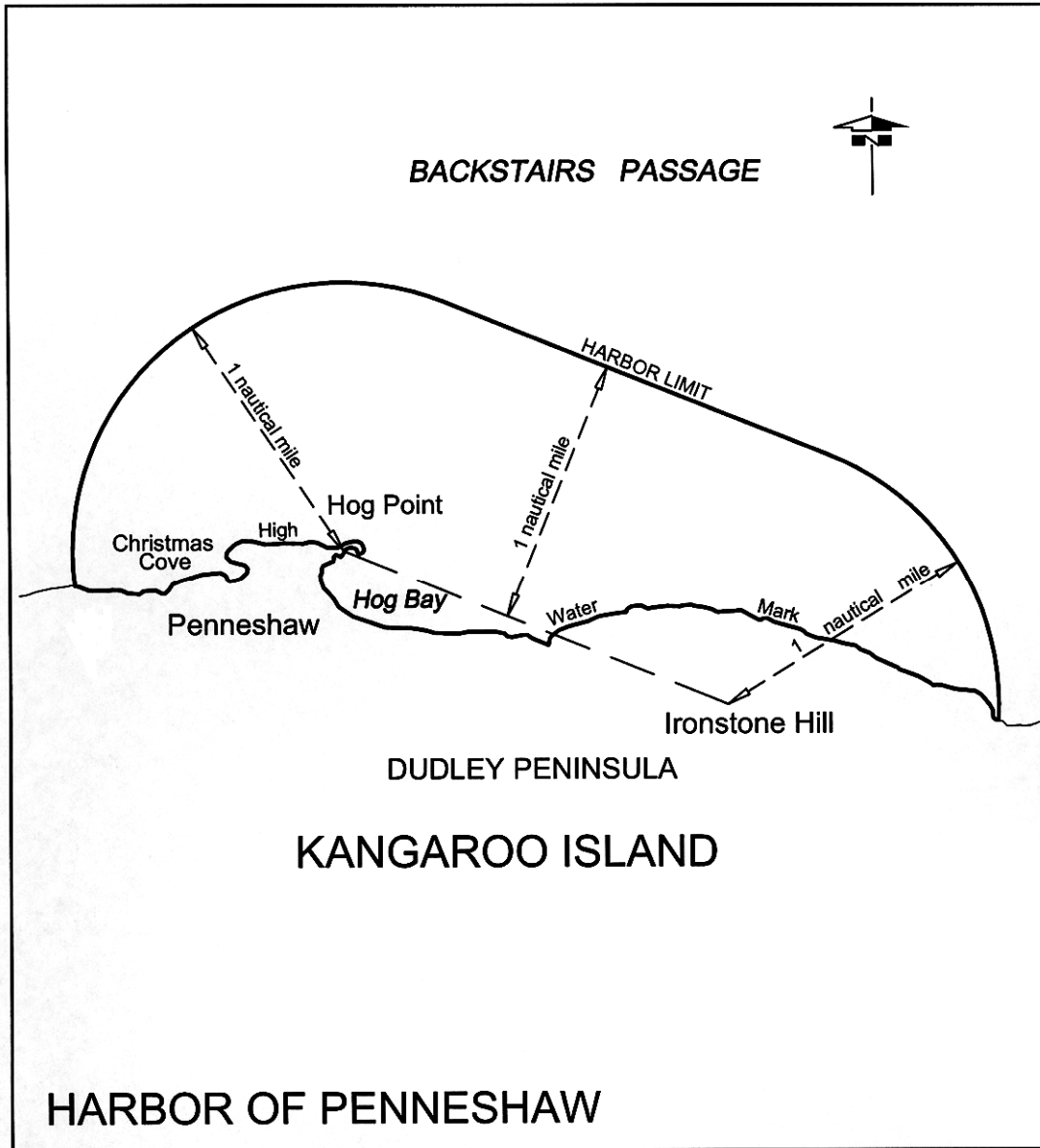
Klein Point

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark within 1 nautical mile seaward of any part of the Klein Point Jetty.



Penneshaw

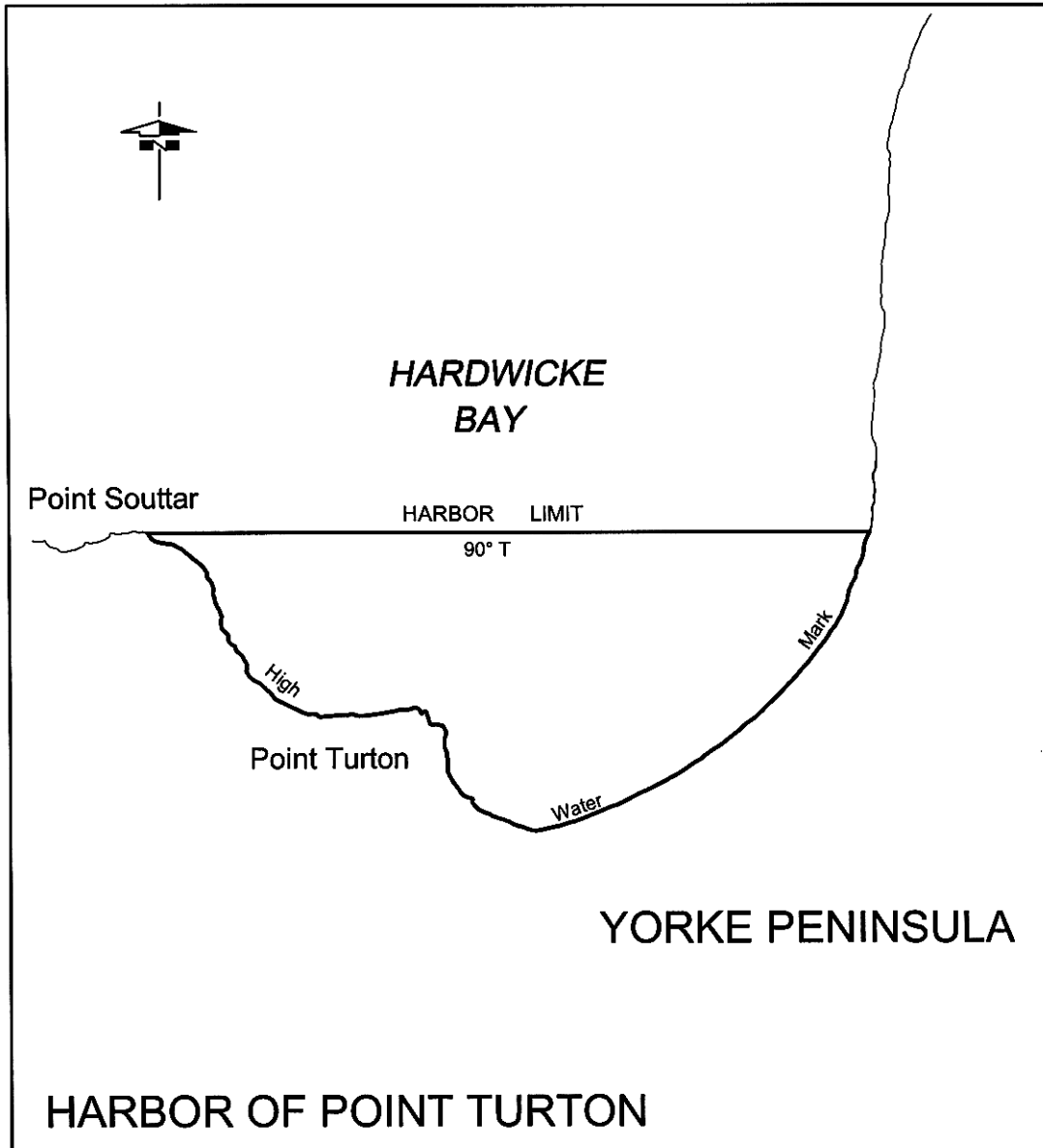
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark on the northern coast of Dudley Peninsula, Kangaroo Island, and within a straight line from Hog Point to Ironstone Hill, and 1 nautical mile to seaward from any point on that line.



Point Turton

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark on the southern shore of Hardwicke Bay, within the following boundaries:

commencing at Point Souttar; then true east to high water mark on the sea coast; then south-westerly and north-westerly following high water mark to the point of commencement.



Port Adelaide

The following areas:

- (a) the subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark bounded as follows:
 - (i) on the north by a line extending due west for—
 - before the prescribed day—3 nautical miles; or
 - on or after the prescribed day—5 nautical miles,from a point on low water mark being the north-western corner of the Hundred of Port Adelaide (approximate latitude 34°40.42'S);
 - (ii) on the south by a line extending due west for—
 - before the prescribed day—3 nautical miles; or
 - on or after the prescribed day—5 nautical miles,from a point on low water mark being the south-western corner of the Hundred of Port Adelaide (approximate latitude 34°51.30'S);
 - (iii) on the west by a line extending north-north-westerly and connecting the western extremities of the southern and northern boundaries;

but excluding—

- (iv) the area bounded on the south by a line being the production west of the southern side of Section 1048, Hundred of Port Adelaide, and on the north by a line running east and west 1 nautical mile north of the Largs Bay Jetty, except for—
 - (A) a strip of land 10 m wide on each side of the centreline of the Semaphore Jetty and extending easterly from low water mark to the eastern end of the approach to that jetty; and
 - (B) a strip of land 10 m wide on each side of the centreline of the Largs Bay Jetty and extending easterly from low water mark to the eastern end of the approach to that jetty;
- (v) the area bounded on the south by a line running east and west 1 nautical mile north of the Largs Bay Jetty and on the north-west by a line extending south-westerly from the northern most corner of Section 389, Hundred of Port Adelaide, and at right angles to the north-eastern boundary of Section 389;
- (vi) the area bounded as follows: commencing at a point on the northern boundary of the Hundred of Port Adelaide, being its intersection with the western edge of the mangroves along the eastern shore of Gulf St. Vincent, then southerly and generally south-easterly along portion of that western edge to intersect the production south-westerly of the north-western boundary of the road north-west of Section B, Hundred of Port Adelaide, then north-easterly along that production and portion of boundary to high water mark, then generally north-westerly along that high water mark to that northern Hundred boundary, then generally westerly along portion of the latter boundary to the point of commencement;

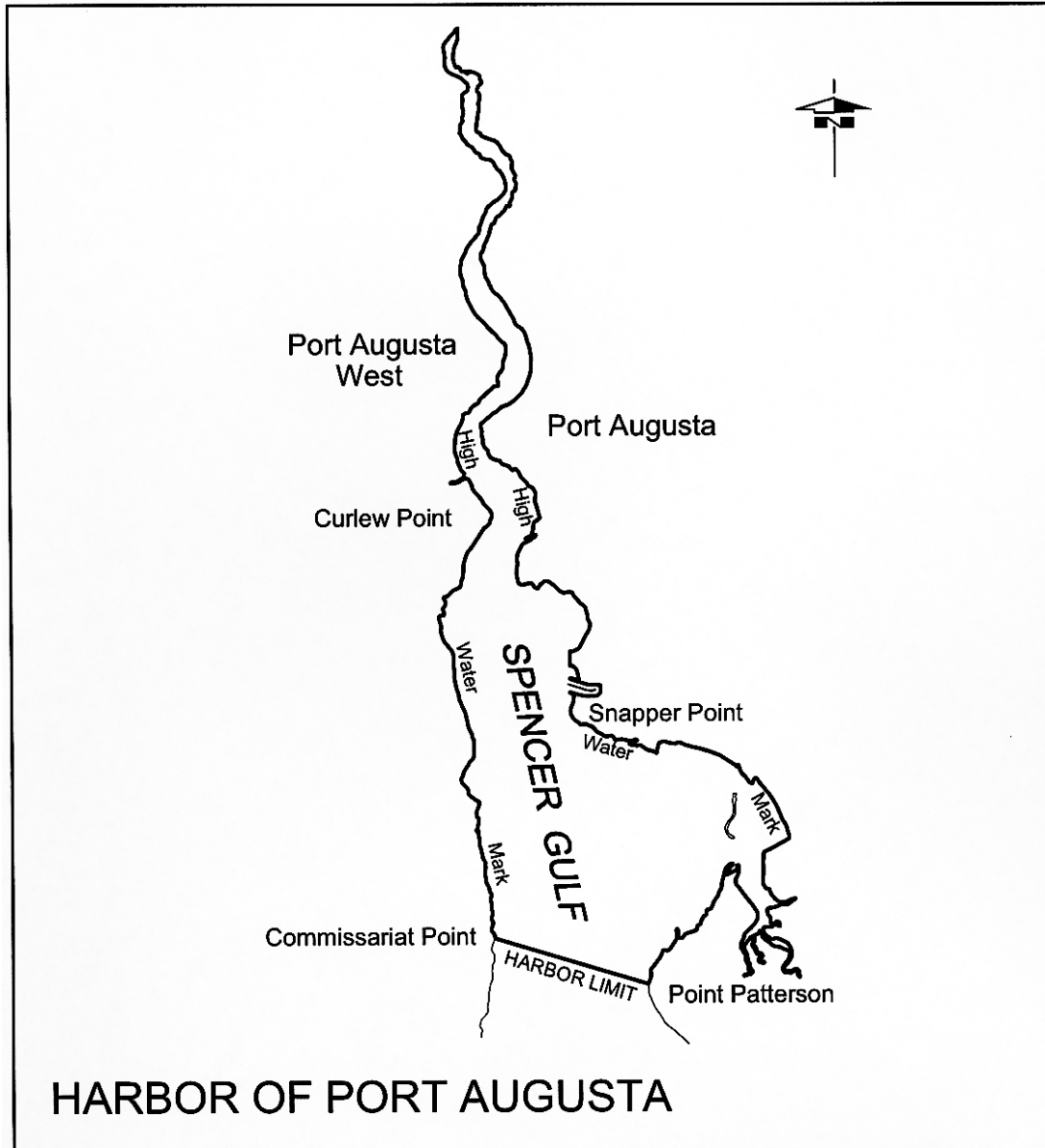
- (vii) that portion of the subjacent land underlying, and the adjacent land extending from, Old Port Reach (including Port Adelaide Canal), Port Adelaide River, Out of Hundreds (Adelaide) to high water mark bounded as follows:
- (A) on the north by a straight line between the bend on the eastern boundary of Section 661, Hundred of Port Adelaide, at corner $162^{\circ}12'$ and the bend on the western boundary of Section 7640, Hundred of Port Adelaide at corner $173^{\circ}45'$;
 - (B) on the south by the southern boundary of the Hundred of Port Adelaide;
- (b) the whole of the land comprised in Certificates of Title Register Book—
- Volume 1962 Folio 149
 - Volume 1974 Folio 153
 - Volume 1974 Folio 154
 - Volume 2436 Folio 64
 - Volume 2772 Folio 12
 - Volume 3009 Folio 131
 - Volume 4383 Folio 154
 - Volume 5086 Folio 57
 - Volume 5123 Folio 453
 - Volume 5128 Folio 416
 - Volume 5143 Folio 963
 - Volume 5179 Folio 216
 - Volume 5179 Folio 219
 - Volume 5179 Folio 223
 - Volume 5191 Folio 911
 - Volume 5202 Folio 446
 - Volume 5202 Folio 448
 - Volume 5202 Folio 451
 - Volume 5202 Folio 452
 - Volume 5211 Folio 177;
- (c) the following parcels of land:
- Allotments 1, 2, 7, 9, 10 and 12 of Deposited Plan No 40901
 - Allotments 52, 55, 57 and 58 of Deposited Plan No 41580
 - Allotments 1, 2, 4, 5 and 6 of Deposited Plan No 41006
 - Allotments 1, 3, 4 and 7 of Deposited Plan No 41578

- Allotments 101 and 102 of Deposited Plan No 39922
- Allotment 2 of Deposited Plan No 31181
- Allotments 54 and 55 of Deposited Plan No 41577.

For the purposes of paragraph (a) of this item, the *prescribed day* is a day to be fixed by the Minister by notice in the Gazette.

Port Augusta

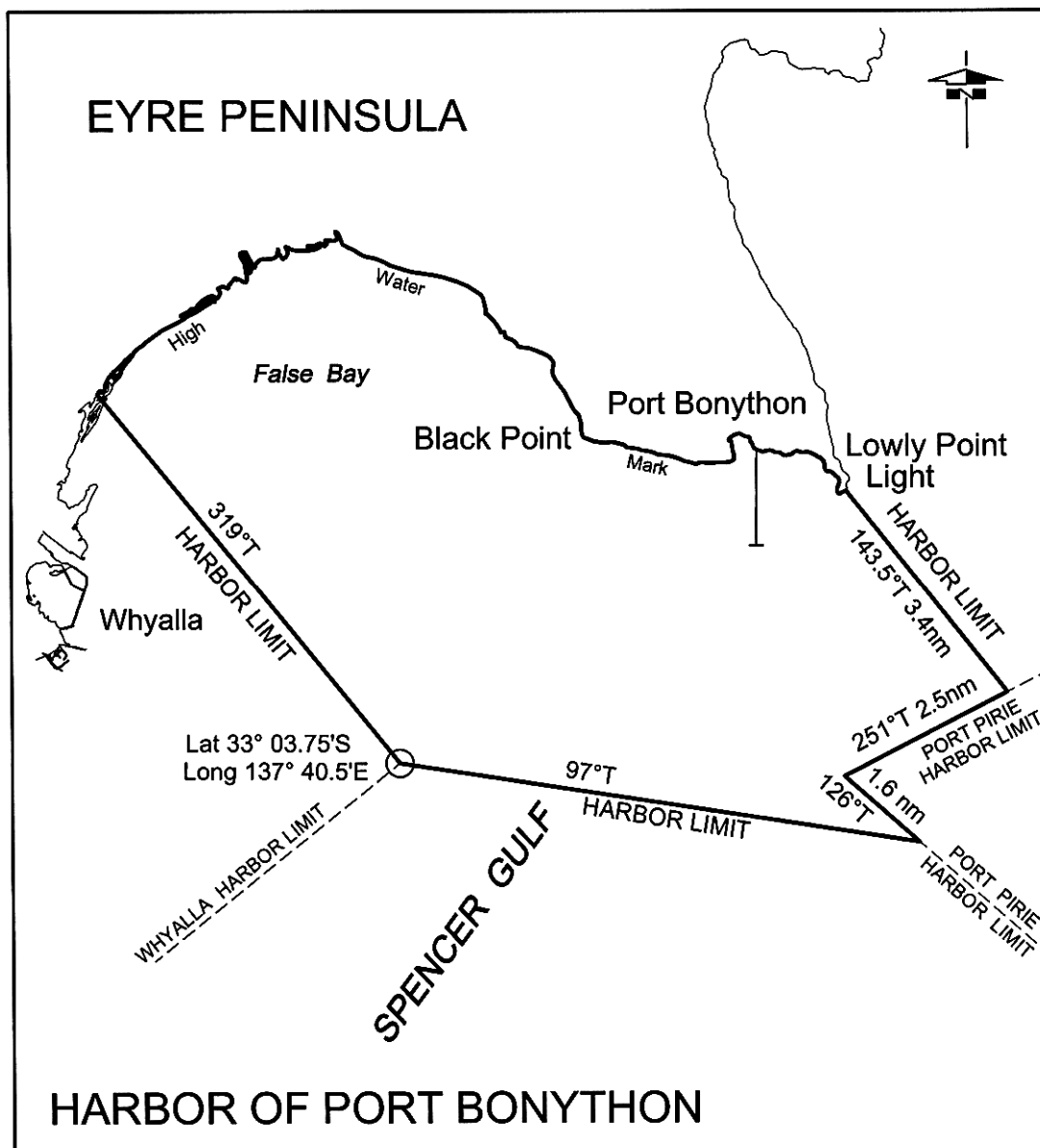
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of all that portion of Spencer Gulf, north of a line drawn across the Gulf from Point Patterson to Commissariat Point, and including all navigable waters to the extreme northern extent of the Gulf.



Port Bonython

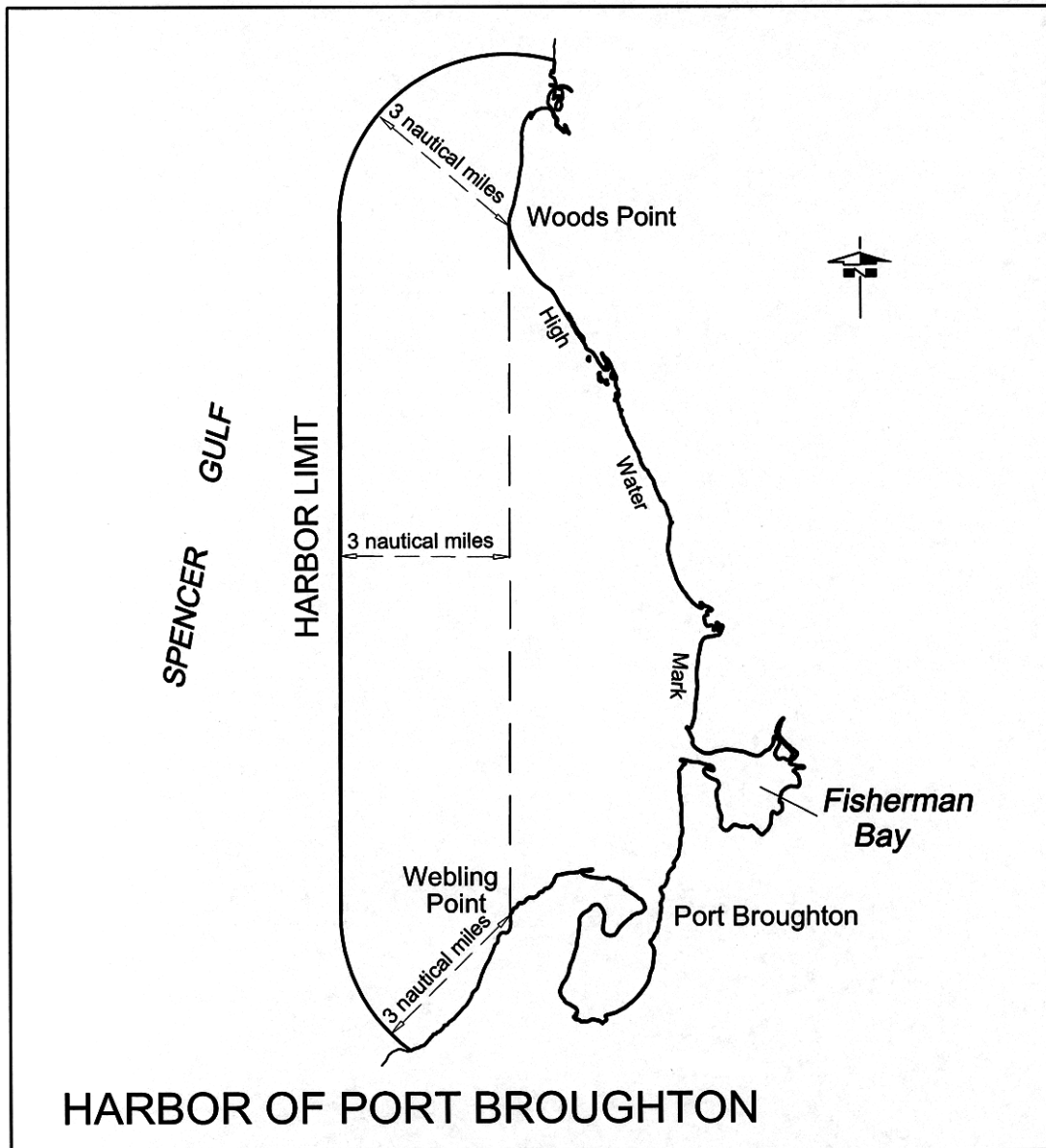
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Spencer Gulf bounded as follows:

commencing at the eastern extremity of the harbor of Whyalla, Latitude $33^{\circ}03.75'S$, Longitude $137^{\circ}40.5'E$, then along the north-east boundary of that harbor bearing $319^{\circ}T$ to high water mark, then generally easterly along high water mark to its intersection with a straight line bearing $143.5^{\circ}T$ from Lowly Point Light, then along the latter line for a distance of approximately 3.4 nautical miles to the north boundary of the harbor of Port Pirie, then along the latter line bearing $251^{\circ}T$ for a distance of approximately 2.5 nautical miles to the west extremity of that harbor, then along the south-west boundary of that harbor bearing $126^{\circ}T$ for a distance of approximately 1.6 nautical miles to its intersection with a straight line bearing $97^{\circ}T$ from the point of commencement, then along the latter line to the point of commencement.



Port Broughton

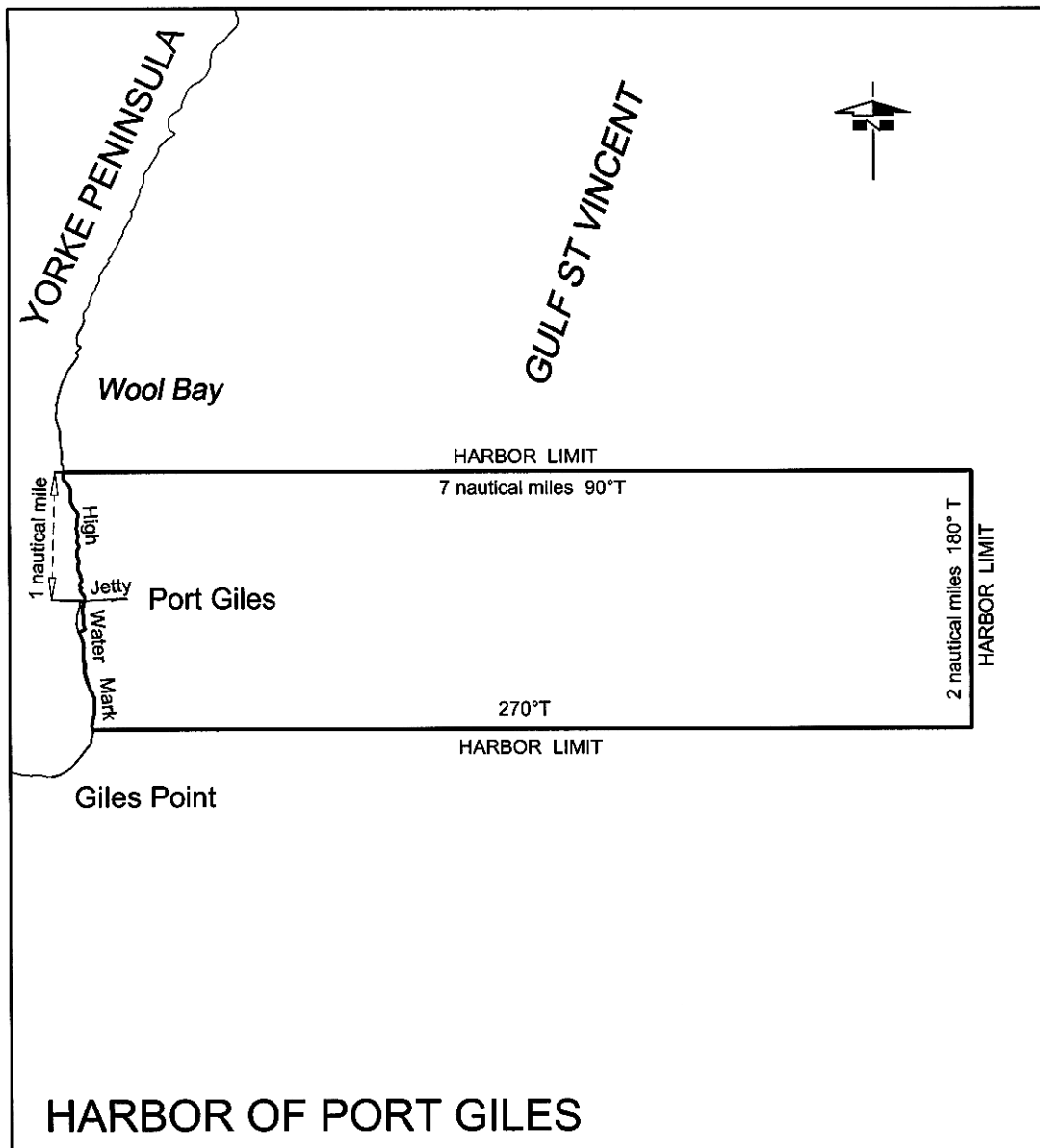
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark on the eastern coast of Spencer Gulf, and within a straight line drawn from Woods Point to Webling Point, and over 3 nautical miles to seaward measured from any point on the line.



Port Giles

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Gulf St. Vincent bounded as follows:

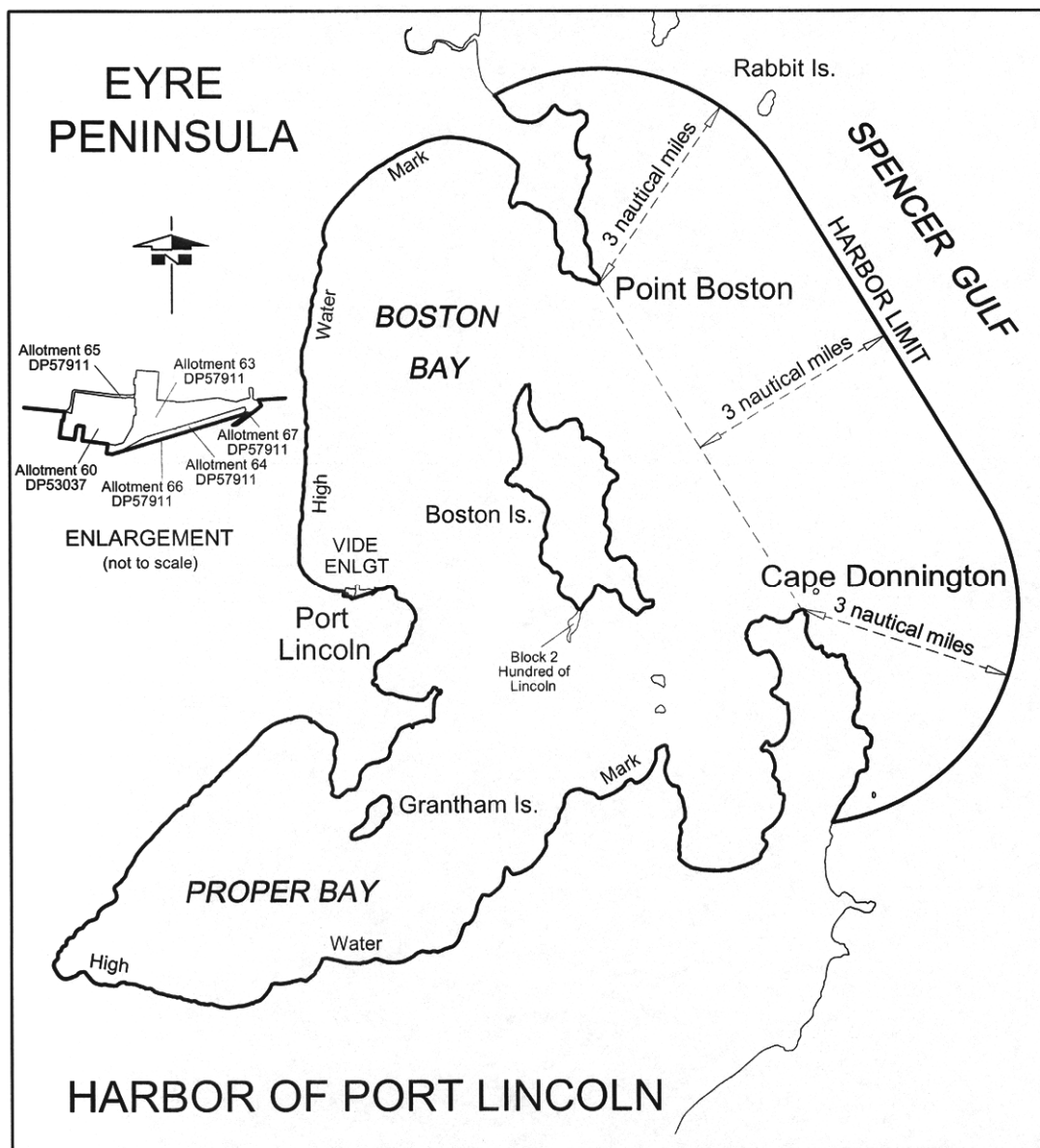
commencing at a point on high water mark 1 nautical mile due north of the intersection of the centre line of the Port Giles Jetty with high water mark; then by a line bearing due east from high water mark for 7 nautical miles; then on a line bearing due south for 2 nautical miles; then on a line bearing due west to high water mark; then generally northerly along high water mark to the point of commencement.



Port Lincoln

The following areas:

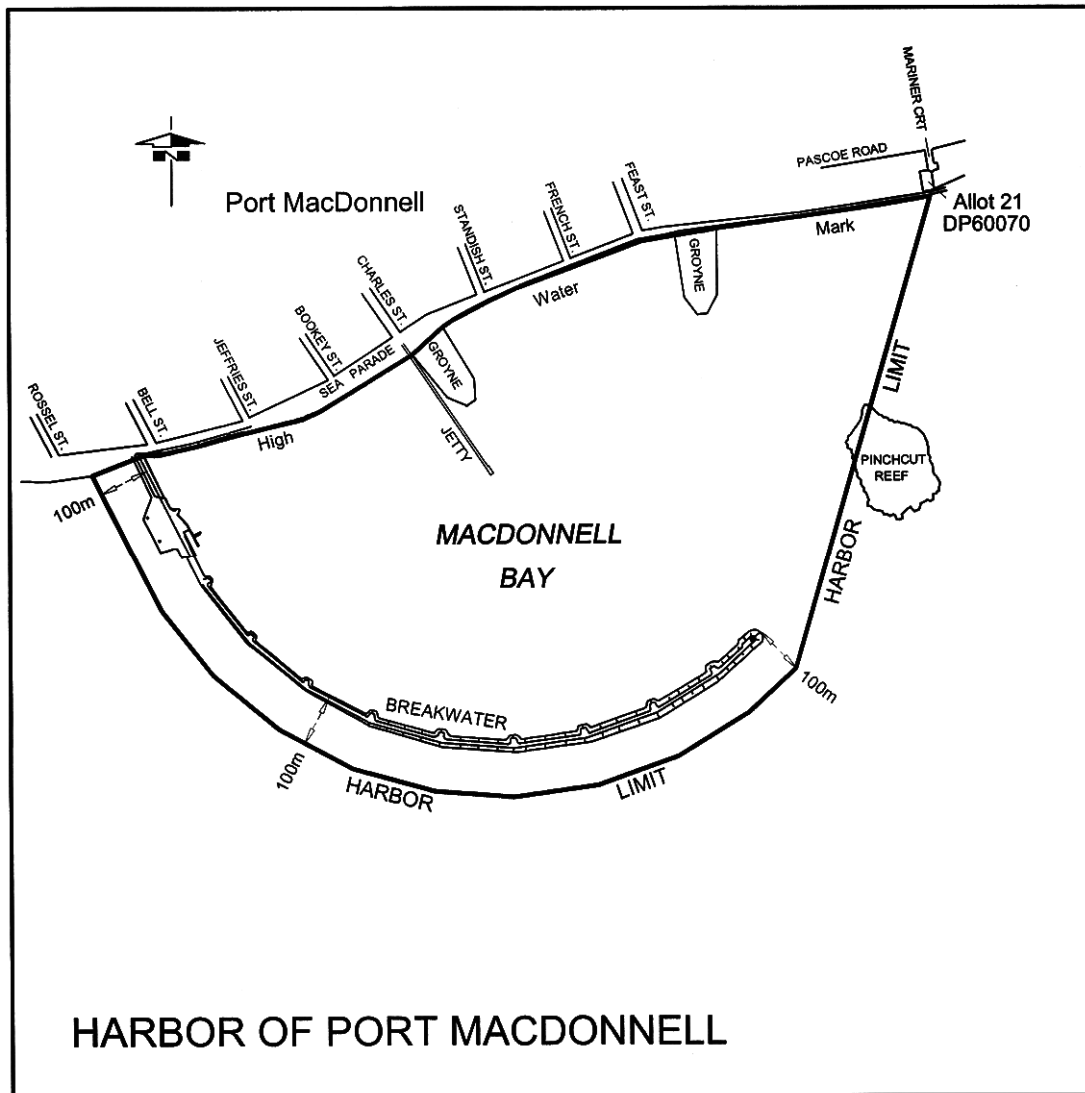
- (a) the subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Port Lincoln, as embraced within a straight line drawn between Cape Donnington and Point Boston, and within 3 nautical miles to seaward, measured from any point on the line;
- (b) the following parcels of land:
 - Allotments 63, 64, 65 and 66 in Deposited Plan No 57911
 - Allotment 60 in Deposited Plan No 53037
 - Block 2, Hundred of Lincoln.



Port MacDonnell

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of MacDonnell Bay bounded as follows:

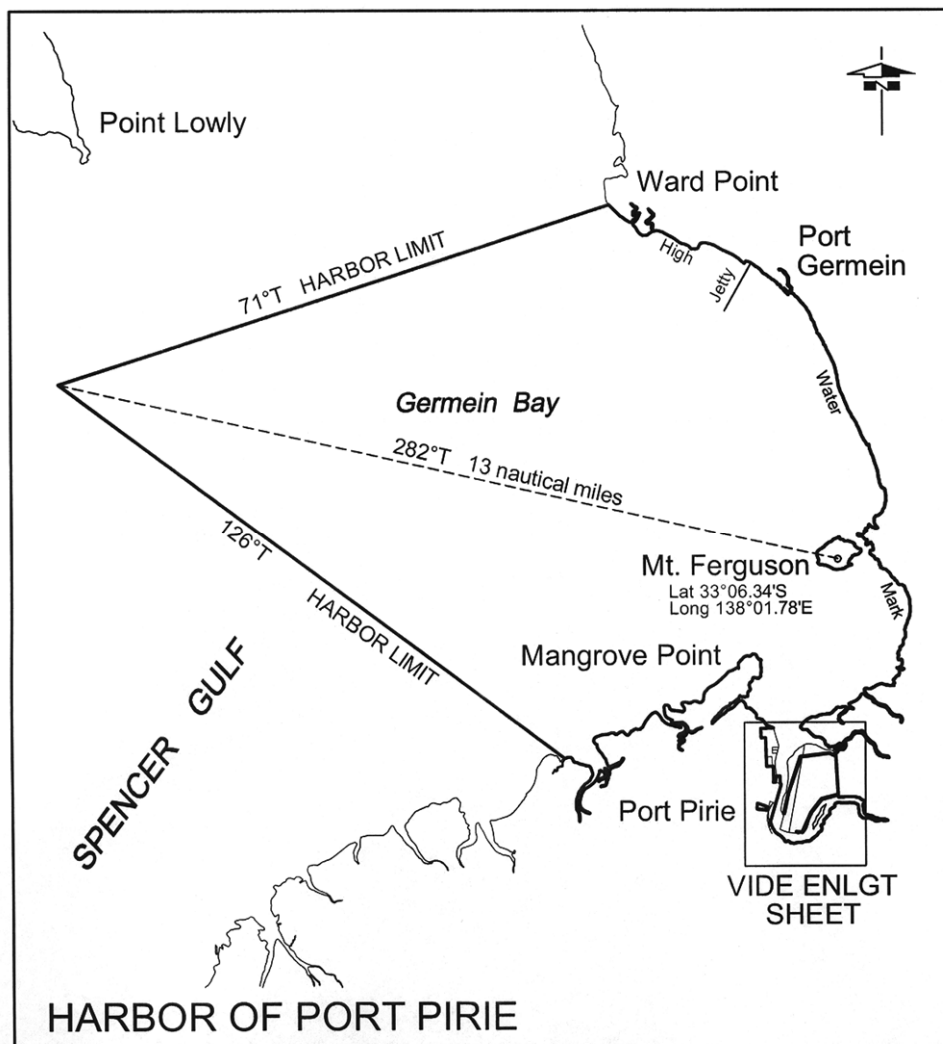
commencing at the intersection of high water mark and a line 100 m westerly and parallel to the centre line of the breakwater, then generally south and east along the line to a point south-west of the eastern tip of the breakwater, then north-easterly along a line towards the south-east corner of Allotment 21 of Deposited Plan No 60070 to its intersection with high water mark, then generally westerly along high water mark to the point of commencement.

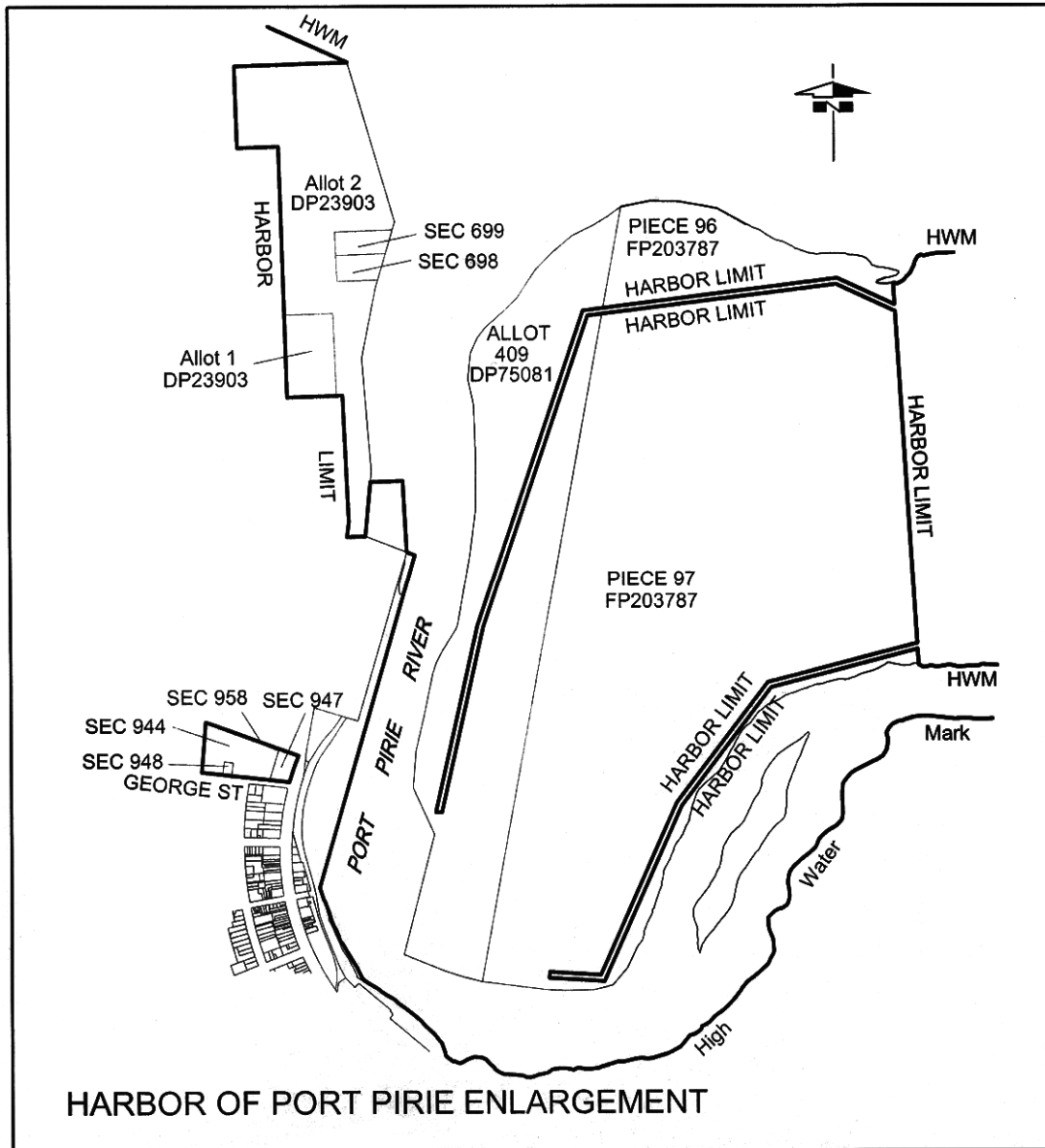


Port Pirie

The following areas:

- (a) the subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark in Germein Bay, Spencer Gulf, bounded as follows:
 - (i) commencing at a point on a line bearing 282°T and distant 13 nautical miles from Mount Ferguson (Latitude $33^{\circ}06.34'\text{S}$, Longitude $138^{\circ}01.78'\text{E}$) situate in Section 1, Hundreds of Telowie and Pirie, then by a line bearing 126°T to high water mark on the shore, generally easterly, generally southerly and generally northerly following that high water mark to a point being its intersection with a line bearing 71°T from the point of commencement, then west-south-westerly along the latter line to the point of commencement;
- (b) the following parcels of land:
 - Allotments 409 of Deposited Plan No 57081
 - Pieces 96 and 97 in Filed Plan 203787
 - Sections 698, 699, 944, 947, 948 and 958, Hundred of Pirie.

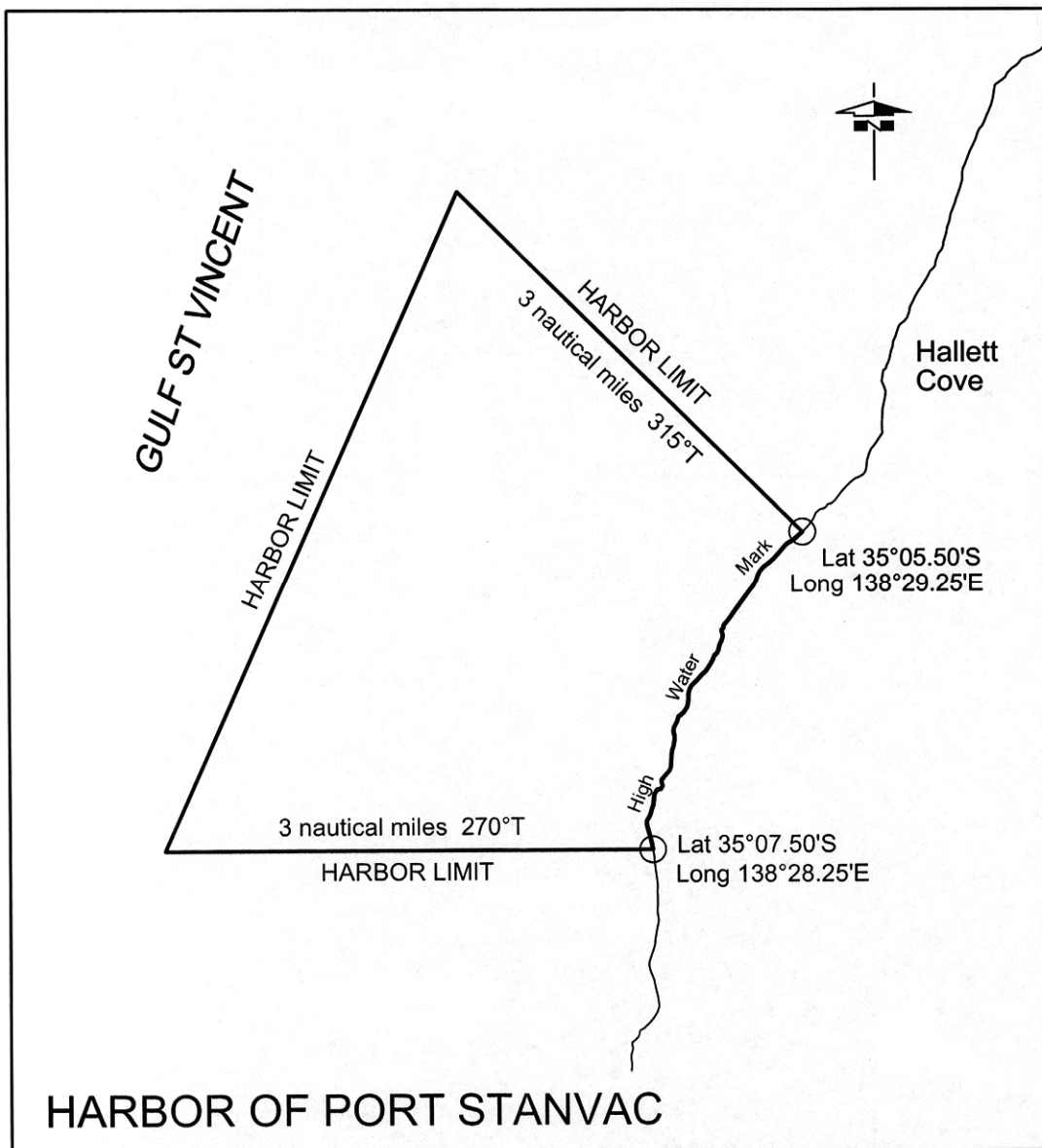




Port Stanvac

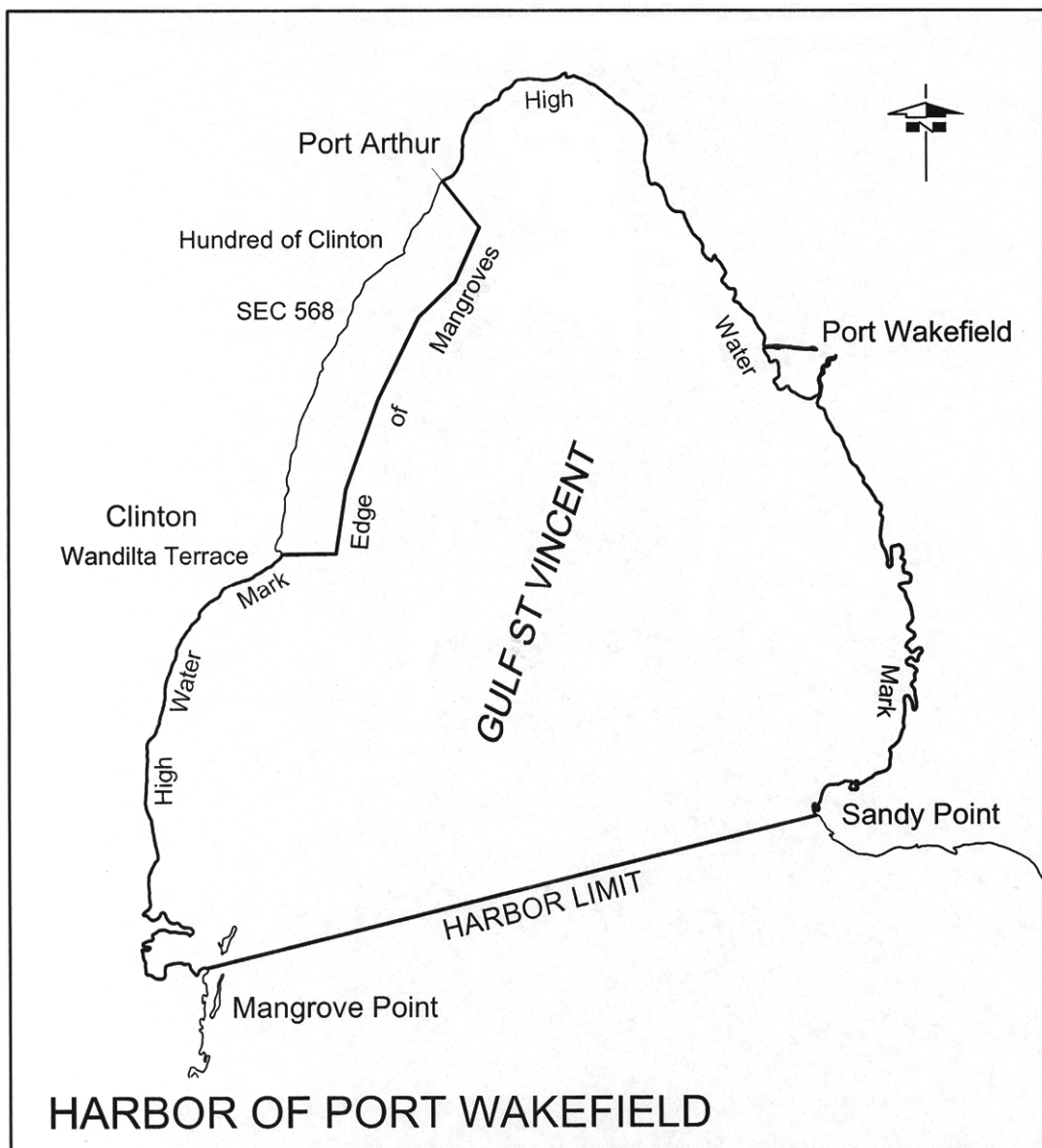
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark on the eastern side of Gulf St. Vincent bounded as follows:

- (a) on the north-east by a line bearing 315° for 3 nautical miles from the high water mark at Latitude $35^\circ05.50'S$, Longitude $138^\circ29.25'E$ approx.;
- (b) on the south by a line bearing $270^\circ T$ for 3 nautical miles from the high water mark at Latitude $35^\circ07.50'S$, Longitude $138^\circ28.25'E$ approx.;
- (c) on the north-west by a straight line connecting the extremities of those boundaries.



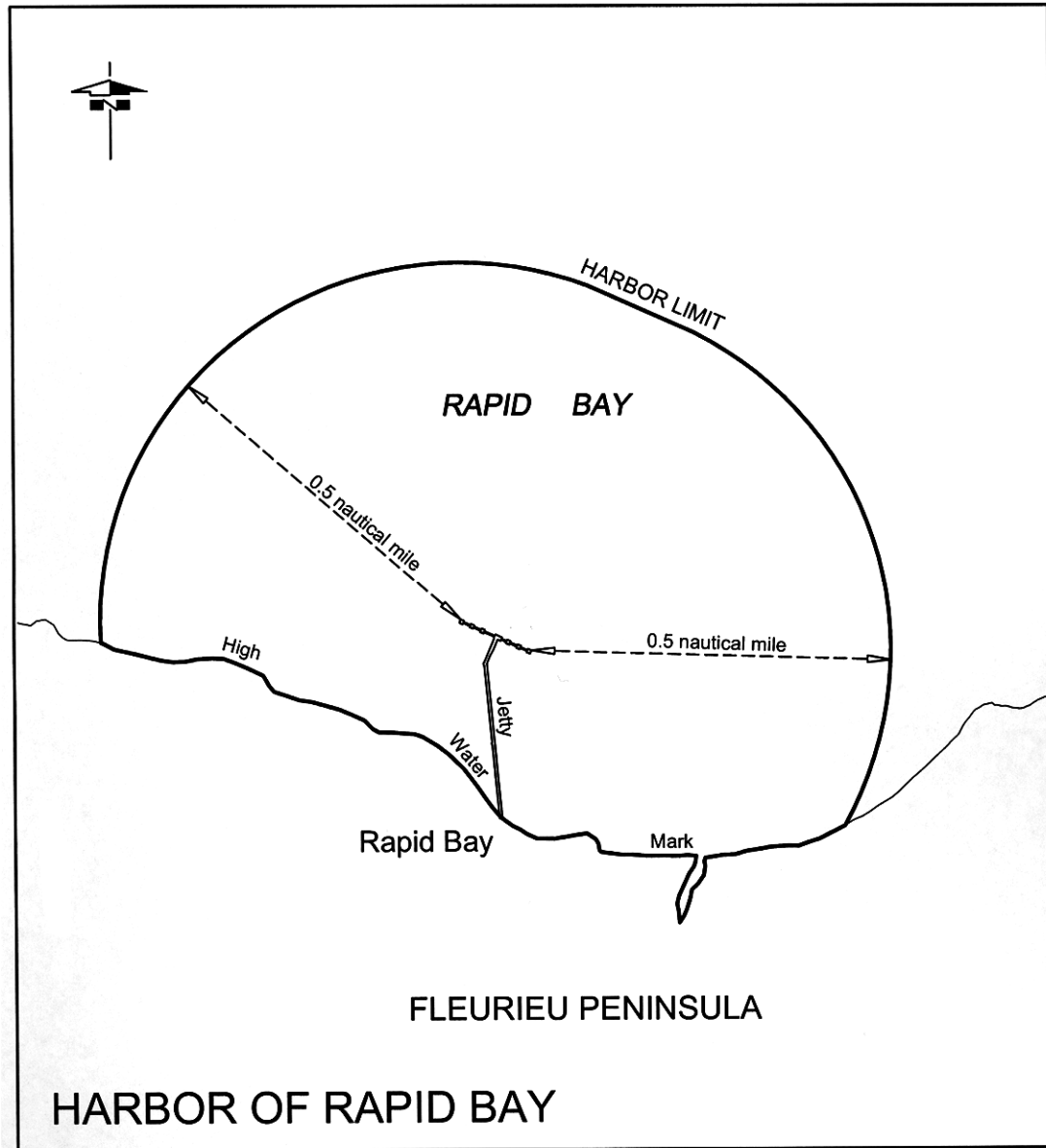
Port Wakefield

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of Gulf St. Vincent situated to the north of a line drawn from Sandy Point on the eastern shore to Mangrove Point on the western shore, but excluding an area commencing at a point being the intersection of the production easterly of the northern boundary of Wandilta Terrace, Town of Clinton, Hundred of Clinton, with the eastern edge of the mangroves along the western shore of Gulf St. Vincent, then westerly along that production and portion of boundary to high water mark, then generally northerly along high water mark to its intersection with the production south-easterly of the north-eastern boundary of Section 568 in the Hundred of Clinton; then generally southerly following that edge of the mangroves to the point of commencement.



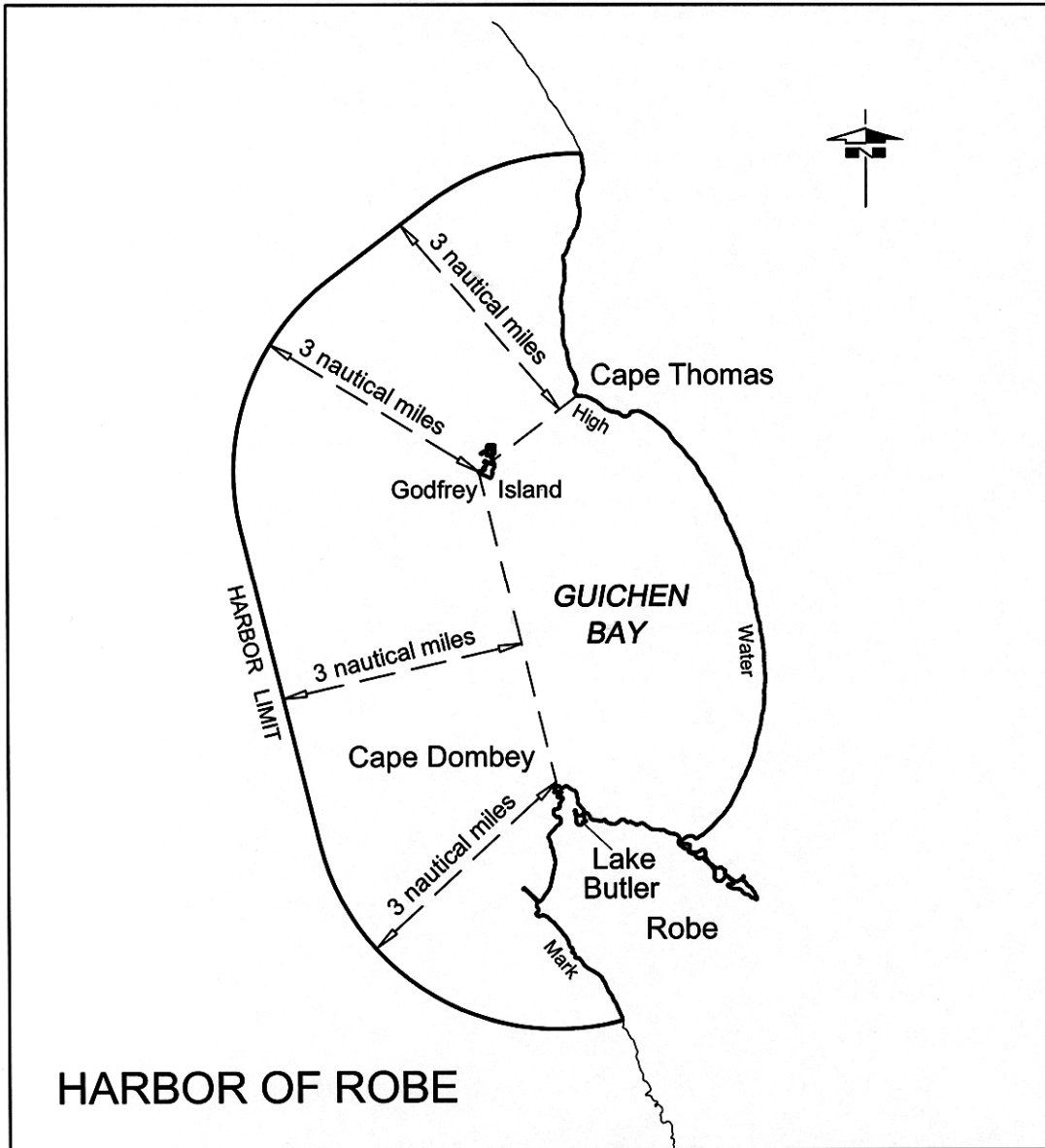
Rapid Bay

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark within 0.5 nautical miles seaward of any part of the Rapid Bay Jetty.



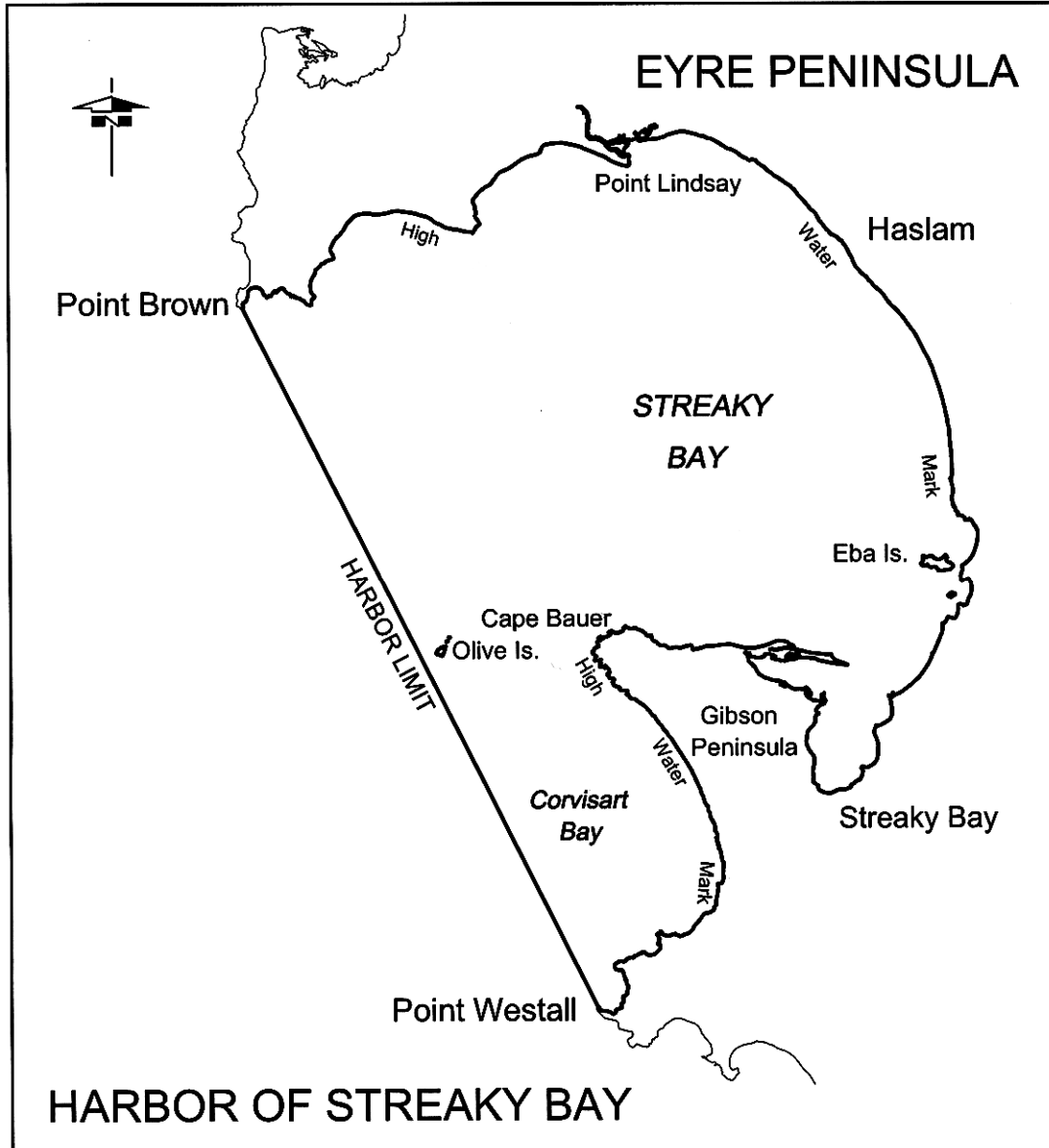
Robe

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Guichen Bay, Lake Butler, including the entrance channel, as embraced within straight lines drawn from Cape Dombey to the outward point of Godfrey Island, and from there to Cape Thomas, and over 3 nautical miles to seaward, measured from any point on these lines.



Streaky Bay

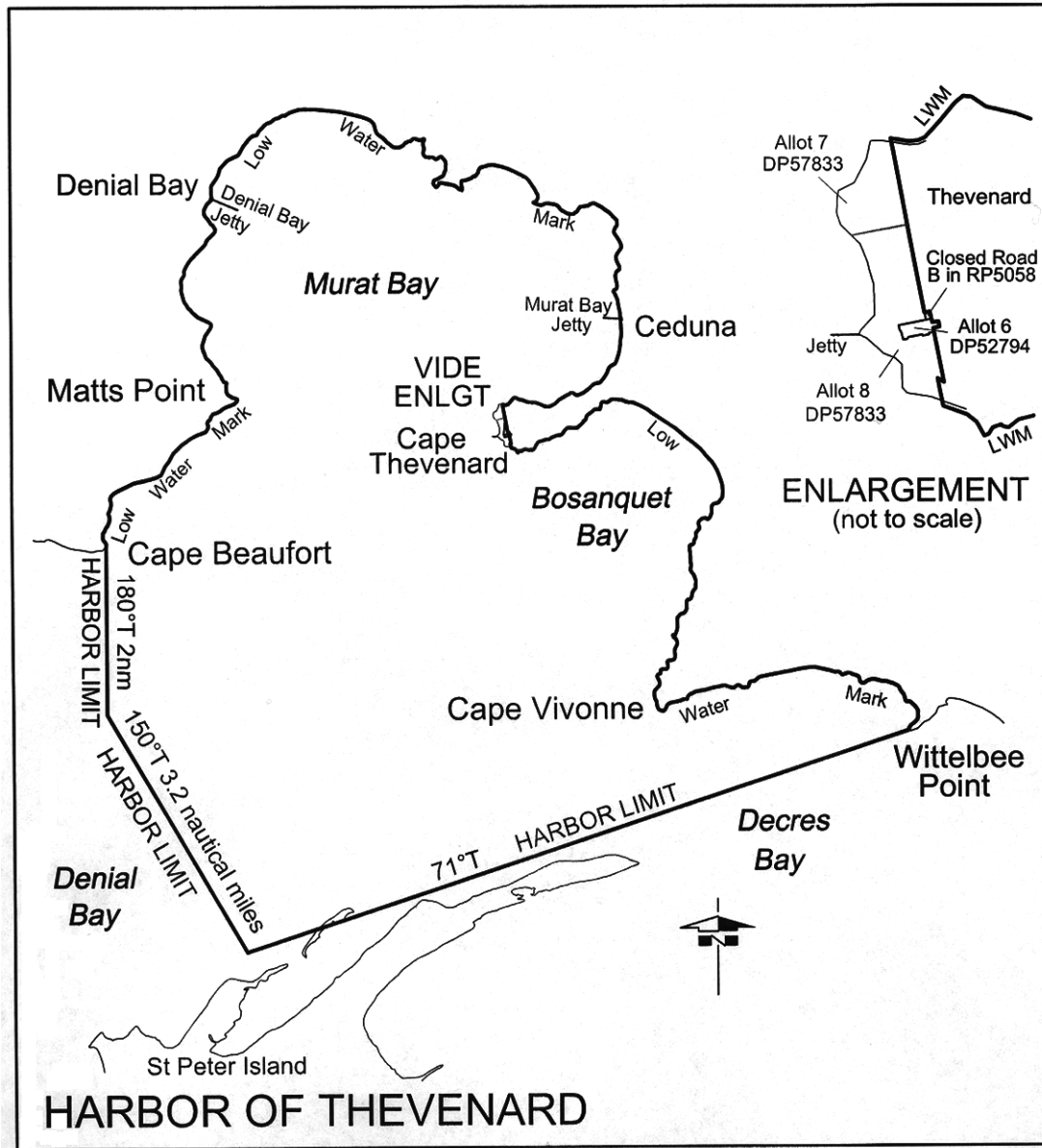
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark to the north and east of a line joining Point Brown to Point Westall.



Thevenard

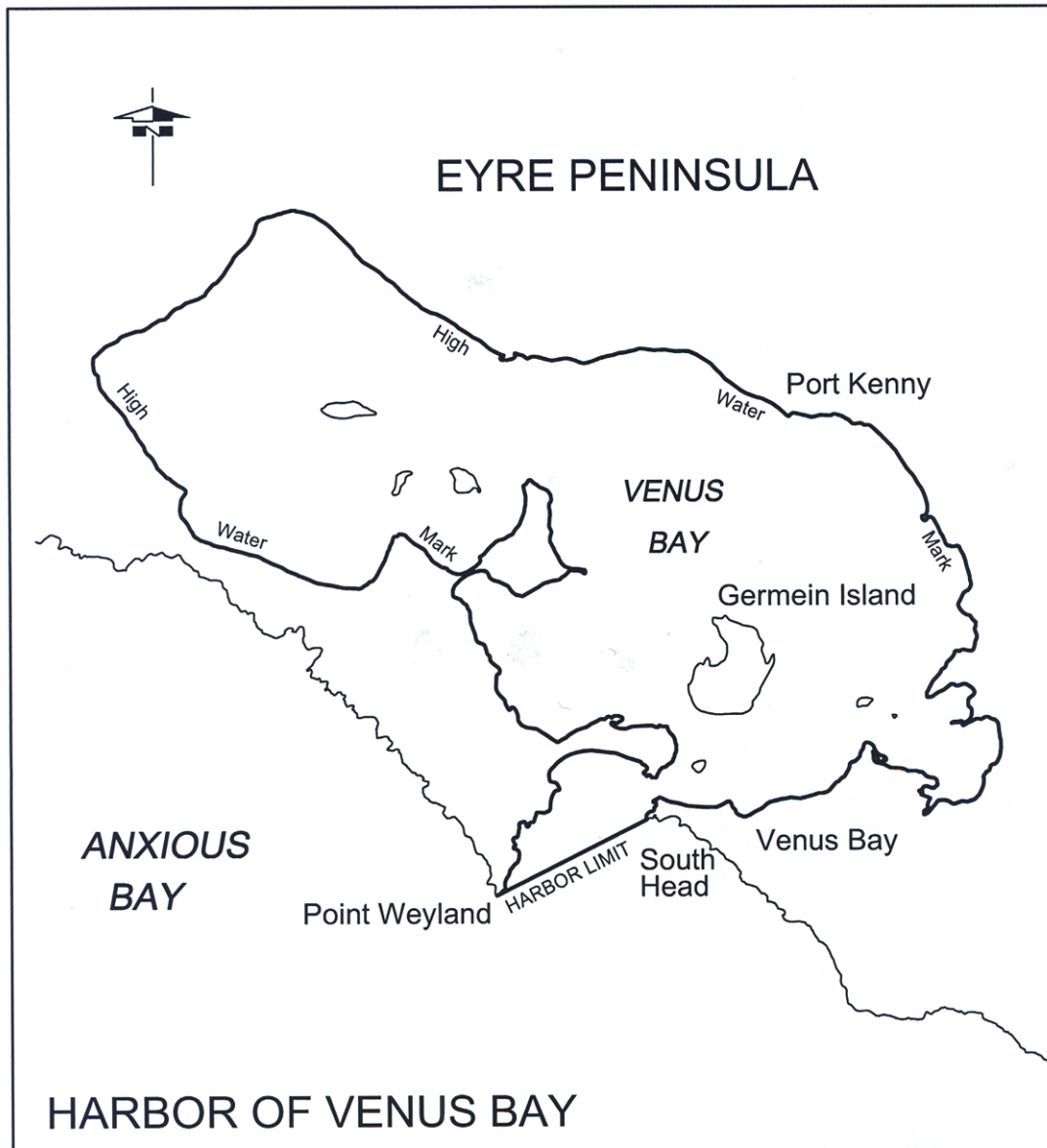
The following areas:

- (a) the subjacent land underlying the waters, rivers, creeks and inlets to low water mark of portions of Denial Bay, Murat Bay, Bosanquet Bay, and D'Ecres Bay bounded as follows:
- commencing at low water mark, Cape Beaufort, Hundred of Moule, then true south for 2 nautical miles, then 150° T for 3.2 nautical miles, then 71° T on a straight line to low water mark at Wittelbee Point, Hundred of Bonython, then along low water mark in a westerly, northerly, westerly, and southerly direction to the point of commencement, and including—
- that portion of the foreshore 30.48 m wide being 15.24 m on each side of the centreline of the Denial Bay Jetty, situated opposite Main Street, Denial Bay, Hundred of Moule, extending from high water mark to low water mark;
 - that portion of the foreshore 30.48 m wide being 15.24 m on each side of the centreline of the Murat Bay Jetty, situated opposite McKenzie Street, Ceduna, Hundred of Bonython, extending from high water mark to low water mark;
- (b) the whole of the land comprised in—
- Allotments 7 and 8 in Deposited Plan No 57833
 - Allotment 6 in Deposited Plan No 52794
 - Closed Road B in Road Plan 5058.



Venus Bay

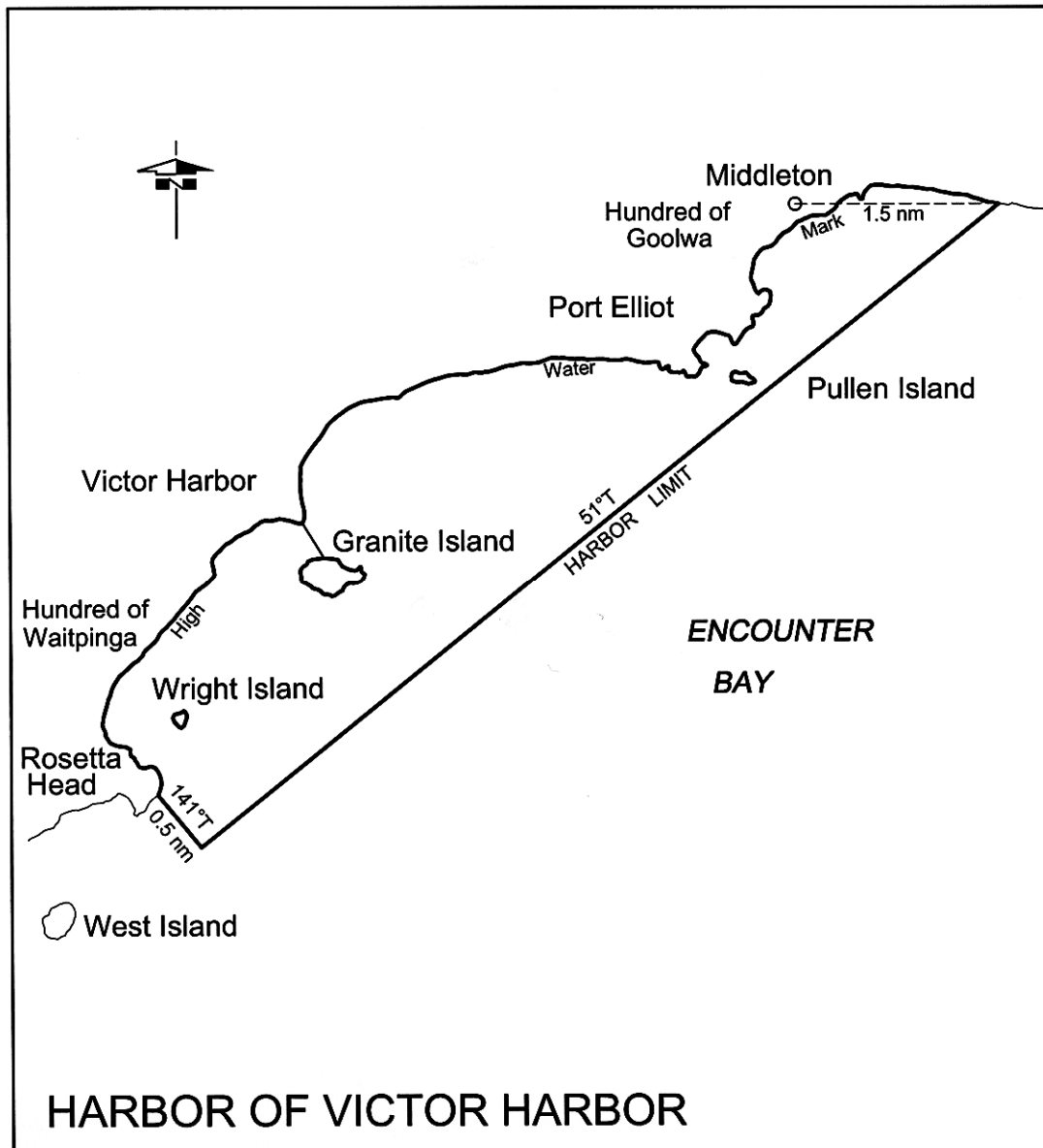
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Venus Bay, including the islands of the bay and the subjacent land underlying, and the adjacent land extending from, waters to the north of a straight line between Point Weyland and South Head.



Victor Harbor

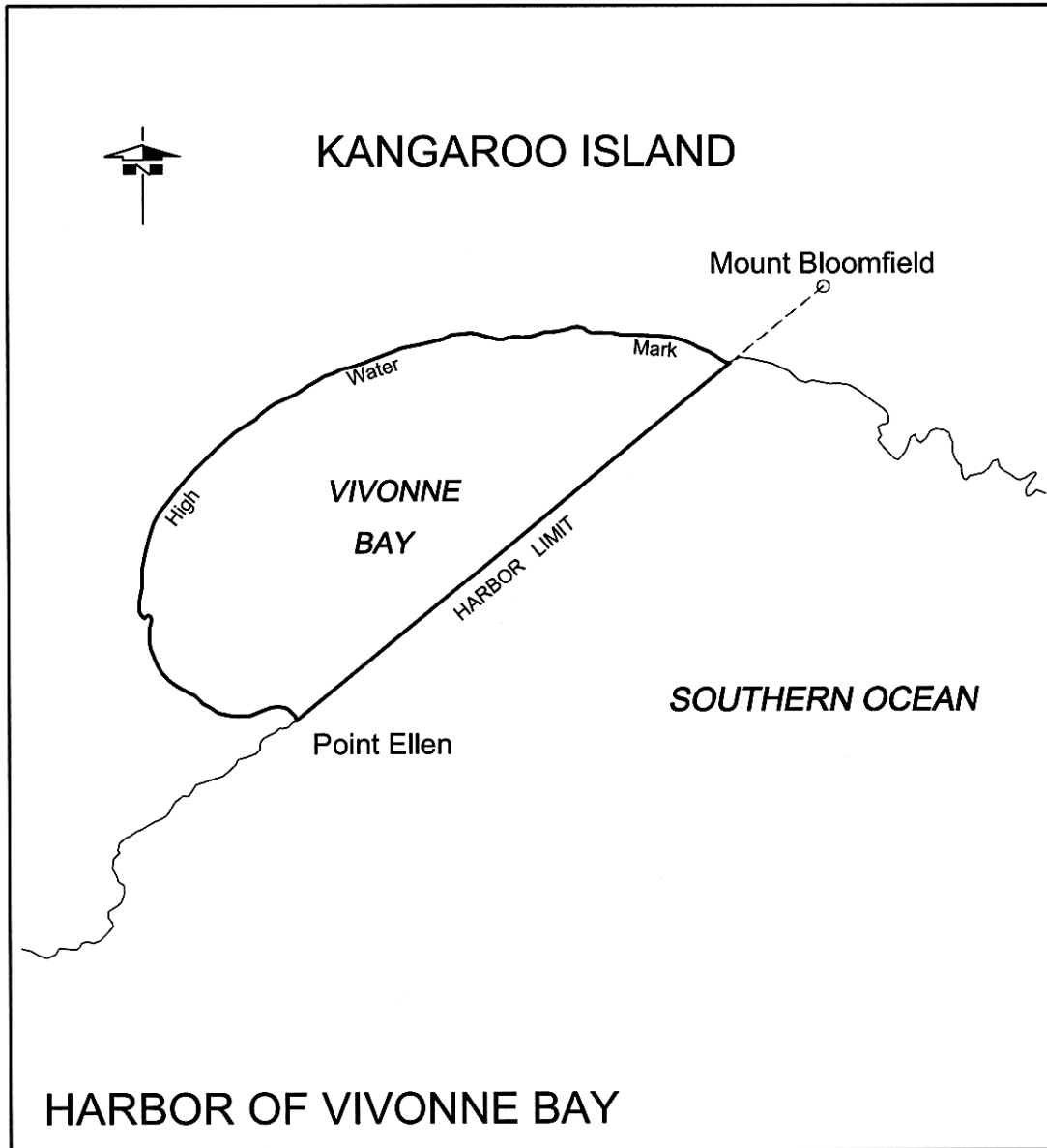
The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark bounded as follows:

commencing at the intersection of high water mark and a line running 141° true from Rosetta Head, Hundred of Waitpinga; then south-westerly along that line for 0.5 nautical miles; then along a line 51° true to high water mark about 1.5 nautical miles eastward from Middleton, Hundred of Goolwa; then westerly and south-westerly along high water mark to the point of commencement.



Vivonne Bay

The subjacent land underlying, and the adjacent land extending from, the waters, rivers creeks and inlets to high water mark to the north of a line joining Point Ellen to Mount Bloomfield.



Wallaroo

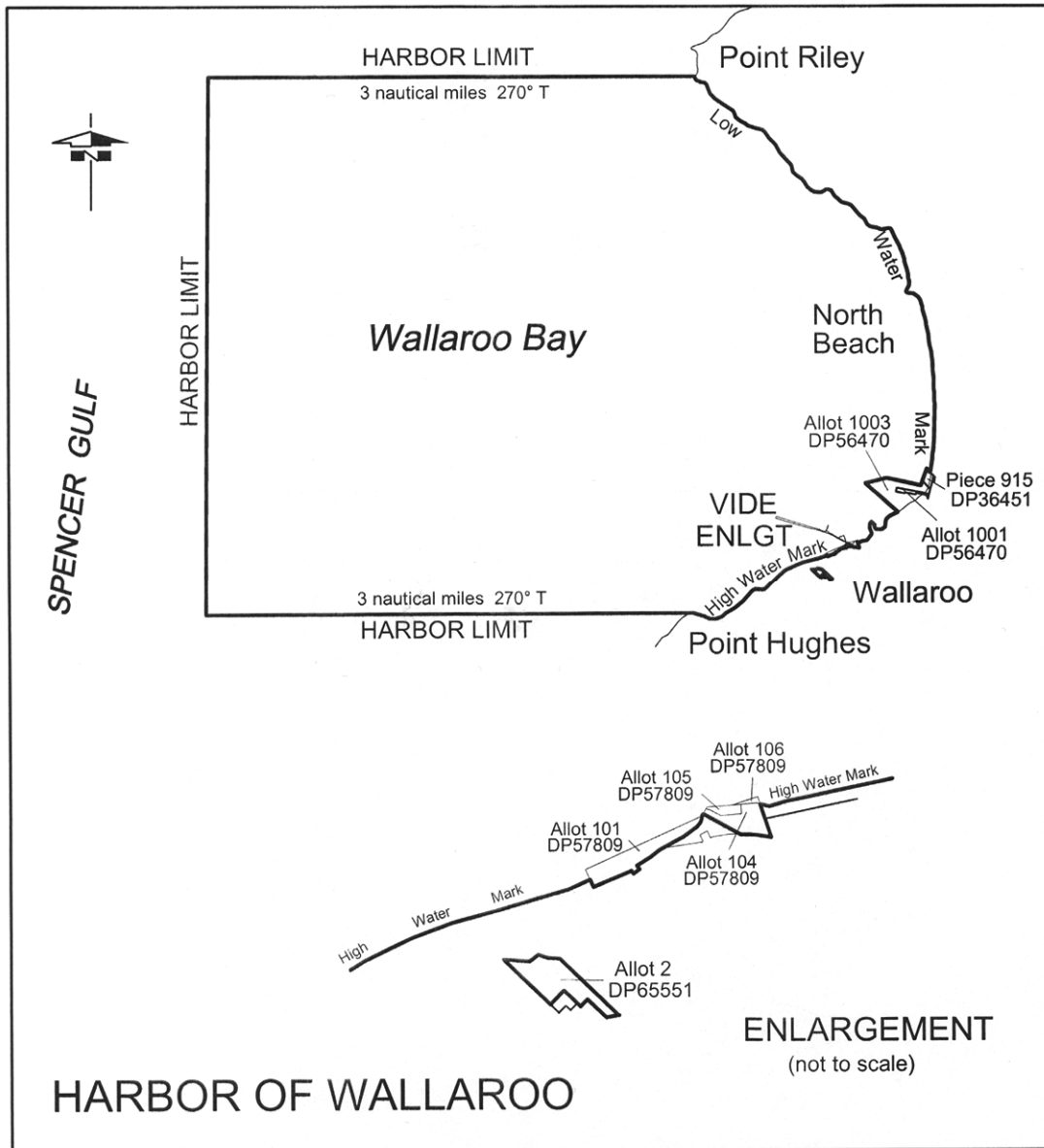
The following areas:

- (a) the subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that part of Wallaroo Bay bounded as follows:
 - (i) on the north by a line extending due west for 3 nautical miles from a point on high water mark at the south-west extremity on Point Riley;
 - (ii) on the south by a line extending due west for 3 nautical miles from a point on high water mark at the northern extremity of Point Hughes;
 - (iii) on the west by a line joining the seaward extremities of those north and south boundaries;
 - (iv) on the east commencing at a point where the southern boundary intersects with the high water mark and continuing in a general north-easterly direction along high water mark to the northerly most corner of Piece 915 in Deposited Plan No 36451 then generally northerly along the low water mark to Point Riley where it intersects with the northerly boundary,

but excluding—

- (v) Allotments 1001 and 1003 in Deposited Plan No 56470;

- (b) the whole of the land comprised in Certificate of Title Register Book—
- Allotments 101, 104, 105 and 106 in Deposited Plan No 57809
 - Allotment 2 in Deposited Plan No 65551

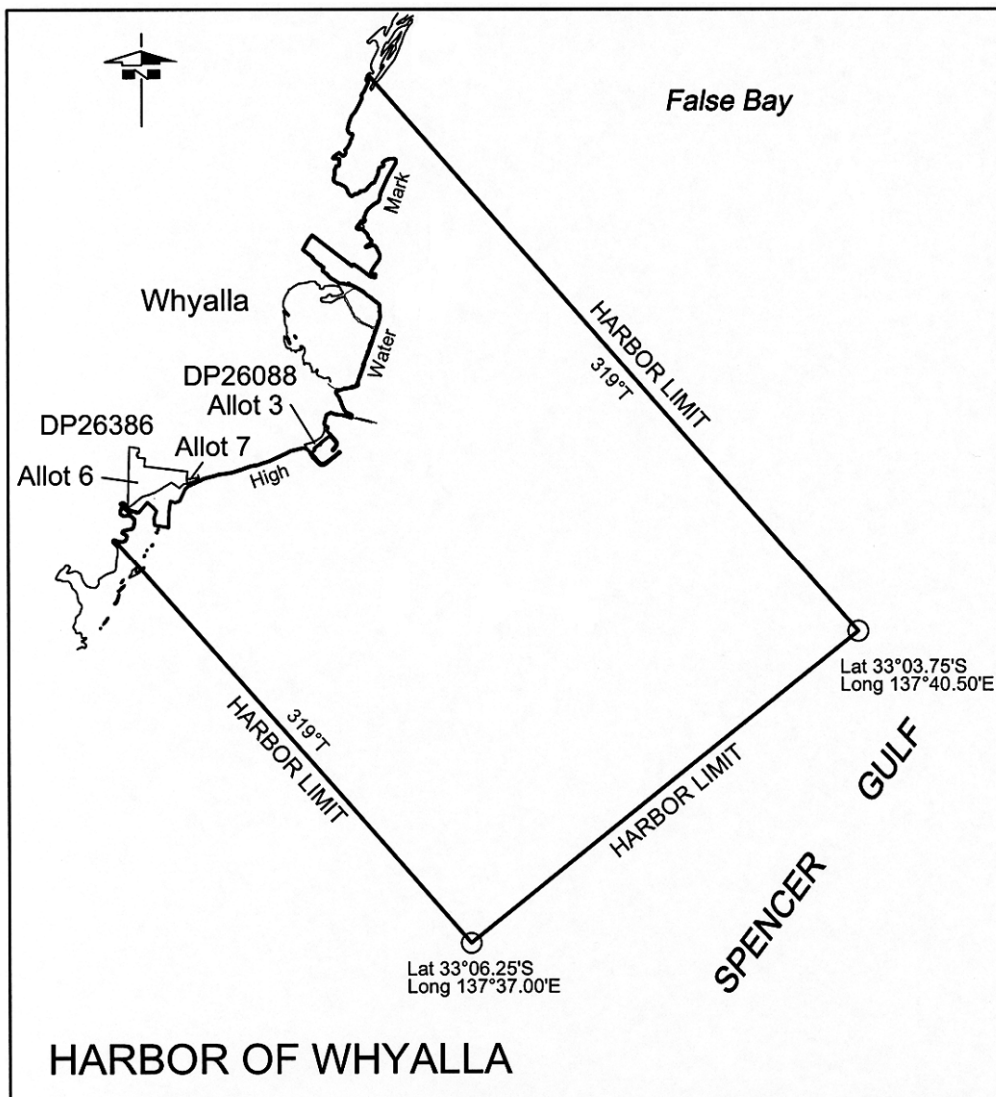


Whyalla

The subjacent land underlying, and the adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Spencer Gulf bounded as follows:

commencing at point Latitude $33^{\circ}03.75'S$, Longitude $137^{\circ}40.50'E$, then by a straight line to Latitude $33^{\circ}06.25'S$, Longitude $137^{\circ}37.00'E$, then on a line bearing $319^{\circ}T$ to high water mark, then generally north-easterly following high water mark to its intersection with a line bearing $319^{\circ}T$ from the point of commencement, then from the latter line to the point of commencement but excluding that portion comprising land reclaimed as follows:

- that portion of Allotment 6 in Deposited Plan No 26386, Hundred of Randell, situated between Old Medium High Water Mark and the Toe of Bank of Reclaimed Area delineated on that Plan;
- that portion shown on Deposited Plan No 26386 as situated between the southern boundary of Allotment 7 and Medium High Water Mark;
- Allotment 3 in Deposited Plan No 26088, Hundred of Randell and Out of Hundreds (Whyalla).



Schedule 4—Ports

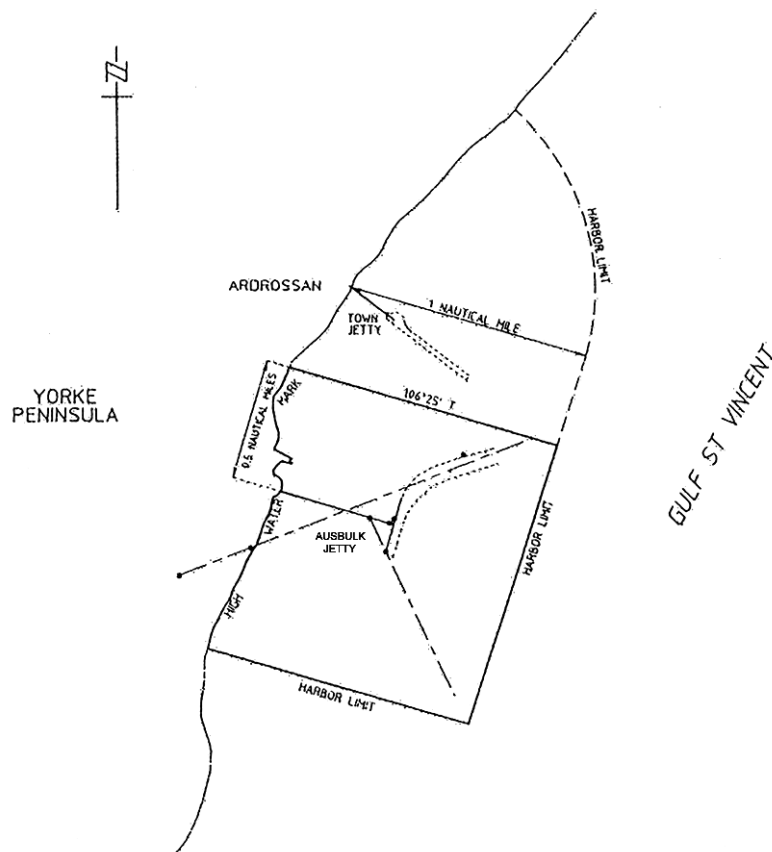
Note—

Unless the contrary intention appears, the maps in this Schedule are provided for convenience of reference only.

Ardrossan

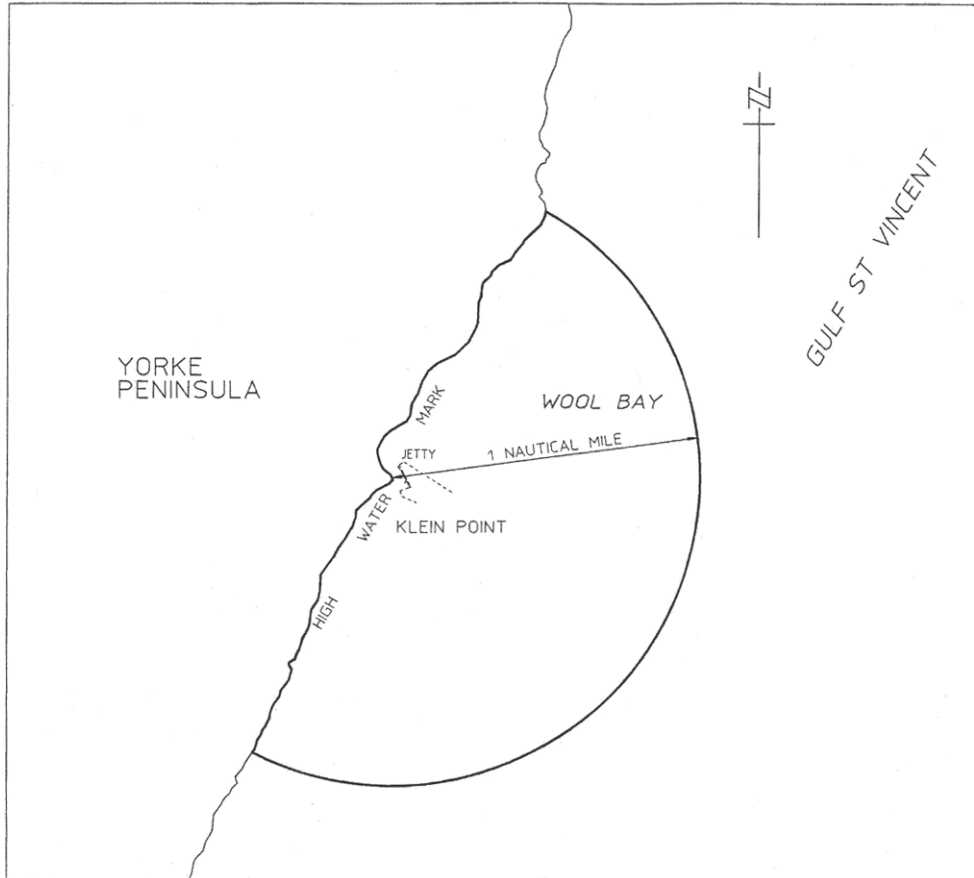
The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Gulf St. Vincent bounded as follows:

commencing at a point on high water mark distant 0.5 nautical miles north-north-easterly of the centre line of the Ausbalk jetty; then by a line bearing $106^{\circ}25'T$ to its intersection with eastern boundary of the harbor of Ardrossan; then by the boundary of the harbor of Ardrossan generally south-south-westerly, west-north-westerly, north-north-easterly (along high water mark) to the point of commencement.



Klein Point

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Gulf St. Vincent within 1 nautical mile seaward of the intersection of high water mark and the Klein Point jetty.



Port Adelaide

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to the high water mark bounded as follows:

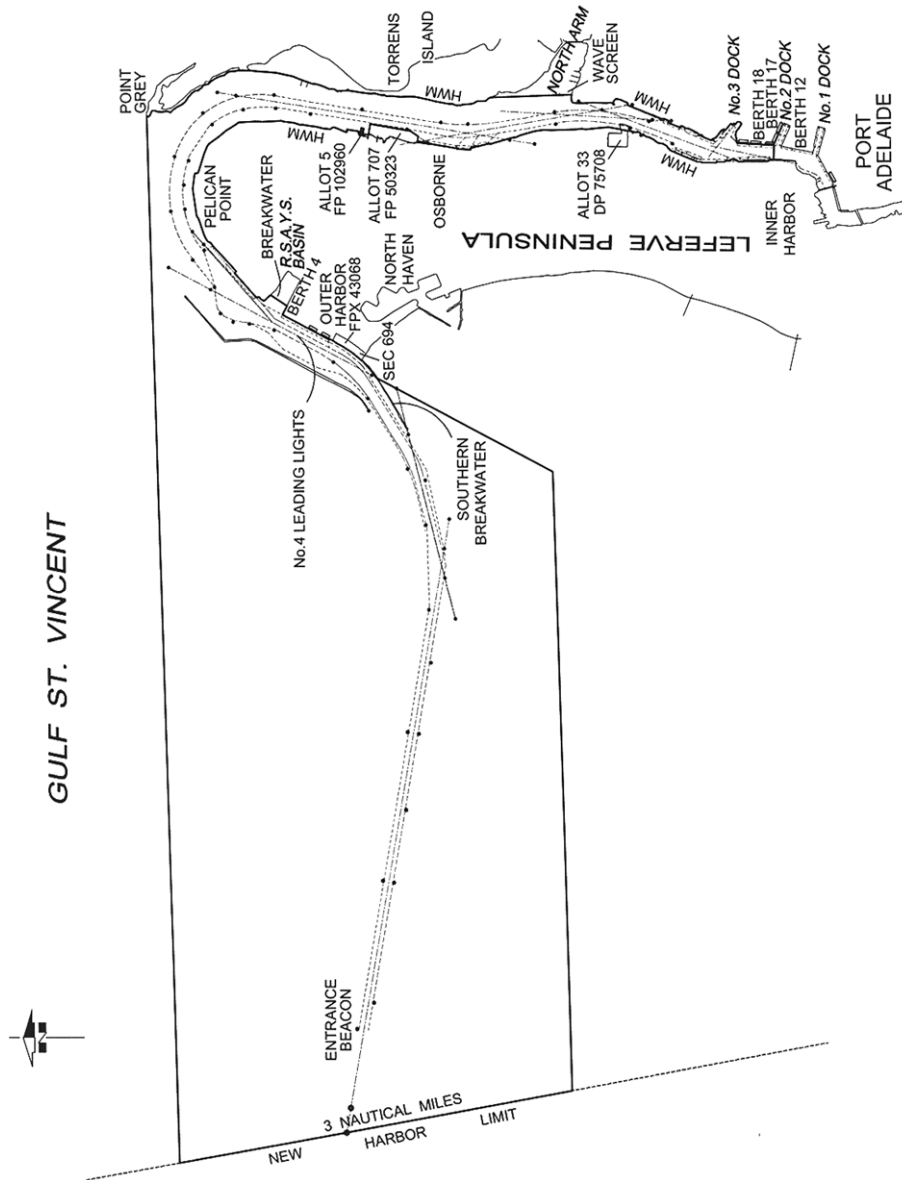
- commencing at Point Grey then due west along a line to its intersection with the western boundary of the harbor of Port Adelaide;
- then generally south-south-easterly along the harbor boundary for 3 nautical miles;
- then along a line due east to its intersection with the south-westerly production of the Number 4 Leading Lights;
- then generally north-easterly along the production to its intersection with the high water mark on the southern face of the Southern Breakwater;
- then generally north-easterly along the high water mark to its intersection with the south-western boundary of Section 694 Hundred of Port Adelaide;
- then generally north-westerly along that boundary of Section 694 Hundred of Port Adelaide across the Southern Breakwater to its intersection with the high water mark on the northern face of the Southern Breakwater;
- then generally north-easterly along the high water mark to the northern extremity of Number 4 berth;
- then generally south-easterly along the high water mark to its intersection with the production southerly of the high water mark of the western face of the breakwater at the Royal South Australian Yacht Squadron (RSAYS);
- then generally north-easterly along the production across the RSAYS Basin;
- then generally north-westerly and north-easterly along the high water mark to Pelican Point;
- then generally south-easterly and southerly along the high water mark to its intersection with a line across the Port Adelaide River perpendicular to the western face of Number 18 berth and intersecting the western face of Number 18 berth and its southerly production at the southern extremity of the western face of Number 18 berth;
- then generally easterly along that perpendicular line across the Port Adelaide River to its intersection with the high water mark;
- then generally northerly and easterly along the high water mark, including Number 3 dock, to its intersection with the Wave Screen in North Arm;
- then generally northerly along the western face of the Wave Screen and its production to intersect with the high water mark on Torrens Island;
- then generally northerly along the high water mark to the point of commencement at Point Grey;
- and including Portion of Section 694 Hundred of Port Adelaide being the area described as easement E on FPX 43068,

but excluding:

- before the prescribed day—Allotment 5 FP 102960; or
- on or after the prescribed day—
 - Allotment 5 FP 102960; and
 - Allotment 707 FP 50323; and

- that Portion of Allotment 33 Deposited Plan No 75708 which comprises the Marina Adelaide basin and the entrance to that basin and is bounded by a straight line across the opening to the entrance that is an extension of the high water mark on the western bank of the river.

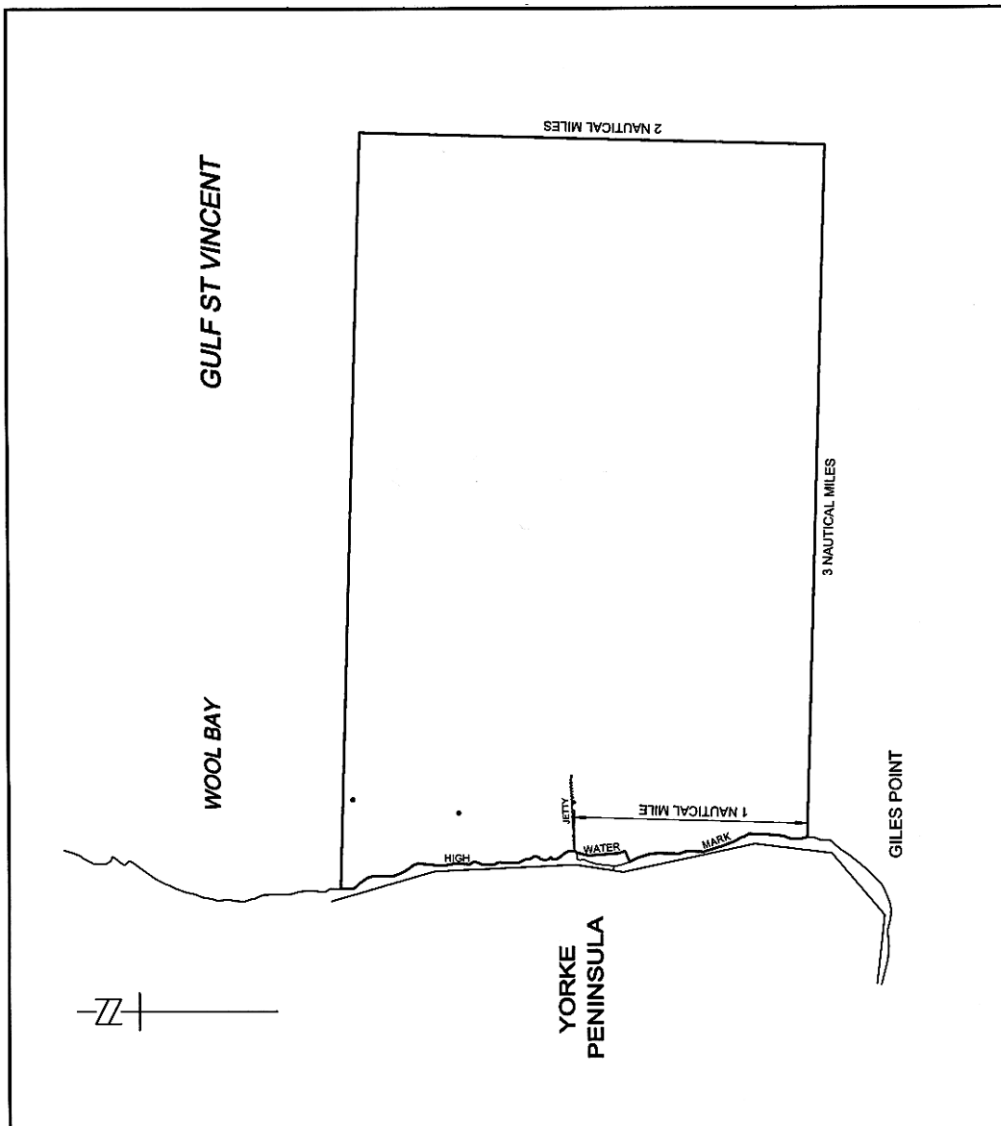
For the purposes of this item, the *prescribed day* is a day to be fixed by the Minister by notice in the Gazette.



Port Giles

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that portion of the western coast of Gulf St. Vincent bounded as follows:

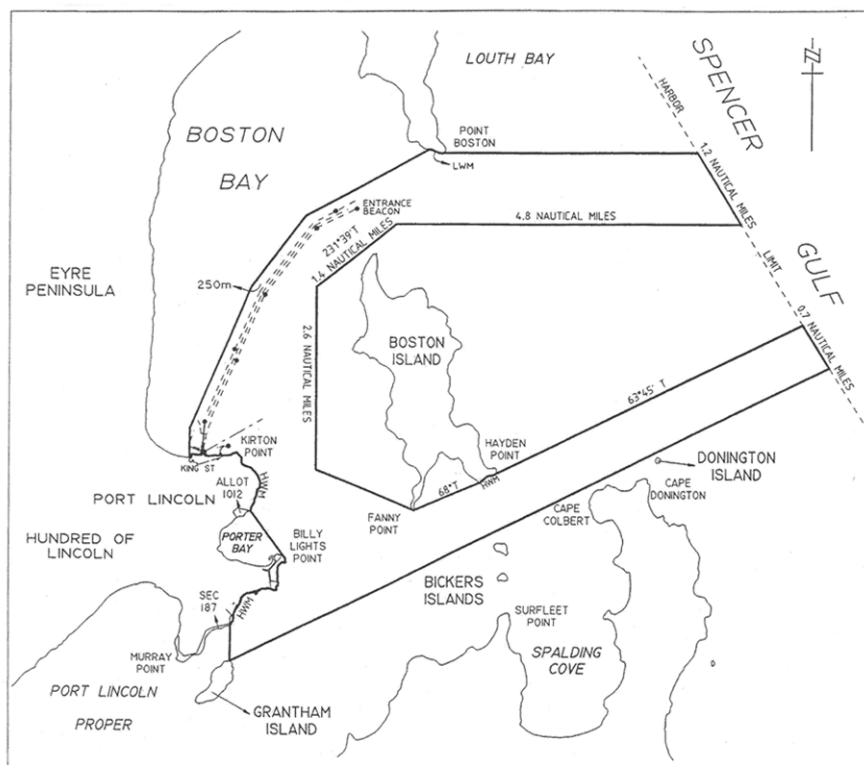
commencing at a point on high water mark 1 nautical mile due south of the intersection of the centre line of the Port Giles Jetty with high water mark; then by a line bearing due east from high water mark for 3 nautical miles; then by a line bearing due north for 2 nautical miles; then by a line bearing due west to high water mark; then generally southerly along high water mark to the point of commencement.



Port Lincoln

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Port Lincoln bounded as follows:

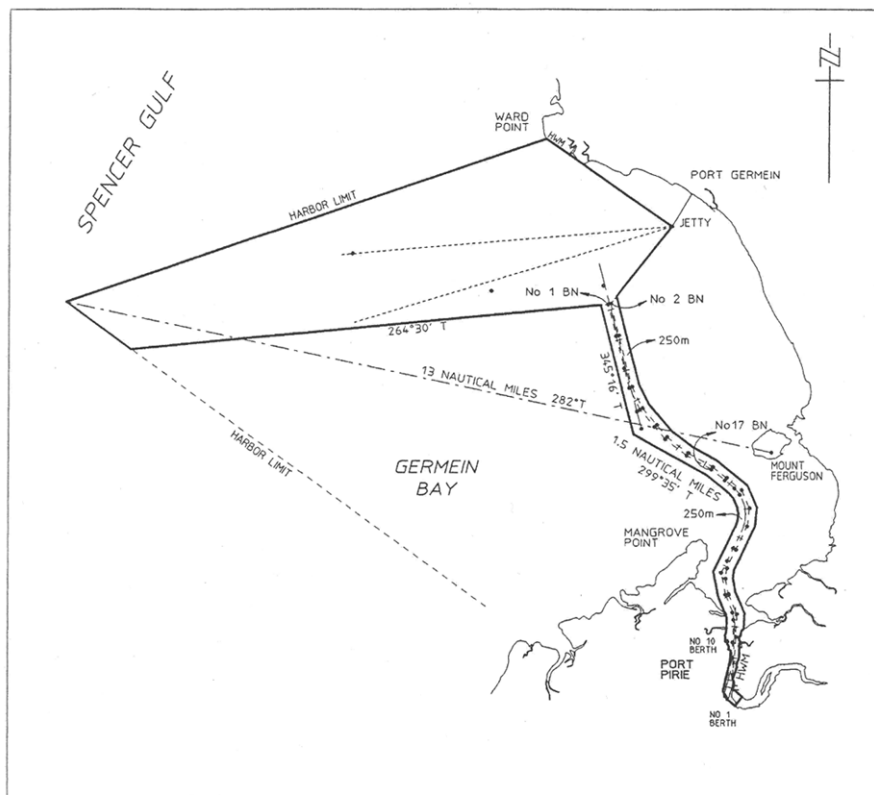
commencing at the intersection with high water mark of a line running due north from the north-east corner of King and Porter Streets; then due north along the said line to its intersection with a line 250 m from and parallel to the port side of the maintained channel; then generally north-easterly by a line 250 m from and parallel to the port side of the maintained channel to a point adjacent the entrance beacon; then continuing generally north-easterly along the production of that line to its intersection with low water mark; then along low water mark to Point Boston; then due east along a line to its intersection with the eastern boundary of the harbor of Port Lincoln; then generally south-easterly along the harbor boundary for 1.2 nautical miles; then due west along a line for 4.8 nautical miles; then along a line bearing $231^{\circ}39'T$ for 1.4 nautical miles; then due south along a line for 2.6 nautical miles; then generally south-easterly along a line to high water mark at Fanny Point; then along a line bearing $68^{\circ}T$ or thereabouts to its intersection with high water mark on Boston Island; then along high water mark on Boston Island to Hayden Point; then by a line bearing $63^{\circ}45'T$ to its intersection with the eastern boundary of the harbor of Port Lincoln; then generally south-easterly along the harbor boundary for 0.7 nautical miles; then generally south-westerly by a line to high water mark on the northern tip of Grantham Island; then due north along a line to its intersection with high water mark adjacent Section 187 Hundred of Lincoln; then generally north-easterly and northerly along high water mark to Billy Lights Point; then by a line generally north-westerly to its intersection with high water mark and the western corner of Allotment 1012, Town of Port Lincoln; then generally northerly and westerly along high water mark to the point of commencement.



Port Pirie

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark in Germein Bay, Spencer Gulf, bounded as follows:

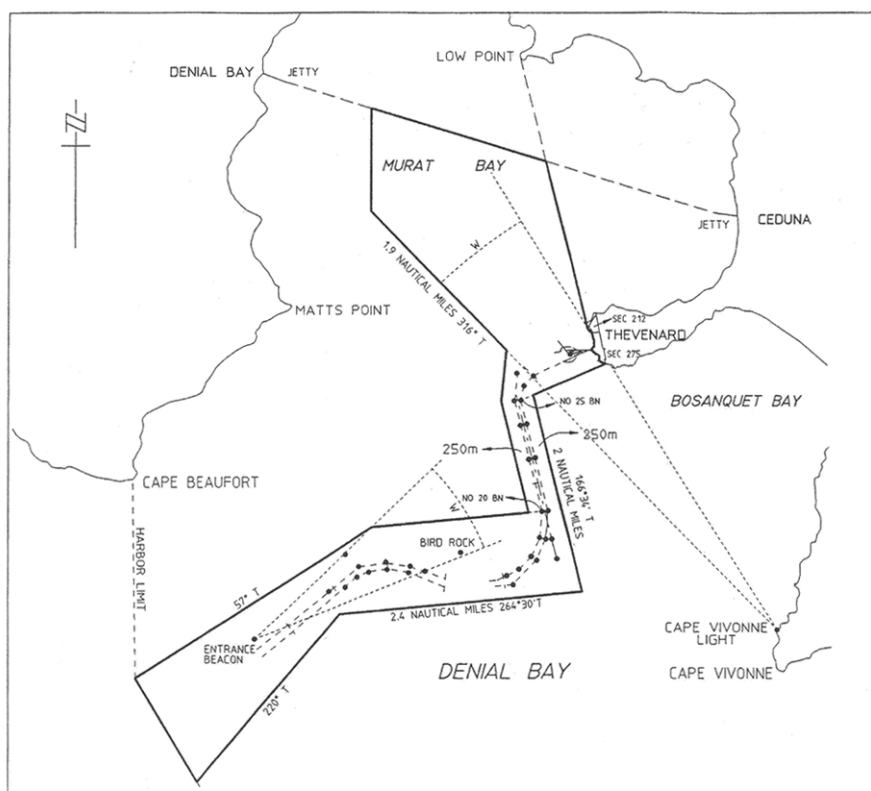
commencing at a point on a line bearing 282°T and distance 13 nautical miles from Mount Ferguson (Latitude $33^{\circ}06.34'\text{S}$, Longitude $138^{\circ}01.78'\text{E}$); then generally north-easterly along the north-western harbor boundary to high water mark; then generally south-easterly along a line to the Port Germein jetty light; then generally south-westerly along a line joining No 2 port beacon to the intersection point of a line 250 m from and parallel to the port side of the maintained channel; then generally southerly and south-easterly by a line 250 m from and parallel to the port side of the maintained channel to its intersection with high water mark; then generally southerly along high water mark to a point being the prolongation of the southern extremity of No 1 berth Port Pirie across the Port Pirie River; then generally south-westerly across the Port Pirie River along that prolongation to the southern extremity of No 1 berth Port Pirie; then generally north-westerly and northerly along high water mark to the northern extremity of No 10 berth; then generally westerly along the No 10 berth to its intersection with high water mark; then generally northerly along high water mark to the intersection of a line 250 m from and parallel to the starboard side of the maintained channel; then generally north and north-westerly by a line 250 m from and parallel to the starboard side of the maintained channel to a point south-west of the No 17 starboard beacon; then by a line bearing $299^{\circ}35'\text{T}$ for 1.5 nautical miles; then by a line bearing $345^{\circ}16'\text{T}$ to the intersection point of a line bearing $264^{\circ}30'\text{T}$ from No 1 starboard beacon; then by a line bearing $264^{\circ}30'\text{T}$ to the intersection with the south-western limit of the harbor of Port Pirie; then generally north-westerly along the south-western limit of the harbor of Port Pirie to the point of commencement.



Thevenard

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of Denial Bay, Murat Bay and Bosanquet Bay bounded as follows:

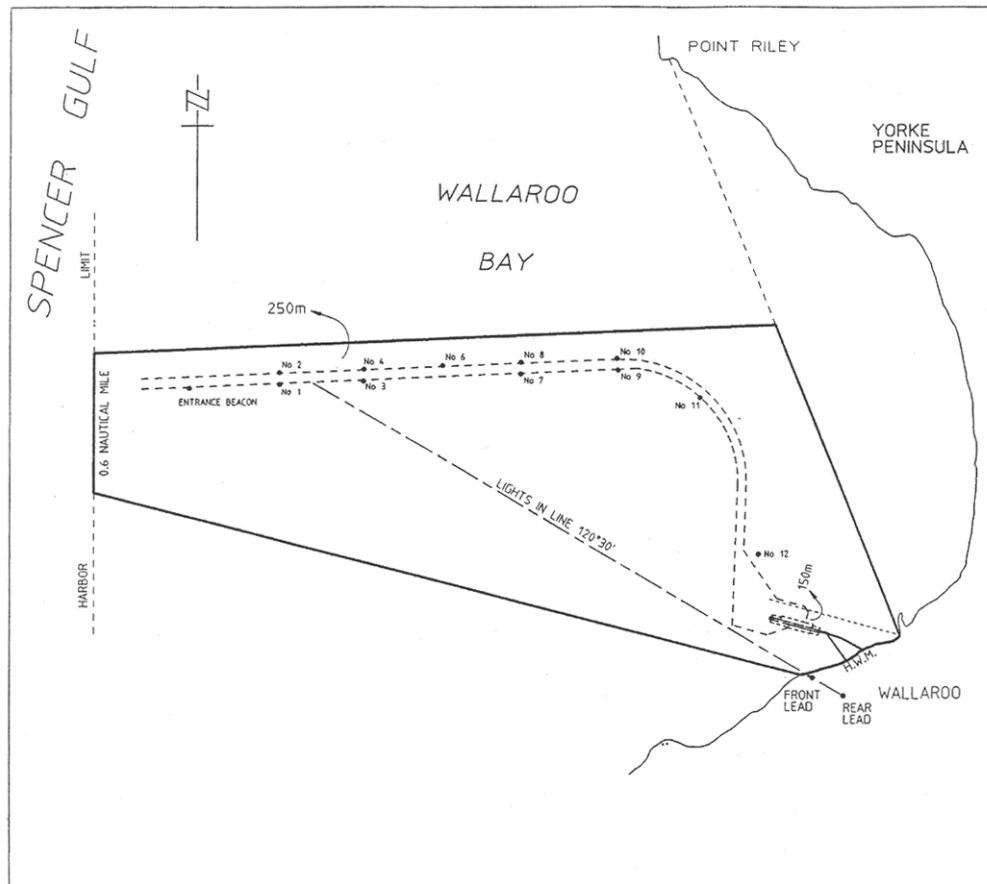
commencing at a point at the intersection of high water mark and the production south-westerly of the northern western boundary of Section 212 Hundred of Bonython; then generally southerly along high water mark to the south-western corner of Section 275 Hundred of Bonython; then generally west-south-westerly along a line joining No 25 starboard beacon to the intersection point of a line 250 m from and parallel to the starboard side of the maintained channel; then by that line bearing $166^{\circ}34'T$ for 2 nautical miles; then by a line bearing $264^{\circ}30'T$ for 2.4 nautical miles; then by a line bearing $220^{\circ}T$ to its intersection with the south-western boundary of the harbor of Thevenard; then generally north-westerly along the harbor boundary to a point 2 nautical miles due south of Cape Beaufort; then by a line bearing $57^{\circ}T$ to the intersection with a line bearing $46^{\circ}T$ from the Entrance beacon (white sector light); then generally easterly by a line joining No 20 port beacon to the intersection point of a line 250 m from and parallel to the port side of the maintained channel; then by a series of lines 250 m from and parallel to the port side of the maintained channel to the intersection point with a line bearing $316^{\circ}T$ from Cape Vivonne (white sector light); then by that line bearing $316^{\circ}T$ for 1.9 nautical miles; then by a line bearing true north to the intersection point on a line joining Denial Bay jetty and Ceduna jetty; then along the said line generally east-south-easterly to the intersection point of a line joining Low Point and the point of commencement; then generally southerly along that line to the point of commencement.



Wallaroo

The subjacent land underlying, and adjacent land extending from, the waters, rivers, creeks and inlets to high water mark of that part of Wallaroo Bay bounded as follows:

commencing at a point on high water mark intersected by a line 150 m north-east and parallel to the northern face of the shipping pier; then generally north-westerly along a line joining high water mark at the south-west extremity of Point Riley to the intersection with a line being the production generally easterly of a line 250 m from and parallel to the port side of the maintained channel; then generally westerly along that line to its intersection with western boundary of the harbor of Wallaroo; then generally southerly along the harbor boundary for 0.6 nautical miles; then generally east-south-easterly along a line joining the front lead to the intersection with high water mark; then generally north-easterly along high water mark to the point of commencement.



Schedule 5—Restricted areas

Part 1—Identification of restricted areas

1—Identification of restricted areas

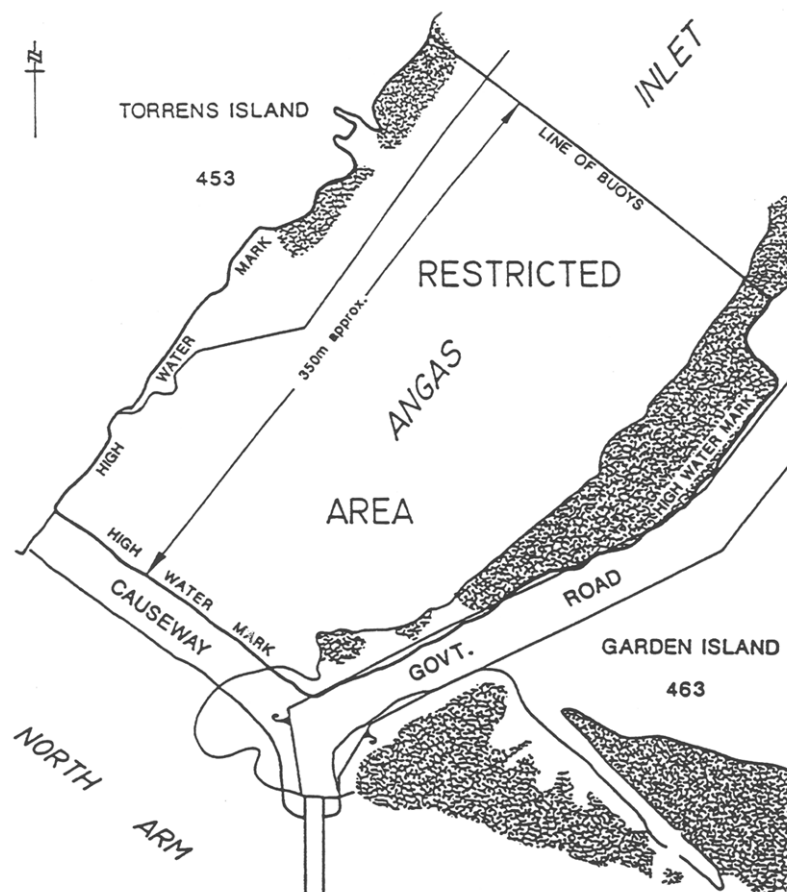
Note—

Unless the contrary intention appears, the maps in this Schedule are provided for convenience of reference only.

Angas Inlet

The portion of Angas Inlet that is bounded as follows:

commencing at a point where median high water mark on Torrens Island intersects the line of buoys, then south-east along the line of buoys to a point where median high water on Garden Island intersects the line of buoys, then south-west along median high water mark to the Causeway, then north-west along median high water mark to Torrens Island, then north-east along median high water mark to the point of commencement.

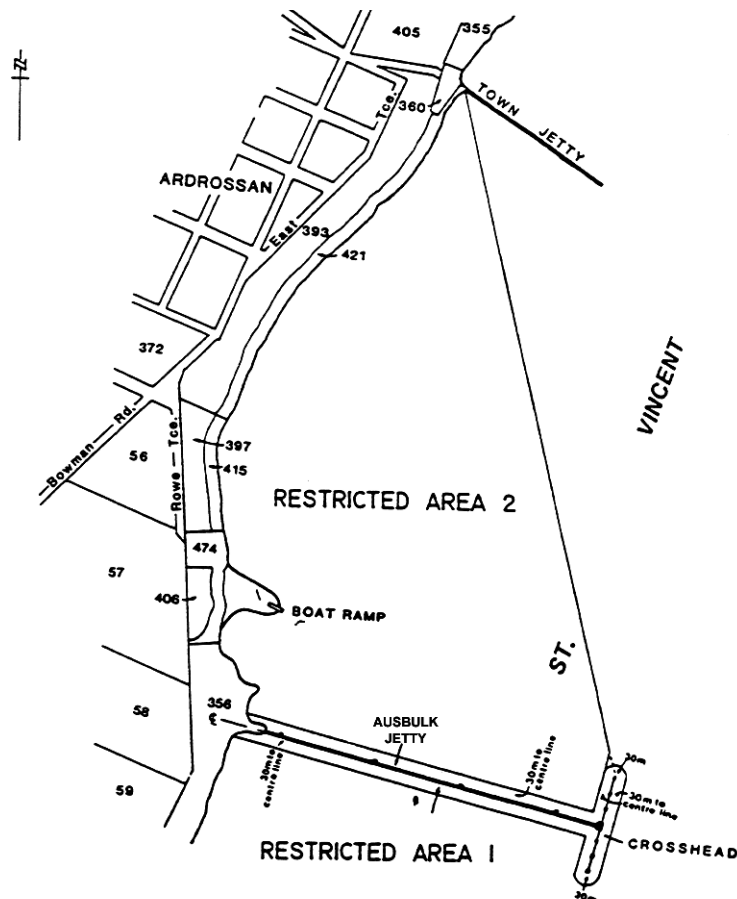


Ardrossan

Area 1: the area of the sea at Ardrossan extending for 30 m north and south of the Ausbulk jetty centre line and its production westerly, 30 m east and west of the Ausbulk jetty crosshead centre line, and 30 m from the intersections of that centre line with the north and south ends of the Ausbulk jetty crosshead.

Area 2: the area of the sea at Ardrossan bounded as follows:

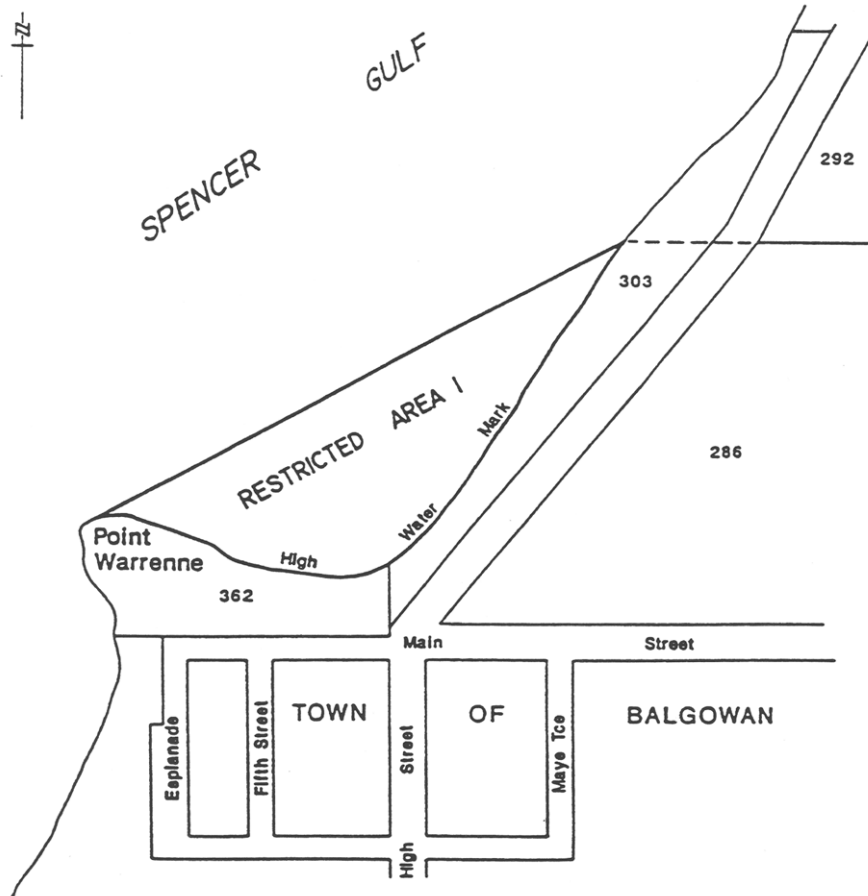
- on the east by a straight line commencing at the intersection of the south-west side of the town jetty and high water mark and drawn in a south-easterly direction toward the north-east corner of the Ausbulk jetty crosshead: to a point where it intersects with a straight line 30 m west of and parallel to the Ausbulk jetty crosshead centre line and its production northerly;
- on the south by a straight line 30 m north and parallel to the Ausbulk jetty centre line and its production westerly;
- on the west and north-west by high water mark.



Balgowan

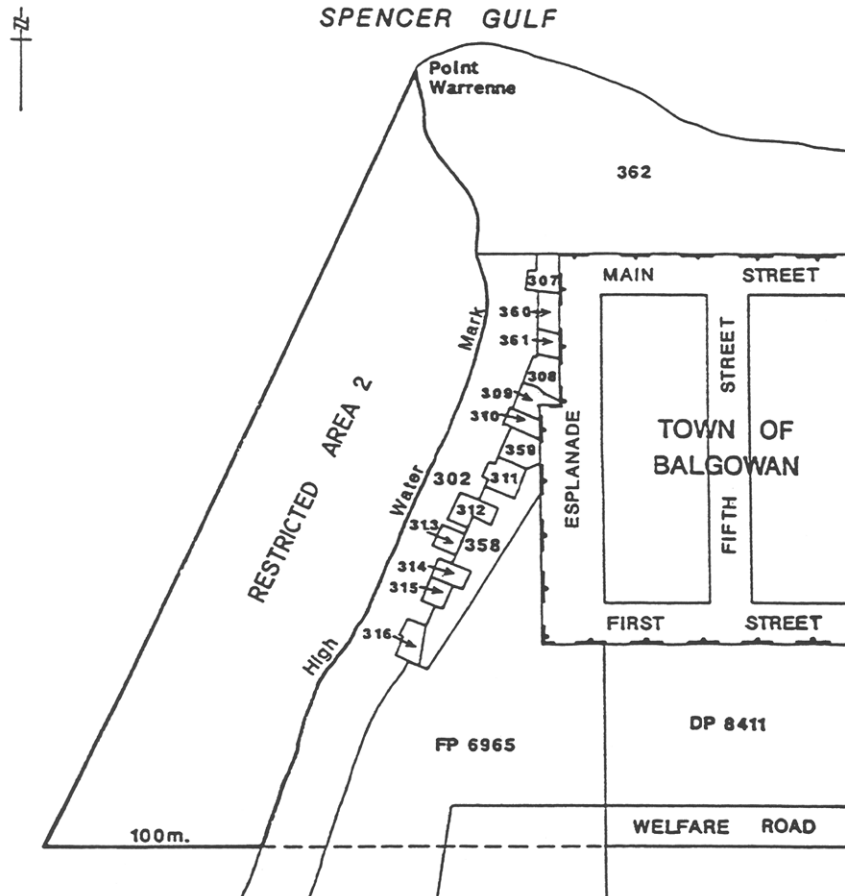
Area 1: the portion of the sea at Balgowan bounded as follows:

- on the north-west by a straight line joining Point Warrenne with a point being the intersection of the high water mark and the prolongation seaward of the northern boundary of Section 286, Hundred of Kilkerran;
- on the south and east by the high water mark.



Area 2: the portion of the sea at Balgowan bounded as follows:

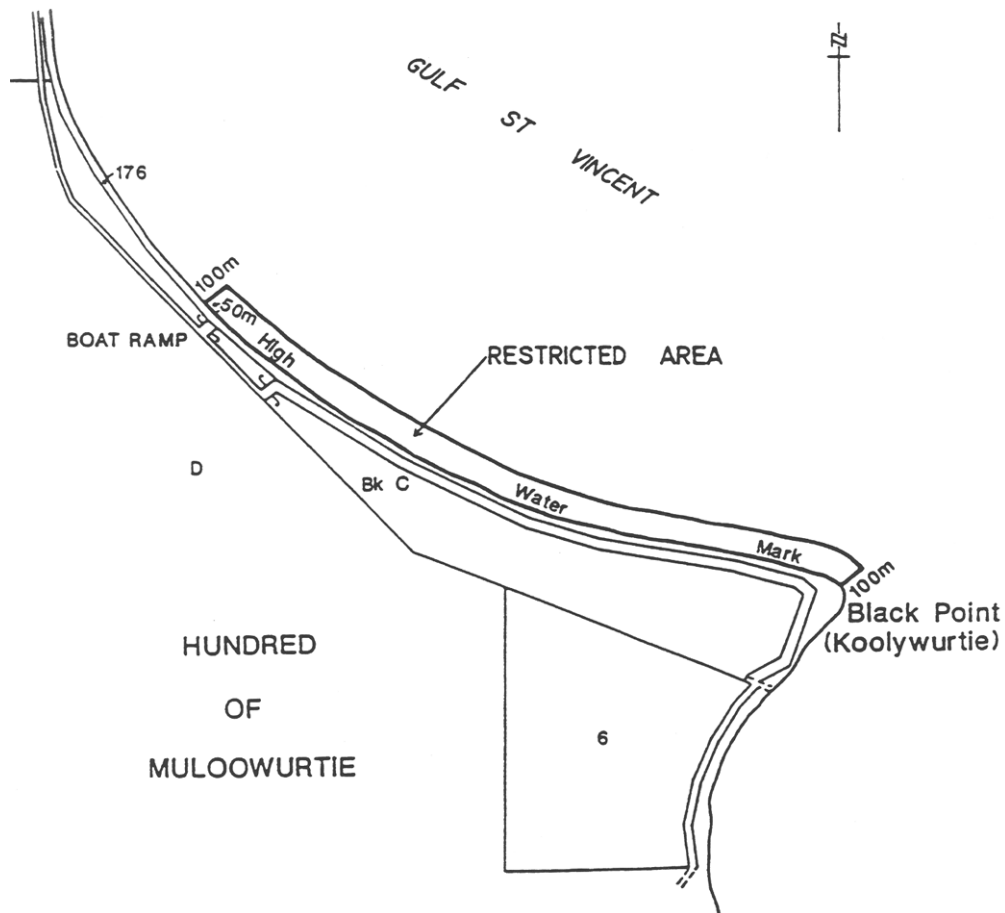
- on the west by a straight line joining Point Warrenne with a point being 100 m west of the high water mark on the prolongation seaward of the southern boundary of Welfare Road, Township of Balgowan, Hundred of Kilkerran;
- on the south by a straight line commencing at high water mark and extending seaward for 100 m along the prolongation of the southern boundary of Welfare Road, Township of Balgowan, Hundred of Kilkerran;
- on the east by the high water mark.



Black Point

The portion of the sea at Black Point bounded as follows:

- on the north-west by a straight line commencing 50 m north-west of the boat ramp and extending seaward (north-easterly) for 100 m from the high water mark;
- on the south-east by a straight line parallel to the north-east boundary and extending 100 m seaward from the high water mark at Black Point;
- on the north-east by a straight line 100 m from, and parallel to, the high water mark, and joining the seaward extremities of the north-west and south-east boundaries;
- on the south-west by the high water mark.



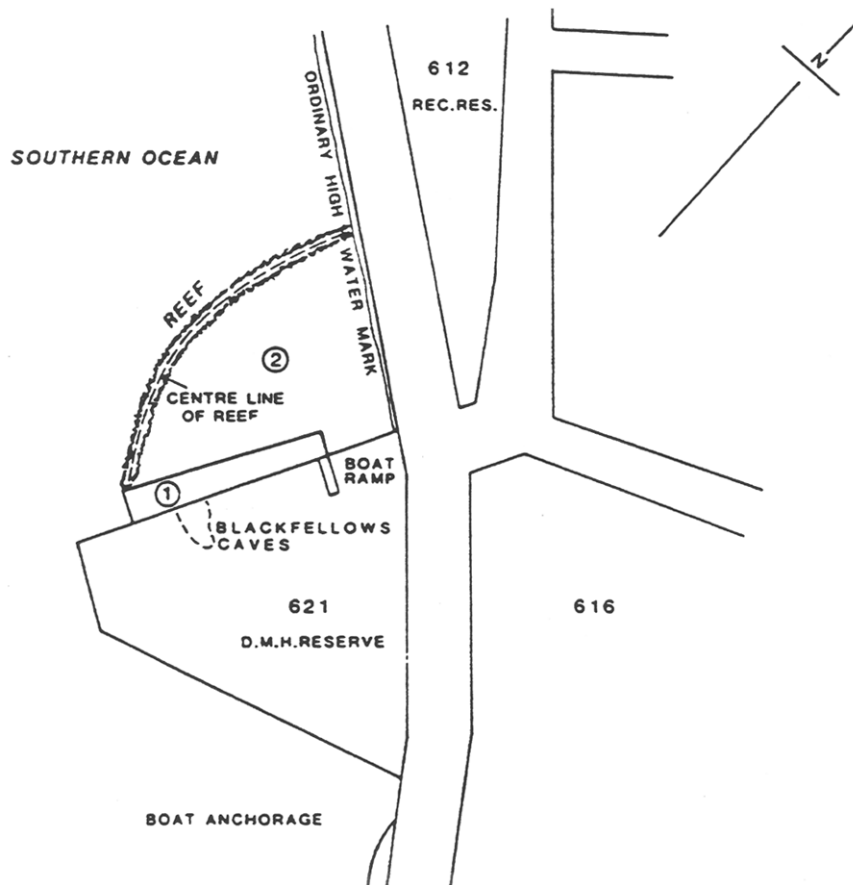
Blackfellows' Caves

Area 1: the portion of the sea at Blackfellows' Caves bounded as follows:

- on the south-east by the north-west boundary of section 621, Hundred of Kongorong;
- on the north-east by a straight line being the prolongation north-westerly of the north-east edge of the boat ramp for a distance of 10 m seawards from the aforesaid south-east boundary;
- on the south-west by a straight line extending south-easterly from the south extremity of the centre line of the reef to intersect the aforesaid south-east boundary at right angles;
- on the north-west by a straight line joining the north-west extremities of the aforesaid south-west and north-east boundaries.

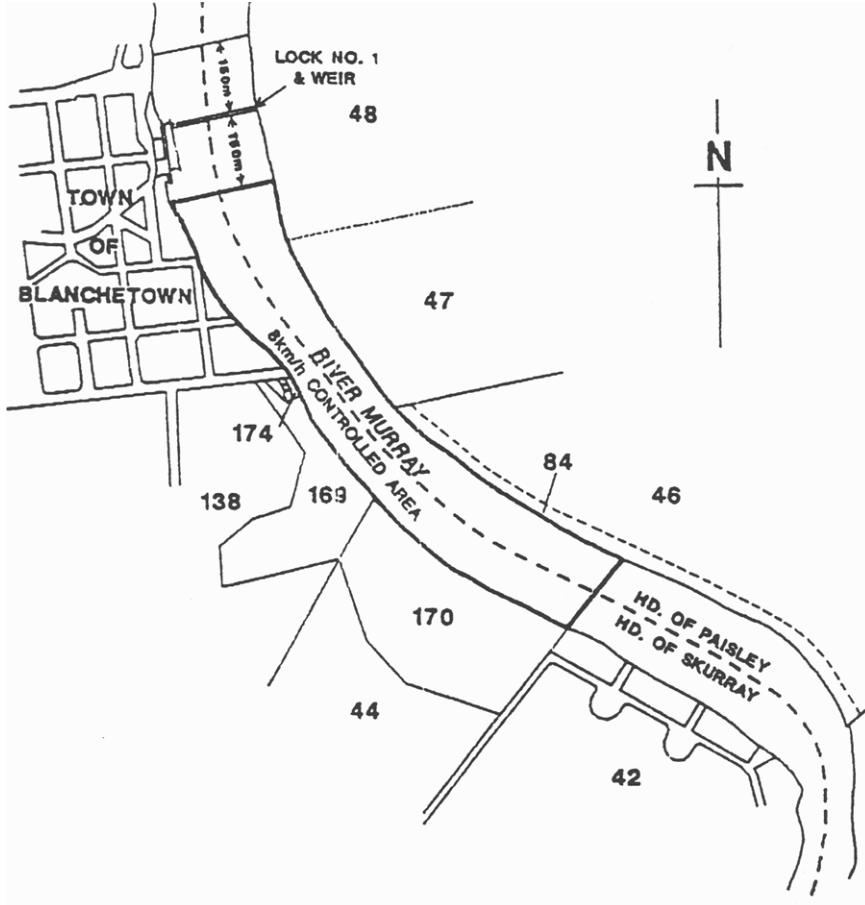
Area 2: the portion of the sea at Blackfellows' Caves bounded as follows:

- on the south-west, west and north-west by the centre line of the reef;
- on the north-east by ordinary high water mark;
- on the south-east by the north-west and north-east boundaries of Area 1 and the north-west boundary of Section 621, Hundred of Kongorong.



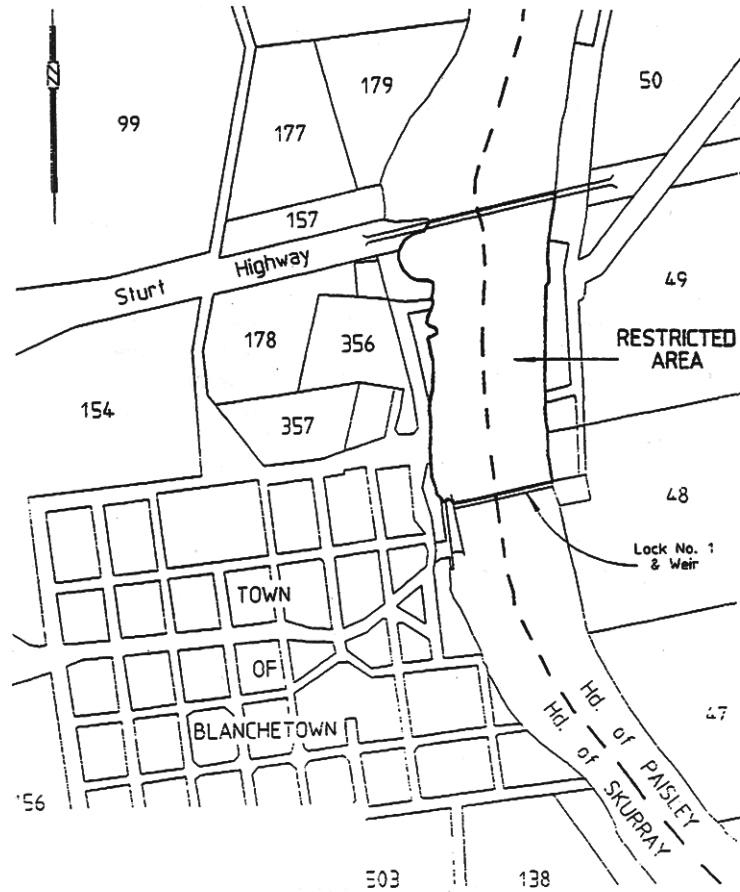
Blanchetown

Area 1: The portion of the River Murray at Blanchetown delineated in bold on the plan below:



Area 2: the portion of the River Murray at Blanchetown bounded as follows:

- on the north by the northern alignment of the Sturt Highway road bridge;
- on the south by the northern alignment of Lock No 1;
- on the east and west by the river edge.



Brighton

Area 1: the portion of the waters of Gulf St. Vincent bounded as follows:

- on the north by a straight line being the north boundary of the City of Brighton adjoining the sea coast and its production seaward;
- on the south by a straight line being the production seaward of the north alignment of Whyte Street;
- on the east by high water mark;
- on the west by a line approximately 100 m seaward of and parallel to low water mark.

Area 2: the portion of the waters of Gulf St. Vincent bounded as follows:

- on the north by a straight line being the production seaward of the south alignment of Harrow Road;
- on the south by a straight line extending seaward of high water mark and being 200 m north of and parallel to the north alignment of Gladstone Road;
- on the east by high water mark;
- on the west by a line approximately 100 m seaward of and parallel to low water mark.

Area 3: the portion of the waters of Gulf St. Vincent bounded as follows:

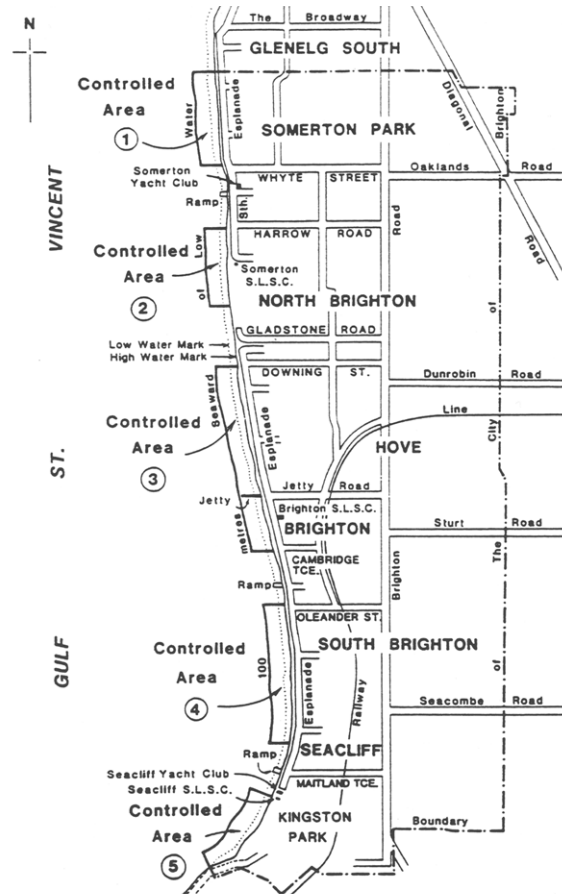
- on the north by a straight line being the production seaward of the south alignment of Downing Street;
- on the south by a straight line being the production seaward of the south alignment of Cambridge Terrace;
- on the east by high water mark;
- on the west by a line approximately 100 m seaward of and parallel to low water mark.

Area 4: the portion of the waters of Gulf St. Vincent bounded as follows:

- on the north by a straight line being the production seaward of the north alignment of Oleander Street;
- on the south by a straight line extending seaward of high water mark and being 200 m north of the centre of the boat ramp at Maitland Terrace and parallel to the north alignment of Maitland Terrace;
- on the east by high water mark;
- on the west by a line approximately 100 m seaward of and parallel to low water mark.

Area 5: the portion of the waters of Gulf St. Vincent bounded as follows:

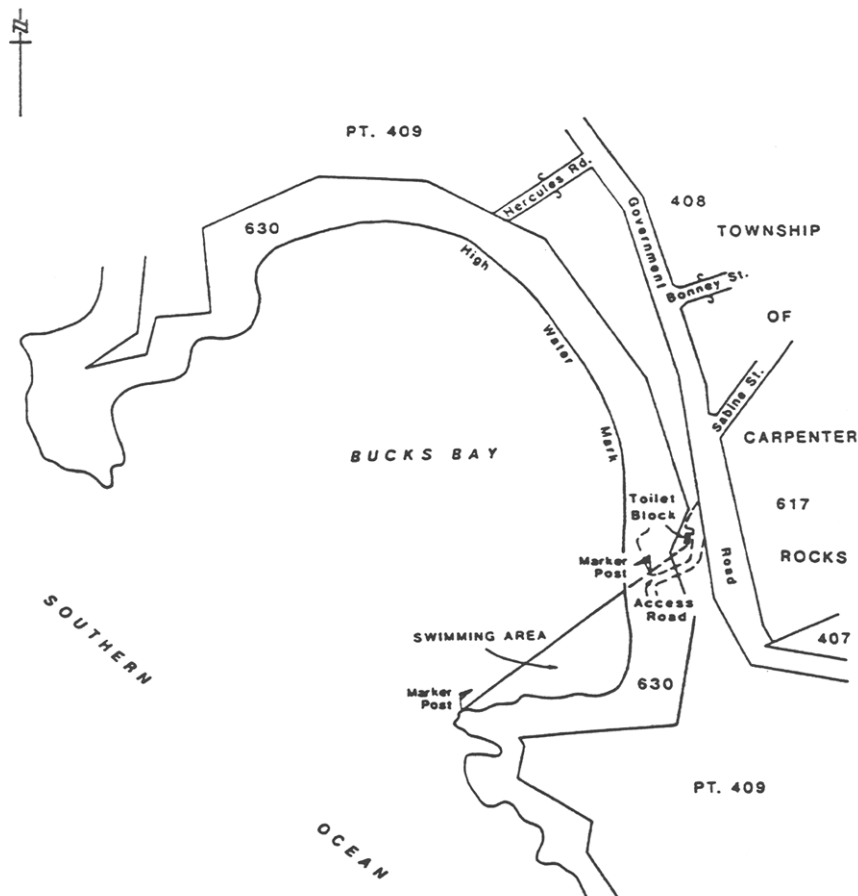
- on the north by a straight line extending seaward from the south extremity of the Seacliff Surf Life Saving Club building;
- on the south by a straight line, being the south boundary of the City of Brighton adjoining the sea coast, and its production seaward;
- on the east by high water mark;
- on the west by a line approximately 100 m seaward of and parallel to low water mark.



Bucks Bay

The portion of the sea at Bucks Bay bounded as follows:

- on the north-west by a straight line joining the south-east corner of the toilet block adjacent to the southern access road to the beach and the north-west extremity of the promontory forming the southern limit of the bay, the line being further defined by 2 yellow marker posts, the first post on the northern side of the junction of the access road with the beach, the second post being on the north-west extremity of the promontory;
- on the south and east by High Water Mark.



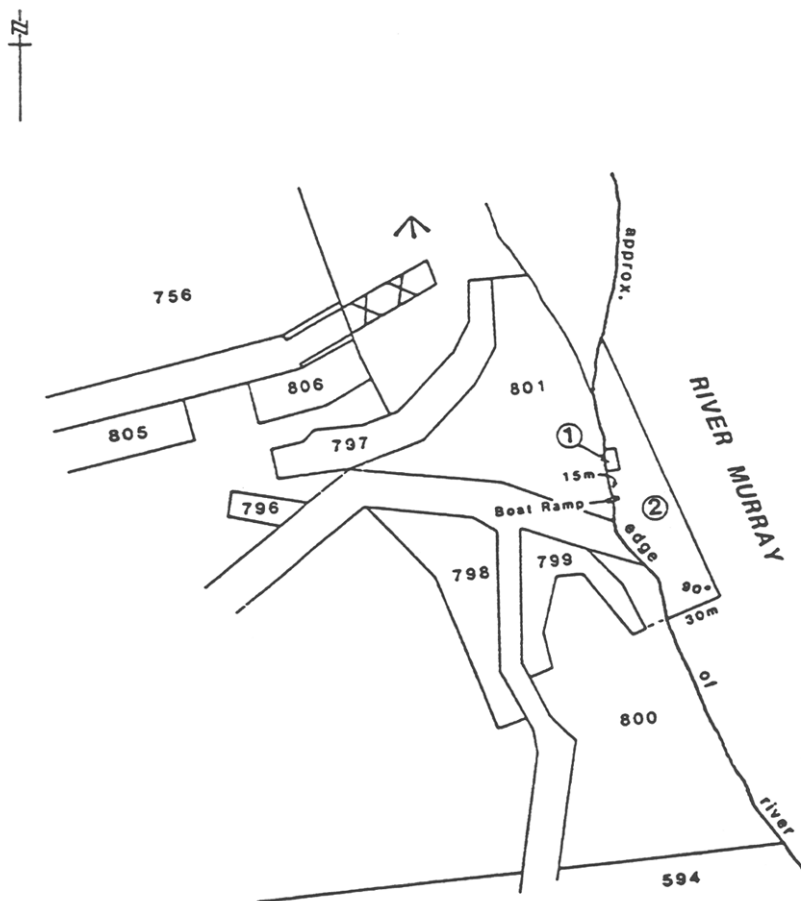
Caloote Landing

Area 1: the portion of the River Murray near Caloote Landing bounded as follows:

- on the west by the river edge;
- on the north, east and south by lines of spherical marker buoys being flame orange in colour, the south boundary being a distance of 15 m north of the boat ramp.

Area 2: the portion of the River Murray near Caloote Landing bounded as follows:

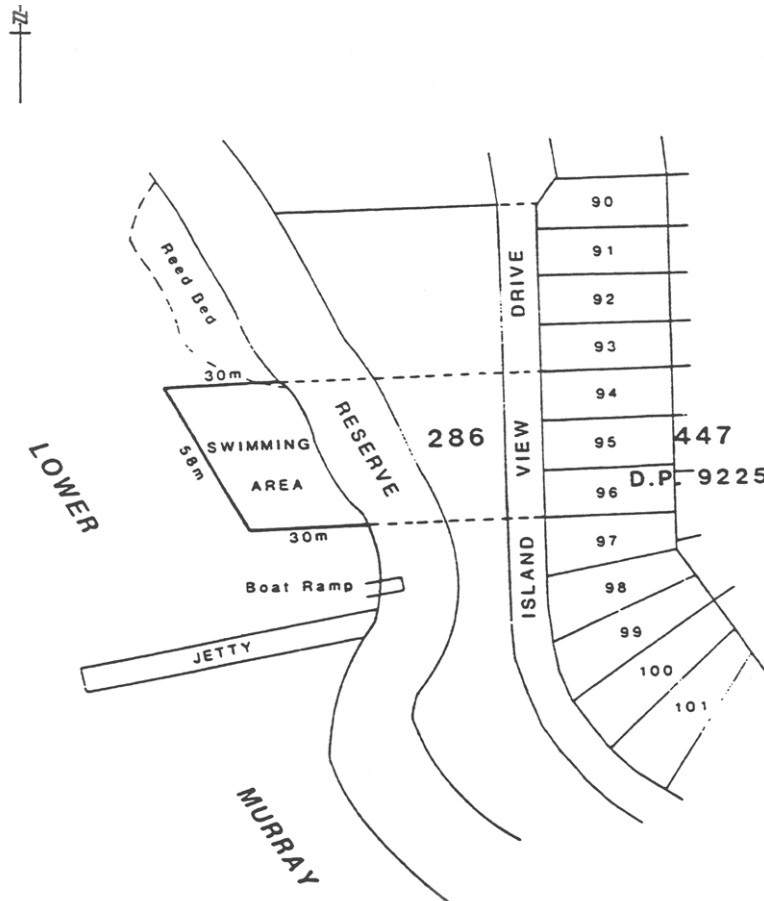
- on the south by a straight line being the prolongation easterly of the most southerly boundary of Section 799, Hundred of Finniss for a distance of 30 m easterly from the river edge;
- on the east by a straight line at right angles to the aforesaid south boundary commencing at its east extremity and extending to intersect the river edge;
- on the west by the river edge.



Clayton Bay

The portion of the lower River Murray at Clayton bounded as follows:

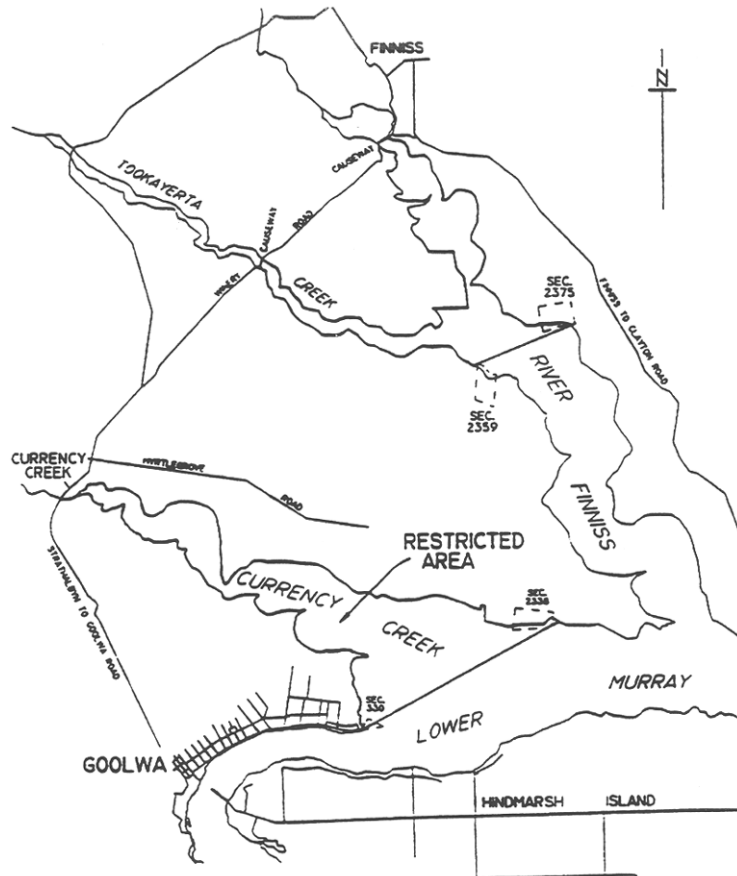
- on the north by a straight line, marked by flame orange spherical buoys, being the prolongation westerly of the north boundary of Lot 94 in Deposited Plan No 9225 Section 447, Hundred of Alexandrina for a distance of 30 m westerly from the edge of the water;
- on the south by a straight line, marked by flame orange spherical buoys, being the prolongation westerly of the north boundary of Lot 97 in Deposited Plan No 9225 Section 447, Hundred of Alexandrina for a distance of 30 m westerly from the edge of the water;
- on the south-west by a straight line joining the west extremities of the aforesaid north and south boundaries;
- on the north-east by the edge of the water.



Currency Creek

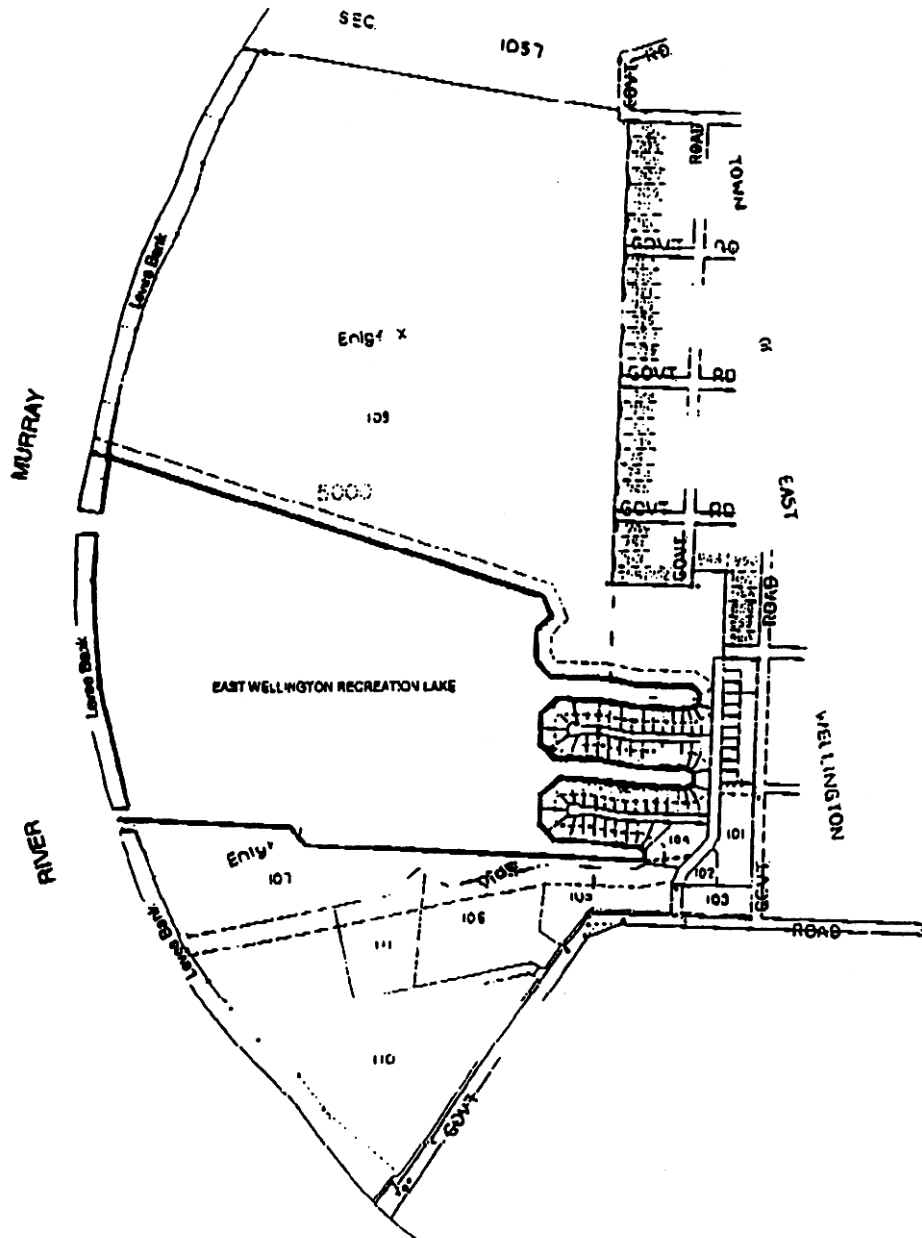
All the waters of Currency Creek bounded as follows:

- on the west by the causeway on the Goolwa to Strathalbyn Road;
- on the south-east by a line joining the south-west corner of Section 330, Hundred of Goolwa to the south-east corner of Section 2338, Hundred of Nangkita.



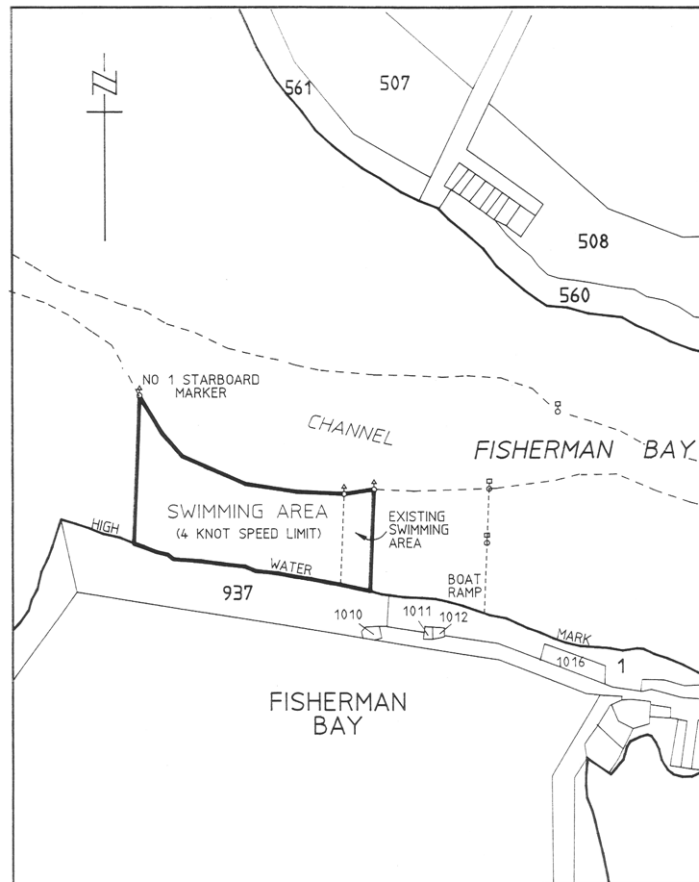
East Wellington

The portion of the East Wellington Recreation Lake delineated in bold on the plan below:



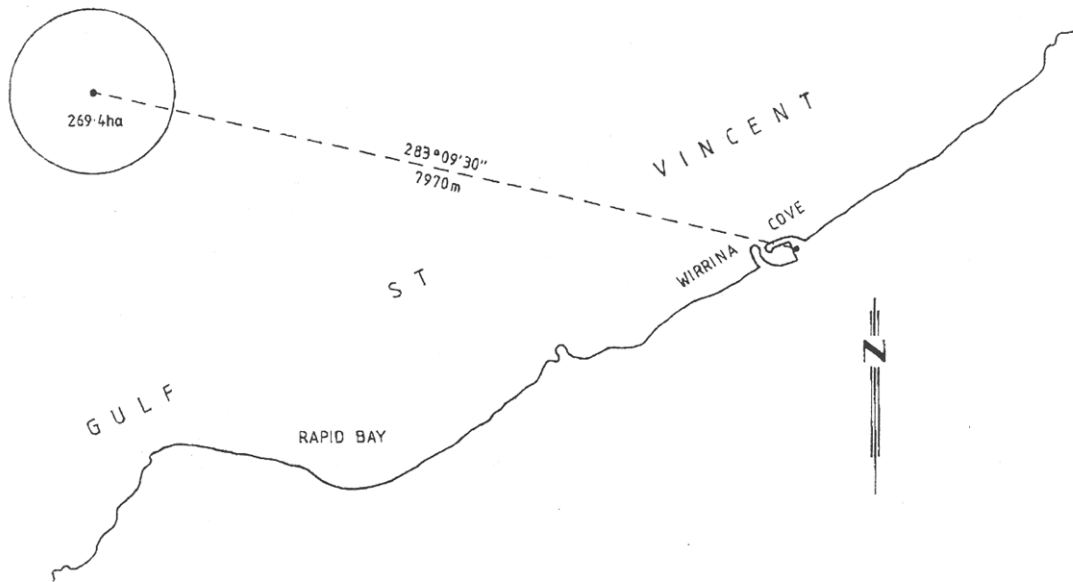
Fisherman Bay

The portion of the waters of Fisherman Bay delineated in bold on the plan below:



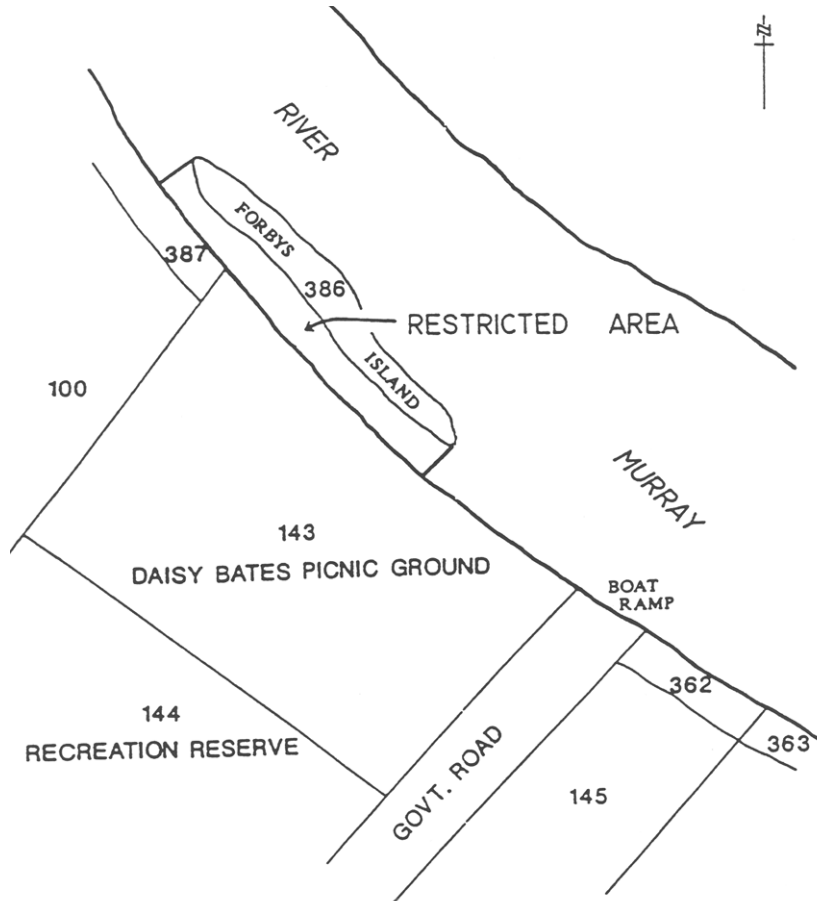
Fleurieu Reef

The portion of the waters of Gulf St. Vincent off the coast of Wirrina Cove bounded by a circle of radius 0.5 of a nautical mile centred on a point at latitude 35° 28.9' south, longitude 138° 09.5' east.



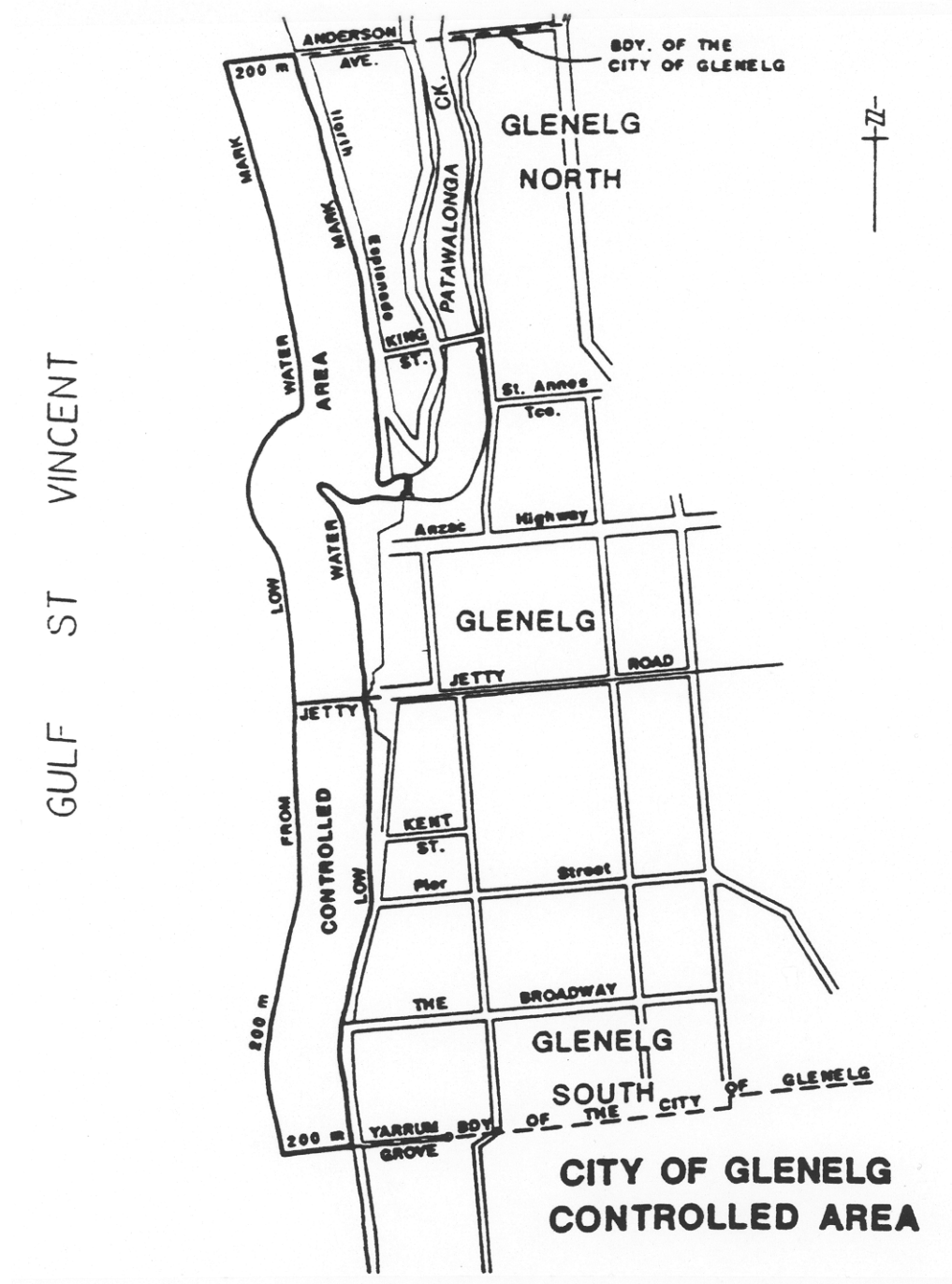
Forbys Island

The portion of the River Murray (near Loxton) between Forbys Island and the south-west edge of the river, marked by flame orange spherical buoys.



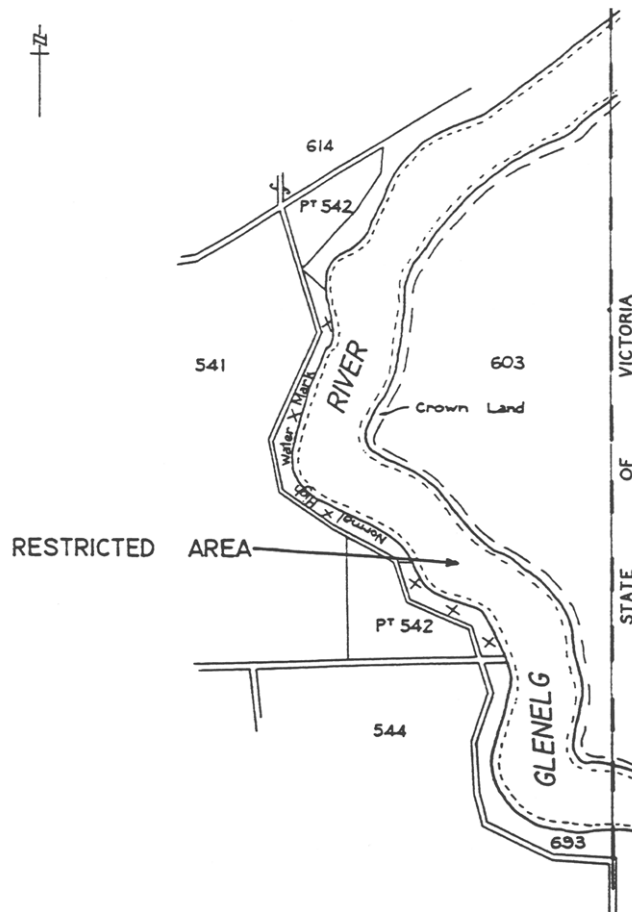
Glennelg

The portion of the sea at Glennelg delineated in bold on the plan below:



Glenelg River

All the waters of the Glenelg River within the State.



Goolwa

Area 1: the portion of the River Murray at Goolwa bounded as follows:

- on the west by a straight line being the prolongation northerly of the western boundary of Section 476, Hundred of Nangkita, Hindmarsh Island;
- on the north-west by a line 30 m from, and parallel to the edge of the water;
- on the north-east by a straight line being the prolongation north-westerly of the north-eastern boundary of FP11193;
- on the south by the edge of the water on the north side of Hindmarsh Island.

Area 2: the portion of the River Murray at Goolwa bounded as follows:

- on the east by the prolongation southerly of the eastern boundary of New Orleans Street;
- on the south by a line 60 m from and parallel to the edge of the water;
- on the west by a straight line 100 m upstream from and parallel to the Hindmarsh Island Bridge;
- on the north by the edge of the water.

Area 3: the portion of the River Murray at Goolwa bounded as follows:

- on the south-west by a straight line 100 m downstream from the south-east corner of the Goolwa wharf and at right angles to the production of the face of the wharf;
- on the north-west by the edge of the water;
- on the north by a straight line 50 m downstream from the south east corner of the Goolwa wharf and at right angles to the edge of the water;
- on the south east by a line 30 m from and parallel to the edge of the water.

Area 4: those portions of the River Murray and the Coorong in the vicinity of the Murray Mouth bounded as follows:

- on the east and west by lines bearing 025° (true) and 300 m distant from the centre (for the time being) of the Murray Mouth;
- on the north by the edge of the water on the southern side of Hindmarsh Island;
- on the south-west by the edge of the water on the River Murray side of Sir Richard Peninsula;
- on the south-east by the edge of the water on the Coorong side of Younghusband Peninsula;
- on the south by a straight line across the Murray Mouth joining the westerly extremity of Younghusband Peninsula to the easterly extremity of Sir Richard Peninsula.

Area 5: the portion of the Mundoo Channel to the edge of the water bounded as follows:

- on the north-east by a straight line 150 m downstream and parallel to the south-west side of the Mundoo Barrage;
- on the south by a straight line bearing 315° (true) from the A.G.A. light on Mundoo Island.

Area 6: those portions of the River Murray and the Coorong in the vicinity of the Murray Mouth bounded as follows:

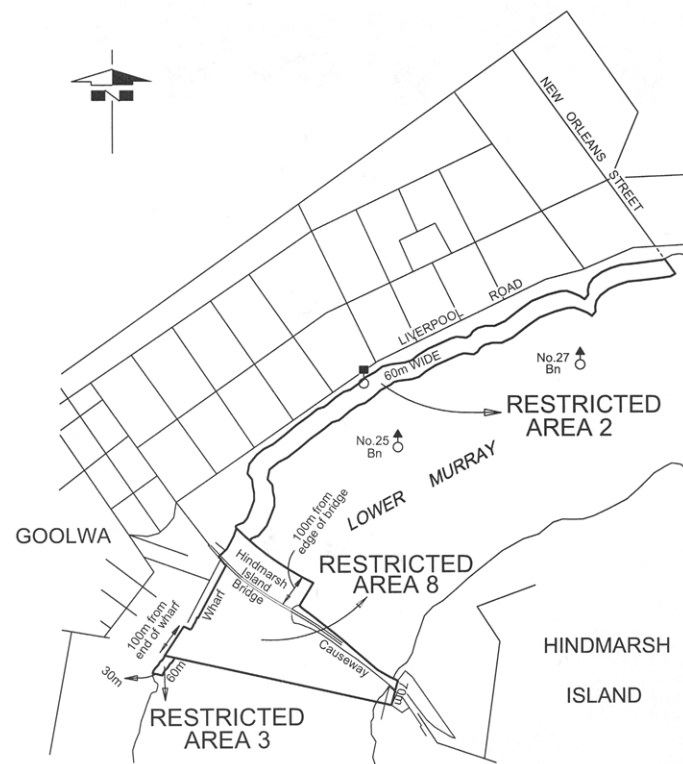
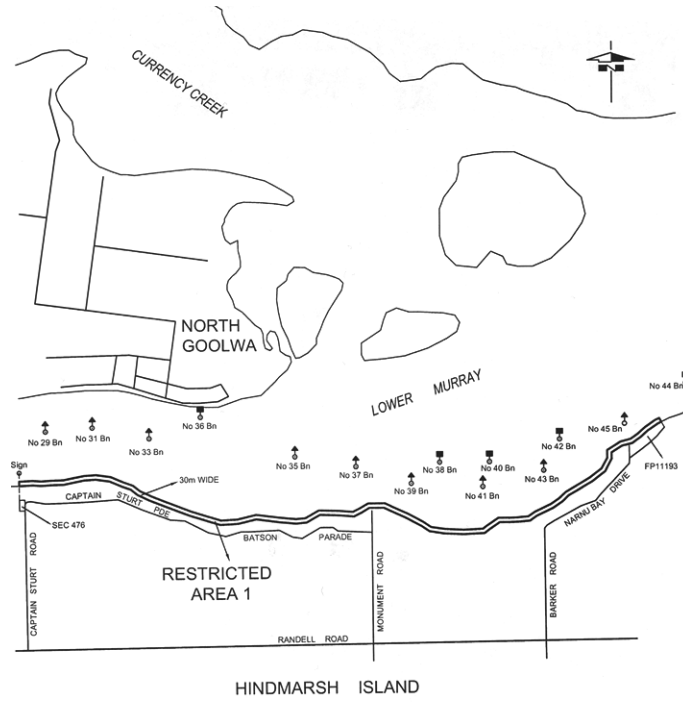
- on the north by the edge of the water on the southern side of Hindmarsh Island;
- on the west by a line bearing 030° (true) from No 4 beacon;
- on the east by a line bearing 315° (true) from the A.G.A. light on Mundoo Island;
- on the south by a line 30 m from and parallel to the edge of the water.

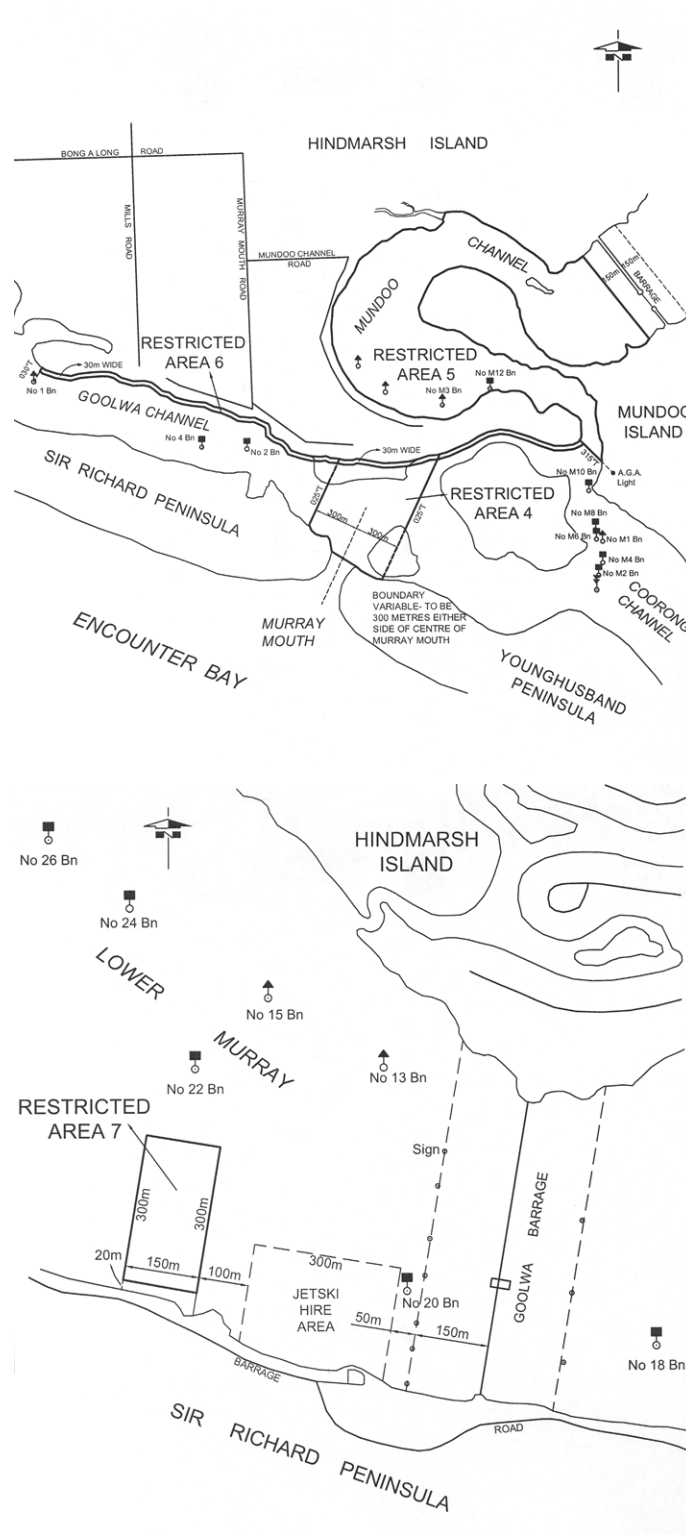
Area 7: the portion of the River Murray at Goolwa bounded as follows:

- on the east by a straight line extending 300 m northwards from a point 20 m from the southern waters edge, parallel to and 600 m upstream from the Goolwa Barrage;
- on the west by a straight line extending 300 m northwards from a point 20 m from the southern waters edge, parallel to and 750 m upstream from the Goolwa Barrage;
- on the north by a straight line joining the northern extremities of the eastern and western boundaries;
- on the south by a line parallel to and 20 m from the edge of the water.

Area 8: the portion of the River Murray at Goolwa bounded as follows:

- on the south by a straight line from a point on the edge of the water at Goolwa 100 m downstream from the southern end of the Goolwa wharf to a point on the western side of Hindmarsh Island, 70 m south of the northern corner of the Hindmarsh Island end of the causeway;
- on the east by the edge of the water on the western side of Hindmarsh Island;
- on the north by a line from a point on the edge of the water at Goolwa 100 m upstream from the northern face of the Hindmarsh Island Bridge, then parallel to the northern face of the Bridge to the point at which that line intersects a line perpendicular to the Bridge extending from the tip of the causeway in a generally north-easterly direction, then along the latter line to the tip of the causeway, then along the northern face of the causeway;
- on the west by the face of the Goolwa wharf and the edge of the water.

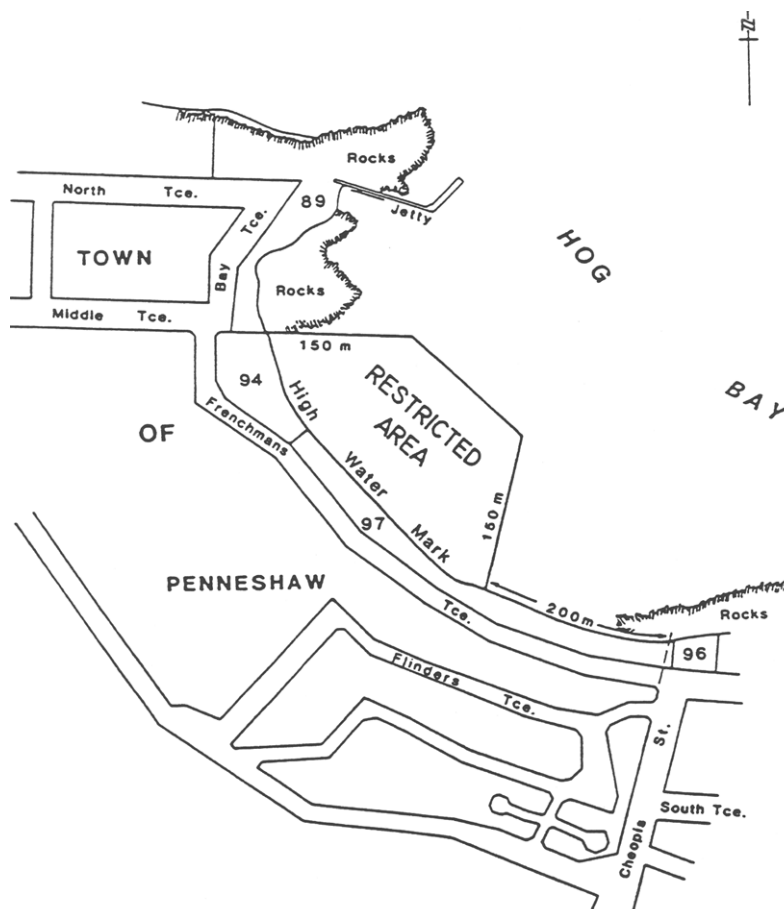




Hog Bay

The portion of the sea at Hog Bay on Kangaroo Island bounded as follows:

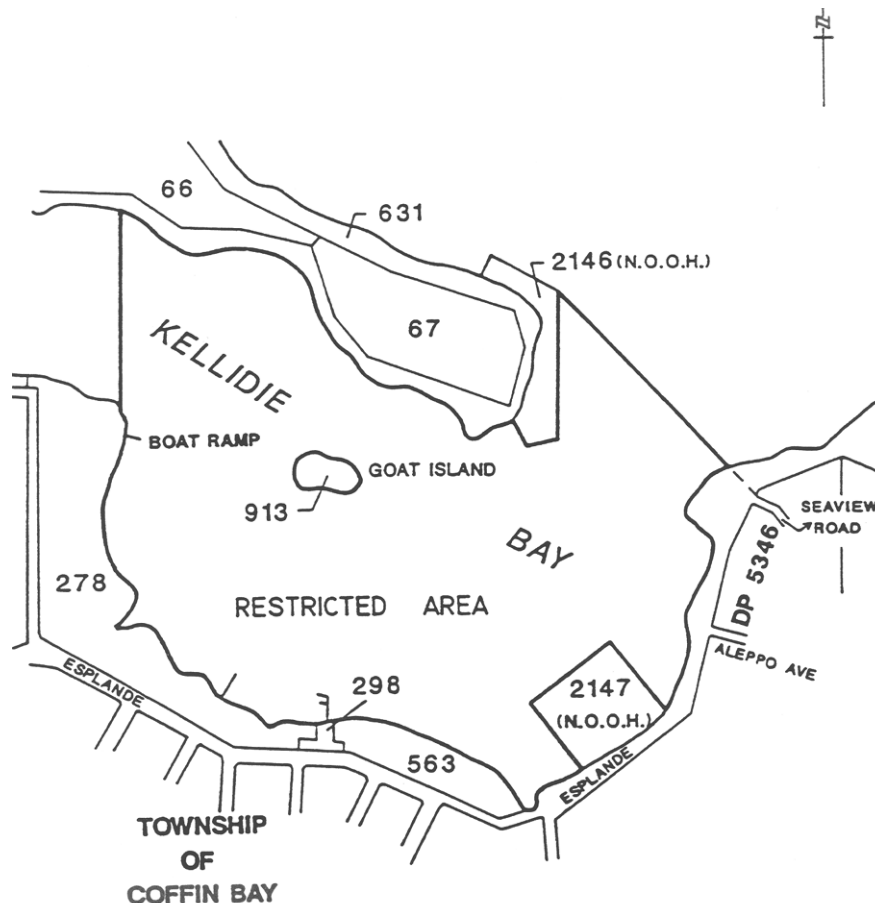
- on the north by a straight line being the prolongation of the south boundary of Middle Terrace for a distance of 150 m seawards from high water mark;
- on the east by a straight line parallel to the west boundary of Cheopis Street and commencing at a point 200 m westerly along high water mark from the prolongation of the west boundary at Cheopis Street, and extending 150 m seaward from high water mark;
- on the north-east by a straight line joining the seaward extremities of the north and east boundaries;
- on the south-west by the high water mark.



Kellidie Bay

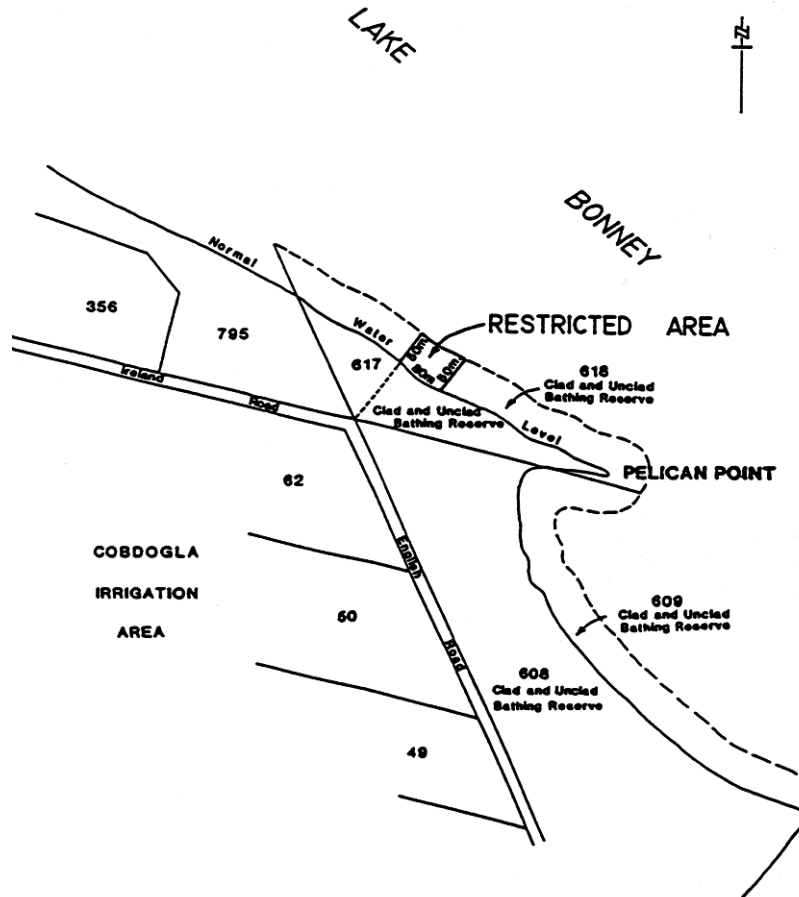
The portion of the sea at Kellidie Bay bounded as follows:

commencing at a point being the southern corner of section 2147 North Out of Hundreds, then north-west along high water mark to its intersection with the north-eastern corner of section 278 Hundred of Lake Wangary, then north along a straight line to its intersection with high water mark at section 631 Hundred of Lake Wangary, then south-west along high water mark to its intersection with the south-western corner of Section 2146 North Out of Hundreds, then south-east along the south-western boundary of Section 2146 North Out of Hundreds to its southern corner, then east along its southern boundary to its south-eastern corner and then north along its eastern boundary to its north-eastern corner, then south-east along a straight line to its intersection with high water mark at a point being the prolongation of the north boundary of Seaview Road, then south along high water mark to its intersection with the eastern corner of section 2147 North Out of Hundreds, then north-west along the north-eastern boundary to its northern corner, then south-west along the north-western boundary to its western corner, then south-east along its south-eastern boundary to the point of commencement, but excluding Goat Island (Section 913 Hundred of Lake Wangary).



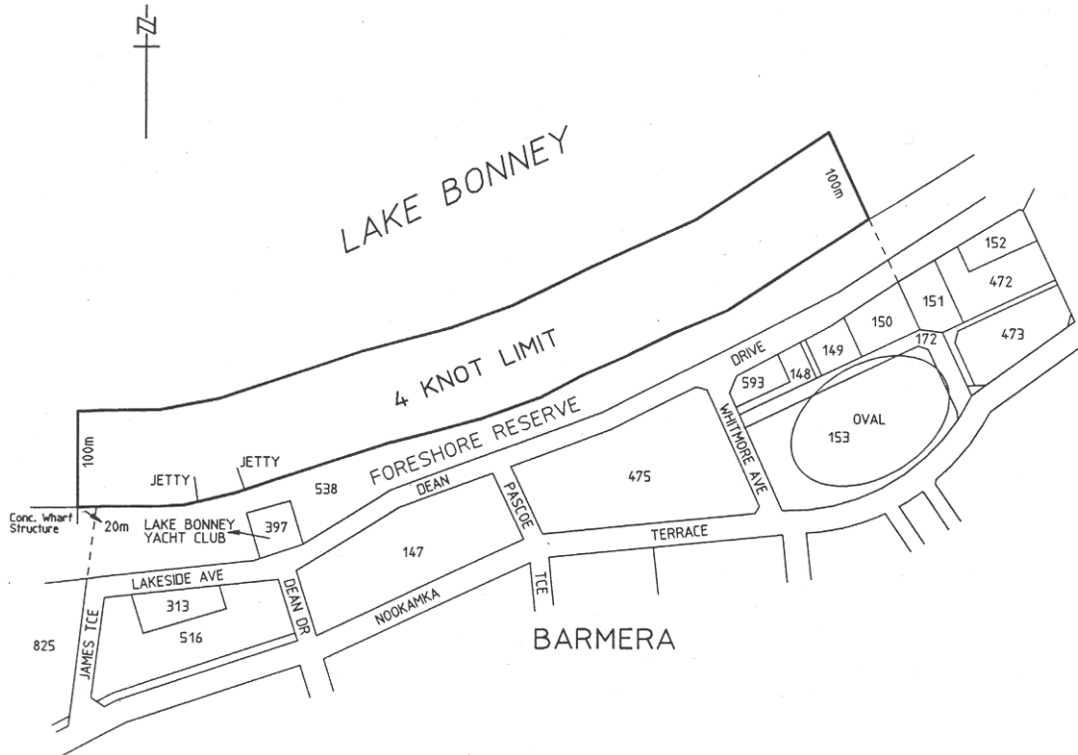
Lake Bonney (Barmera)

Area 1: the portion of Lake Bonney marked out by flame orange spherical buoys and yellow marker posts.



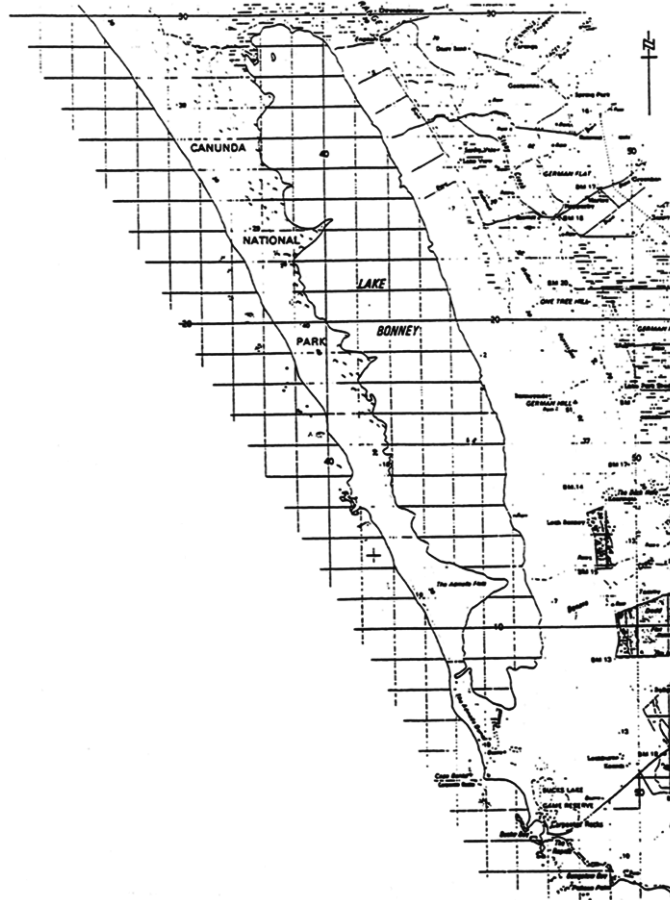
Area 2: the portion of Lake Bonney bounded as follows:

- on the north by a line 100 m from, and parallel to, the edge of the water;
- on the east by the prolongation, north-westerly, of the boundary between Section 150 and Section 151 in the Cobdogla Irrigation Area;
- on the south by the edge of the water;
- on the west by a straight line from the eastern end of the concrete wharf (approximately 20 m west of the prolongation, northerly, of the western boundary of James Terrace) and at right angles to the edge of the water.



Lake Bonney (South East)

All the waters of Lake Bonney.



Lake Fellmongery

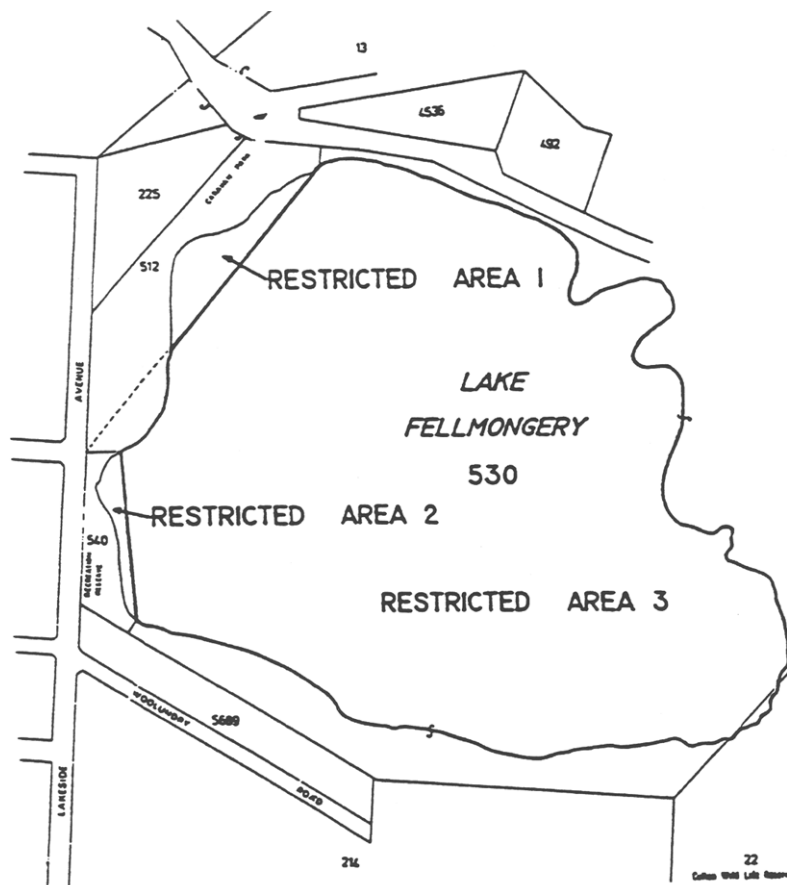
Area 1: the portion of Lake Fellmongery at Robe bounded as follows:

- on the south-east by a straight line joining the southerly extremity of the most easterly boundary of Section 512, Hundred of Waterhouse, to the intersection of the north alignment of Tobruk Avenue and the west alignment of Lakeside Avenue, the line being marked by a yellow marker post at each of its 2 intersections with the edge of the water, and by a line of marker buoys on the lake;
- on the west and north-west by the edge of the water.

Area 2: the portion of Lake Fellmongery at Robe bounded as follows:

- on the east by a straight line joining the north-east corner of Section 540, Hundred of Waterhouse, to the south-east corner of allotment 1 in Lands Titles Office Deposited Plan No 5689; the line being marked by a yellow marker post at each of its 2 intersections with the edge of the water, and by a line of marker buoys on the lake;
- on the south-west and north-west by the edge of the water.

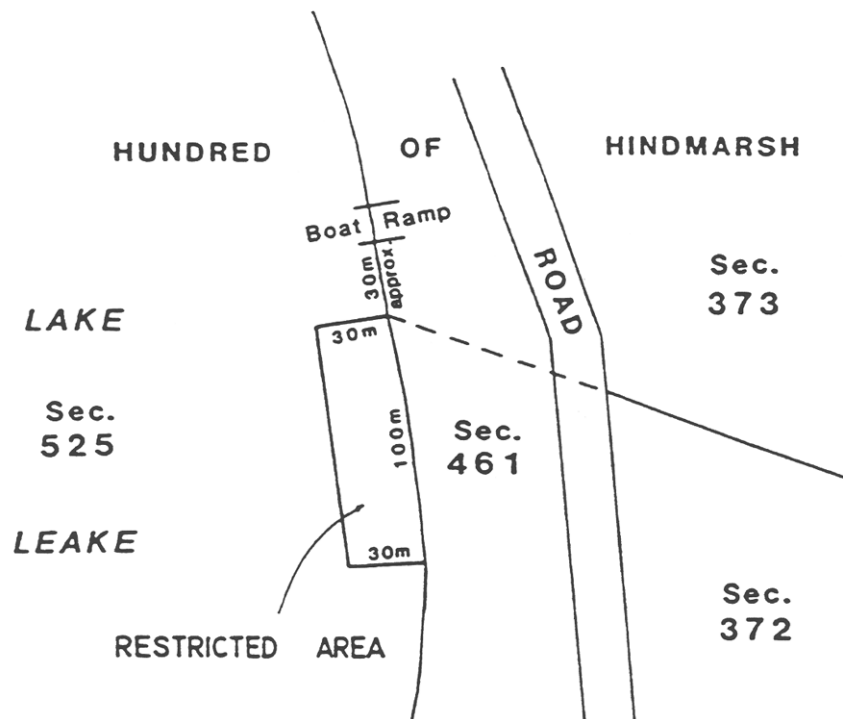
Area 3: the portion of Lake Fellmongery not included in Areas 1 and 2.



Lake Leake

The area of Lake Leake bounded as follows:

- on the north by a straight line commencing at a point, being the intersection of the east boundary of Section 525 Hundred of Hindmarsh and the north-westerly production of the north-east boundary of Section 372 Hundred of Hindmarsh, and extending westerly at right angles to the water's edge for a distance of 30 m;
- on the east by a line extending southerly along the east boundary of Section 525 Hundred of Hindmarsh from the north boundary for a distance of 100 m;
- on the south by a straight line commencing at the south extremity of the east boundary and extending westerly at right angles to the water's edge for a distance of 30 m;
- on the west by a straight line joining the west extremities of the north and south boundaries.



Mannum

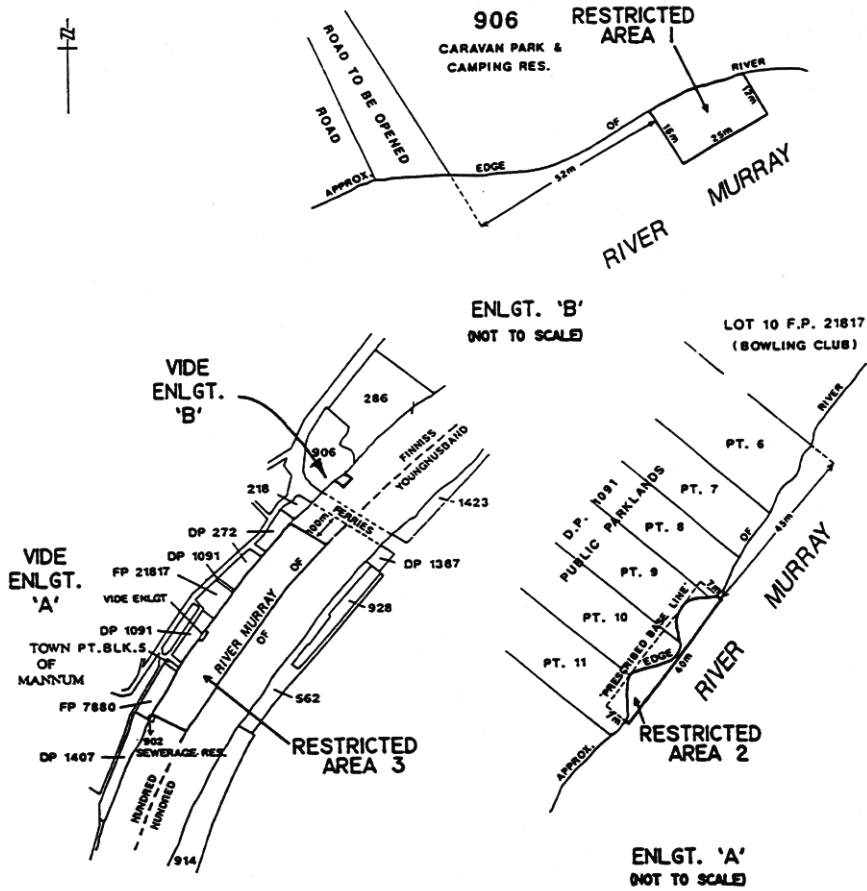
Area 1: the portion of the River Murray at Mannum bounded as follows:

- on the south-west, by a straight line from the edge of the water for a distance of 16 m in a south-easterly direction parallel to and at a perpendicular distance of 52 m north-east of the prolongation of the south-western boundary of Section 906, Hundred of Finniss;
- on the north-east, by a straight line from the edge of the water for a distance of 12 m in a south-easterly direction parallel to and at a perpendicular distance of 77 m north-east of the prolongation of the south-western boundary of Section 906, Hundred of Finniss;
- on the south-east, by a straight line joining the southern extremities of the south-western and north-eastern boundaries;
- on the north-west, by the edge of the water.

Area 2: the portion of the River Murray at Mannum bounded as follows:

- on the south-west, by a straight line in a south-easterly direction from the prescribed base line parallel to and at a perpendicular distance of 85 m south-west of the prolongation of the south-western boundary of Allotment 10 in Filed Plan 21817, Hundred of Finniss for a distance of 7 m perpendicular to the prescribed base line;
- on the north-east, by a straight line in a south-easterly direction from the prescribed base line parallel to and at a perpendicular distance of 45 m south-west of the prolongation of the south-western boundary of Allotment 10 in Filed Plan 21817, Hundred of Finniss for a distance of 7 m perpendicular to the prescribed base line;
- on the south-east, by a straight line joining the southern extremities of the south-western and north-eastern boundaries;
- on the north-west, by the edge of the water.

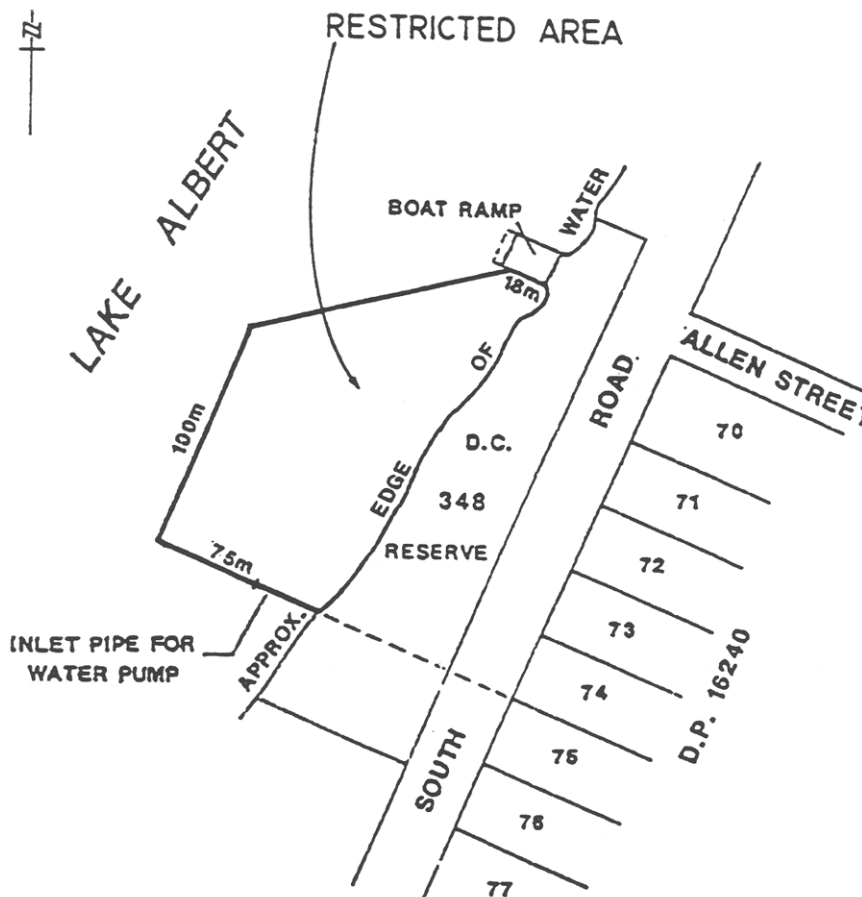
Area 3: the portion of the waters of the River Murray at Mannum delineated in bold on the plan below as Area 3.



Meningie

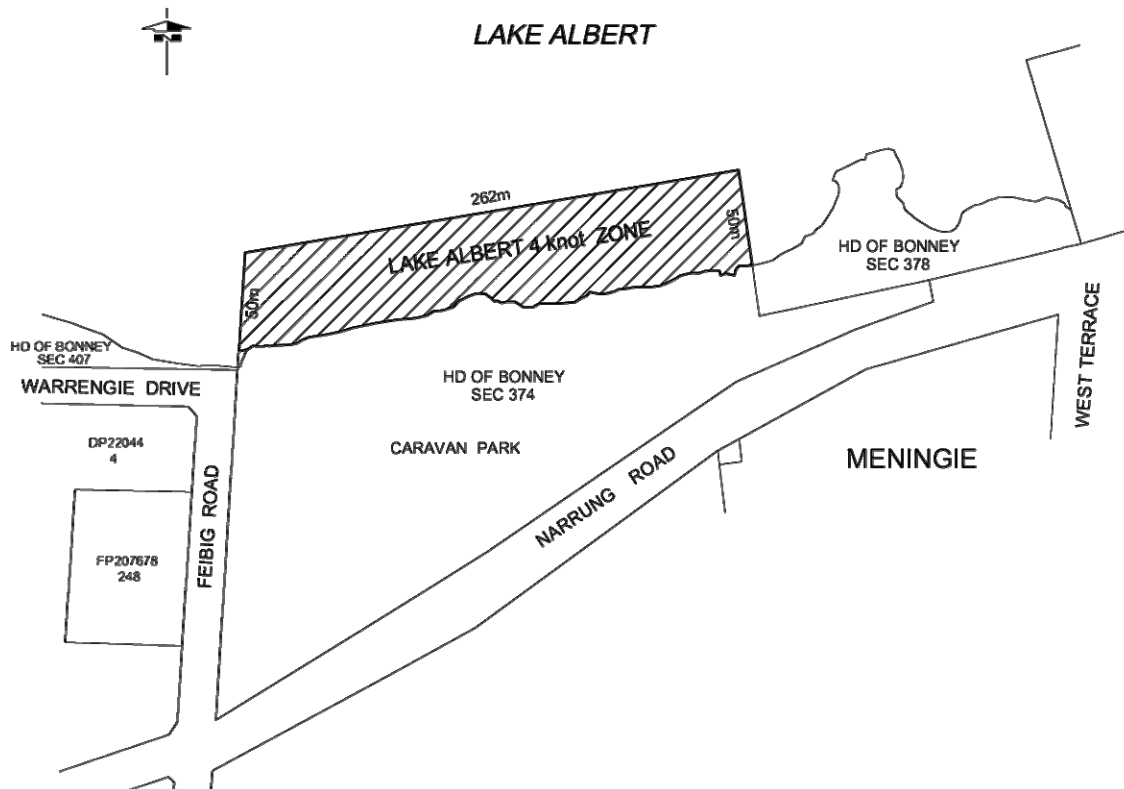
Area 1: the portion of Lake Albert at Meningie bounded as follows:

- on the south, by a straight line being the prolongation of the north boundary of Allotment 75 in Development Plan 16240, Hundred of Bonney commencing from the water's edge and extending in a westerly direction for a distance of 75 m;
- on the west, by a straight line perpendicular to the south boundary commencing at its western extremity and extending in a north-easterly direction for a distance of 100 m;
- on the north-east, by the southern side of the Meningie boat ramp commencing at the water's edge and extending in a north-westerly direction for a distance of 18 m;
- on the north-west, by a straight line joining the northern extremity of the west boundary with the western extremity of the north-east boundary;
- on the east, by the water's edge.



Area 2: the portion of Lake Albert at Meningie bounded as follows:

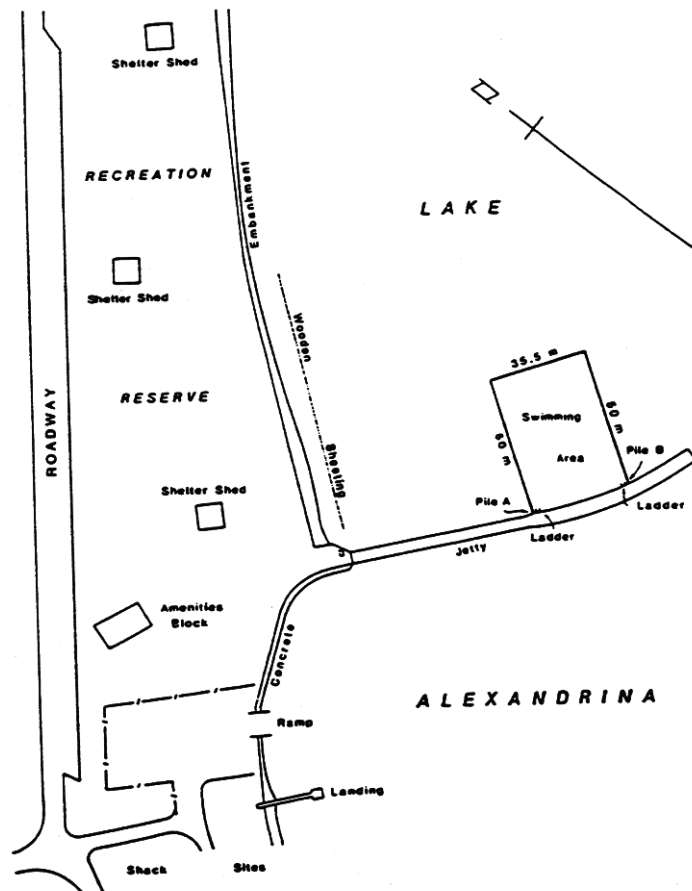
- on the west, by a straight line being the prolongation of the western boundary of section 374 Hundred of Bonney commencing from the water's edge and extending in a northerly direction for a distance of 50 m;
- on the east, by a straight line being the prolongation of the western boundary of section 378 Hundred of Bonney commencing from the water's edge and extending in a northerly direction for a distance of 50 m;
- on the north, by a straight line joining the northern extremity of the western boundary with the northern extremity of the eastern boundary;
- on the south, by the water's edge.



Milang

The portion of Lake Alexandrina at Milang bounded as follows:

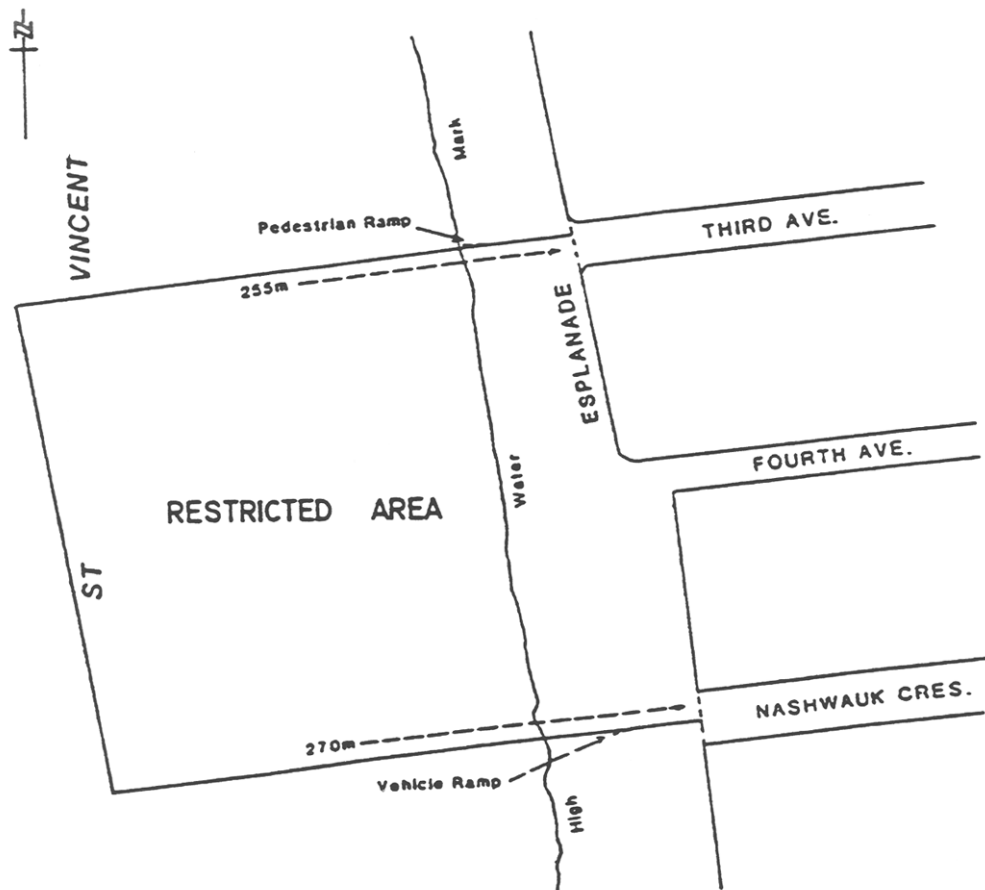
- on the north-east by a straight line parallel to and 50 m from a straight line joining piles A and B;
- on the north-west by a straight line commencing at pile A then heading north-east to intersect the north-eastern boundary at right angles;
- on the south-east by a straight line commencing at pile B then heading north-east to intersect the north-eastern boundary at right angles;
- on the south-west by the north-eastern face of the jetty between piles A and B.



Moana

The portion of the sea at Moana bounded as follows:

- on the north by a straight line west of and parallel to the north side of Third Avenue, that line passing through the south extremity of the pedestrian ramp to the beach and extending for 255 m west of the east alignment of the Esplanade;
- on the south by a straight line west of and parallel to the south side of the west end of Nashwauk Crescent, that line passing through the north extremity of the vehicle ramp to the beach and extending for 270 m west of the east alignment of the Esplanade;
- on the west by a straight line joining the west extremities of the north and south boundaries;
- on the east by High Water Mark.



Morgan and Cadell

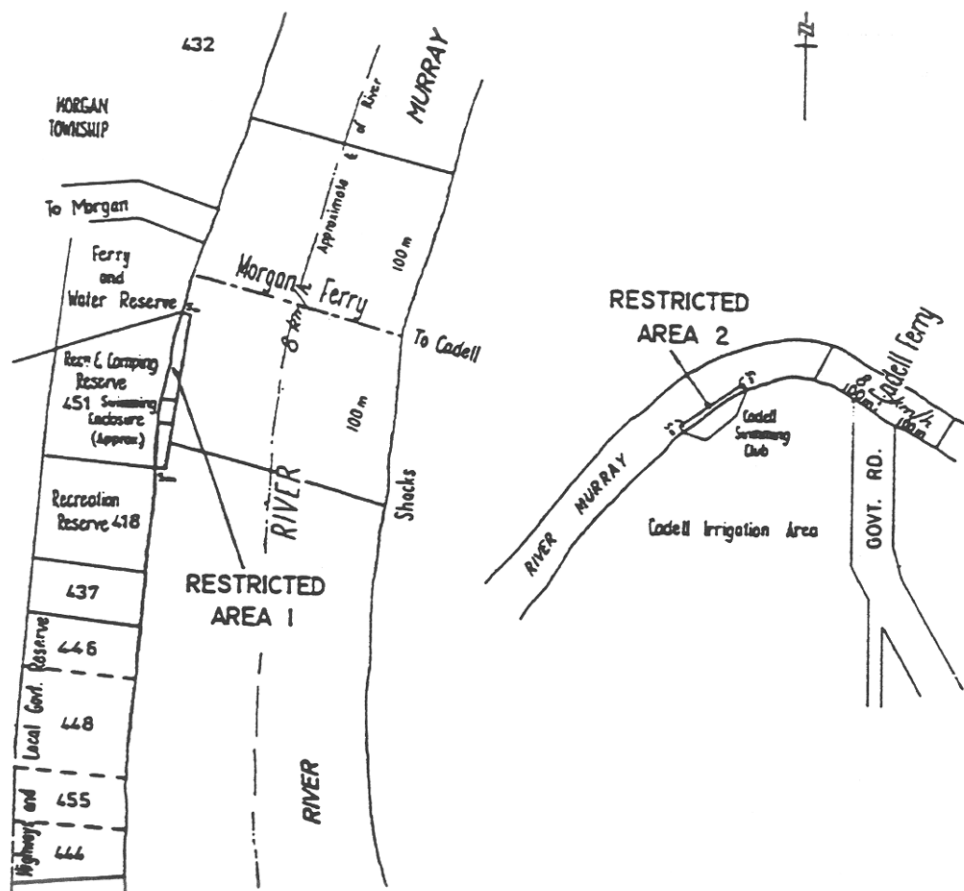
Area 1: the portion of the River Murray at Morgan bounded as follows:

- on the north by a straight line extending easterly from the yellow marker post situated on the west bank of the River Murray at the north-east corner of Section 451, Hundred of Eba, for 5 m beyond and at right angles to the edge of the water;

- on the south by a straight line extending easterly from the yellow marker post situated on the west bank of the River Murray at the south-east corner of Section 451, Hundred of Eba, for 5 m beyond and at right angles to the edge of the water;
- on the east by a straight line joining the easterly extremities of the north and south boundaries;
- on the west by the edge of the water between those 2 yellow marker posts.

Area 2: the portion of the River Murray at Cadell bounded as follows:

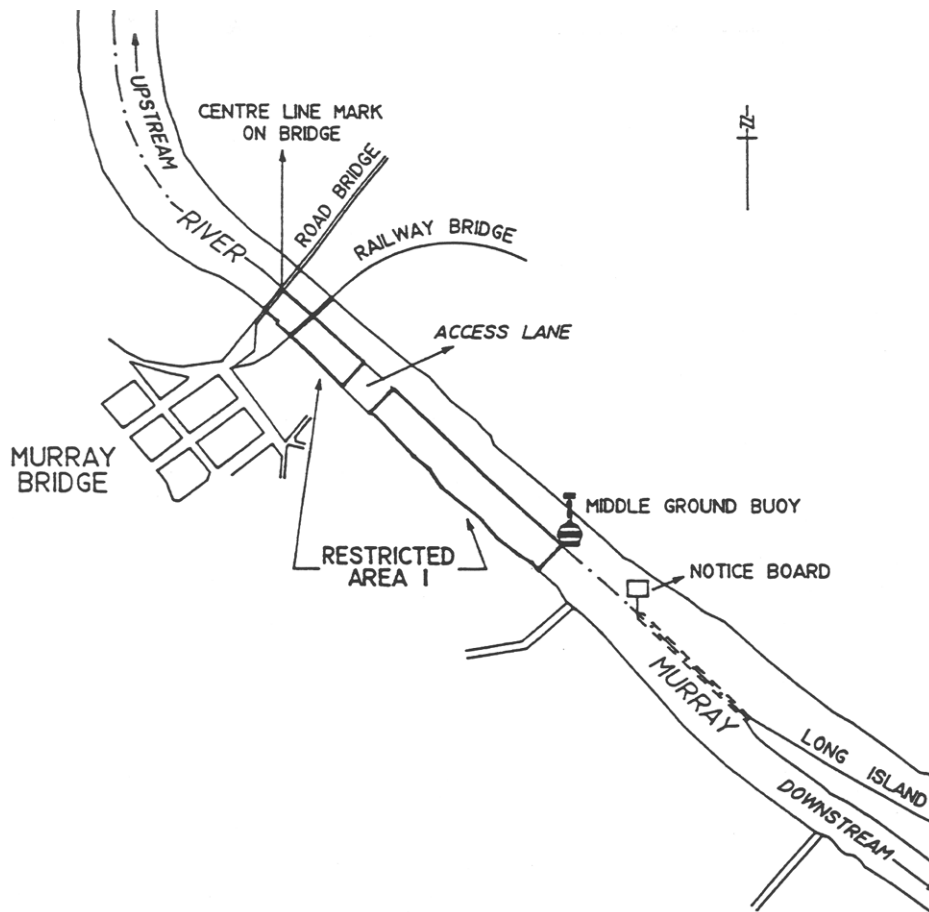
- on the south-east by the edge of the water between the 2 yellow marker posts situated on the south-east bank of the River Murray, the upstream post being approximately 160 m west of the north-west corner of the Government Road immediately south of the Cadell ferry crossing, and the downstream post being approximately 90 m south-west of the upstream post;
- on the north-east by a straight line extending north-westerly from the upstream yellow marker post of the 2 posts previously defined, for 5 m beyond and at right angles to the edge of the water;
- on the south-west by a straight line extending north-westerly from the downstream yellow marker post of the 2 posts previously defined, for 5 m beyond and at right angles to the edge of the water;
- on the north-west by a straight line joining the north-westerly extremities of the north-east and south-west boundaries.



Murray Bridge

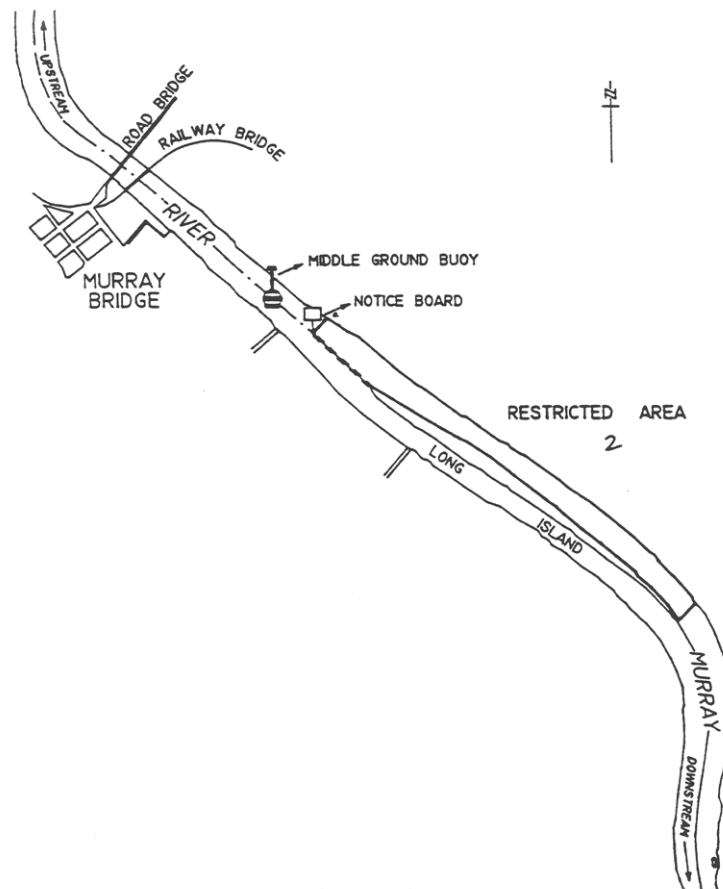
Area 1: the portion of the River Murray at Murray Bridge bounded as follows:

- on the north-east by the centre line of the river;
- on the south-east by a straight line extending south-west from the middle ground buoy to the south-west from the middle ground buoy to the south-west bank of the river;
- on the north-west by a line extending from the red mark C on the upstream side of the road traffic bridge, south-west along the line of the north-west (upstream) side of the road traffic bridge to the south-west bank of the river, and on the south-west by the south-west bank of the river, except for an accessway between the south-west bank of the river and the centre line of the river extending north-west for a distance of 100 m from a line being the north-west boundary of allotment 30 in Lands Titles Registration Office Plan No 1443.



Area 2: the portion of the River Murray at Murray Bridge on the north-east side of Long Island bounded as follows:

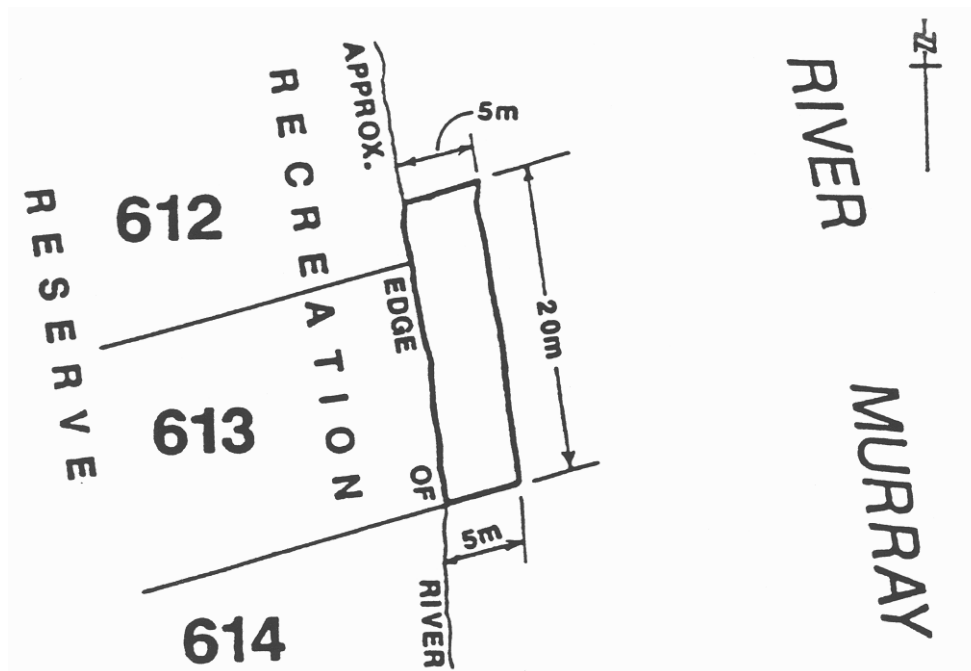
- on the north-east by the north-east bank of the river;
- on the south-east by a straight line from the south-east (downstream) extremity of Long Island north-east to the north-east bank of the river;
- on the north-west by a straight line from the notice board north-east to the north-east bank of the river;
- on the south-west by a straight line from the notice board to the north-west (upstream) end of Long Island, then generally south-east along the north-east side of Long Island to its south-east (downstream) extremity.



Murray Bridge (bathing)

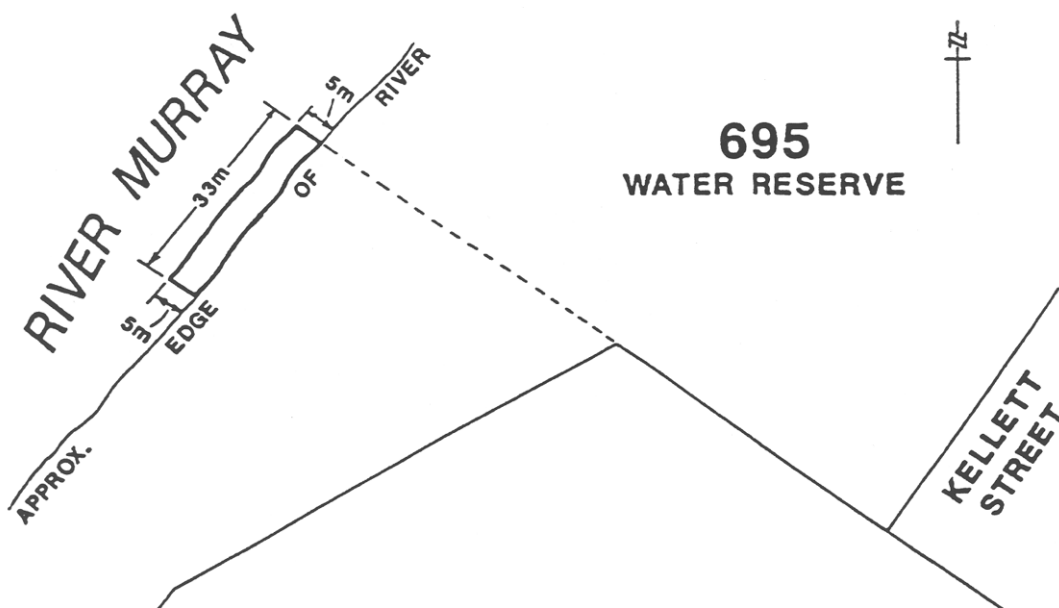
Area 1: the portion of the River Murray at Murray Bridge (Wellington Reserve) bounded as follows:

- on the south by a line being the prolongation of the southern boundary of Lot 613, Town of Wellington, easterly for a distance of 5 m from the waters edge;
- on the north by a line running easterly from the waters edge for a distance of 5 m and at a distance of 20 m in a northerly direction from the southern boundary of Lot 613, Town of Wellington;
- on the east by a line joining the eastern extremities of the north and south boundaries and parallel to the waters edge;
- on the west by the waters edge.



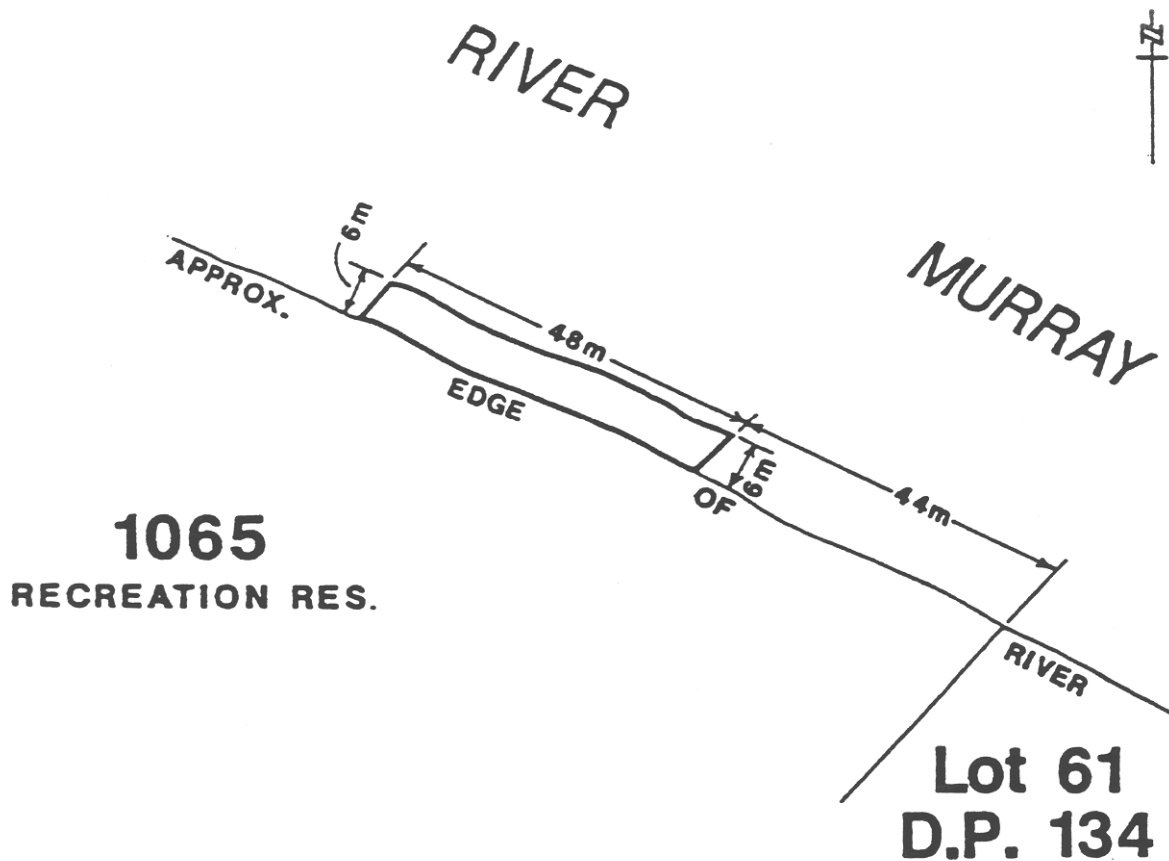
Area 2: the portion of the River Murray at Murray Bridge (Bells Landing—Monteith) bounded as follows:

- on the north-east by a line being the prolongation of a boundary of Section 695 on line with the south-western end of Kellett Street, Hundred of Burdett, westerly for a distance of 5 m from the waters edge;
- on the south-west by a straight line running north-westerly from the waters edge for a distance of 5 m parallel to and at a distance of 30 m from the north-east boundary;
- on the north-west by a line joining the western extremities of the north-east and south-west boundaries and parallel to the waters edge;
- on the south east by the waters edge.



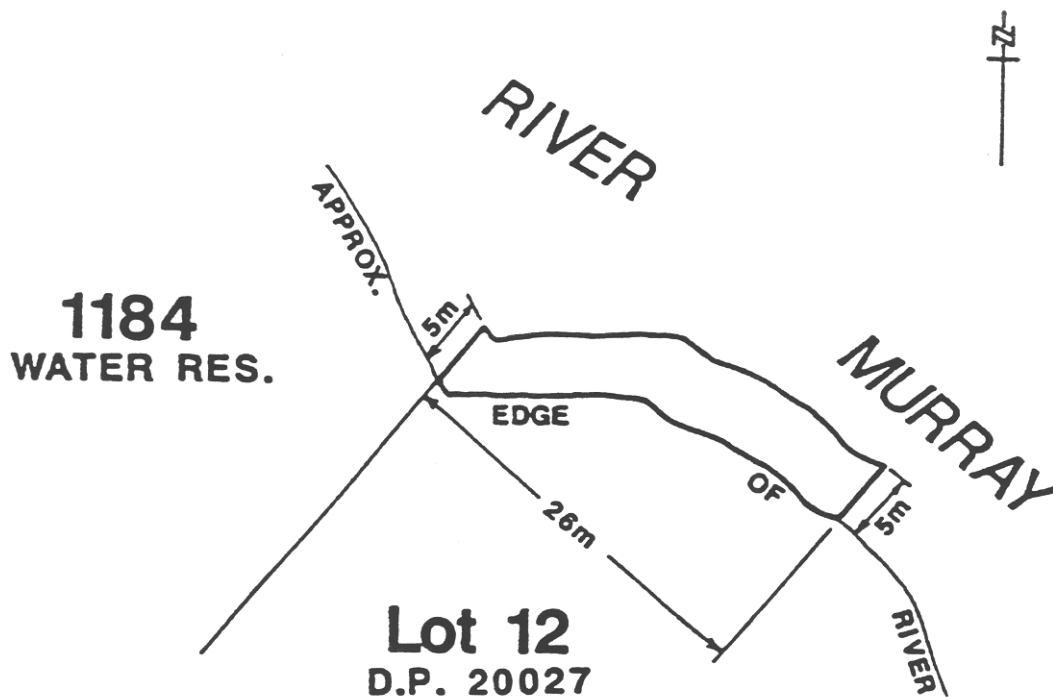
Area 3: the portion of the River Murray at Murray Bridge (Swanport Reserve) bounded as follows:

- on the south-east by a straight line running north-easterly from the waters edge for a distance of 6 m at a distance of 44 m in a north-westerly direction along the waters edge from the north-eastern corner of Section 1065, Hundred of Mobilong;
- on the north-west by a straight line running north-easterly from the waters edge for a distance of 6 m parallel to and at a distance of 92 m in a north-westerly direction along the waters edge from the north-eastern boundary of Section 1065, Hundred of Mobilong;
- on the north-east by a line joining the eastern extremities of the south-east and north-west boundaries and parallel to the waters edge;
- on the south-west by the waters edge.



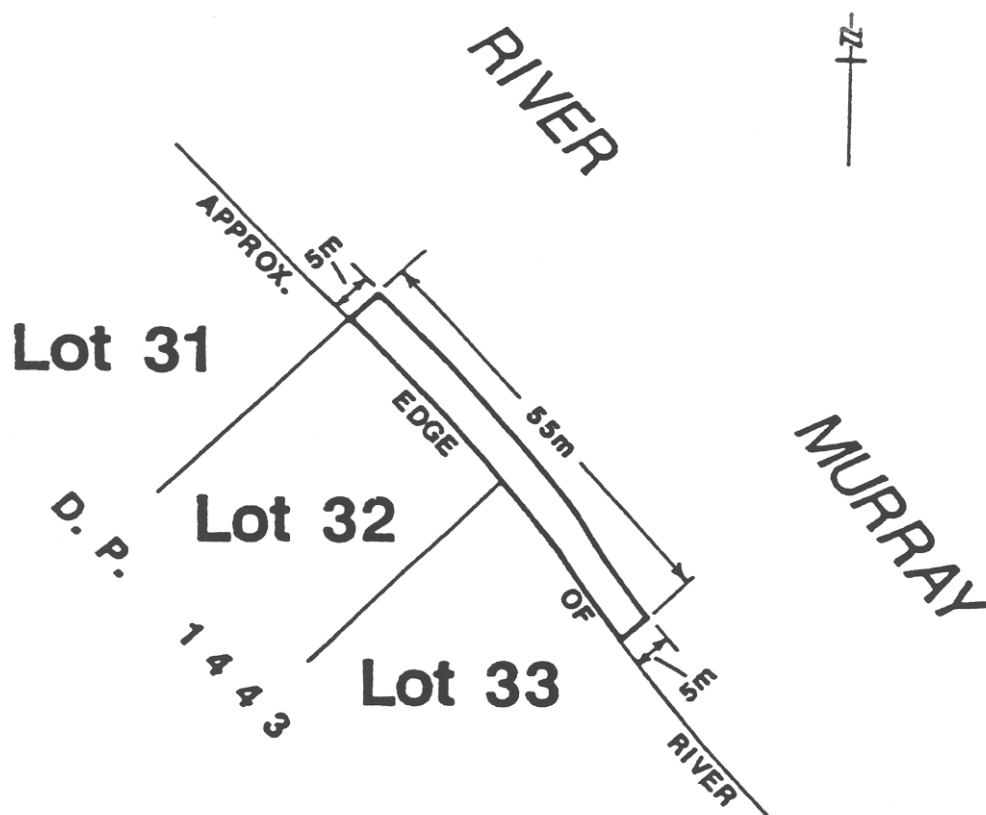
Area 4: the portion of the River Murray at Murray Bridge (Long Island Reserve) bounded as follows:

- on the north-west by a line being the prolongation of the north-western boundary of Lot 12, Deposited Plan No 20027, north-easterly for a distance of 5 m from the waters edge;
- on the south-east by a straight line running north-easterly from the waters edge for a distance of 5 m at a distance of 26 m in a south-easterly direction from the north-western corner of Lot 12, Deposited Plan No 20027;
- on the north-east by a line joining the north-eastern extremities of the north-west and south-east boundaries and parallel to the waters edge;
- on the south-east by the waters edge.



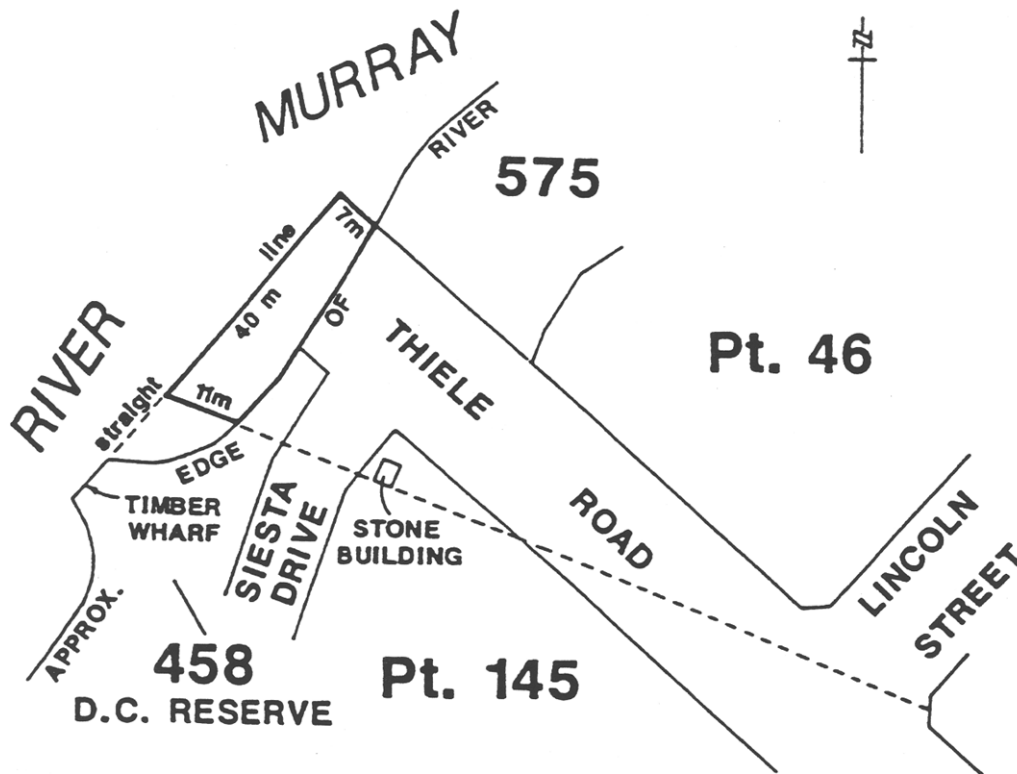
Area 5: the portion of the River Murray at Murray Bridge (Sturt Reserve) bounded as follows:

- on the north-west by a line being the prolongation of the north-western boundary of Lot 32, Deposited Plan No 1443, north-easterly for a distance of 5 m from the waters edge;
- on the south-east by a straight line running north-easterly from the waters edge for a distance of 5 m at a distance of 55 m in a south-easterly direction along the waters edge from the northern corner of Lot 32, Deposited Plan No 1443;
- on the north-east by a line joining the north-eastern extremities of the north-west and south-east boundaries and parallel to the waters edge;
- on the south-east by the waters edge.



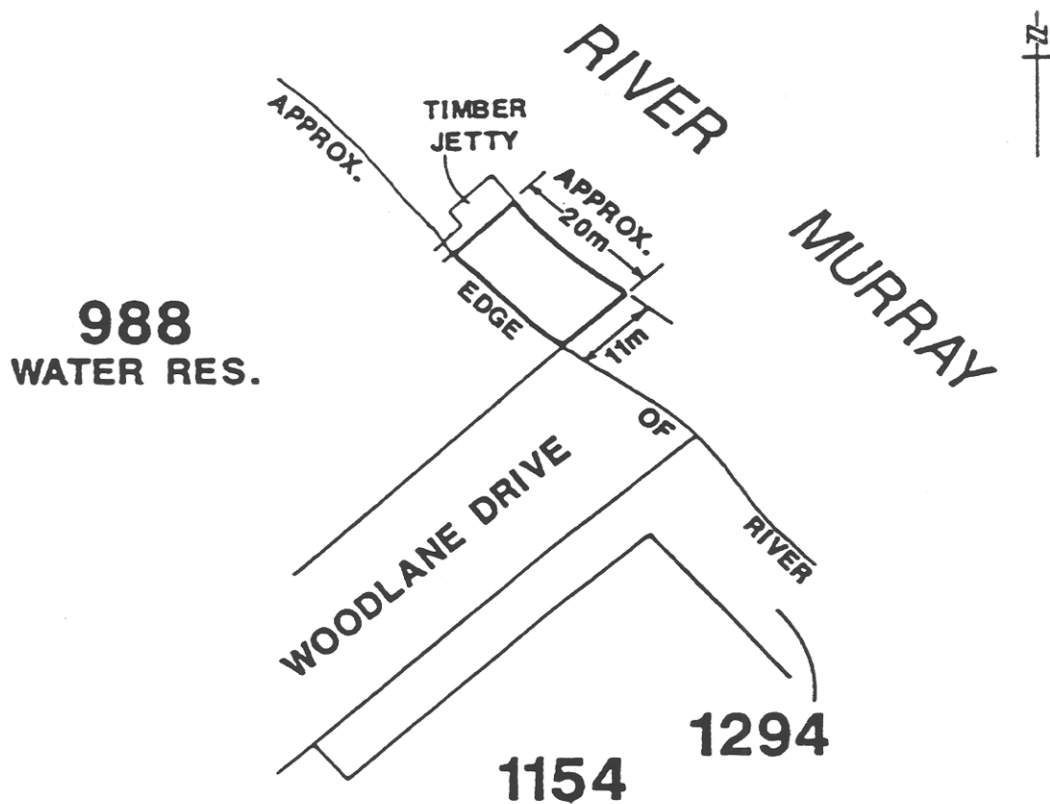
Area 6: the portion of the River Murray at Murray Bridge (Thiele Reserve) bounded as follows:

- on the north-east by a line being the prolongation of the south-western boundary of Section 575, Hundred of Burdett, north-westerly for a distance of 7 m from the waters edge;
- on the south-west by a straight line running north-westerly from the waters edge for a distance of 11 m on the prolongation of a line joining the south-eastern corner of Lincoln Street with the south-western wall of the stone building on the south-eastern corner of the intersection of Siesta Drive and Thiele Road, Hundred of Burdett;
- on the north-west by a line joining the north-western extremities of the north-east and south-west boundaries (being part of a straight line joining the north-western extremity of the north-eastern boundary with the north-eastern tip of the Timber Wharf in Section, 458, Hundred of Burdett);
- on the south-east by the waters edge.



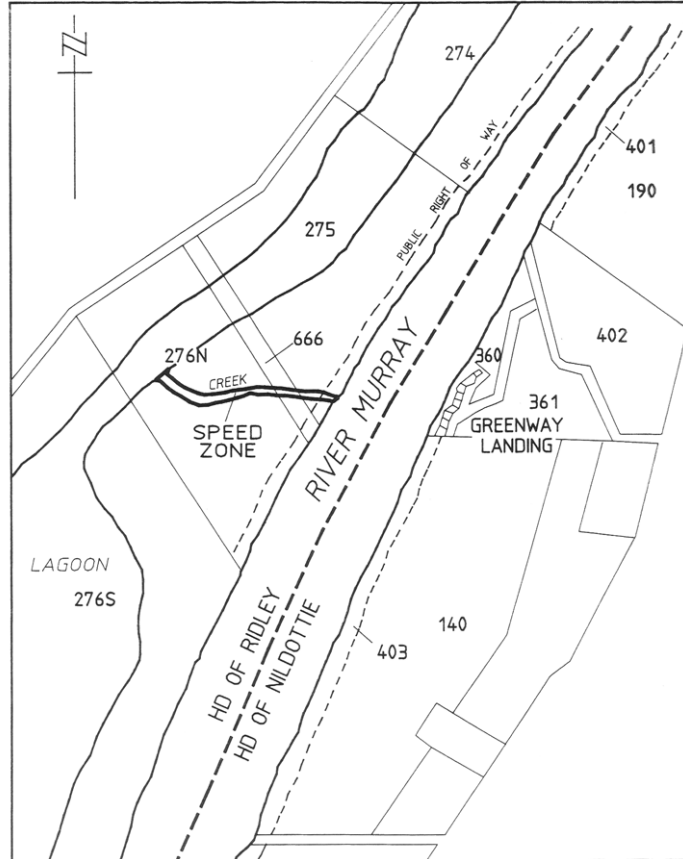
Area 7: the portion of the River Murray at Murray Bridge (Woodlane Reserve) bounded as follows:

- on the south-east by a line being the prolongation of the south-eastern boundary of Section 988, Hundred of Mobilong, north-easterly for a distance of 11 m from the waters edge;
- on the north-west by the south-eastern face of the Timber Jetty approximately 20 m north-west along the waters edge from the south-eastern boundary of Section 988, Hundred of Mobilong;
- on the north-east by a line joining the north-eastern extremities of the north-west and south-east boundaries and parallel to the waters edge;
- on the south-east by the waters edge.



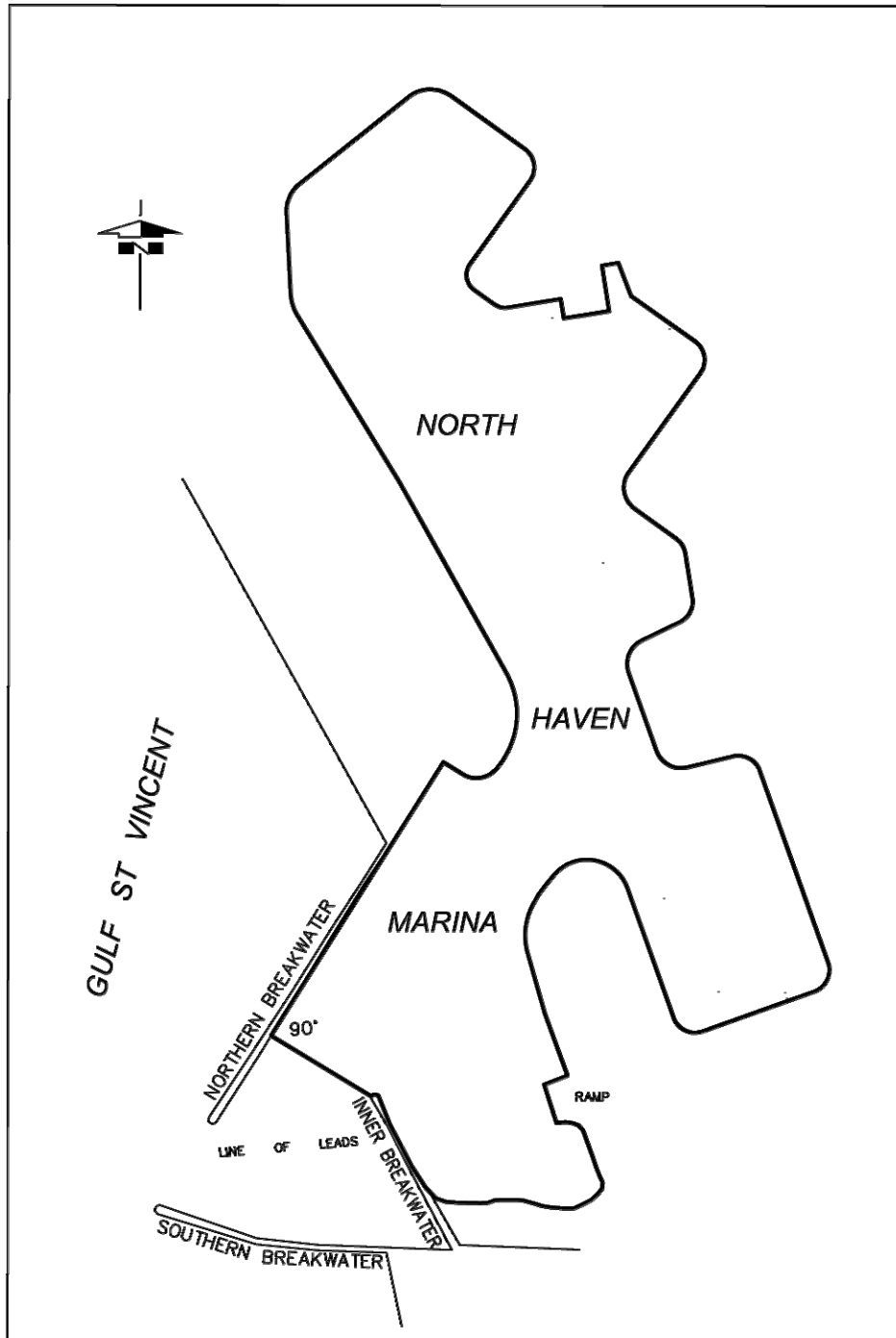
Nildottie

The creek flowing between the River Murray and the Lagoon through sections 275, 666 and 276N, Hundred of Ridley, delineated in bold on the plan below:



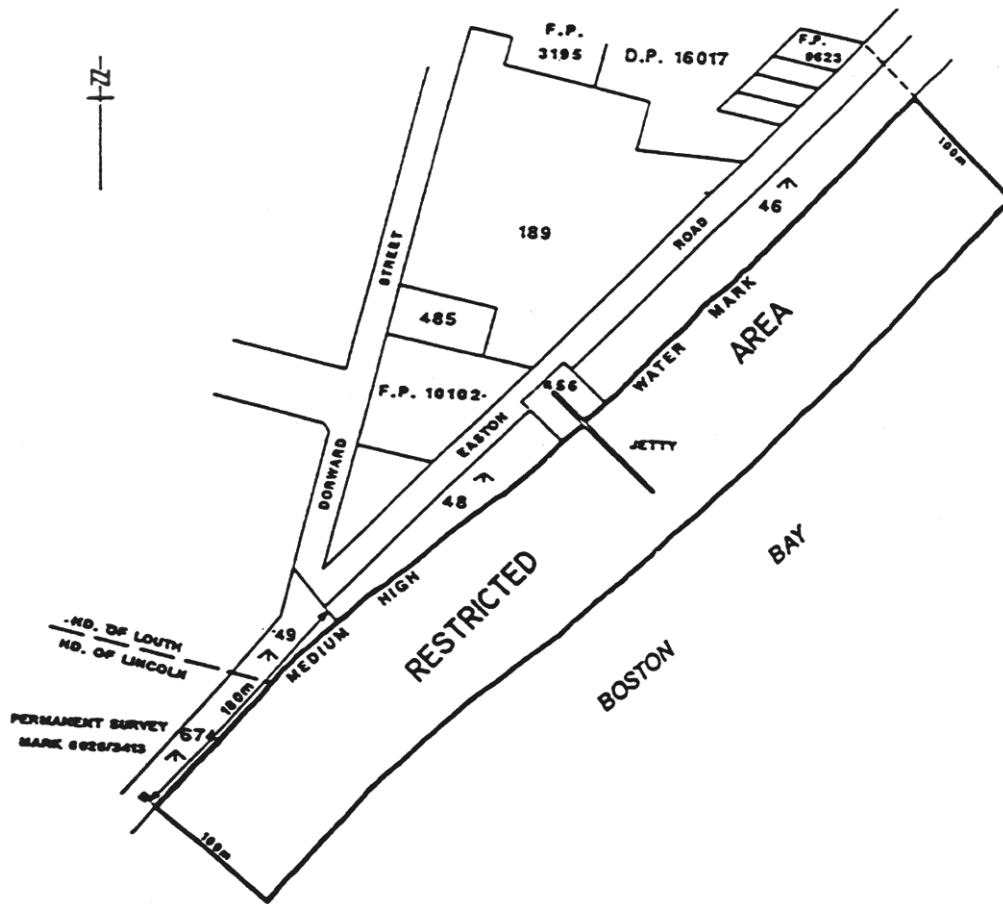
North Haven Marina

The portion of the waters of the North Haven marina bounded by and to the east of a line commencing at the seaward end of the inner breakwater and extending in a north-westerly direction to intersect perpendicularly with the northern breakwater.



North Shields

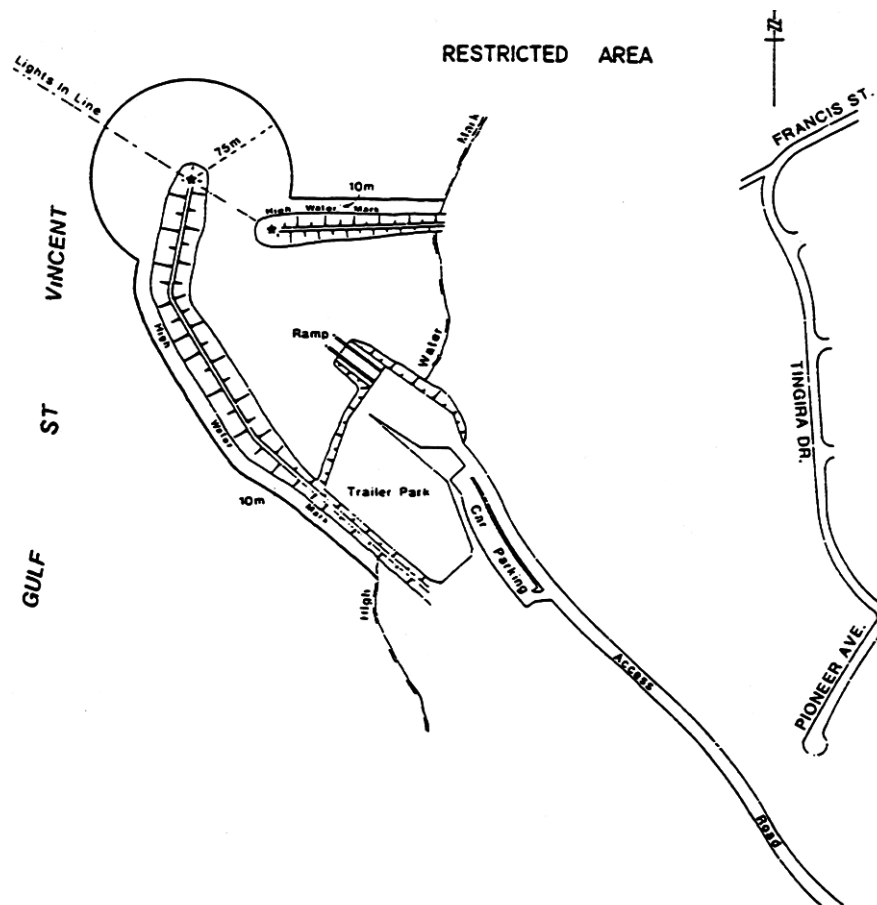
The portion of the waters of the sea at North Shields delineated in bold on the plan below:



O'Sullivan Beach

The area of the sea at O'Sullivan Beach bounded as follows:

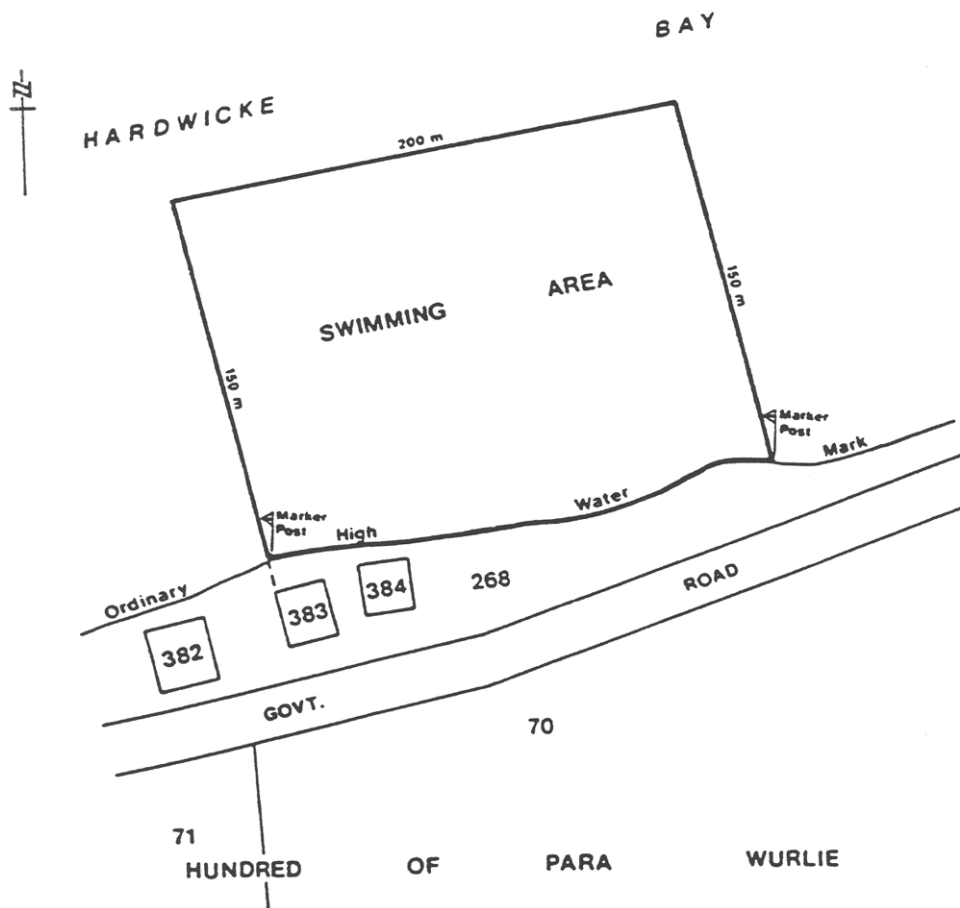
commencing at a point being the intersection with high water mark of a line 10 m north of and parallel to high water mark on the north side of the inner breakwater, then west along the said line to its intersection with the circumference of a circle of 75 m radius centred on the light at the seaward end of the outer breakwater, then anti-clockwise around the said circumference to its intersection with a line 10 m south-west of and parallel to high water mark on the south-west side of the outer breakwater, then south-east along that line to its intersection with high water mark, then along high water mark to the point of commencement.



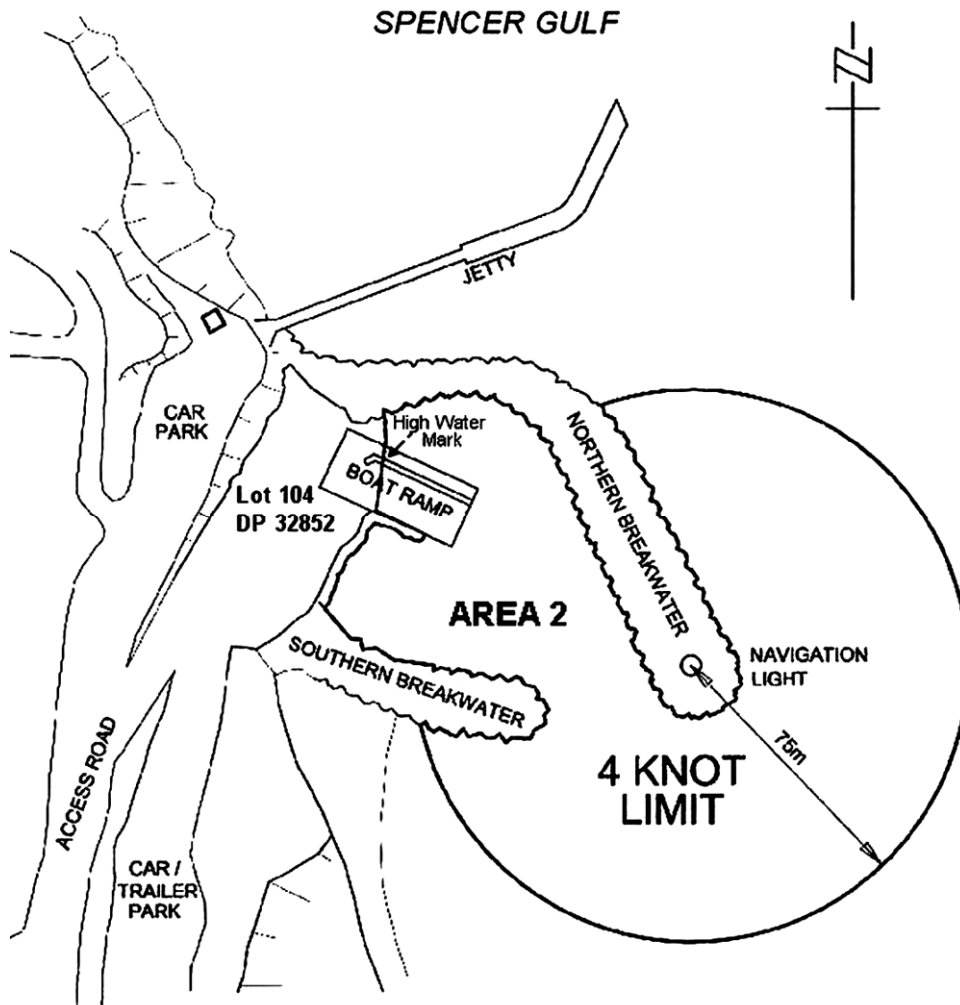
Point Turton

Area 1: the portion of the sea at Hardwicke Bay in Spencer Gulf near Point Turton bounded as follows:

- on the west by a straight line being the prolongation northerly of the west boundary of Section 383, Hundred of Para Wurlie commencing at a point at which that line intersects high water mark (marked by a marker post) and extending 150 m seaward;
- on the east by a straight line parallel to and 200 m to the east of the west boundary of Area 1 described above commencing at a point at which that line intersects high water mark (marked by a marker post) and extending 150 m seaward;
- on the north by a straight line joining the northernmost extremities of the east and west boundaries;
- on the south by high water mark.



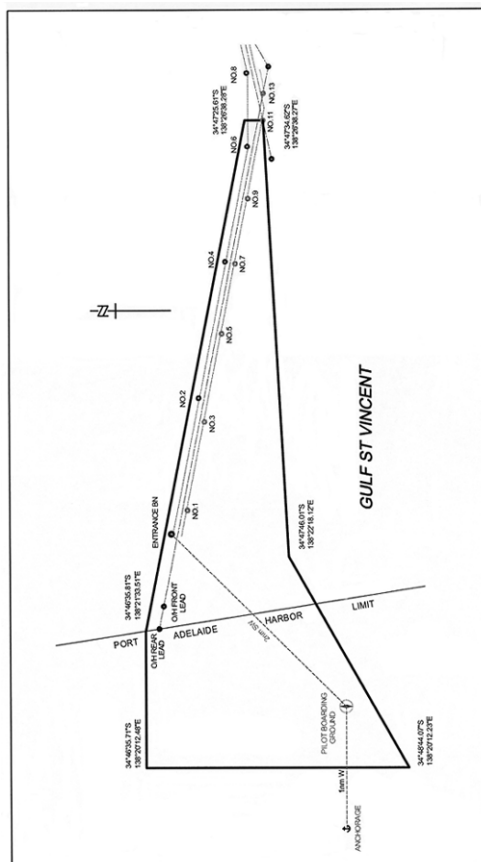
Area 2: the portion of the waters of Hardwicke Bay in Spencer Gulf near Point Turton described as "Area 2" on the plan below:



Port Adelaide

The portion of the waters of Port Adelaide and adjacent waters bounded as follows:

- on the north-east by a straight line commencing at a point at latitude $34^{\circ}46'35.81''$ south, longitude $138^{\circ}21'33.51''$ east and extending to a point at latitude $34^{\circ}47'25.61''$ south, longitude $138^{\circ}26'38.28''$ east;
- on the east by a straight line commencing at a point at latitude $34^{\circ}47'25.61''$ south, longitude $138^{\circ}26'38.28''$ east and extending to a point at latitude $34^{\circ}47'34.62''$ south, longitude $138^{\circ}26'38.27''$ east;
- on the south by a straight line commencing at a point at latitude $34^{\circ}47'34.62''$ south, longitude $138^{\circ}26'38.27''$ east and extending to a point at latitude $34^{\circ}47'46.01''$ south, longitude $138^{\circ}22'18.12''$ east;
- on the south-west by a straight line commencing at a point at latitude $34^{\circ}47'46.01''$ south, longitude $138^{\circ}22'18.12''$ east and extending to a point at latitude $34^{\circ}48'44.07''$ south, longitude $138^{\circ}20'12.23''$ east;
- on the west by a straight line commencing at a point at latitude $34^{\circ}48'44.07''$ south, longitude $138^{\circ}20'12.23''$ east and extending to a point at latitude $34^{\circ}46'35.71''$ south, longitude $138^{\circ}20'12.48''$ east;
- on the north by a straight line commencing at a point at latitude $34^{\circ}46'35.71''$ south, longitude $138^{\circ}20'12.48''$ east and extending to a point at latitude $34^{\circ}46'35.81''$ south, longitude $138^{\circ}21'33.51''$ east.

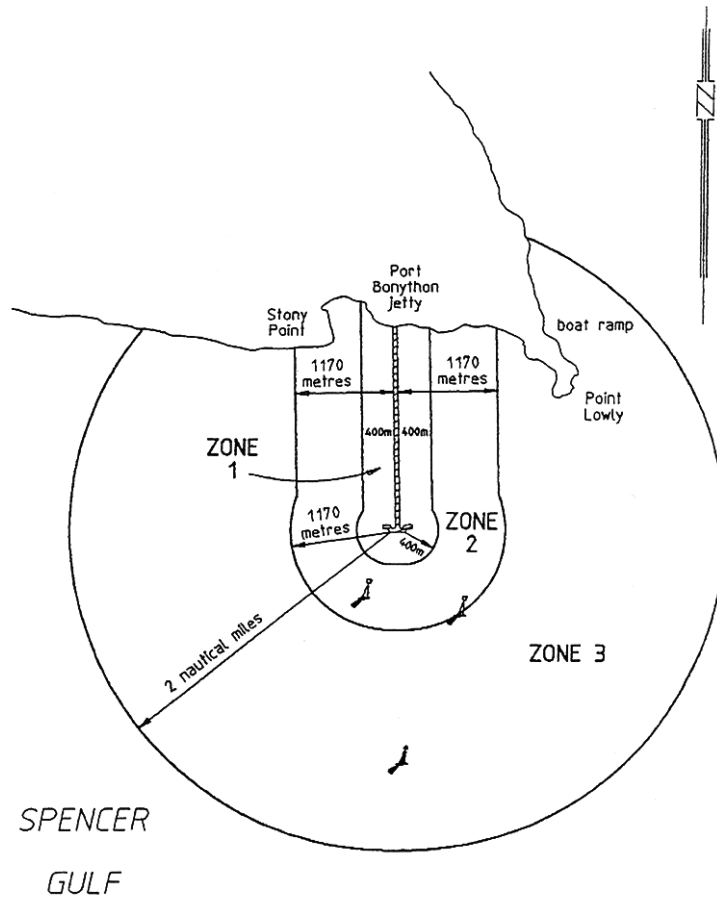


Port Bonython

Zone 1: waters within 400 m of Port Bonython jetty.

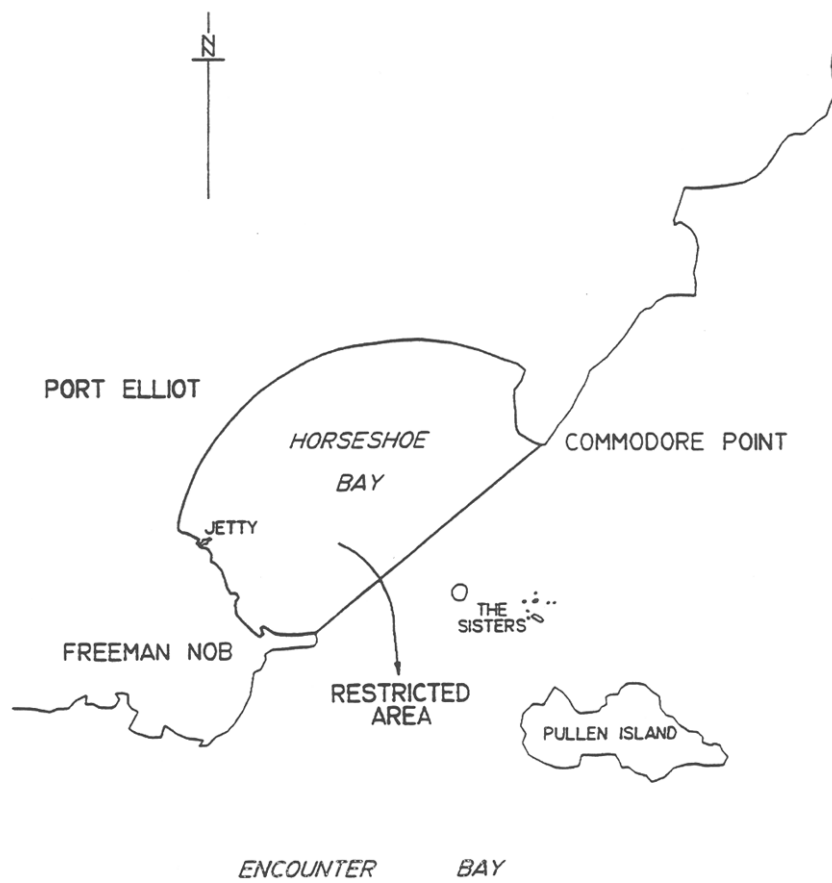
Zone 2: waters within 1 170 m of Port Bonython jetty.

Zone 3: waters within 2 nautical miles of the berth operations signal at the seaward end of Port Bonython jetty.



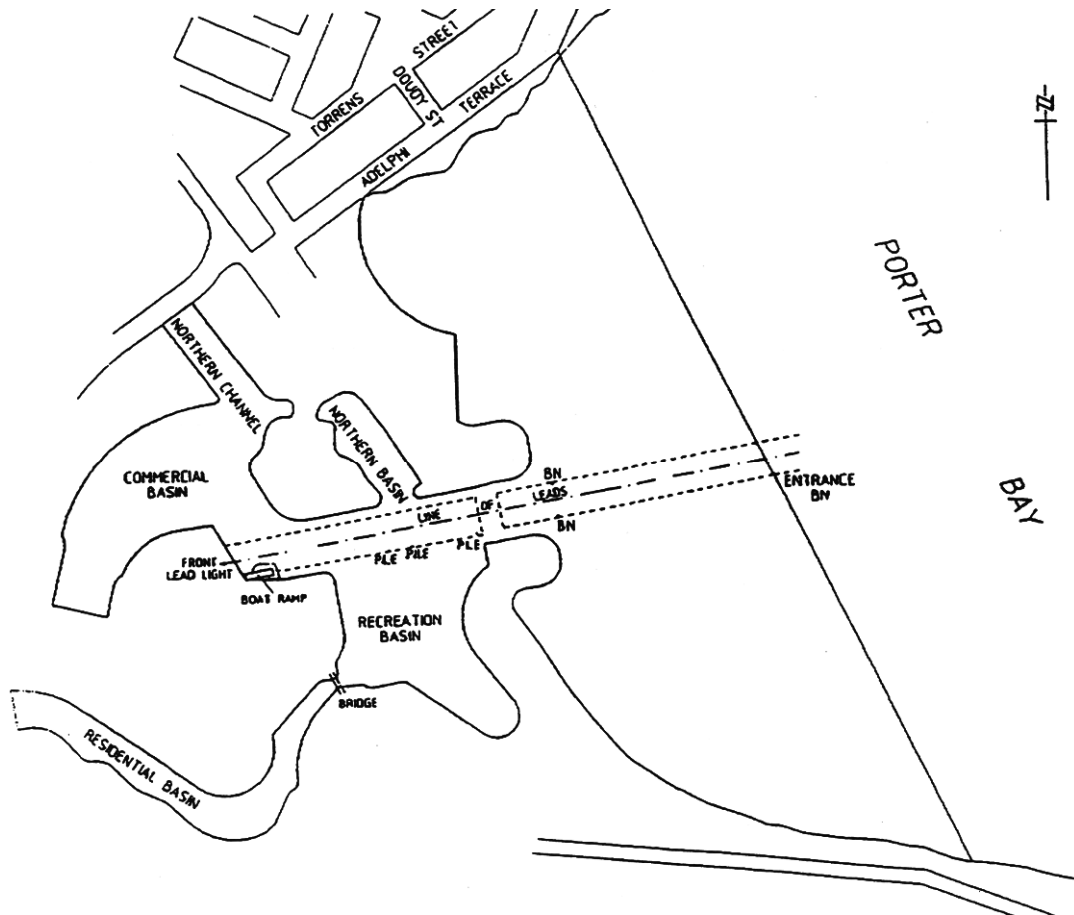
Port Elliot

All the waters of Horseshoe Bay north-west of a line joining the eastern extremity of the breakwater at Freeman Nob with Commodore Point.



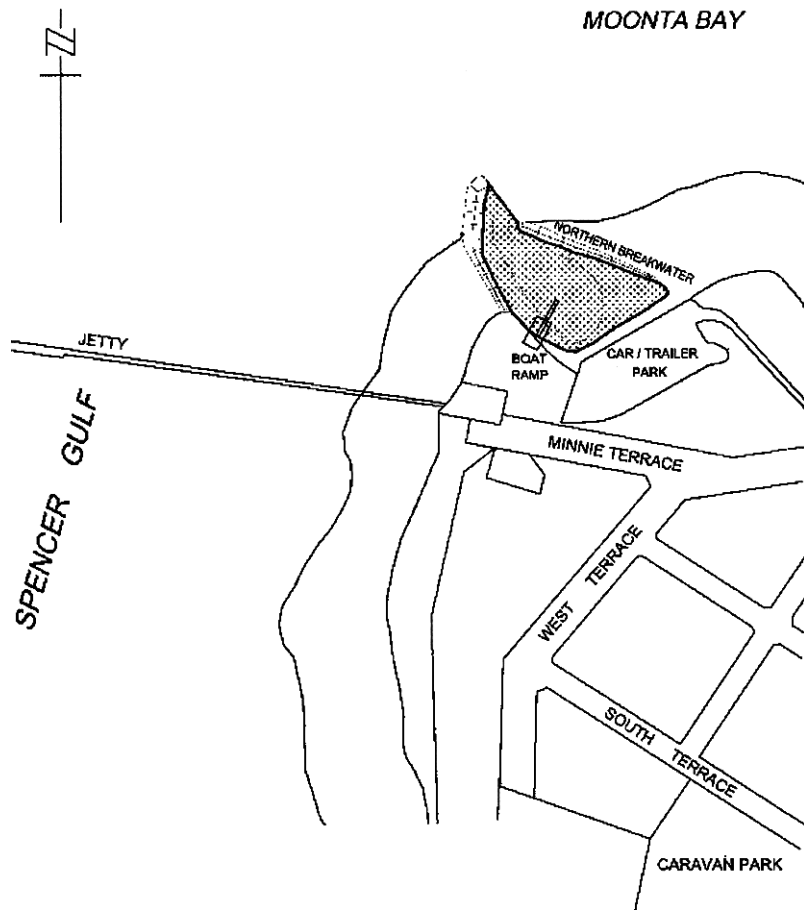
Porter Bay

The portion of the waters at Porter Bay to the west of an imaginary straight line commencing from the seaward boundary of Adelphi Terrace where an obtuse bend occurs, then to the outer entrance beacon of Lincoln Cove Marina and prolonged until it meets the southern foreshore of Porter Bay.



Port Hughes

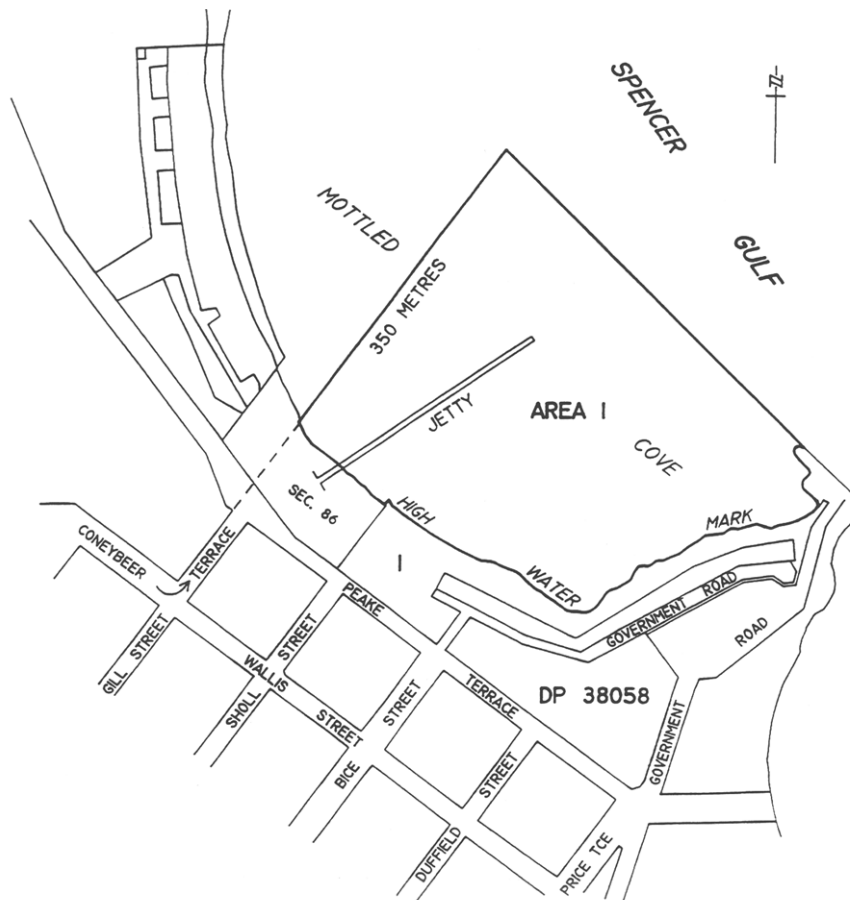
The portion of the waters of the sea at Port Hughes within the Moonta Bay boat ramp basin, landward of the northern and southern breakwater (shown as a shaded area on the plan below).



Port Neill

The portion of the sea at Port Neill bounded as follows:

- on the north-west by a straight line being the prolongation seawards of the north-west boundary of Gill Street and Coneybeer Terrace for a distance of 350 m from the high water mark;
- on the south-west and south-east by the high water mark;
- on the north-east by a straight line joining the seaward extremities of the north-western boundary and the south-east high water mark.

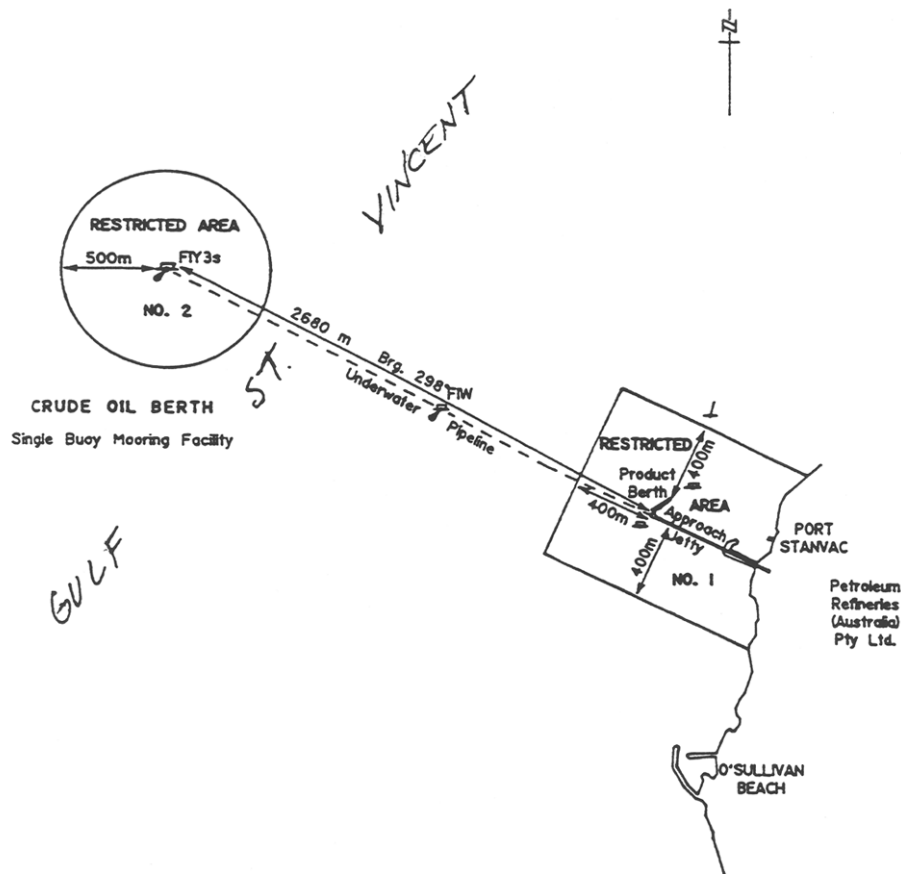


Port Stanvac

Area 1: the portion of western Gulf St. Vincent bounded as follows:

- on the north-east by a straight line 400 m north-east of the north extremity of the Product Berth structure and parallel to the Approach Jetty;
- on the south-east by a straight line 400 m south-west of the south-west side of the Approach Jetty at Port Stanvac and parallel to the jetty;
- on the north-west by a straight line at right angles to the north-east and south-west boundaries and distant 400 m seaward (along the production of the Approach Jetty) from the outermost extremity of the jetty;
- on the east by high water mark.

Area 2: the portion of the waters of western Gulf St. Vincent at Port Stanvac within a 500 m radius of the Single Buoy Mooring Facility in approximate position Latitude 35°05.9'S, Longitude 138°26.3'E.



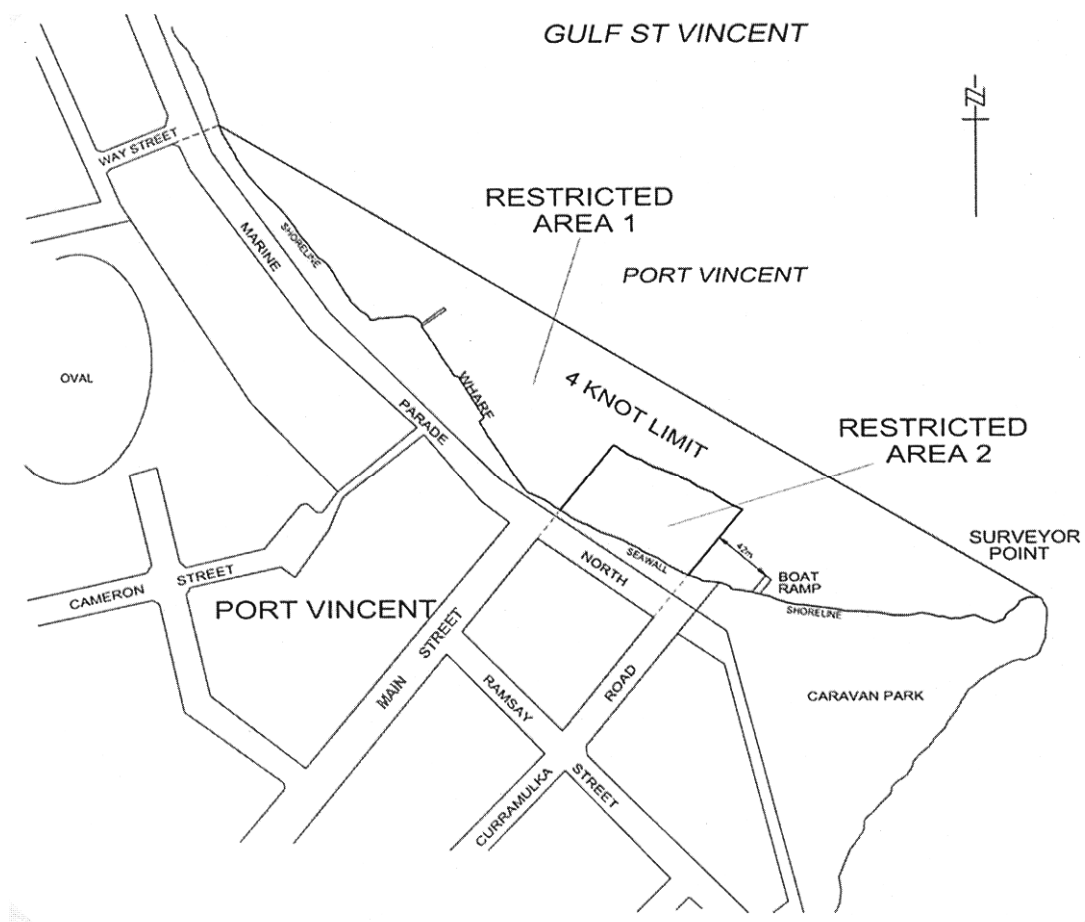
Port Vincent

Area 1: the portion of the waters of Gulf St. Vincent at Port Vincent bounded as follows:

- on the north-east by a straight line joining Surveyor Point with a point being the intersection of the edge of the water and the prolongation seaward of the south-eastern boundary of Way Street;
- on the south-west by the edge of the water, the face of the wharf and the north-western, north-eastern and south-eastern boundaries of Area 2.

Area 2: the portion of the waters of Gulf St. Vincent at Port Vincent bounded as follows:

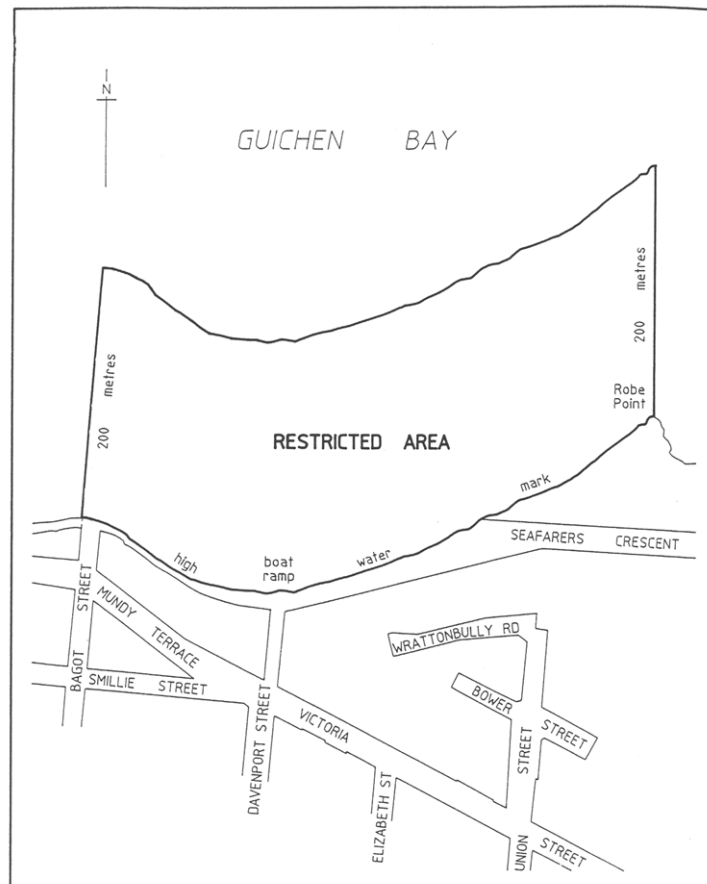
- on the north-west by a straight line being the prolongation seaward of the south-eastern boundary of Main Street;
- on the north-east by a line 60 m seaward of, and parallel to, the sea wall;
- on the south-east by a straight line being the prolongation seaward of the north-western boundary of Curramulka Road;
- on the south-west by the edge of the water.



Robe

The portion of the sea at Robe bounded as follows:

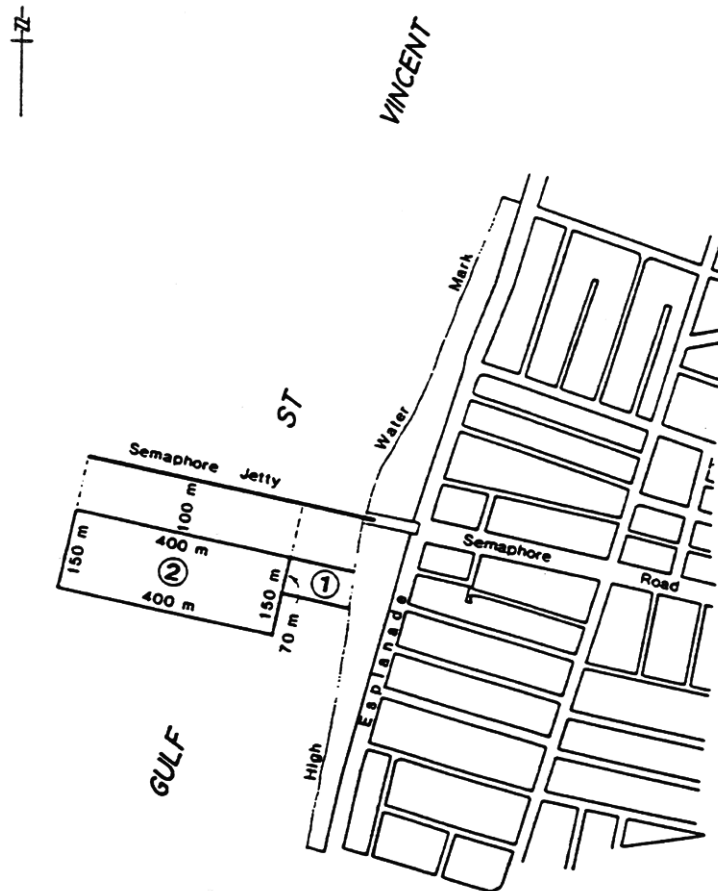
- on the west by a straight line being the production seaward of the western boundary of Bagot Street;
- on the east by a straight line extending seaward in a northerly direction from Robe Point;
- on the south by high water mark;
- on the north by a line approximately 200 m seaward of, and parallel to, high water mark.



Semaphore

The portion of the sea at Semaphore bounded as follows:

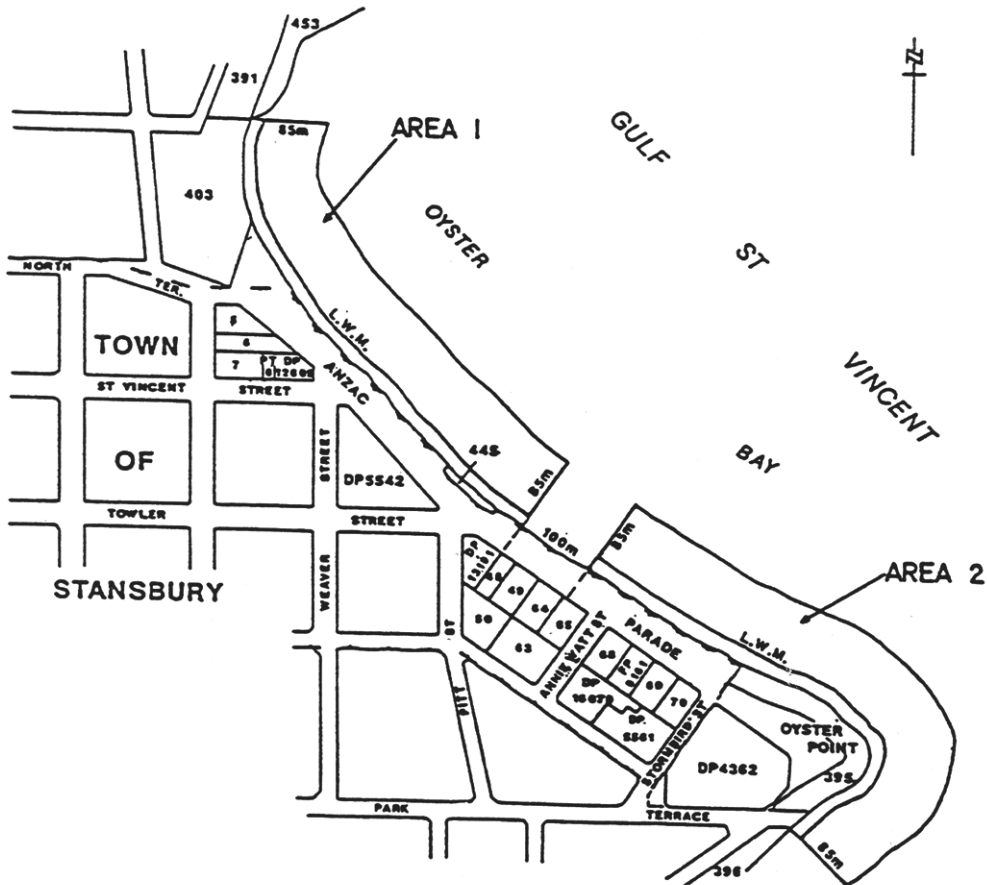
- on the north by a straight line 100 m south of and parallel to the south side of the Semaphore Jetty;
- on the south by a straight line 170 m south of and parallel to the south side of the Semaphore Jetty;
- on the west by a straight line 400 m east of the seaward end of the Semaphore Jetty and at right angles to the southern side of the jetty;
- on the east by High Water Mark.



Stansbury

Area 1: the portion of the waters of the sea at Stansbury delineated on the plan below as Area 1;

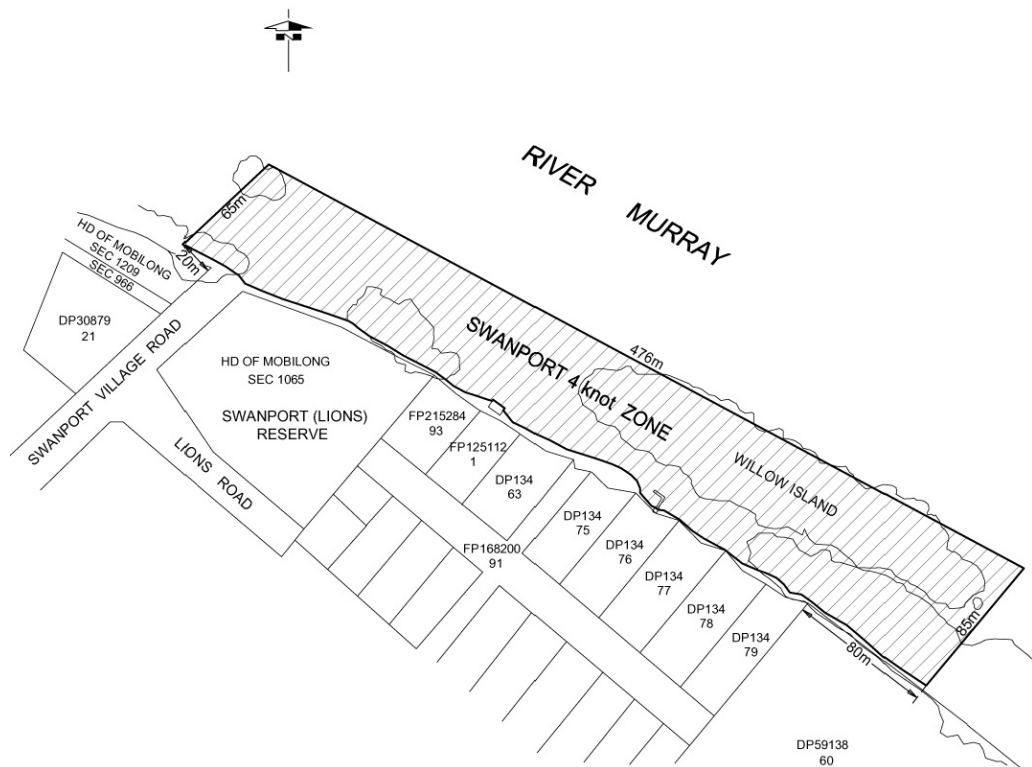
Area 2: the portion of the waters of the sea at Stansbury delineated on the plan below as Area 2.



Swanport

The portion of the River Murray at Swanport bounded as follows:

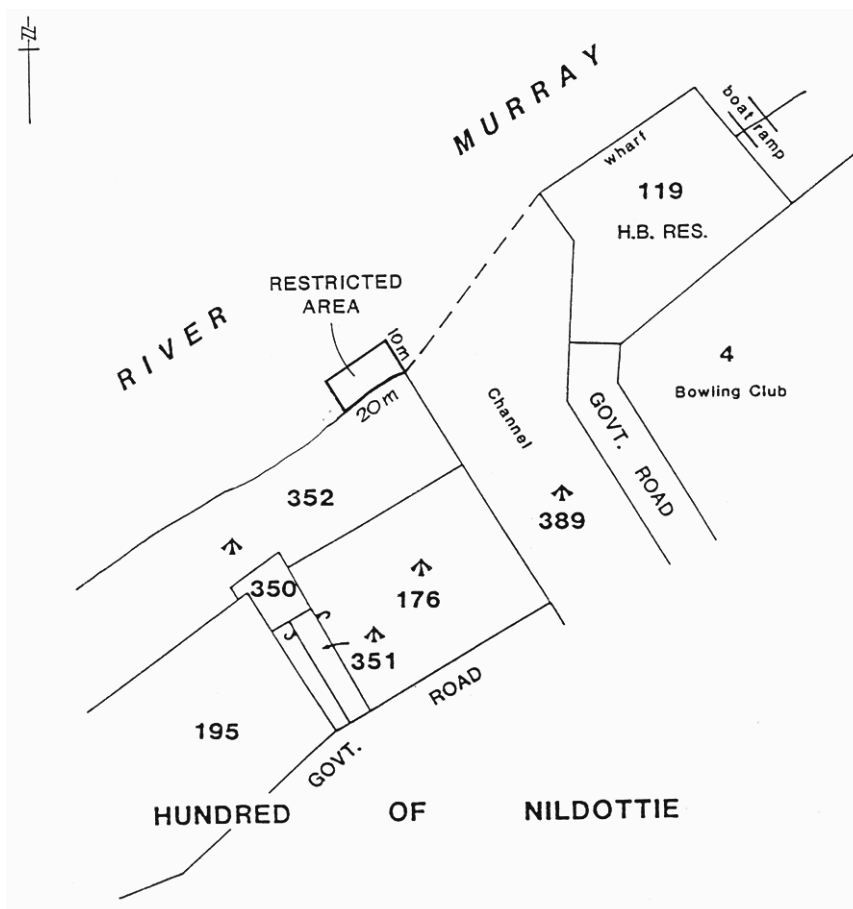
- on the north-west, by a straight line extending 65 m in a north-easterly direction from a point at the water's edge 20 m upstream of the point at which the north-western boundary of Swanport Village Road (or the prolongation of that boundary) meets the water's edge and parallel to that boundary;
- on the south-east, by a straight line extending 85 m in a north-easterly direction from a point at the water's edge 80 m downstream of the point at which the south-eastern boundary of Lot 79 of Deposited Plan No 134 (or the prolongation of that boundary) meets the water's edge and parallel to that boundary;
- on the north-east, by a straight line joining the northern extremity of the north-western boundary with the northern extremity of the south-eastern boundary;
- on the south-west, by the water's edge.



Swan Reach

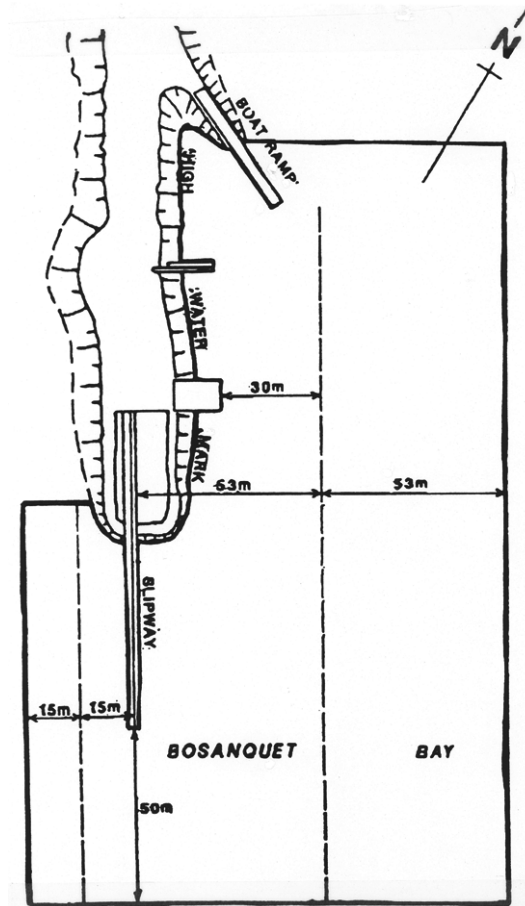
The portion of the River Murray at Swan Reach bounded as follows:

- on the north-east by a straight line, marked by yellow spherical buoys, being the prolongation north-westerly of the north-east boundary of Section 352, Hundred of Nildottie, extending 10 m north-westerly from the river edge;
- on the south-west by a straight line, 20 m from and parallel to the north-eastern boundary, extending 10 m north-westerly from the river edge;
- on the north-west by a straight line, marked by yellow spherical buoys, joining the north-west extremities of the south-west and north-east boundaries;
- on the south-east by the river edge.



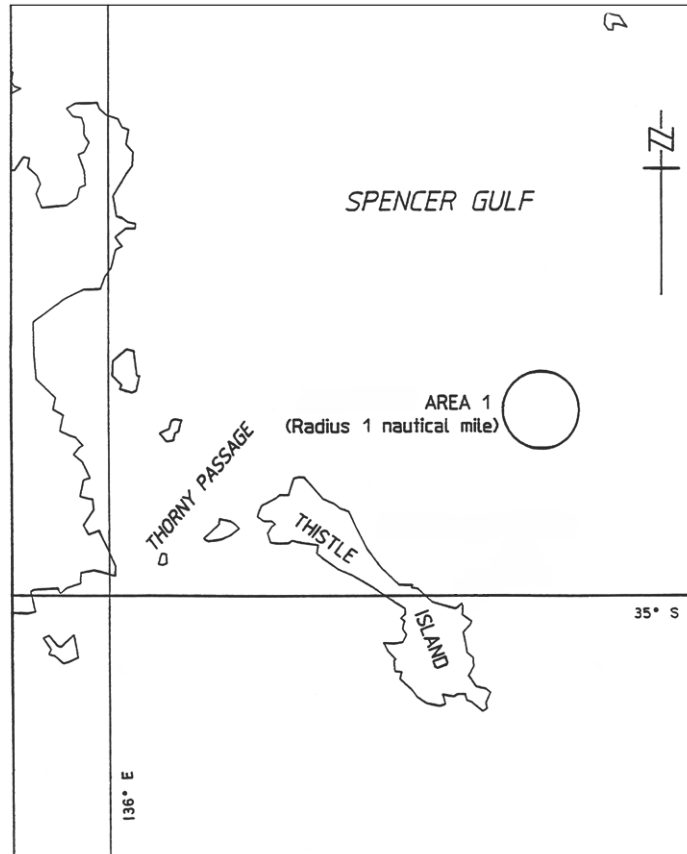
Thevenard

The portion of the sea at Bosanquet Bay delineated in bold on the plan below:



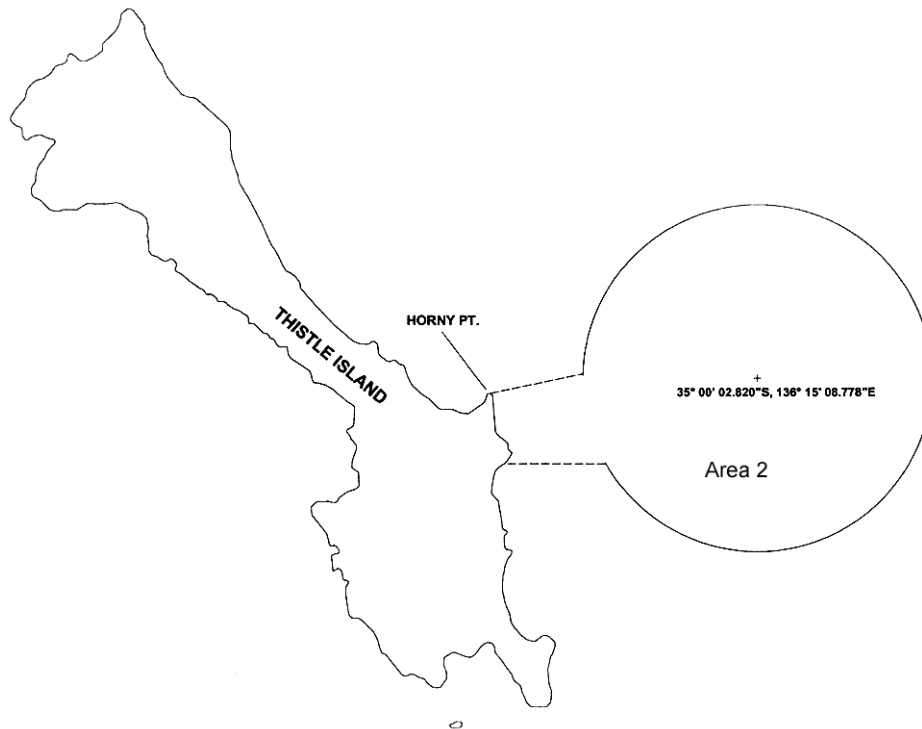
Thistle Island

Area 1: the portion of the waters of Spencer Gulf bounded by a circle of radius 1 nautical mile centred on a point at latitude $34^{\circ}55.9'$ south, longitude $136^{\circ}14.05'$ east.



Area 2: the portion of the waters of Spencer Gulf bounded as follows:

commencing at high water mark near Horny Point at a point at latitude $35^{\circ}00'13.860''$ south, longitude $136^{\circ}11'23.744''$ east, then east-north-east in a straight line to a point at latitude $35^{\circ}00'00.000''$ south, longitude $136^{\circ}12'42.495''$ east, being the intersection of that line with the western circumference of a circle of radius 2 nautical miles centred on a point at latitude $35^{\circ}00'02.280''$ south, longitude $136^{\circ}15'08.778''$ east, then clockwise from that intersection around the circumference to a point on the western circumference of the circle at latitude $35^{\circ}01'02.251''$ south, longitude $136^{\circ}13'01.891''$ east, then west in a straight line to high water mark at latitude $35^{\circ}01'02.251''$ south, longitude $136^{\circ}11'36.068''$ east, then north along high water mark to the point of commencement (all positions being in the WGS84 datum).



Tumby Bay

Area 1: the portion of the sea at Tumby Bay bounded as follows:

- on the north by a straight line being the prolongation seawards of the south boundary of Elanora Avenue for a distance of 100 m from high water mark;
- on the east by a straight line joining the seaward extremity of the north boundary and the north-east corner of the old jetty;
- on the north-east by a straight line joining the north-east corner of the old jetty and the north-east corner of the new jetty;
- on the east by the seaward end of the new jetty;
- on the south by the south side of the new jetty;
- on the west by high water mark.

Area 2: the area of the sea at Tumby Bay bounded as follows:

- on the south-west by a line parallel to and 100 m seaward from high water mark;
- on the east by a straight line commencing at a point 50 m west of the east extremity of Section 354, Hundred of Hutchison, and extending due north for 450 m from the south-west boundary;
- on the north by a straight line commencing at a point 2 km generally north-westerly along the south-west boundary from the east boundary, and extending due east for 450 m from the south-west boundary;
- on the north-east by a straight line joining the seaward extremities of the south-west and east boundaries.

Area 3: the area of the sea at Tumby Bay bounded as follows:

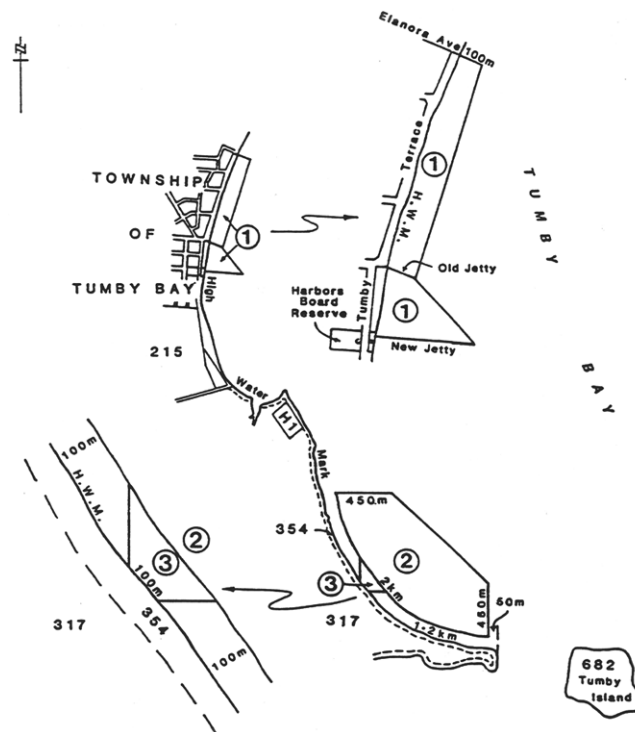
- on the south by a straight line extending due east from a point 1.2 km along high water mark and generally north-west from the east extremity of Section 354, Hundred of Hutchison;
- on the west by a straight line extending due north from a point 100 m along high water mark and generally north-west from the west extremity of the south boundary;
- on the north-east by the south-west boundary of Area 2.

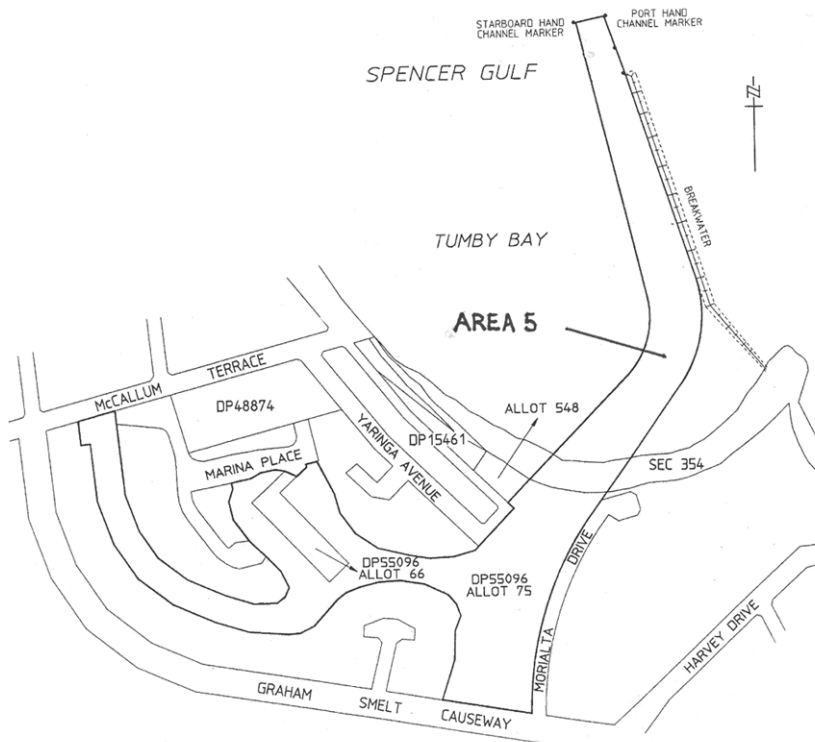
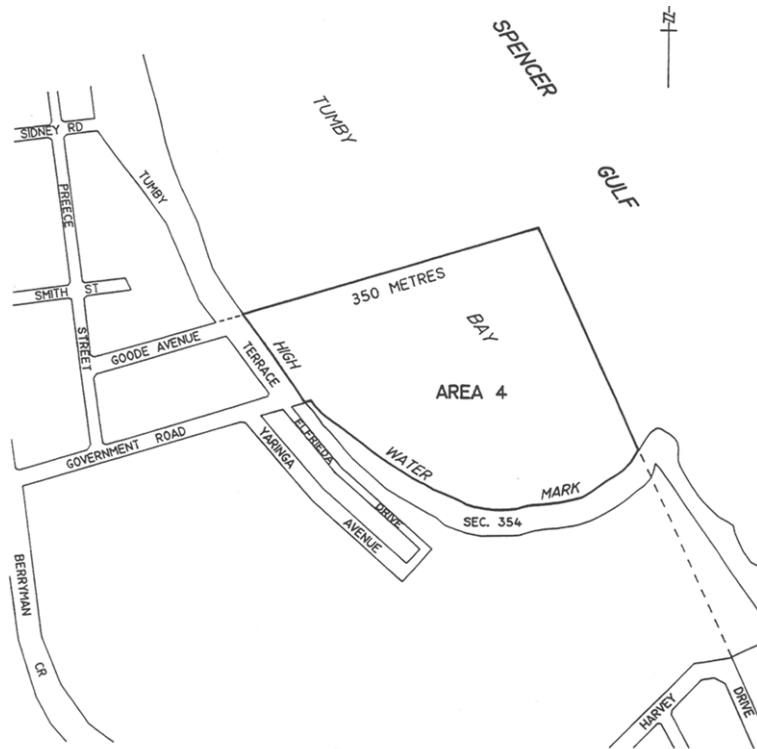
Area 4: the area of the sea at Tumby Bay bounded as follows:

- on the west and south by the high water mark;
- on the north by a straight line being the prolongation seawards of the northern boundary of Goode Avenue for a distance of 350 m from the high water mark;
- on the east by a straight line being the prolongation seawards of the eastern boundary of Harvey Drive in a northerly direction joining the seaward extremity of the north boundary.

Area 5: the area of the sea at Tumby Bay bounded as follows:

commencing at the northern most starboard hand channel marker of the marked navigation channel leading to the Tumby Bay Marina, then generally easterly across the marked navigation channel to the northern most port hand channel marker of the marked navigation channel, then generally south-easterly along the eastern edge of the marked navigation channel to its intersection with the breakwater, then generally south-easterly along the western edge of the breakwater to the point at which there is a bend in the breakwater, then generally south-westerly along the eastern edge of marked navigation channel to its intersection with the north-eastern corner of Allotment 75 in Deposited Plan No 55096, then generally southerly, westerly and easterly around the boundary of that Allotment (including Allotment 66 in Deposited Plan No 55096) to its intersection with the north-eastern corner of Allotment 548 in Deposited Plan No 15461, then generally north-easterly and northerly along the western edge of the marked navigation channel to the point of commencement.



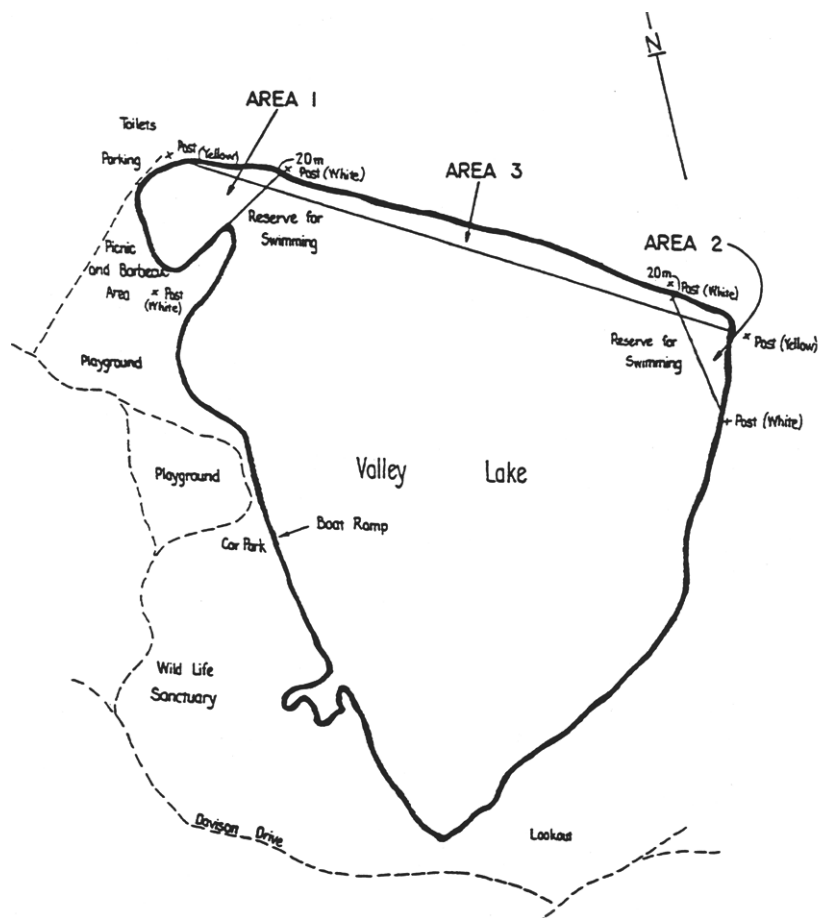


Valley Lake

Area 1: the portion of Valley Lake bounded on the south-east by a straight line extending south-west from the white marker post situated approximately midway along the north shore of Valley Lake to the white marker post situated on the west shore of Valley Lake.

Area 2: the portion of Valley Lake bounded on the west by a straight line from the white marker post situated near the east end of the north shore of Valley Lake to the white marker post on the east shore of Valley Lake.

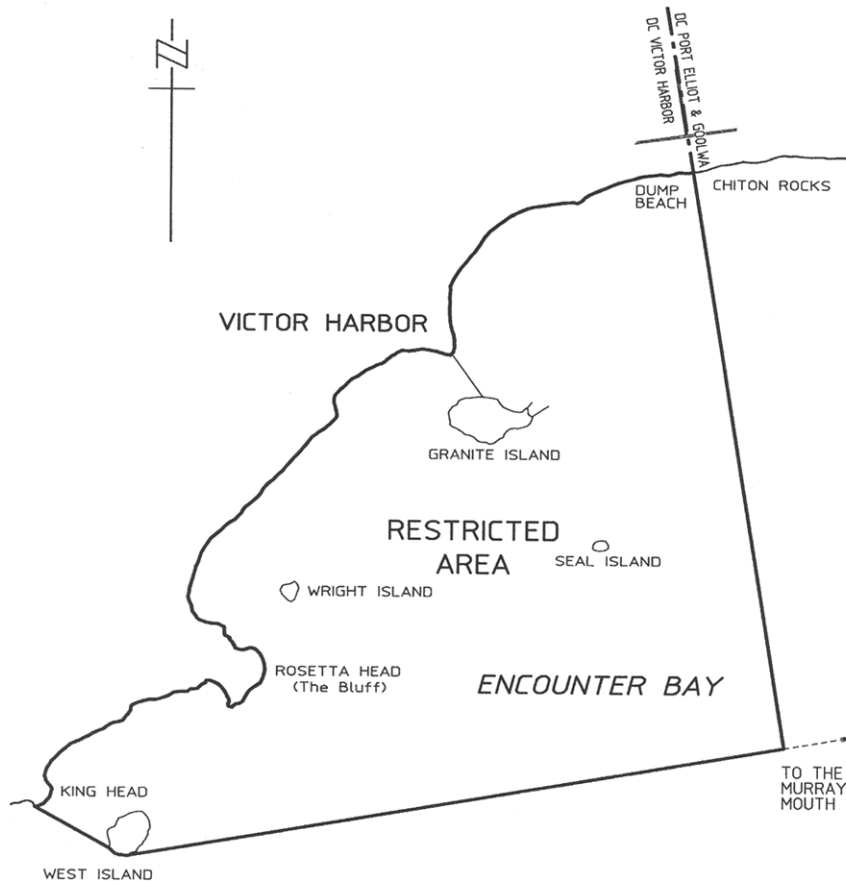
Area 3: the portion of Valley Lake not included in Area 1 or 2 bounded on the south-west by a straight line extending south-east from the yellow marker post situated on the north shore of Valley Lake to the yellow marker post situated on the shore at the approximate north-east corner of Valley Lake.



Victor Harbor

The portion of the sea at Victor Harbor bounded as follows:

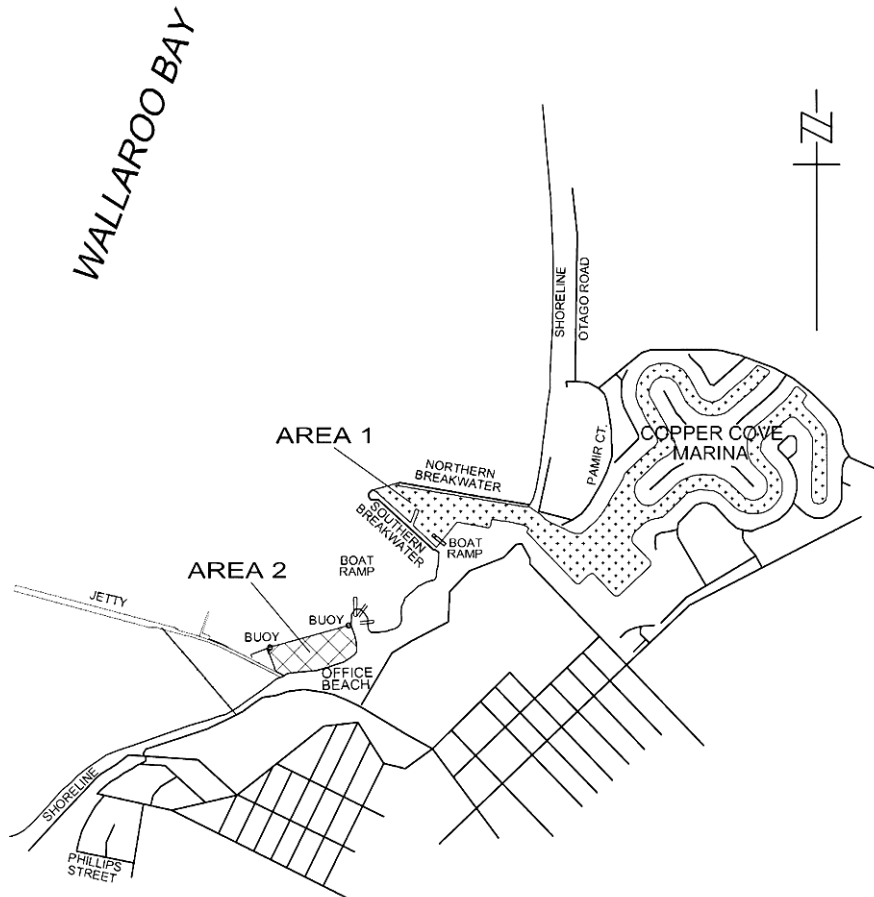
- on the west by a line joining the most southerly point of King Head to the most southerly point of West Island;
- on the south by a line commencing at the most southerly point of West Island and then proceeding generally eastward towards the Murray mouth to a point where the line intersects at right angles with the prolongation, generally south and to seaward, of the easterly boundary of the area of the City of Victor Harbor;
- on the east by the prolongation, generally south and to seaward, of the easterly boundary of the area of the City of Victor Harbor (ie the eastern side of Ocean Road, Port Elliot);
- on the north by the high water mark of the coastline between the easterly boundary of the area of the City of Victor Harbor (ie the eastern side of Ocean Road, Port Elliot) and the most southerly point of King Head.



Wallaroo Bay

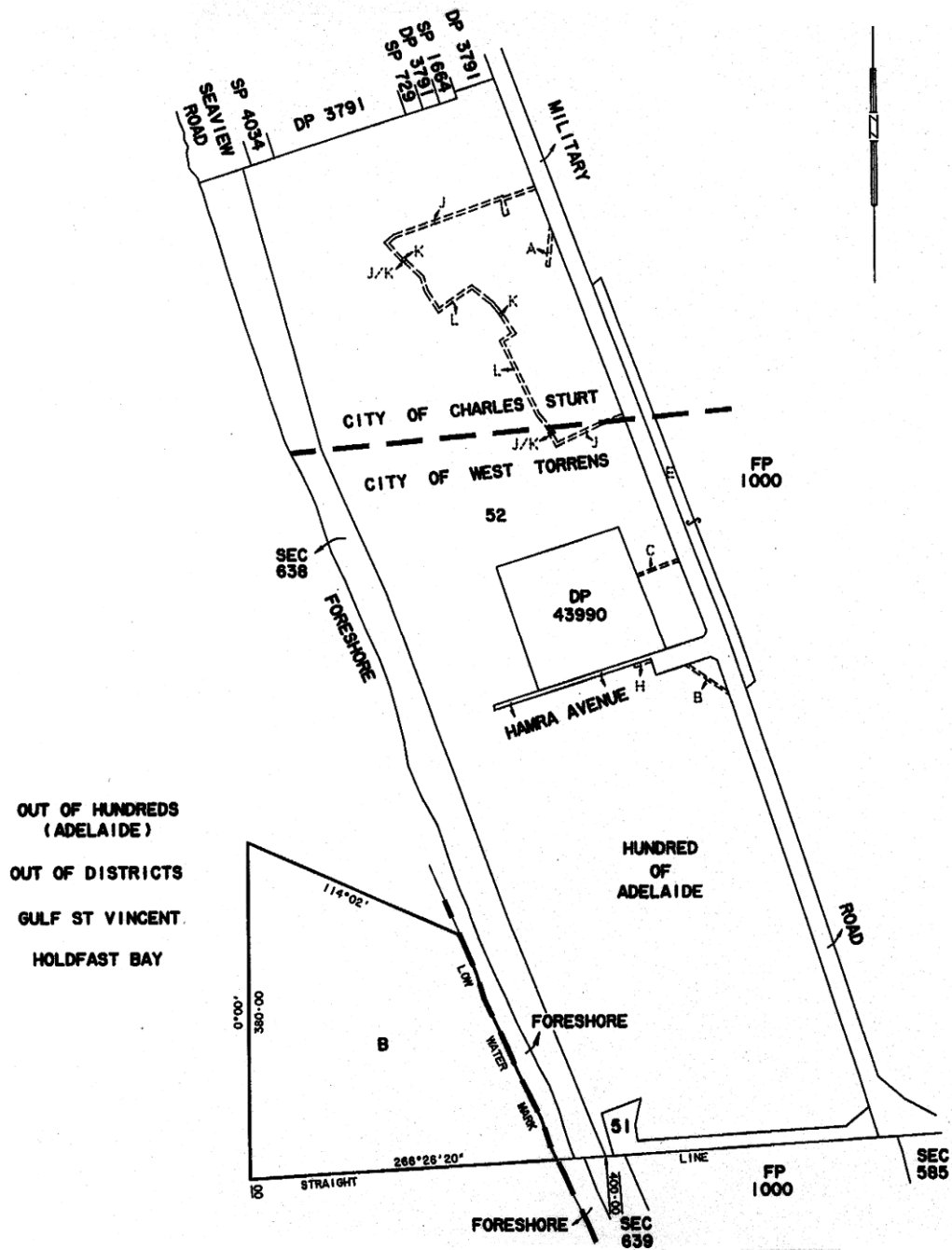
Area 1: the portion of the waters of the sea at Wallaroo described as "Area 1" on the plan below.

Area 2: the portion of the waters of the sea at Wallaroo described as "Area 2" on the plan below.



West Beach

The portion of the waters of Gulf St. Vincent designated by the letter "B" in the plan below:



Whyalla

Area 1: the portion of Spencer Gulf at Whyalla bounded as follows:

- on the south-west by a line being the prolongation of the western side of Agett Street, Town of Whyalla, seawards from high water mark for a distance of 100 m;
- on the north-east commencing at the south-eastern corner of Section 108, Hundred of Randell, then south-westerly along high water mark for 100 m;
- on the south-east by a line joining the south-eastern extremities of the south-west and north-east boundaries and parallel to high water mark;
- on the north-west by high water mark.

Area 2: the portion of Spencer Gulf at Whyalla bounded as follows, but excluding the area defined as Area 2A:

- (a) commencing at the most westerly point on the north-eastern tip of the southern breakwater (being portion of Lot 3 in Deposited Plan No 26088); then west-north-westerly along a line of bearing $290^{\circ}14'10''$ for a distance of 74.17 m to intersect with high water mark on the northern breakwater; then following high water mark along the inside of the boat haven to the point of commencement.

Area 2A: the portion of Spencer Gulf at Whyalla bounded as follows:

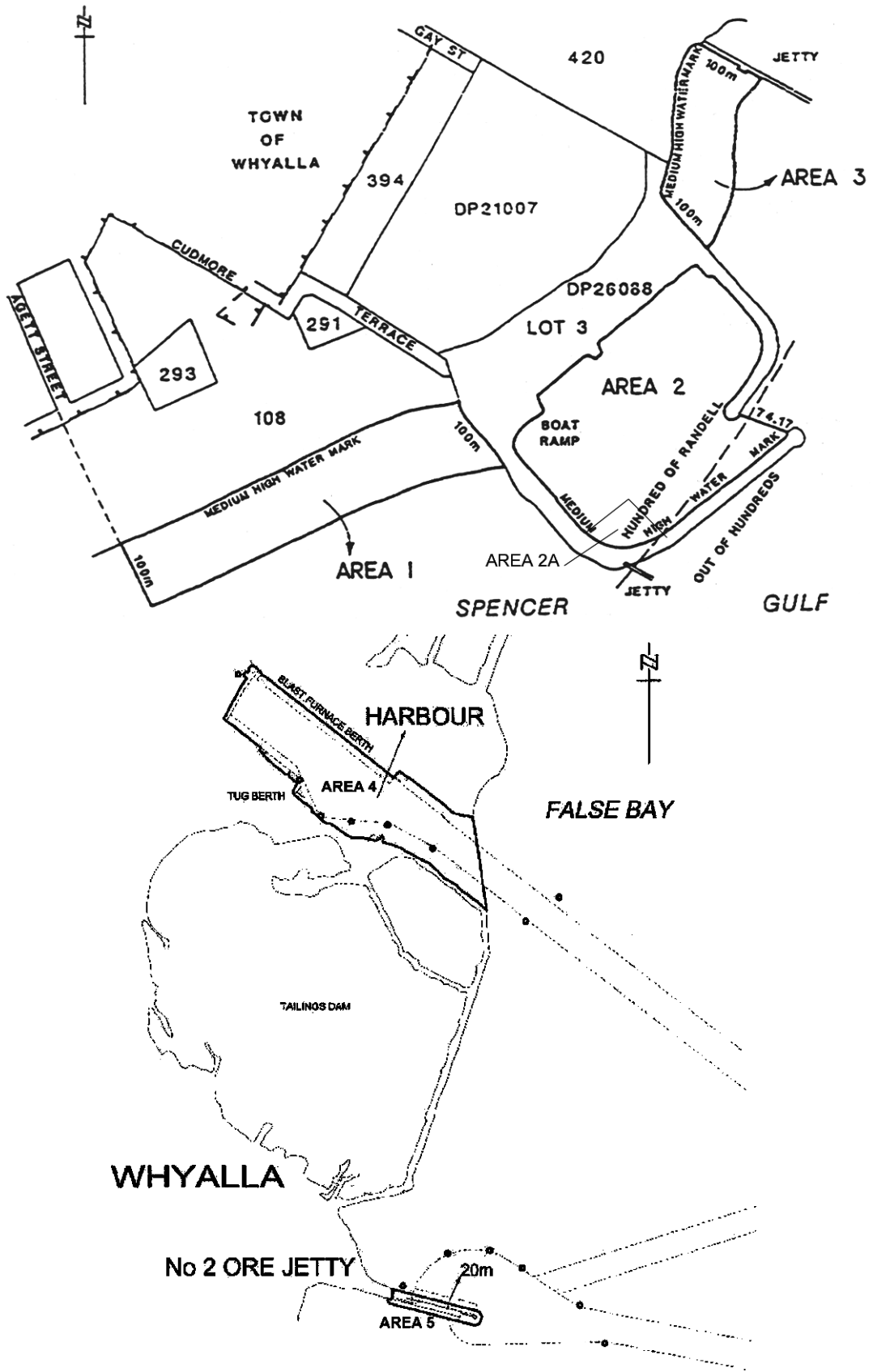
- (a) commencing at a point on the northern face of the southern breakwater (being portion of Lot 3 in Deposited Plan No 26088), being a point that is 246 m (measured along the northern face of the southern breakwater) from the most westerly point on the north-eastern tip of the southern breakwater; then generally north-westerly for a distance of 77 m; then south-westerly for a distance of 87 m to the northern face of the southern breakwater, being the area bounded by yellow buoys.

Area 3: the portion of Spencer Gulf at Whyalla bounded as follows:

- (a) commencing at the intersection of high water mark and the south-western side of the jetty adjacent to Section 420, Hundred of Randell; then south-easterly along the southern side of the jetty for 100 m; then generally south-westerly along a line parallel to and 100 m seawards of high water mark to its intersection with the northern breakwater (part of Lot 3, Deposited Plan No 26088); then generally north-westerly and northerly along high water mark to the point of commencement.

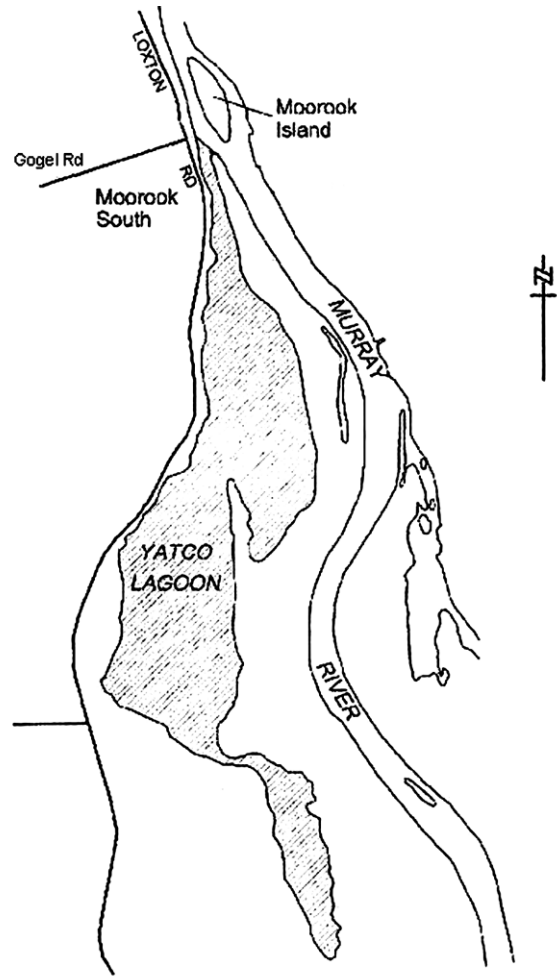
Area 4: the portion of False Bay at Whyalla described as "Area 4" on the plan below.

Area 5: the portion of False Bay at Whyalla described as "Area 5" on the plan below.



Yatco Lagoon

The whole of Yatco Lagoon being the body of water to the south of a straight line commencing at the point at which the prolongation easterly of the northern boundary of Gogel Road meets the waters edge and extending south-easterly to the northernmost point of the headland immediately to the south of Moorook Island.



Part 2—Identification of controls

2—Identification of controls

In this Schedule, a reference to a control of a particular number is a reference to the regulation, restriction or prohibition of the relevant number listed below:

1. a person must not take a vessel into the specified waters or cause or permit a vessel to enter or remain in the specified waters;
2. a person must not operate a vessel fitted with an engine in the specified waters at a speed in excess of 4 knots or in a planing attitude;
3. a person must not operate a vessel in the specified waters at a speed in excess of 4 knots or in a planing attitude;
4. a person must not ski, aquaplane or be towed in any other manner by a vessel in the specified waters;
5. a person must not ski, aquaplane or be towed in any other manner by a vessel in specified waters at a speed in excess of 4 knots;
6. a person must not swim, bathe or dive (including scuba dive) in the specified waters;
7. a person must not swim, bathe or dive (including scuba dive) in the specified waters except for purposes connected with water skiing, aquaplaning or like activity;
8. a person must not swim or bathe in the specified waters except for purposes connected with scuba diving or snorkelling;
9. a person must not operate a vessel fitted with an engine in the specified waters;
10. a person must not operate a vessel fitted with an engine in the specified waters during the period between 1 October and 1 April (inclusive) in any year;
11. a person must not operate a vessel in the specified waters except for the purposes of water skiing, aquaplaning or like activity;
12. a person must not leave any fishing apparatus unattended in the specified waters;
13. a person must not moor a vessel, fish or trawl in the specified waters;
14. a person must not moor a vessel in the specified waters except at a permanent mooring facility established in the waters;
15. a person must not remove or interfere with a wreck or any part of a wreck in the specified waters;
16. a person must not—
 - (i) operate a vessel other than a personal watercraft; or
 - (ii) swim, bathe or dive (including scuba dive) except for purposes connected with operating a personal watercraft,in the specified waters;
17. a person must not operate a personal watercraft in the specified waters during the period between 1 May and 30 September (inclusive) in any year.

Part 3—Controls applying in particular areas

3—Controls applying in particular areas

The controls applying in particular restricted areas are as follows:

Restricted area(s)	Controls applying in the area(s)	Additional controls applying in the area(s) Note—
		It is also an offence to contravene these controls—see regulation 11.
Angas Inlet	Controls 1 and 4	
	Note—	
		see clause 4 below.
Ardrossan Area 1	Controls 1 and 4	
Ardrossan Area 2	Control 2	
Balgowan Areas 1 and 2	Controls 3 and 5	
Black Point	Controls 3 and 5	
Blackfellow's Caves Area 1	Controls 3 and 5	
Blackfellow's Caves Area 2	Controls 1 and 4	
Blanchetown	Controls 3 and 5	
Blanchetown Area 2	Controls 2 and 5	
Brighton Areas 1 to 4	Controls 1 and 4	
Brighton Area 5	Control 9	
Bucks Bay	Controls 1 and 4	
Caloote Landing Area 1	Controls 1 and 4	
Caloote Landing Area 2	Controls 3 and 5	
Clayton Bay	Controls 1 and 4	
Currency Creek	Control 2	
East Wellington	Controls 2 and 5	
Fisherman Bay	Controls 2 and 5	
Fleurieu Reef	Controls 3, 4, 8, 14 and 15	
Forbys Island	Controls 1 and 4	
Glenelg	Controls 3 and 5	
Glenelg River	Controls 3 and 5	
Goolwa Areas 1, 3 and 5	Controls 3 and 5	
Goolwa Areas 2, 4 and 6	Controls 2 and 5	
Goolwa Area 7	Control 16	

Restricted area(s)	Controls applying in the area(s)	Additional controls applying in the area(s) Note—
Goolwa Area 8	Controls 2 and 4	It is also an offence to contravene these controls—see regulation 11.
Hog Bay	Controls 1 and 4	
Kellidie Bay	Controls 3 and 5	
Lake Bonney (Barmera Area 1)	Controls 1 and 4	
Lake Bonney (Barmera Area 2)	Controls 2 and 5	
Lake Bonney (South East)	Controls 1 and 4	
Lake Fellmongery Area 1	Control 9	A person must not operate a vessel that is not fitted with an engine at a speed in excess of 4 knots or in a planing attitude.
Lake Fellmongery Area 2	Controls 1 and 4	
Lake Fellmongery Area 3	Controls 7 and 11	<p>A person must not—</p> <ul style="list-style-type: none"> <li data-bbox="871 1025 1326 1084">(a) operate a vessel at a speed in excess of 35 knots; or <li data-bbox="871 1106 1343 1254">(b) operate a vessel or engage in water skiing, aquaplaning or like activity before 8.00 am or after sunset or 8.00 pm (whichever is the earlier) on any day; or <li data-bbox="871 1276 1343 1395">(c) operate a vessel or engage in water skiing, aquaplaning or like activity if there are already 8 vessels within the area.
		<p>If there are 8 vessels within the area and others waiting to use the area—</p> <ul style="list-style-type: none"> <li data-bbox="871 1496 1326 1585">(a) a vessel must not remain in the area for more than 30 minutes at any one time; and <li data-bbox="871 1608 1321 1753">(b) unless otherwise agreed by the operators of all the vessels, vessels must enter the area in the order of their arrival at the area and then rotate turns in the same order.
Lake Leake	Controls 1 and 4	
Mannum Areas 1 and 2	Controls 1 and 4	
Mannum Area 3	Controls 3 and 5	
Meningie Area 1	Controls 1 and 4	
Meningie Area 2	Controls 2 and 5	
Milang	Controls 1 and 4	

Restricted area(s)	Controls applying in the area(s)	Additional controls applying in the area(s) Note—
Moana	Controls 1 and 4	
Morgan and Cadell Areas 1 and 2	Controls 1 and 4	
Murray Bridge Area 1	Controls 3 and 5	
Murray Bridge Area 2	Control 9	In this area the river is divided into 2 channels and the usual rules of navigation apply in respect of each of those channels.
	Note— see clause 5 below.	
Murray Bridge (bathing) Areas 1 to 7	Controls 1 and 4	
Nildottie	Controls 2 and 5	
North Haven Marina	Control 2	
North Shields	Controls 3 and 5	
O'Sullivan Beach	Controls 2 and 6	
Point Turton Area 1	Controls 1 and 4	
Point Turton Area 2	Control 2	
Port Adelaide	Control 12	
Port Bonython Zone 1	Controls 1 and 4	
Port Bonython Zone 2	Controls 1 and 4, but only while the berth operations signal at the seaward end of the jetty is signalling a single red light flashing at an approximate rate of 1 flash per second.	
Port Bonython Zone 3	Controls 1 and 4, but only while the berth operations signal at the seaward end of the jetty is signalling 2 red lights (in a vertical line 3 m apart) flashing each at an approximate rate of 1 flash per second (so that together they flash at an approximate rate of 2 flashes per second).	
Port Elliot	Control 2	
Porter Bay	Controls 2 and 5	
Port Hughes	Control 6	
Port Neill	Controls 2 and 5	

Restricted area(s)	Controls applying in the area(s)	Additional controls applying in the area(s) Note—
		It is also an offence to contravene these controls—see regulation 11.
Port Stanvac Areas 1 and 2	Controls 1 and 4	
Port Vincent Area 1	Controls 3 and 5	
Port Vincent Area 2	Control 10	
Robe	Controls 3 and 5	
Semaphore	Control 6	
Stansbury Areas 1 and 2	Controls 3 and 5	
Swanport	Controls 2 and 5	
Swan Reach	Controls 1 and 4	
Thevenard	Control 6	
Thistle Island Areas 1 and 2	Control 13	
	Note—	
	see clause 7 below.	
Tumby Bay Areas 1 and 4	Controls 2 and 5	
Tumby Bay Areas 2 and 3	Control 7	
Tumby Bay Area 5	Controls 3 and 5	
Valley Lake Areas 1, 2 and 3	Controls 1 and 4	
Victor Harbor	Control 17	
Wallaroo Bay Area 1	Controls 2, 4 and 6	
Wallaroo Bay Area 2	Controls 1 and 4	
West Beach	Controls 4 and 6	
Whyalla Areas 1 and 3	Control 9	
Whyalla Area 2	Controls 3 and 5	
Whyalla Area 2A	Control 1	
Whyalla Areas 4 and 5	Controls 1 and 4	
Yatco Lagoon	Control 2	

4—Non-application of controls to certain vessels in Angas Inlet

The controls set out in the table in clause 3 in relation to Angas Inlet do not apply in relation to vessels in the specified waters for a purpose connected with the operation or maintenance of Torrens Island Power Station.

5—Non-application of controls to certain vessels in Murray Bridge Area 2

The controls set out in the table in clause 3 in relation to Murray Bridge Area 2 do not apply in relation to a vessel fitted with an engine that is in the area because of its official association with a rowing, sailing or similar race or practice.

6—Non-application of controls to certain vessels at Port Bonython, Port Stanvac and Whyalla

The controls set out in the table in clause 3 in relation to the following restricted areas:

- (a) Port Bonython Zone 1, 2 and 3;
- (b) Port Stanvac Areas 1 and 2;
- (c) Whyalla Areas 4 and 5,

do not apply in relation to vessels of the following classes:

- (d) vessels entering or remaining in the relevant area for the purposes of loading or unloading at the port facilities;
- (e) vessels entering or remaining in the relevant area for purposes connected with the operation of the port facilities or the harbor.

7—Non-application of controls to certain vessels in Thistle Island Areas 1 and 2

The controls set out in the table in clause 3 in relation to Thistle Island Areas 1 and 2 do not apply in respect of the taking of abalone in Thistle Island Area 2 in accordance with a licence under the *Fisheries Management Act 2007*.

Schedule 6—Minimum requirements as to the number and respective qualifications of crew of fishing vessels

1—Interpretation

In this Schedule—

Australian Coastal and Middle-water, in relation to the operational area of a vessel, means operations within a range determined by the CEO laterally along the coast and within 600 nautical miles (or such lesser distance determined by the CEO) to seaward;

CLASS 3 means a Marine Engineer Class 3;

Inshore, in relation to the operational area of a vessel, means operations within a range determined by the CEO laterally along the coast from a specified base or regular port of departure and within 15 nautical miles (or such lesser distance determined by the CEO) to seaward of the coast or of the seaward limit of waters designated by the CEO as smooth or partially smooth;

MED 1, ***MED 2*** or ***MED 3*** means a Marine Engine Driver Grade 1, 2 or 3 respectively;

Offshore, in relation to the operational area of a vessel, means operations within a range determined by the CEO laterally along the coast and within 200 nautical miles (or such lesser distance determined by the CEO) to seaward;

propulsion power means—

- (a) in relation to a multi-screw vessel of less than 35 m in length and an operational area other than Unlimited or Australian Coastal and Middle-water operations—the maximum continuous rated power in kilowatts of the largest engine provided for the propulsion of the vessel by 1 screw;
- (b) in relation to any other vessel—the total maximum continuous rated power in kilowatts of all of the machinery provided for the propulsion of the vessel;

Restricted Offshore, in relation to the operational area of a vessel, means operations within 30 nautical miles (or such lesser distance determined by the CEO) from the seaward limit of a safe haven or of waters designated by the CEO as smooth or partially smooth;

S1, S2 or S3 means a Skipper Grade 1, 2 or 3 respectively;

Unlimited, in relation to the operational area of a vessel, means all overseas, ocean-going and Australian coastal operations without limitation as to geographical range.

2—Minimum requirements as to the number and respective qualifications of crew of fishing vessels

- (1) A fishing vessel specified in column 1 of the following table with the operational area referred to in column 2 of the table must carry at least the number of crew members, with at least the respective qualifications, specified in the remaining columns of the table in relation to such a vessel:

Vessel size (length)	Operational area	Total complement	Master	Chief mate	Other
80 m and over	Unlimited	*	*	*	*
	Australian Coastal & Middle-water	*	*	*	*
	Offshore	*	*	*	*
35 m and over, but less than 80 m	Unlimited	*	*	*	*
	Australian Coastal & Middle-water	6	S1	S2	4
	Offshore	5	S2	S3	3
	Offshore (to 100nm)	5	S2	S3	3
	Inshore	4	S2	—	3
24 m and over, but less than 35 m	Unlimited	*	*	*	*
	Australian Coastal & Middle-water	5	S2	S3	3
	Offshore	5	S2	S3	3
	Offshore (to 100nm)	4	S2	—	3
	Restricted Offshore	3	S2	—	2
12 m and over, but less than 24 m	Unlimited	*	*	*	*
	Australian Coastal & Middle-water (see note 2)	3 or 4	S2	S3	1 or 2
	Offshore (see note 2)	3 or 4	S3 endorsed (see note 3)	S3	1 or 2

Vessel size (length)	Operational area	Total complement	Master	Chief mate	Other
	Offshore (to 100nm) (see note 2)	2 or 3	S3	—	1 or 2
	Restricted Offshore	2	S3	—	1
Less than 12 m	Unlimited	*	*	*	*
	Australian Coastal & Middle-water	*	*	*	*
	Offshore (see note 2)	2 or 3	S3 endorsed (note 3)	S3	0 or 1
	Offshore (to 100nm) (see note 1)	1 or 2	S3	—	0 or 1
	Inshore	1	Coxswain	—	—

* As determined by the CEO

Notes—

- 1 An additional person is required when the length of voyage exceeds 12 hours.
 - 2 The engineer table indicates the number of engineers and the minimum engineer qualifications required, according to the propulsion power of a vessel and its operational area. These engineers are included in this table in the minimum total complement (Column 3) and in Column 6.
 - 3 Endorsement to 200nm is issued on completion of the examination in Navigation and Position Determination required for the issue of the Skipper Grade 2 certificate.
- (2) A fishing vessel specified in column 1 of the following table with the operational area referred to in column 2 of the table must carry at least the number of engineers, with at least the respective qualifications, specified in the remaining columns of the table in relation to such a vessel.

Propulsion power	Operational area	Chief engineer	Second engineer
Vessels of 1500kw and over	Unlimited	*	*
	Australian Coastal & Middle-water	*	*
	Offshore	*	*
	Inshore	*	*
Vessels of 750kw and over but less than 1500kw	Unlimited	*	*
	Australian Coastal & Middle-water	CLASS 3	MED 1
	Offshore	CLASS 3	MED 2
	Restricted Offshore	MED 1	—
Vessels of 500kw and over but less than 750kw	Unlimited	*	*
	Australian Coastal & Middle-water	MED 1	MED 2
	Offshore	MED 1	—
	Inshore	MED 2	—

Propulsion power	Operational area	Chief engineer	Second engineer
Vessels of 250kw and over but less than 500kw	Unlimited	*	*
	Australian Coastal & Middle-water	MED 1	—
	Offshore	MED 2	—
	Inshore	MED 3	—
Vessels less than 250kw	Unlimited	*	*
	Australian Coastal & Middle-water	MED 2	—
	Offshore (to 100nm)	MED 3	—
	Inshore	COXSWAIN	—

* As determined by the CEO

Schedule 7—Certificates of competency—trading vessels operating solely on River Murray or inland waters

1—Certificate of competency as Coxswain River Murray and Inland Waters

To be eligible for the issue of a certificate of competency as Coxswain River Murray and Inland Waters, an applicant—

- (a) must have attained the age of 18 years; and
- (b) must meet the eyesight and medical standards for a coxswain required by clause 16.1 of section 2 of the Code as modified by these regulations; and
- (c) must have not less than 6 months of experience approved by the CEO on vessels not less than 4 m in length; and
- (d) must satisfy the CEO (by oral, practical or written examination, as determined by the CEO) as to his or her competency in the following syllabus:

Syllabus—Coxswain River Murray and Inland Waters

1—Vessel Handling

Demonstrate that the candidate can handle the proposed type or types of vessels for which a certificate is sought in all conditions that may be expected within the proposed operational area.

2—Emergency and Safety

Knowledge of—

- (a) action to be taken in an emergency;
- (b) steps to be taken if capsized or holed;
- (c) rendering assistance to others in distress including person overboard procedures and procedures for recovery;
- (d) seating, entering or leaving the boat by passengers;

- (e) distribution of persons and equipment on board to ensure satisfactory stability and buoyancy;
- (f) fuelling precautions and use of fuels including fuel with a flashpoint below 60°C (petrol);
- (g) artificial respiration and a working knowledge of first aid.

3—Safety Equipment

Working knowledge of the following:

- (a) use of safety equipment;
- (b) use of fire extinguishers;
- (c) statutory requirements for equipment;
- (d) care and maintenance of equipment;
- (e) use of distress signals.

4—Meteorology

Understanding of local weather conditions and seasonal changes in local weather including stable and unstable weather patterns.
Understanding of weather information including strong wind and flood warnings.

5—Engineering Knowledge

- (1) Working knowledge of propelling machinery.
- (2) Working knowledge of the care and maintenance of engines and batteries.
- (3) Basic knowledge of fuel filter systems.
- (4) Basic knowledge of pumping and venting systems.
- (5) Working knowledge of precautions against fire or explosion associated with the use of petrol, liquefied petroleum gas, distillate or other fuel and with the charging of batteries.

6—Navigation and Local Knowledge

- (1) Knowledge of section 17 of the Code.
- (2) Knowledge of lights or local signals.
- (3) Knowledge of lock or local signals.
- (4) Knowledge of statutory requirements regarding registration of vessels and licensing of operators and carriage of equipment and a clear understanding of limitations of certificates.
- (5) Knowledge of regulations for recreational boating including obligatory assistance and reporting of accidents etc.
- (6) Knowledge of requirements for survey and maintenance of vessels and equipment.
- (7) Understanding of Marine Notices issued by the Minister.

2—Certificate of competency as Master Class 5 River Murray and Inland Waters

To be eligible for the issue of a certificate of competency as Master Class 5 River Murray and Inland Waters, an applicant—

- (a) must have attained the age of 18 years; and
- (b) must meet the eyesight and medical standards for a Master Class 5 required by clause 17.1 of section 2 of the Code as modified by these regulations; and
- (c) —
 - (i) if the applicant does not hold a certificate of competency—must have 12 months of experience approved by the CEO within the previous 5 years of which at least 6 months must have been served on commercial vessels of less than 80 m in length on the River Murray or inland waters; or
 - (ii) if the applicant holds other qualifications acceptable to the CEO—must have a period appropriate to those qualifications of experience approved by the CEO on the River Murray or inland waters on vessels of less than 80 m in length; and
- (d) must satisfy the CEO (by oral, practical or written examination, as determined by the CEO) as to his or her competence in the following syllabus:

Syllabus—Master Class 5 River Murray and Inland Waters

SHIP KNOWLEDGE

1—Design and Construction

- (1) Knowledge of the principal parts of a vessel and their various functions.
- (2) Practical appreciation of how the watertight integrity of a vessel is maintained.
- (3) Practical knowledge of fuel, fresh water and ballast water arrangements, including pumping, cross flooding, sounding and venting facilities.
- (4) Practical knowledge of bilge pumping arrangements.
- (5) Practical knowledge of the steering arrangements of a vessel.

2—Stability

A general understanding of the effect on the stability of a vessel of—

- (a) adding and removing weights;
- (b) the disposition of passengers;
- (c) ballast and fuel;
- (d) slack tanks;
- (e) free surface.

3—Maintenance and Repairs

Knowledge of—

- (a) methods of docking or slipping vessels;
- (b) maintenance of vessels.

NAUTICAL KNOWLEDGE

1—Marine Legislation

- (1) Knowledge of the certificates required to be carried by vessels.
- (2) A working knowledge of the law relating to the following:
 - (a) lifesaving appliances;
 - (b) distress signals;
 - (c) rendering assistance;
 - (d) overloading;
 - (e) fire appliances;
 - (f) musters and drills.

2—Meteorology

- (1) A knowledge of basic meteorological terms so that a candidate can interpret information provided by radio broadcasts and weather maps including a general understanding of stable and unstable systems.
- (2) An understanding of the effect of fetch on wave height.

3—Protection of the Environment

- (1) A working knowledge of the law relating to the protection of the environment, including the pollution of the waters by oil and other materials.
- (2) Knowledge of the management of sewage holding tanks.

4—Navigational Safety

- (1) A sound knowledge of the content and application of—
 - (a) section 17 of the Code;
 - (b) channel and lock marking systems.
- (2) A knowledge of the content of publications and Marine Notices issued by the Minister with respect to navigational warnings, precautions concerning submarine cables and pipelines and other information relating to the safe navigation of vessels on the River Murray and inland waters.

5—Practical Seamanship

A working knowledge of the following:

- (a) knots, hitches and bends in common use;
- (b) care of rope, wire and chains;
- (c) the safe handling of moorings.

6—Vessel Handling

A practical knowledge of the following:

- (a) berthing and unberthing;
- (b) conning the vessel, the effect of propellers on the steering of a vessel, turning a vessel short round and negotiating locks;
- (c) the effect of current, wind and shallows on manoeuvring;
- (d) manoeuvring a vessel, including a vessel with independent or fixed paddles;
- (e) the dangers of manoeuvring and passing too close to vessels in a narrow channel or river;
- (f) emergency manoeuvres—emergency stop and person overboard procedures;
- (g) towing and being towed;
- (h) duties when underway and alongside;
- (i) approaching a ferry crossing.

7—Safety Equipment and Emergency Procedures

A general knowledge of safe practices in the following:

- (a) the use and care of lifesaving appliances;
- (b) the use and care of fire fighting appliances;
- (c) the prevention of fire and fire fighting;
- (d) the action to be taken in the event of fire, collision, grounding or damage to the vessel;
- (e) precautions for the protection and safety of passengers and crew in emergency situations.

8—Engineering

A practical knowledge of the operation of the mechanical equipment in the engine room of a vessel, with particular reference to:

- (a) marine internal combustion engines and their fittings, shafting and propellers and preparation for the use of engines and fittings;

- (b) the precautions necessary for the prevention of fire or explosion associated with the use of petrol, liquefied petroleum gas, distillate or other fuel and with the charging of batteries;
- (c) the action that should be taken in the event of fire or explosion, including the use of fire fighting appliances;
- (d) cooling water and fuel systems and bilge pumping arrangements, including precautions against back-flooding;
- (e) care of electrical systems (including batteries), safety procedures when working on low and medium voltage a.c. and d.c. systems and procedures relating to fuses and circuit breakers;
- (f) steering gear and deck machinery;
- (g) fuel consumption including estimation and calculation.

3—Certificate of competency as Master Class 5 River Murray and Inland Waters (Houseboats)

To be eligible for the issue of a certificate of competency as Master Class 5 River Murray and Inland Waters (Houseboats), an applicant—

- (a) must have attained the age of 18 years; and
- (b) must meet the eyesight and medical standards for a Master Class 5 required by clause 17.1 of section 2 of the Code as modified by these regulations; and
- (c) —
 - (i) if the applicant does not hold a certificate of competency—must have 12 months of experience approved by the CEO within the previous 5 years of which at least 6 months must have been served on commercial houseboats of less than 80 m in length on the River Murray or inland waters; or
 - (ii) if the applicant holds other qualifications acceptable to the CEO—must have a period appropriate to those qualifications of experience approved by the CEO on the River Murray or inland waters; and
- (d) must satisfy the CEO (by oral, practical or written examination, as determined by the CEO) as to his or her competence in the following syllabus:

Syllabus—Master Class 5 River Murray and Inland Waters (Houseboats)

SHIP KNOWLEDGE

1—Design and Construction

- (1) Knowledge of the principal parts of a vessel and their various functions;
- (2) Practical appreciation of how the watertight integrity of a vessel is maintained;
- (3) Practical knowledge of fuel, fresh water and ballast water arrangements, including pumping, cross flooding, sounding and venting facilities;

- (4) Practical knowledge of bilge pumping arrangements;
- (5) Practical knowledge of the steering arrangements of a vessel.

2—Stability

A general understanding of the effect on the stability of a vessel of—

- (a) adding and removing weights;
- (b) the disposition of passengers;
- (c) ballast and fuel;
- (d) slack tanks;
- (e) free surface.

3—Maintenance and Repairs

Knowledge of—

- (a) methods of docking or slipping vessels;
- (b) maintenance of vessels.

NAUTICAL KNOWLEDGE

1—Marine Legislation

- (1) Knowledge of the certificates required to be carried by vessels;
- (2) A working knowledge of the law relating to the following:
 - (a) lifesaving appliances;
 - (b) distress signals;
 - (c) rendering assistance;
 - (d) overloading;
 - (e) fire appliances;
 - (f) musters and drills.

2—Meteorology

- (1) A knowledge of basic meteorological terms so that a candidate can interpret information provided by radio broadcasts and weather maps including a general understanding of stable and unstable systems;
- (2) An understanding of the effect of fetch on wave height.

3—Protection of the Environment

- (1) A working knowledge of the law relating to the protection of the environment, including the pollution of the waters by oil and other materials;
- (2) Knowledge of the management of sewage holding tanks.

4—Navigational Safety

- (1) A sound knowledge of the content and application of—
 - (a) section 17 of the Code;
 - (b) channel and lock marking systems;
- (2) A knowledge of the content of publications and Marine Notices issued by the Minister with respect to navigational warnings, precautions concerning submarine cables and pipelines and other information relating to the safe navigation of vessels on the River Murray and inland waters.

5—Practical Seamanship

A working knowledge of the following:

- (a) knots, hitches and bends in common use;
- (b) care of rope, wire and chains;
- (c) the safe handling of moorings.

6—Vessel Handling

A practical knowledge of the following:

- (a) berthing and unberthing;
- (b) conning the vessel, the effect of propellers on the steering of a vessel, turning a vessel short round and negotiating locks;
- (c) the effect of current, wind and shallows on manoeuvring;
- (d) manoeuvring a vessel, including a vessel with independent or fixed paddles;
- (e) the dangers of manoeuvring and passing too close to vessels in a narrow channel or river;
- (f) emergency manoeuvres—emergency stop and person overboard procedures;
- (g) towing and being towed;
- (h) duties when underway and alongside;
- (i) approaching a ferry crossing.

7—Safety Equipment and Emergency Procedures

A general knowledge of safe practices in the following:

- (a) the use and care of lifesaving appliances;
- (b) the use and care of fire fighting appliances;
- (c) the prevention of fire and fire fighting;
- (d) the action to be taken in the event of fire, collision, grounding or damage to the vessel;
- (e) precautions for the protection and safety of passengers and crew in emergency situations.

8—Engineering

A practical knowledge of the operation of the mechanical equipment in the engine room of a vessel, with particular reference to:

- (a) marine internal combustion engines and their fittings, shafting and propellers and preparation for the use of engines and fittings;
- (b) the precautions necessary for the prevention of fire or explosion associated with the use of petrol, liquefied petroleum gas, distillate or other fuel and with the charging of batteries;
- (c) the action that should be taken in the event of fire or explosion, including the use of fire fighting appliances;
- (d) cooling water and fuel systems and bilge pumping arrangements, including precautions against back-flooding;
- (e) care of electrical systems (including batteries), safety procedures when working on low and medium voltage a.c. and d.c. systems and procedures relating to fuses and circuit breakers;
- (f) steering gear and deck machinery;
- (g) fuel consumption including estimation and calculation.

4—Certificate of competency as Master Class 4 River Murray and Inland Waters

To be eligible for the issue of certificate of competency as Master Class 4 River Murray and Inland Waters, an applicant—

- (a) must have attained the age of 20 years; and
- (b) must meet the eyesight and medical standards for a Master Class 4 required by clause 19.1 of section 2 of the Code as modified by these regulations; and
- (c) —
 - (i) if the applicant does not hold a certificate of competency—must have 30 months of experience approved by the CEO, at least 12 months of which must have been served during the previous 5 years and at least 18 months of which must have been served on the River Murray or inland waters on commercial vessels of not less than 12 m in length; or
 - (ii) if the applicant holds a certificate of competency as Master Class 5 River Murray and Inland Waters—must have 12 months of experience approved by the CEO during the previous 5 years, at least 6 months of which must have been served as mate on the River Murray or inland waters on vessels of not less than 12 m in length; or
 - (iii) if the applicant holds other qualifications acceptable to the CEO—must have a period appropriate to those qualifications of experience approved by the CEO on the River Murray or inland waters on vessels of not less than 12 m in length; and

- (d) must satisfy the CEO (by oral, practical or written examination, as determined by the CEO) as to his or her competence in the following syllabus:

Syllabus—Master Class 4 River Murray and Inland Waters

SHIP KNOWLEDGE

1—Design and Construction

- (1) Knowledge of the principal parts of a vessel and their various functions;
- (2) Practical appreciation of how the watertight integrity of a vessel is maintained;
- (3) Practical knowledge of fuel, fresh water and ballast water arrangements, including pumping, cross flooding, sounding and venting facilities;
- (4) Practical knowledge of bilge pumping arrangements;
- (5) Practical knowledge of the steering arrangements of a vessel.

2—Stability

A general understanding of the effect on the stability of a vessel of—

- (a) adding and removing weights;
- (b) the disposition of passengers;
- (c) ballast and fuel;
- (d) slack tanks;
- (e) free surface.

3—Maintenance and Repairs

Knowledge of—

- (a) methods of docking or slipping vessels;
- (b) the maintenance of vessels.

NAUTICAL KNOWLEDGE

1—Marine Legislation

- (1) Knowledge of the certificates required to be carried by vessels;
- (2) A working knowledge of the law relating to the following:
 - (a) lifesaving appliances;
 - (b) distress signals;
 - (c) rendering assistance;
 - (d) overloading;
 - (e) fire appliances;
 - (f) musters and drills.

2—Meteorology

- (1) A knowledge of basic meteorological terms so that a candidate can interpret information provided by radio broadcasts and by weather maps including a general understanding of stable and unstable systems;
- (2) An understanding of the effect of fetch on wave height.

3—Protection of the Environment

- (1) A working knowledge of the law relating to the protection of the environment, including the pollution of the waters by oil and other materials;
- (2) Knowledge of the management of sewage holding tanks.

4—Navigational Safety

- (1) A sound knowledge of the content and application of—
 - (a) section 17 of the Code;
 - (b) channel and lock marking systems;
- (2) A knowledge of the content of publications and Marine Notices issued by the Minister with respect to navigational warnings, precautions concerning submarine cables and pipelines and other information relating to the safe navigation of vessels on the River Murray and inland waters.

5—Practical Navigation

A working knowledge of the following:

- (a) knots, hitches and bends in common use;
- (b) care of rope, wire and chains;
- (c) the safe handling of moorings.

6—Vessel Handling

A practical knowledge of the following:

- (a) berthing and unberthing;
- (b) conning the vessel, the effect of propellers on the steering of a vessel, turning a vessel short round and negotiating locks;
- (c) the effect of current, wind and shallows on manoeuvring;
- (d) manoeuvring a vessel, including a vessel with independent or fixed paddles;
- (e) the dangers of manoeuvring and passing too close to vessels in a narrow channel or river;
- (f) emergency manoeuvres—emergency stop and person overboard procedures;

- (g) towing and being towed;
- (h) duties when underway and alongside;
- (i) approaching a ferry crossing.

7—Safety Equipment and Emergency Procedures

A general knowledge of safe practices in the following:

- (a) the use and care of lifesaving appliances;
- (b) the use and care of fire fighting appliances;
- (c) the prevention of fire and fire fighting;
- (d) the action to be taken in the event of fire, collision, grounding or damage to the vessel;
- (e) precautions for the protection and safety of passengers and crew in emergency situations.

8—Engineering

A practical knowledge of the operation of the mechanical equipment in the engine room of a vessel, with particular reference to:

- (a) marine internal combustion engines and their fittings, shafting and propellers and preparation for the use of engines and fittings;
- (b) the precautions necessary for the prevention of fire or explosion associated with the use of petrol, liquefied petroleum gas, distillate or other fuel and with the charging of batteries;
- (c) the action that should be taken in the event of fire or explosion, including the use of fire fighting appliances;
- (d) cooling water and fuel systems and bilge pumping arrangements, including precautions against back-flooding;
- (e) care of electrical systems (including batteries), safety procedures when working on low and medium voltage a.c. and d.c. systems and procedures relating to fuses and circuit breakers;
- (f) steering gear and deck machinery;
- (g) fuel consumption including estimation and calculation.

Schedule 8—Structural and equipment requirements for hire and drive houseboats

1—Length, size and speed

- (1) Subject to subclause (2), a hire and drive houseboat—
 - (a) must not exceed 20 m in length; and
 - (b) must not exceed 8.5 m beam; and

- (c) must not be a boat that is permitted (under its certificate of inspection) to carry more than 12 persons while underway; and
 - (d) must not have a potential speed of more than 10 knots.
- (2) A hire and drive houseboat—
- (a) in respect of which a certificate of inspection issued under the Act was purportedly in force immediately before the commencement of these regulations; and
 - (b) that was, immediately before that commencement, available for hiring out by its owner in the course of carrying on a business of hiring out boats for operation by hirers,
- may exceed 20 m in length.

2—Pontoons

- (1) A pontoon must be constructed of steel, marine grade aluminium alloy, or fibreglass or other suitable material approved by the CEO.
- (2) If the material of which a pontoon is constructed is less than 3 mm thick, it must be approved by the CEO as having adequate structural strength.
- (3) A pontoon must be of adequate strength to support the fixed house that it is designed for and must be suitably stiffened in both the transverse and longitudinal directions.
- (4) A pontoon must be subdivided into transverse bulkheads of watertight construction spaced not more than 1.2 m apart.
- (5) A transverse bulkhead must be suitably stiffened.
- (6) Each pontoon must be provided with brackets or other effective arrangement for attaching the deck structure supporting the fixed house.
- (7) All compartments in a pontoon are to be air tested to a pressure of 3.5 kPa to ensure that all external joints and bulkheads are watertight, and the test must be evidenced by a test record sheet that gives full details of the test, signed by the person carrying out the tests on behalf of the pontoon manufacturer.
- (8) A metal plate bearing the manufacturer's name, the date of manufacture and an identification number must be permanently affixed near the aft end of each pontoon so as to be clearly visible and protected from accidental damage.

3—Decks

- (1) The deck of a hire and drive houseboat that has a mono-hull must be of sufficient strength to permit the fixed house to be adequately fitted to it.
- (2) The deck of a hire and drive houseboat that is constructed of pontoons must be constructed of timber or metal beams of sufficient strength to take the static and wind loads of the fixed house.
- (3) If the spacing of transverse beams exceeds 600 mm between centres, the size of the beam must be correspondingly increased.
- (4) Cross bracing for the deck beams must be provided.
- (5) Any area of open deck must be capable of supporting the maximum number of persons that the houseboat is permitted to carry while underway.

- (6) The perimeter of all decks must be fitted with horizontal rails—
 - (a) extending at least 850 mm above the deck and spaced not more than 250 mm apart; and
 - (b) capable of withstanding a horizontal thrust equivalent to 300 kgs,or an alternative barrier that provides, in the opinion of the CEO, adequate protection against the risk of a person falling from the deck.
- (7) Any access gate in the rails or other barrier must be designed and constructed so as to only open inwards and must be fitted with a device designed and constructed to prevent a child from opening the gate.
- (8) All decks must have a non-slip surface suitable for wet conditions.

4—Steps and ladders

Any steps or ladders—

- (a) must have an angle to the vertical of not less than 15°; and
- (b) must have a width of at least 600 mm; and
- (c) must have steps that—
 - (i) have a depth of at least 200 mm; and
 - (ii) are not more than 250 mm apart; and
 - (iii) have a non-slip surface.

5—Fixed house

- (1) The side frames, internal frames and house top beams must be constructed of timber or metal and of a size to meet standard house specifications.
- (2) The floor of the house must be constructed of water resistant particle board or marine grade plywood effectively fastened to the deck beams.
- (3) The internal house framing must be welded or bolted to the deck beams and be weather-tight.
- (4) Weather-tight external cladding must be fitted on the sides and ends of the house and the internal linings and ceilings must be of low flame spread materials.
- (5) Floors of toilet and wash places must be covered with ceramic tiles or equivalent waterproof materials.
- (6) Windows, glass doors and wooden doors must meet house construction standards.

6—Visibility

A hire and drive houseboat must be constructed so as to allow the greatest possible visibility for the person operating the boat.

7—Freeboard

- (1) When a hire and drive houseboat is fully loaded (including all fuel that may be carried on the boat) the height of the top of the deck above water level at the lowest point must be—
 - (a) for a boat that is 6 m or less in length—not less than 400 mm;
 - (b) for a boat that is 20 m or more in length—not less than 600 mm;

- (c) for a boat that is more than 6 m but less than 20 m in length—not less than a distance determined by interpolation.
- (2) If a hire and drive houseboat is constructed of pontoons, the freeboard required by subclause (1) must be such that allows the pontoons to have a reserve buoyancy of at least 25% of the total volume of the pontoons.

8—Stability

A hire and drive houseboat must comply with the following elementary stability test:

- (a) when a number of persons equal to the maximum number that the boat is permitted to carry while underway are on 1 side of the uppermost deck at its extreme breadth from the centreline of the hull—
 - (i) the angle of heel must not exceed 7° from the upright; and
 - (ii) the freeboard of the hull on the heeled or immersed side, measured from the inclined waterline to the intersection of the edge of the main deck line and sheerline of the main hull at its lowest point, must not be less than 25% of the freeboard in the upright condition when fully loaded.

9—Structural fire protection

A hire and drive houseboat must be constructed so as to minimise fire hazards and in particular—

- (a) the engine compartment must be lined with non-combustible material; and
- (b) if the sides of the engine compartment adjoin any other compartment and are not made of steel, the sides must be constructed (in accordance with section 5F of the Code) of a material that, after exposure of 1 side of the material to fire for 30 minutes, the average temperature of the side not exposed to fire does not rise more than 139°C above the original temperature; and
- (c) the cooking area must be protected by non-combustible material or fire resistant material; and
- (d) there must be no combustible material within 750 mm above the stove; and
- (e) if the stove is located within 300 mm of combustible material, it must be protected as required by section 5F of the Code; and
- (f) all exposed surfaces of the lining of accommodation areas must be of low flame spread material and the lining must be constructed as required by section 5F of the Code; and
- (g) 2 smoke detectors, or such greater number as the CEO may, in a particular case, direct, must be installed in appropriate positions in accommodation areas.

10—Engines

- (1) If a hire and drive houseboat is propelled by an inboard engine, the engine must operate on fuel that has a flash point of not less than 60°C.
- (2) The engine must be provided with such instrumentation as is necessary to ensure its satisfactory operation.

11—Exhaust systems

- (1) Exhaust pipes and silencers must be constructed of steel, copper or other suitable material approved by the CEO.
- (2) Exhaust pipes and silencers must either be water cooled or effectively insulated.
- (3) Exhaust pipes must be constructed so that any back flow of water cannot enter the engine manifold.
- (4) Any part of an exhaust pipe that passes through an accommodation area must be enclosed in a gas tight casing.

12—Ventilation of machinery spaces

The engine compartment and any other area housing machinery must be adequately ventilated and, in particular, the volume of air flow must be sufficient to provide air for aspiration of the machinery when running at full power and additional air to provide adequate cooling.

Note—

See AS 2387.

13—Fuel tanks and fuel systems for engines and generators

The following requirements apply to fuel tanks and fuel systems used in connection with an engine or a generator:

- (a) a fuel tank must be—
 - (i) soundly constructed from carbon steel, stainless steel, copper, marine grade aluminium alloy, or, if the fuel to be contained in the tank has a flash point above 60°C, glass reinforced plastic; and
 - (ii) designed and constructed for a working pressure of not less than 20 kPa; and
 - (iii) tested—
 - (A) in the presence of a surveyor; and
 - (B) with the tank full of water to the maximum head or 2.5 m above the top of the tank, whichever is the greater,to ensure subparagraph (ii) is complied with;
- (b) if a fuel tank is installed independently of the hull, the tank and fuel system must, in addition, comply with the following requirements:
 - (i) the tank must be securely installed in such a position that it is clear of the engine and the exhaust pipes and that ensures that any fuel spilled during filling of the tank will not come into contact with hot machinery;
 - (ii) the tank supports and fastenings must be insulated from the tank by non-abrasive and non-absorbent material;
 - (iii) a shut-off valve or cock must be fitted at each tank outlet line and only metal pipes and fittings may be used between the tank and the shut-off valve or cock;
 - (iv) if the fuel has a flash point of less than 60°C—
 - (A) all elements of the fuel system must be electrically bonded; and

- (B) if the tank has a capacity of more than 30 litres—the fill pipe must extend to within 50 mm of the bottom of the tank; and
- (C) if the tank has a capacity of more than 10 litres—fuel outlet must be by means of a siphon tube extending to within 12 mm of the bottom of the tank;
- (v) if the fuel has a flash point of 60°C or more—the fill pipe need only be taken to the top of the tank and the outlet may be fitted on the side or end of the tank;
- (vi) the tank must be vented with a pipe that is fitted with a corrosion resistant anti-flash gauze (usually formed into a cone and inserted inside the vent pipe ensuring that there is good metal to metal contact with the pipe) that does not reduce the open area of the pipe;
- (vii) if the tank is a portable fuel tank fitted in connection with an outboard engine—the fuel lines must be of heavy duty synthetic rubber suitable for carrying fuel and fitted with bayonet type fittings which, when disconnected, automatically shut off the fuel from the tank;
- (viii) fuel pipes that are flexible must—
 - (A) be as short as possible; and
 - (B) be constructed of metal braided reinforced material with a synthetic inner tube suitable for carrying fuel (although if the fuel pipe is not in the engine room or area and it is impracticable for the pipe to be constructed as required by this paragraph, the pipe may be constructed in an alternative manner approved by the CEO); and
 - (C) be capable of withstanding 2.5 minutes of exposure to free burning kerosene while containing fuel;
- (ix) fuel pipes that are not flexible must be constructed of seamless metal;
- (x) if the tank contains fuel for use in a generator—
 - (A) the tank must be installed in such a manner that it is not possible to overfill the supply tank of the generator; and
 - (B) if the tank may not be of sufficient capacity for a period of hire of the boat—a fuel transfer pumping and piping system or gravity feed system must be installed to ensure that fuel does not have to be decanted by the hirer into the tank.

14—Additional fuel

If fuel is carried on a hire and drive houseboat otherwise than in fuel tanks associated with the engine or a generator, the following requirements apply:

- (a) the fuel (which must have a flash point under 60°C) must be stored in a flammable liquids cabinet designed and constructed in accordance with AS 1940;
- (b) the cabinet must be located so that there is no ignition source within 3 m;
- (c) the cabinet must be vented and gauze flash arresters fitted to the vents;
- (d) if the cabinet is on an open deck—it must be shaded by a structure to protect it from excessive temperature;

- (e) the quantity of additional fuel must not exceed 120 litres;
- (f) the fuel must be stored in containers of a type approved by the CEO.

15—Shipside valves and pipes

- (1) All water inlets or points of discharge below the waterline must be fitted with metal valves or cocks secured directly to the hull.
- (2) The valves or cocks must be readily accessible and provided with permanently attached handles or handwheels as a means of opening and closing them.
- (3) Any flexible pipes over 25 mm bore below the waterline must be fitted with 2 corrosion resistant pipe clips at each end.

16—Electrical installations

The following requirements apply in addition to other laws applying to electrical work and fittings:

- (a) switchboards, distribution boards and fuse boxes must not be located within 1.5 m (or such lesser distance as is approved by the CEO in a particular case) of equipment which may give off flammable vapours such as fuel tanks, gas cylinders and batteries;
- (b) all electrical circuits supplying power outlets with alternating power voltage above 32 volts must be fitted with earth leakage circuit breakers that comply with AS 3190;
- (c) all circuit breakers, switches, fuses, and alarms, designed, constructed or adapted for use in an emergency must be labelled as such;
- (d) navigation lights must be on a separate electrical circuit with each light individually fused or fitted with an overload circuit breaker;
- (e) batteries must be of sufficient capacity for their intended service and must be contained in a tray that is not less than 100 mm deep and lined with lead, fibreglass or other acid resistant material;
- (f) if a battery is located on an open deck, it must be fully protected from the weather;
- (g) starter leads for an inboard engine must be—
 - (i) as short as is compatible with the safe storage of the batteries; and
 - (ii) taken directly to the starter through the starting relay contacts with the relay mounted directly on or adjacent to the starter motor;
- (h) the insulation resistance between conductors installed on a hire and drive houseboat and the conductors and earth, with all fuses in place, all circuit breakers closed and all consuming devices disconnected, must be tested (with a 500 volt insulation tester arranged to indicate resistance in Ohms or, if there is any risk of damage to the installation, a low voltage tester) to ensure that the resistance is not less than 1 000 000 Ohms;
- (i) the electrical system must be tested to ensure that all earth continuity conductors and earthing leads are connected to the frame of the boat and to the pontoon structure or hull.

17—Liquefied petroleum gas installations

The following requirements apply in addition to other laws applying in relation to liquefied petroleum gas:

- (a) an appliance with a continuous burning pilot light or other continuous flame device—
 - (i) must not be installed below the main deck; and
 - (ii) must be fitted with a device that automatically shuts off the gas in the main supply line to the appliance if the pilot light or continuous flame is extinguished;
- (b) a gas heater without a flue is not permitted in an area where a person may sleep on a houseboat unless permitted by the Office of the Technical Regulator;
- (c) an enclosed area containing a gas appliance must be ventilated as follows:
 - (i) if the area provides accommodation other than for sleeping or cooking—
 - (A) there must be 2 vents (in addition to any opening windows or other required vents) fitted on opposite sides of the area; and
 - (B) the lower edge of 1 vent must not be more than 150 mm above the floor; and
 - (C) the upper edge of the other vent must not be more than 300 mm below the ceiling; and
 - (D) if the lower vent is in the floor, it must be located where it is unlikely to be covered; and
 - (E) the vents must be of the following sizes:
 - if the area contains a refrigerator—
 - if the refrigerator has a capacity of less than 100 litres—325 square centimetres;
 - if the refrigerator has a capacity of 100 litres or more but less than 200 litres—450 square centimetres;
 - if the refrigerator has a capacity of 200 litres or more—650 square centimetres;
 - if the area does not contain a refrigerator—
 - if the area is less than 4 m in length—240 square centimetres;
 - if the area is 4 or more metres, but less than 5 m, in length—300 square centimetres;
 - if the area is 5 m or more in length—360 square centimetres;
 - (ii) in any other case—
 - (A) the door to the area must be suitably louvred; or
 - (B) there must be 2 vents in the area as follows:

- the vents must have a clear area of at least 325 square mm per megajoule per hour of gas input to all appliances within the area;
 - the vents must be at least 50 mm high and 100 mm wide;
 - the lower edge of 1 vent must not be less than 75 mm above the top of the highest draught diverter relief opening of the gas appliances in the area;
 - the lower edge of the other vent must not be more than 100 mm above the floor of the area;
- (d) the area within 1 m of a liquefied petroleum gas cylinder must be clear of flammable material (including paper and oily rags);
- (e) a liquefied petroleum gas cylinder—
- (i) must be secured vertically in position with valves uppermost by fastenings designed and constructed to withstand a load, in any direction, equal to 4 times the weight of the cylinder when full; and
 - (ii) must be stored so that there is no source of ignition within a cone shaped area around the cylinder, with the radius of the base of the cone being 1.5 m, the base of the cone and the base of the cylinder being in the same horizontal plane and having the same centre point, and the height of the cone being 1 m greater than the height of the cylinder, but excluding that part of the cone shaped area that is above a horizontal plane that is 500mm above the topmost part of the cylinder (ie the tip of the cone); and
 - (iii) must be positioned so that the valves are more than 1 m horizontally from any window or opening into a structure and more than 150 mm below any window or opening into a structure or, if positioned closer, must be fitted with a non-combustible baffle; and
 - (iv) must be stored in an area—
 - (A) that is constructed of fire resistant material or is lined with fire resistant material; and
 - (B) that is vapour proof to accommodation areas; and
 - (C) in which no electrical equipment or appliances are installed;
- (f) if copper pipes are used for liquefied petroleum gas—
- (i) the pipes must be secured with clips fitted at least each 1 m if the pipe is vertical and at least each 400 mm if the pipe is not vertical; and
 - (ii) the material of which the clips are constructed must be compatible with copper pipe so that corrosion is not caused; and
 - (iii) suitable grommets must be fitted to protect the pipe where it passes through a structure.

18—Accommodation and associated facilities

- (1) Headroom in accommodation areas must be at least 1.9 m.
- (2) Passageways that are less than 4.5 m in length must be at least 600 mm wide.
- (3) Passageways that are 4.5 m or more in length must be at least 800 mm wide.

- (4) There must be at least 2 avenues of escape (1 of which may be a readily accessible opening window with a clear opening of at least 460 mm vertically and 410 mm horizontally) from all accommodation areas.
- (5) Doors to enclosed areas must be capable of being opened from inside the area without the use of a key.
- (6) Each sleeping area must be provided with a vent with an open area of not less than 80 square centimetres per bunk located in the area, in addition to any opening windows.
- (7) Bunks must be—
 - (a) at least 1.9 m long; and
 - (b) at least 600 mm wide; and
 - (c) at least 600 mm apart.
- (8) If bunks are placed on top of each other—
 - (a) there must not be more than 2 bunks on top of each other; and
 - (b) there must be at least 600 mm separating the bottom bunk from the top bunk.
- (9) A toilet compartment must not be less than 700 mm square.

19—Sewerage system

A hire and drive houseboat must be fitted with a sewerage system that complies with the following requirements:

- (a) the sewerage holding tank must have a capacity of at least 180 litres;
- (b) the pipe connecting the toilet pan to the tank must be at least 75 mm in diameter and the outlet pipe, the flushing pipe and the air pipe must each be at least 40 mm in diameter;
- (c) if the sewerage tank is suspended between the pontoons—the tank must be protected against damage by floating debris;
- (d) any other laws applying in relation to a sewerage system.

20—Lifesaving appliances

- (1) A hire and drive houseboat must carry on it the following lifesaving appliances:
 - (a) one 750 mm lifebuoy painted in a highly visible colour with not less than 30 m of 12 mm buoyant line attached;
 - (b) a number of coastal type lifejackets or personal flotation devices equal to the maximum number of persons that the boat is permitted to carry while underway.
- (2) A lifebuoy required to be carried on a hire and drive houseboat must comply with section 10 of the Code.
- (3) A personal flotation device required to be carried on a hire and drive houseboat must comply with AS 1499, AS 1512 or AS 2260.

21—Fire appliances

A hire and drive houseboat must carry on it the following fire appliances:

- (a) —
 - (i) two 4.5 kg dry chemical powder fire extinguishers; or

- (ii) one 4.5 kg dry chemical powder fire extinguisher and one 3 kg carbon dioxide fire extinguisher; or
 - (iii) one 4.5 kg dry chemical powder fire extinguisher and one 9 litre foam fire extinguisher;
- (b) 2 buckets each of not less than 9 litre capacity and fitted with a lanyard of not less than 2 m.

22—Communications equipment

A hire and drive houseboat must be fitted with either or both of the following:

- (a) radio equipment that is capable of communication with the owner;
- (b) a mobile phone provided by the owner.

23—Navigation lights

A hire and drive houseboat must be fitted with lights so as to enable compliance with section 17 of the Code.

24—Miscellaneous equipment

A hire and drive houseboat must be fitted with the following equipment:

- (a) a sound signalling device, being a power-operated (by electricity or otherwise) horn, whistle, siren or klaxon;
- (b) an electric signalling torch;
- (c) a first aid kit of a common proprietary brand including at least the following items:
 - (i) Adhesive Plaster;
 - (ii) Antiseptic Cream;
 - (iii) Antiseptic Solution;
 - (iv) Bandages;
 - (v) Cotton Wool;
 - (vi) Crepe Pressure Bandage;
 - (vii) Dressings;
 - (viii) Finger Stall;
 - (ix) First Aid Pamphlet;
 - (x) Gauze;
 - (xi) Safety Pins;
 - (xii) Scissors;
 - (xiii) Splinter Forceps;
 - (xiv) Splinter Probe.

Schedule 9—Structural and equipment requirements for vessels

Part 1—Equipment requirements for vessels not otherwise specified in this Schedule

1—Application of Part

This Part applies in relation to all vessels other than hire and drive houseboats and vessels to which Part 2, Part 3 or Part 4 apply.

Note—

The vessels to which this Part applies are recreational vessels and vessels not required to be registered, surveyed or inspected.

2—Hatches and exterior doors

All hatches and doors on a vessel constructed after 1 January 1996 must be able to be opened from both inside and outside.

3—No open exhausts

- (1) A vessel with an engine must be equipped with an exhaust that complies with the requirements (if any) set out in this Schedule.
- (2) An exhaust fitted in relation to an engine of a vessel must not be, or be capable of producing, an open exhaust from the engine.

4—Compliance plate—maximum load

A vessel constructed after 1 January 1996 must have affixed in a prominent position a compliance plate stating the maximum number of persons that the vessel may carry in accordance with AS 1799.1.

5—Additional fuel

If fuel with a flash point below 60°C is carried on a houseboat otherwise than in fuel tanks associated with the engine or a generator, the following requirements apply:

- (a) the fuel must be stored in a flammable liquids cabinet designed and constructed in accordance with AS 1940;
- (b) the cabinet must be located so that there is no ignition source within 3 m;
- (c) the cabinet must be vented and gauze flash arresters fitted to the vents;
- (d) if the cabinet is on an open deck—it must be shaded by a structure to protect it from excessive temperature;
- (e) the quantity of additional fuel must not exceed 120 litres;
- (f) the fuel must be stored in containers of a type approved by the CEO.

6—Life saving appliances, fire appliances and miscellaneous equipment

- (1) Subject to these regulations, a vessel that is less than 8 m in length must be equipped with the following:
- (a) while the vessel is operated in protected waters—
 - (i) 1 PFD Type 1, PFD Type 2 or PFD Type 3 for each person carried on the vessel;
 - (ii) 1 anchor;
 - (iii) either—
 - (A) 1 bailer; or
 - (B) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
 - (iv) if the vessel has an engine or includes facilities for cooking meals—1 fire extinguisher (stowed so as to be readily accessible in case of fire);
 - (v) if the vessel is being operated between the hours of sunset and sunrise—1 torch or lantern;
 - (vi) 1 fire bucket (stowed so as to be readily accessible in case of fire);
 - (b) while the vessel is operated in semi-protected waters—
 - (i) —
 - (A) before 1 June 2010—1 PFD Type 1, PFD Type 2 or PFD Type 3;
 - (B) on or after 1 June 2010—1 PFD Type 1,for each person carried on the vessel;
 - (ii) either—
 - (A) 1 bailer; or
 - (B) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
 - (iii) 1 torch or lantern;
 - (iv) 1 anchor;
 - (v) if the vessel has an engine or includes facilities for cooking meals—1 fire extinguisher (stowed so as to be readily accessible in case of fire);
 - (vi) 2 hand held red flares;
 - (vii) 2 hand held orange smoke signals;
 - (viii) 1 fire bucket (stowed so as to be readily accessible in case of fire);
 - (c) while the vessel is operated in unprotected waters—
 - (i) 1 PFD Type 1 for each person carried on the vessel;
 - (ii) 1 two-way marine radio capable of communicating with onshore stations;

- (iii) either—
 - (A) 1 bailer; or
 - (B) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
- (iv) 1 torch or lantern;
- (v) 1 anchor;
- (vi) if the vessel has an engine or includes facilities for cooking meals—1 fire extinguisher (stowed so as to be readily accessible in case of fire);
- (vii) 2 hand held red flares;
- (viii) 2 hand held orange smoke signals;
- (ix) 1 compass (affixed to the vessel adjacent to the steering position in a manner and position that allows the operator of the vessel to determine, with reasonable accuracy, bearings and the vessel's heading from the compass while operating the vessel);

Note—

This requirement is not satisfied by GPS or satellite navigation systems (or similar electronic devices) nor a hand-held compass—see clause 8 of this schedule.

- (x) 4 litres of fresh water;
 - (xi) 1 fire bucket (stowed so as to be readily accessible in case of fire);
 - (xii) while the vessel is operated more than 5 nautical miles seaward of low water mark of the coast in the waters of Spencer Gulf or Gulf St. Vincent (as defined in subclause (7)), or more than 3 nautical miles seaward of low water mark of the coast in the waters of any other area except Lakes Alexandrina and Albert (in addition to any other equipment required under this paragraph)—1 V distress sheet;
 - (xiii) while the vessel is operated more than 10 nautical miles seaward of low water mark of the coast (in addition to any other equipment referred to in this paragraph)—
 - (A) 2 distress rockets with parachutes; and
 - (B) 1 map or chart of the operational area.
- (2) Without limiting subclause (1), a vessel that is less than 6 m in length must also be equipped with—
- (a) while the vessel is operated in protected waters—1 pair of paddles or oars; or
 - (b) while the vessel is operated in semi-protected or unprotected waters—1 pair of paddles or oars or other means of auxiliary propulsion.
- (3) Subject to these regulations, a vessel that is 8 m or more in length must be equipped with the following:
- (a) while the vessel is operated in protected waters—
 - (i) 1 PFD Type 1, PFD Type 2 or PFD Type 3 for each person carried on the vessel;

- (ii) 1 bailer;
 - (iii) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
 - (iv) 1 anchor;
 - (v) if the vessel has an engine or includes facilities for cooking meals—2 fire extinguishers (stowed so as to be readily accessible in case of fire);
 - (vi) 1 life-buoy with line;
 - (vii) if the vessel is being operated between the hours of sunset and sunrise—1 torch or lantern;
 - (viii) 1 fire bucket (stowed so as to be readily accessible in case of fire);
- (b) while the vessel is operated in semi-protected waters—
- (i) —
 - (A) before 1 June 2010—1 PFD Type 1, PFD Type 2 or PFD Type 3;
 - (B) on or after 1 June 2010—1 PFD Type 1,for each person carried on the vessel;
 - (ii) 2 bailers;
 - (iii) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
 - (iv) 1 torch or lantern;
 - (v) 2 anchors (but if the vessel is less than 12 m in length, 1 anchor may be carried as a spare);
 - (vi) if the vessel has an engine or includes facilities for cooking meals—2 fire extinguishers (stowed so as to be readily accessible in case of fire);
 - (vii) 1 life-buoy with line;
 - (viii) 2 hand held red flares;
 - (ix) 2 hand held orange smoke signals;
 - (x) 1 fire bucket (stowed so as to be readily accessible in case of fire);
- (c) while the vessel is operated in unprotected waters—
- (i) 1 PFD Type 1 for each person carried on the vessel;
 - (ii) 1 two-way marine radio capable of communication with onshore stations;
 - (iii) 2 bailers;
 - (iv) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces) (unless the vessel is constructed of permanently enclosed pontoon hulls);
 - (v) 1 torch or lantern;
 - (vi) 2 anchors;
 - (vii) if the vessel has an engine or includes facilities for cooking meals—2 fire extinguishers (stowed so as to be readily accessible in case of fire);

- (viii) 2 hand held red flares;
- (ix) 2 hand held orange smoke signals;
- (x) 1 compass (affixed to the vessel adjacent to the steering position in a manner and position that allows the operator of the vessel to determine, with reasonable accuracy, bearings and the vessel's heading from the compass while operating the vessel);

Note—

This requirement is not satisfied by GPS or satellite navigation systems (or similar electronic devices) nor a hand-held compass—see clause 8 of this schedule.

- (xi) 4 litres of fresh water;
 - (xii) 1 life buoy with line;
 - (xiii) 1 fire bucket (stowed so as to be readily accessible in case of fire);
 - (xiv) while the vessel is operated more than 5 nautical miles seaward of low water mark of the coast in the waters of Spencer Gulf or Gulf St. Vincent (as defined in subclause (7)), or more than 3 nautical miles seaward of low water mark of the coast in the waters of any other area except Lakes Alexandrina and Albert (in addition to any other equipment required under this paragraph)—1 V distress sheet;
 - (xv) while the vessel is operated more than 10 nautical miles seaward of low water mark of the coast (in addition to any other equipment referred to in this paragraph)—
 - (A) 2 distress rockets with parachutes; and
 - (B) 1 map or chart of the operational area.
- (4) Subject to these regulations, a vessel that is more than 15 m in length must also be equipped with the following:
- (a) an additional life buoy with line;
 - (b) a life-raft.
- (5) Subject to subclause (6), a bailer and a fire bucket are not to be used for a purpose other than bailing water and fire fighting respectively.
- (6) A fire bucket carried in accordance with this clause and complying with clause 8—
- (a) may be used as a signalling device in an emergency (whether by making smoke in the fire bucket or otherwise); and
 - (b) will be taken to satisfy a requirement under this clause that a vessel be equipped with a bailer; and
 - (c) may be used as a bailer,
- (but if the vessel is required to be equipped with multiple bailers, the fire bucket will only be taken to satisfy the requirement in relation to 1 of those bailers).

(7) In this clause—

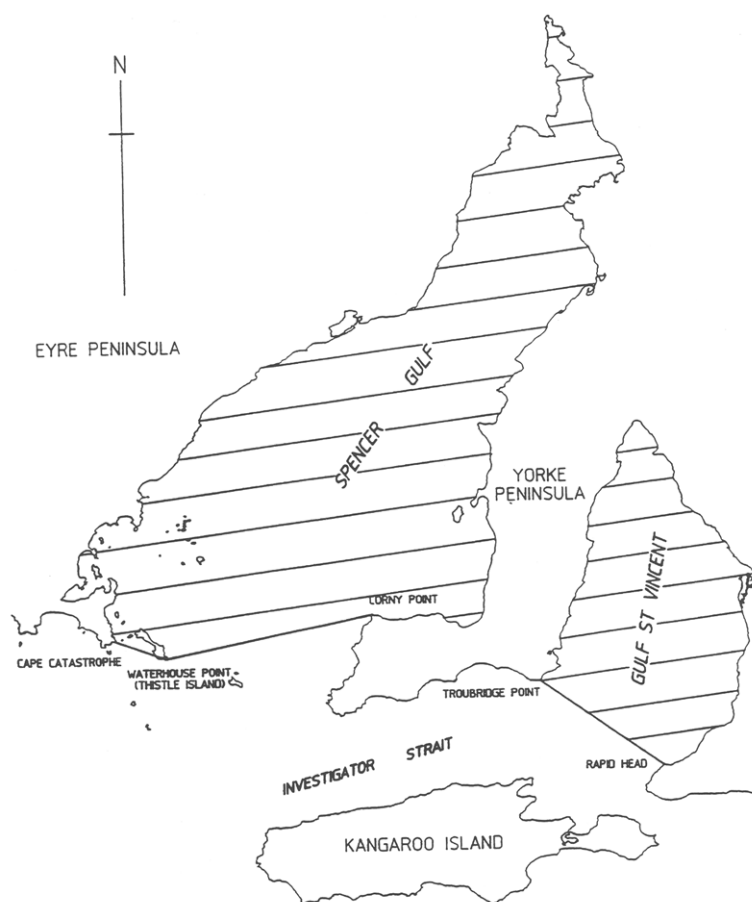
(a) *the waters of Spencer Gulf or Gulf St. Vincent* means—

- (i) for Spencer Gulf—the waters in that gulf north of a line drawn from Cape Catastrophe on Eyre Peninsula to Waterhouse Point on Thistle Island and then to Corny Point on Yorke Peninsula (see following map);
- (ii) for Gulf St. Vincent—the waters in that gulf north of a line drawn from Troubridge Point on Yorke Peninsula to Rapid Head on Fleurieu Peninsula (see following map).

Note—

The following map is provided for convenience of reference only.

Waters of Spencer Gulf and Gulf St. Vincent



7—Exemptions from requirement for appliances and equipment

- (1) A vessel that is a surfboard, surf ski, racing shell or water ski is exempt from the requirement to be equipped as set out in clause 6.
- (2) A canoe, kayak, rowboat or other similar small human powered recreational vessel may, instead of being equipped as required by clause 6, be equipped with the following:
 - (a) 1 PFD Type 1, PFD Type 2 or PFD Type 3 for each person carried on the vessel;
 - (b) unless the vessel is constructed of permanently enclosed pontoon hulls, a bailer or other suitable device for removing water;
 - (c) if the vessel is operated between the hours of sunset and sunrise—1 torch or lantern.

- (3) A mono-hulled sailing dinghy or a similar small multi-hulled sailing vessel may, whilst in protected or semi-protected waters, instead of being equipped as required by clause 6, be equipped with the following:
 - (a) 1 PFD Type 1, PFD Type 2 or PFD Type 3 for each person carried on the vessel;
 - (b) unless the vessel is constructed of permanently enclosed pontoon hulls, a bailer or other suitable device for removing water;
 - (c) if the vessel is operated between the hours of sunset and sunrise—1 torch or lantern.
- (4) A personal watercraft may, instead of being equipped as required by clause 6, be equipped with 1 PFD Type 2 or PFD Type 3 for each person carried on the vessel.
- (5) A tender vessel, while it is being used in conjunction with another vessel, may, instead of being equipped as required by clause 6, be equipped with the following:
 - (a) 1 pair of paddles or oars or other means of auxiliary propulsion;
 - (b) either—
 - (i) 1 bailer; or
 - (ii) such number of manual or electric bilge pumps as to be capable of draining each compartment of the vessel (other than airtight void spaces);
 - (c) if the vessel is 1 500 m or more from the shoreline—
 - (i) before 1 June 2010—1 PFD Type 1, PFD Type 2 or PFD Type 3;
 - (ii) on or after 1 June 2010—1 PFD Type 1,for each person carried on the vessel.
- (6) A surf rescue boat propelled by paddles or oars may, instead of being equipped as required by clause 6, be equipped with a suitable bailer.
- (7) An inflatable surf rescue boat involved in rescue work within 1 500 m of the shoreline or patrol work within 1 000 m of the shoreline may, instead of being equipped as required by clause 6, be equipped with a pair of paddles or oars or other means of auxiliary propulsion.
- (8) A vessel (not being a vessel referred to in a preceding subregulation) that can only carry the operator and no other person may instead of being equipped as required by clause 6 be equipped with a PFD Type 1, PFD Type 2 or PFD Type 3.

8—Minimum standard of equipment

- (1) Subject to this clause, the following standards are the minimum standards that must be satisfied in relation to equipment with which a vessel is required to be equipped under these regulations:
 - (a) in the case of a torch or lantern—the torch or lantern is waterproof and buoyant;
 - (b) in the case of a distress signal comprised of a pyrotechnic—the signal complies with AS 2092 and is stamped indelibly by the manufacturer with its date of expiry;
 - (c) in the case of a fire extinguisher—the fire extinguisher—
 - (i) complies with the applicable part of AS 1841 in respect of the type of fuel or fuels carried by the vessel; and
 - (ii) is maintained in accordance with AS 1851; and
 - (iii) is not less than the minimum approved size;

- (d) in the case of an anchor—the anchor—
 - (i) is of a kind and size appropriate to the vessel (having regard to both the size and the area of operation of the vessel); and
 - (ii) is attached to a length of chain or rope or both appropriate (in respect of both length and breaking strain) to the waters in which the vessel is being operated;
 - (e) in the case of a compass—the compass—
 - (i) is a compass from which it is possible to determine, with reasonable accuracy, bearings and the vessel's heading; and
 - (ii) is a liquid damped magnetic compass or a gyroscopically controlled compass; and
 - (iii) is marked with the cardinal points;
 - (f) in the case of a bilge pump—the bilge pump—
 - (i) is of a kind, and has a pumping capacity, appropriate to the vessel; and
 - (ii) is fitted with a strainer on the suction pipe with mesh of a suitable size to prevent choking of the pump;
 - (g) in the case of a bailer—the bailer—
 - (i) is suitable for bailing water from the vessel; and
 - (ii) is attached to a lanyard suitable to prevent loss of the bailer from the boat;
 - (h) in the case of a fire bucket—the fire bucket—
 - (i) is of a kind and size suitable for the collection of water; and
 - (ii) does not distort, collapse or break when filled with water; and
 - (iii) is attached to a lanyard of a length and breaking strain sufficient to allow the fire bucket to be cast over the side of the boat and retrieved filled with water;
 - (i) in the case of a marine radio—the marine radio must be of a kind approved by the Australian Communications Authority;
 - (j) in the case of a pair of paddles or oars or other means of auxiliary propulsion—the paddles, oars or other means of auxiliary propulsion are of a kind and size capable of propelling and manoeuvring the vessel.
- (2) For the purposes of these regulations, equipment of a kind referred to in subclause (1) will be taken to satisfy the minimum standards set out in that subclause if the equipment satisfies any relevant requirement under SOLAS in relation to minimum standards for equipment of that kind.
- (3) Any equipment with which a vessel is required to be equipped under these regulations that is marked by the manufacturer—
- (a) with a date of expiry; or
 - (b) with a date on or before which the equipment must be serviced, inspected or otherwise maintained in order to be safe or fit for use,

will be taken not to be in good working order if that date has passed, or if the equipment has not been serviced, inspected or otherwise maintained on or before that date (as the case requires).

Note—

See section 65(1)(b) of the Act.

- (4) For the purposes of this regulation, the *minimum approved size* of a fire extinguisher is—
- (a) in the case of a vessel carrying not more than 115 litres of flammable liquid—0.9 kg;
 - (b) in the case of a vessel carrying more than 115 litres but not more than 350 litres of flammable liquid—2.0 kg;
 - (c) in the case of a vessel carrying more than 350 litres but not more than 695 litres of flammable liquid—4.5 kg;
 - (d) in the case of a vessel carrying more than 695 litres of flammable liquid—9.0 kg.

- (5) In this clause—

SOLAS means the *International Convention for the Safety of Life at Sea, 1974*, as in force from time to time.

9—Placement of equipment

The equipment required to be carried on a vessel must be suitably located and secured on the vessel having regard to the need for access to the equipment and the need to protect the equipment from accidental damage or loss.

10—Buoyancy requirements for certain vessels

- (1) A vessel—
- (a) that is constructed after the commencement of this clause; and
 - (b) that is less than 6 m in length; and
 - (c) that is required, in accordance with Part 9 Division 4 of the Act, to have an Australian Builders Plate affixed,

must satisfy the buoyancy performance requirement set out in the relevant standard for vessels of a class to which the vessel belongs.

- (2) For the purposes of this clause, a vessel will be taken to be constructed after the commencement of this clause if—
- (a) the keel of the vessel (if any) was laid on a day after the day on which the clause commences; or
 - (b) less than 1% of the estimated total mass of the completed vessel had been constructed immediately before the commencement of this clause.
- (3) For the purposes of this clause, the question of whether a vessel satisfies a buoyancy performance requirement of a particular standard is to be determined in accordance with that standard.
- (4) In this clause—

ABYC means the American Boat and Yacht Council incorporated in New York State in the United States of America;

relevant standard, in relation to a vessel, means a standard from among the following which applies to vessels of a class to which the vessel belongs (and if more than 1 standard is applicable, the relevant standard will be taken to be the standard that requires the highest buoyancy performance):

- (a) *AS 1799*;
- (b) *ISO 6185*;
- (c) *ISO 8665* and *ISO 11592*;
- (d) *ISO 13590*;
- (e) *ABYC Standards and Technical Information Reports for Small Craft*;
- (f) any other standard approved by the CEO for the purposes of this clause.

Part 2—Structural and equipment requirements for restricted vessels

11—Life saving appliances

A restricted vessel must be equipped with the following:

- (a) if the vessel is over 7.5 m in length and is not required by these regulations to carry more than 2 crew—2 lifebuoys, 1 with light and 1 with line;
- (b) if the vessel is over 7.5 m in length and is required by these regulations to carry more than 2 crew—
 - (i) internal buoyancy as required by section 10 Appendix N of the Code and 1 lifebuoy with light; or
 - (ii) 1 coastal life-raft capable of carrying the maximum number of persons that the vessel is certified to carry and 1 lifebuoy with light;
- (c) if the vessel is 7.5 m or less in length—
 - (i) 1 lifebuoy for each member of the crew; or
 - (ii) internal buoyancy as required by section 10 Appendix N of the Code or other such internal buoyancy as is approved by the CEO;
- (d) a coastal life-jacket with whistle for each person that the vessel carries;
- (e) the following distress signals:
 - (i) 2 red hand flares;
 - (ii) 2 hand held orange smoke signals;
- (f) waterproof torches or lamps as approved by the CEO.

12—Fire fighting appliances

A restricted vessel must be equipped with fire fighting equipment as required by section 11, Part 2 of the Code for a Class 3C vessel.

13—Radio equipment

A restricted vessel must be equipped with VHF FM radiotelephony equipment, UHF radiotelephony equipment or radiotelephony equipment capable of receiving and transmitting on 27 MHz.

14—Miscellaneous equipment

A restricted vessel must be equipped with the following miscellaneous equipment:

- (a) a signalling light;
- (b) a V distress sheet;
- (c) a safe means of access approved by the CEO;
- (d) anchor and cables—sufficient in number, weight and strength for the vessel and approved by the CEO;
- (e) navigation shapes and sound signals to comply with section 17 of the Code;
- (f) if the vessel is operated at night or is over 7.5 m in length—navigation lights to comply with section 17 of the Code;
- (g) medicines and medical stores in accordance with section 13, Scale G of the Code;
- (h) while the vessel is operated more than 3 nautical miles seaward of low water mark—a magnetic compass.

Part 3—Structural and equipment requirements for observation vessels

15—Structural and equipment requirements for observation vessels

- (1) An observation vessel must comply with sections 5, 8, 10, 11, 12 and 13 of the Code.
- (2) For the purposes of the application of the Code to an observation vessel—
 - (a) an observation vessel that is anchored or moored in smooth water will be taken to be a Class 1E vessel;
 - (b) an observation vessel that is anchored or moored in partially smooth water will be taken to be a Class 1D vessel;
 - (c) an observation vessel that is anchored or moored elsewhere will be taken to be a Class 1C vessel.

Part 4—Structural and equipment requirements for other surveyed vessels

16—Application of Part

This Part applies in relation to a commercial vessel (other than an observation vessel) in respect of which a certificate of survey is required.

17—Construction

- (1) A commercial vessel must comply with—
 - (a) section 5 of the Code; or
 - (b) the rules of a classification society approved by the CEO in relation to vessels of the relevant class.
- (2) The application of subsection A of section 5 of the Code is modified by striking out clause A.2.

18—Engineering

A commercial vessel must comply with—

- (a) section 9 of the Code; or
- (b) the rules of a classification society for the machinery of a vessel that are approved by the CEO in relation to vessels of the relevant class.

19—Crew accommodation

A commercial vessel that is 25 m or more in length must comply with section 6 of the Code.

20—Stability

- (1) A commercial vessel must comply with section 8 of the Code.
- (2) An open vessel may be required by the surveyor surveying the vessel to satisfactorily undertake a swamp test.

21—Life saving appliances

- (1) A commercial vessel must comply with section 10 of the Code.
- (2) The application of section 10, Part 3 of the Code is subject to the following modifications:
 - (a) Classes 1B and 1C—delete "Less than 10 metres 1 lifebuoy with light" wherever occurring;
 - (b) Classes 1D and 2D, under the heading "Lifebuoys"—delete "Additional to any lifebuoys";
 - (c) Classes 1C, 2C and 3C, under the heading "Distress Signals"—
 - (i) delete "15 metres and over but";
 - (ii) delete "less than 15 metres 3 parachute distress rockets";
 - (d) Class 3C, under the heading "Lifeboats, Life-rafts and Internal Buoyancy"—delete "(2) Dinghy for 100% complement, or" and substitute:
 - (2) Vessels less than 15 m in length operating within 15 nautical miles from the coast with 2 crew or less may carry 2 lifebuoys or buoyant appliances in lieu of either (1) or (3)
 - (e) Class 2D and 3D, under the heading "Distress Signals"—delete:
 - 3 parachute distress rockets
 - 2 red hand flares
 - 1 hand held orange smoke signal

NOTE—

Consistent with the area of operations allocated to the vessel, a reduction in distress signals may be permitted by the Authority.

and substitute:

- 2 red hand flares
- 2 hand held orange smoke signals;

- (f) Class 1E, under the heading "Buoyant Appliances"—after "the above appliances" insert:

Note—

25% of the Buoyant appliances must consist of Coastal life-jackets.

22—Fire appliances

- (1) A commercial vessel must comply with section 11 of the Code.
- (2) The application of section 11 of the Code is subject to the following modifications:
- (a) Part 1, Clauses 5 and 7—delete "15 metres" wherever occurring and substitute, in each case:
- 12.5 m
- (b) Part 2, Class 2C, under the heading "Portable Fire Extinguishers"—delete:
- Less than 25 m Two, suitable for extinguishing oil fires, for use in each space containing propelling machinery
- and substitute:
- 10 m and over 2, suitable for extinguishing oil fires, for use in each space but less than 25 m containing propelling machinery
- less than 10 m 1, suitable for extinguishing oil fires, for use in—
- (a) each space containing propelling machinery; or
- (b) vessels propelled by an outboard engine or engines;
- (c) Part 2, Classes 2D, 2E, 3C, 3D and 3E, under the heading "Portable Fire Extinguishers"—delete:
- less than 10 m One, suitable for extinguishing oil fires, for use in each space containing propelling machinery
- and substitute—
- less than 10 m 1, suitable for extinguishing oil fires, for use in—
- (a) each space containing propelling machinery; or
- (b) vessels propelled by an outboard engine or engines;
- (d) Part 2, Class 3D, under the heading "Emergency Fire Pumps"—after "manually operated emergency fire" insert:
- pump
- (e) Appendix K, Clause 1—before "metal painted" insert:
- a capacity of not less than 9 litres

23—Communications equipment

- (1) Commercial vessels of Classes 1A, 2A and 3A must comply with the requirements of *Marine Orders Part 27 (Radio Equipment)* under the Commonwealth Act.

- (2) A commercial vessel of any other class must be equipped with radiotelephony equipment and—
- (a) subject to paragraph (b), the equipment must comply with *AS/NZS 4582 MF and HF radiocommunications equipment in the international maritime mobile radiotelephone service*; and
 - (b) —
 - (i) if the vessel is operated only within range of a coast station that maintains a continuous radio watch for transmissions from vessels on VHF FM radiotelephony equipment, the equipment may instead comply with *AS/NZS 4415 Radiotelephone transmitters and receivers for the maritime mobile service operating in the VHF bands—Technical characteristics and methods of measurement—Shipborne equipment and limited coast stations*; or
 - (ii) in any case the equipment may instead comply with the standard that applied to the equipment under these regulations at the time that the equipment was installed; and
 - (c) the equipment's transmitter must be capable of effectively transmitting and receiving as follows:
 - (i) in the case of MF/HF radiotelephony equipment—on the following frequencies using the following emissions:
 - (A) on 4125 kHz using J3E emissions (single sideband, amplitude modulated, suppressed carrier radiotelephony having a carrier restricted to a power level of 40 decibels or more below the peak envelope power);
 - (B) on 6215 kHz using J3E emissions;
 - (C) on 8291 kHz using J3E emissions;
 - (ii) in the case of VHF FM radiotelephony equipment—on the following VHF FM maritime mobile band frequencies:
 - (A) the international distress and calling frequency—Channel 16 (156.8 MHz);
 - (B) the supplementary safety frequency—Channel 67 (156.375 MHz);
 - (iii) in any case—on any other frequency that is appropriate to the service in which the vessel is engaged; and
 - (d) the main source of electrical energy for the vessel must be capable of effectively operating the equipment; and
 - (e) the vessel must be equipped with a reserve source of electrical energy that is readily available to be used to operate the equipment and that has the capacity to supply continuously for a period of 6 hours a current equal to the sum of—
 - (i) 50% of the current required to operate the equipment's transmitter for the transmission of speech; and
 - (ii) the current required to operate the equipment's receiver; and
 - (iii) the current required to operate the required emergency light (see paragraph (o)); and

- (iv) any other load to which the source is connected or in relation to which it is contemplated that the source may be used; and
- (f) if a battery provides a source of electrical energy for the operation of the equipment under ordinary or emergency conditions—
 - (i) the battery—
 - (A) must be rechargeable; and
 - (B) must be solely dedicated to the operation of the equipment and the required emergency light (see paragraph (o)) or able to be readily isolated for sole use in connection with the equipment and light; and
 - (C) must be located close to the equipment in as high a position as is practicable; and
 - (D) must be satisfactorily housed; and
 - (ii) the following further equipment must be carried on the vessel:
 - (A) a device capable of fully charging the battery from a discharged condition within 16 hours;
 - (B) a device capable of testing the charge condition of the battery; and
- (g) a device must be provided for the purpose of protecting the equipment against voltage fluctuations in the electrical energy supply; and
- (h) the antenna of the equipment's radiating system must be designed, constructed and installed—
 - (i) so as to secure efficient radiation;
 - (ii) so as to be protected from mechanical damage and the adverse effects of water; and
 - (iii) so as not to pose a danger to any person through risk of accidental contact; and
 - (iv) so as not to interfere with the safe navigation or safe working of the vessel; and
- (i) in the case of VHF FM radiotelephony equipment—
 - (i) the antenna of the equipment's radiating system must be vertically polarised; and
 - (ii) the product of any antenna gain, with reference to an isotropic radiator, and the power of the equipment's transmitter (measured at the point of connection to the antenna terminal) must not exceed 41 watts of Effective Isotropic Radiated Power; and
- (j) in the case of MH/HF radiotelephony equipment—the equipment must be fitted with an efficient radio frequency earth and a suitable connection between the equipment and the earth; and
- (k) the equipment must be designed, constructed and installed so that effective reception of radio signals is not hindered by interference while the vessel is at sea (taking into account that equipment that causes interference may be fitted with a device to prevent interference); and

- (l) the equipment must be installed—
 - (i) subject to paragraph (m), in the place from which the vessel is usually navigated; and
 - (ii) in as high a position as is practicable; and
 - (iii) so that it does not affect the operation of any compass or other navigational equipment on the vessel; and
 - (iv) so that it is protected against the effects of moisture and extremes of temperature; and
- (m) the equipment need not be installed in the place from which the vessel is usually navigated if the equipment is fitted with a loud speaker enabling signals received on the equipment to be heard and understood from the place from which the vessel is usually navigated (and so enabling the required radio watch to be maintained); and
- (n) the following spare components for the equipment must be carried on the vessel:
 - (i) 4 of each type of fuse used in the equipment;
 - (ii) 1 globe for the required emergency light (see paragraph (o));
 - (iii) if a lamp is the only indicator of power output on the equipment—1 spare lamp; and
- (o) the following further equipment must be carried on the vessel:
 - (i) a reliable time piece that is positioned so as to be visible to a person operating the radiotelephony equipment;
 - (ii) a notice explaining the use of the radiotelephony equipment in an emergency by an unskilled person positioned so as to be easily visible to a person operating that equipment;
 - (iii) an emergency light which is capable of illuminating the controls of the radiotelephony equipment and the time piece and notice referred to above and which can be operated both from the equipment and from the entry to that part of the vessel in which the equipment is located; and
- (p) a copy of the latest edition of the *Marine Radio Operators Handbook* published by the Australian Maritime College must be kept readily available for use by a person operating the equipment; and
- (q) a log-book for entries relating to distress signals must be kept readily available for use by a person operating the equipment.

24—Miscellaneous equipment

- (1) Subject to these regulations, a commercial vessel must comply with section 13 of the Code.
- (2) The application of section 13, Part 3 of the Code is subject to the following modifications:
 - (a) Classes 1B and 2B—delete:
 - All lengths Mechanical depth sounding device
 - All lengths Hand lead line
 - All lengths daylight signalling lamp
 - All lengths One set of international code flags
 - All lengths One copy of 'International Code of Signals'

and substitute:

All lengths Mechanical depth sounding device and Hand lead line

35 m and over

Daylight signalling lamp

1 set of International Code Flags

1 copy of 'International Code of Signals'

Less than 35 m

Signalling light

International Code Flags NC;

- (b) Classes 1D and 2D—after "All lengths Hand lead line" insert:
or Mechanical depth sounding device

- (c) Classes 2B and 2C—delete "Less than 10 metres Sea anchor"

- (d) Class 3D—delete:

10 metres and over

Clock

10 metres and over

Barometer

All lengths

Magnetic Compass;

- (e) Class 3B—after "Less than 35 m Flags NC" insert:

vessels less than 15 m may carry 1 V distress sheet in lieu of these flags

- (f) Class 3C—after "All lengths Flags NC" insert:

vessels less than 15 m may carry 1 V distress sheet in lieu of these flags

Schedule 10—Speed restrictions in certain waters

Note—

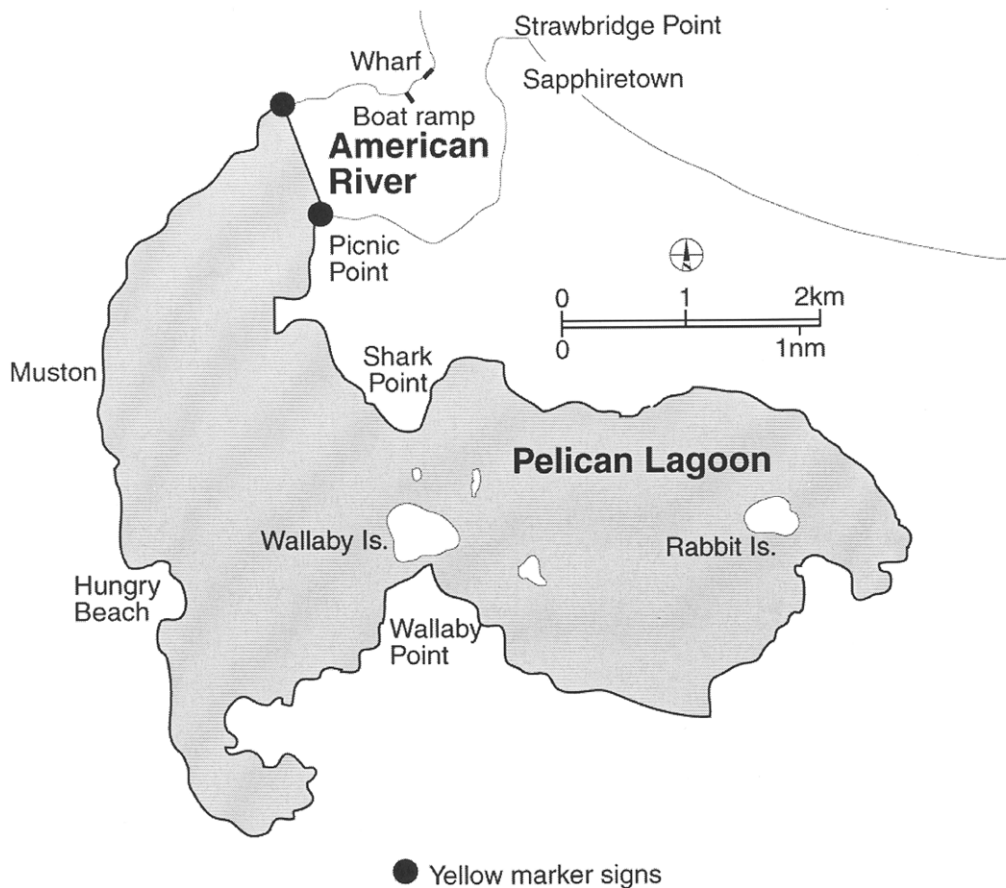
Unless the contrary intention appears, the maps in this Schedule are provided for convenience of reference only.

1—7 knot limit—all vessels

The speed limit in the following waters is 7 knots:

(a) Kangaroo Island

The area, known as the American River Aquatic Reserve, comprising all the waters of American River upstream of the geodesic commencing at high water mark on the western shore of American River at position latitude 35°47.5'S, longitude 137°45.5'E, then in a south-easterly direction to high water mark on the eastern shore of American River, position latitude 35°48'S, longitude 137°45.8'E, together with the waters of Pelican Lagoon and all adjoining creeks and inlets of Pelican Lagoon;



(b) Port Adelaide

The following areas:

- (i) the portion of the marked channel in Barker Inlet, Port Adelaide between the middle ground beacon and Angas Inlet, Port Adelaide entrance beacon; and
- (ii) Angas Inlet, Port Adelaide; and
- (iii) the portion of the Port Adelaide River which lies between No 12 Channel Beacon and No 22 Channel Beacon; and
- (iv) the portion of the Port Adelaide River in the port of Port Adelaide which lies south of No 35 Channel Beacon;

(c) Port Augusta

The area bounded as follows:

commencing at the intersection of the south-eastern end of Great Western Bridge and approaches with high water mark, then south-westerly along high water mark to its intersection with the production shorewards of the north-eastern end of Port Augusta wharf, then seawards along that production and the northern end of Port Augusta wharf to the north-eastern corner of the wharf, then along the face of that wharf and its production south-westerly to its intersection with high water mark on the north-western side of Port Augusta channel, then generally north-east along high water mark to its intersection with the north-western end of the Great Western Bridge and approaches, then south-easterly along the Great Western Bridge to the point of commencement;

(d) Port Lincoln (Boston Bay)

The area bounded as follows:

commencing at the intersection with High Water Mark of a line running due north from the north-east corner of King and Porter Streets, then due north along that line to its intersection with a line running due east and distant 120 m from the north-west corner of the shipping pier, due east along the latter line to its intersection with a line running due north from the south-eastern extremity of Gawler Terrace, then due south along the latter line to High Water Mark, then generally westerly along High Water Mark to the point of commencement;

(e) **Port Lincoln (Proper Bay)**

The area bounded as follows:

commencing at the intersection with High Water Mark of a line bearing 155° and distant 120 m from the south-westerly face of the most south-western dolphin at the jetty, then approximately south-easterly along that line to its intersection with a line bearing 65° and 150 m distant from the seaward face of the jetty, then along the latter line to a point opposite the easternmost dolphin at the jetty, then on a line bearing 335° to its intersection with the south-eastern edge of the channel, the channel being 122 m, 61 m either side of the line of leads which bears 245° , then north-easterly along the south-eastern edge of the channel, to a point opposite the outermost beacon, then on a line bearing 335° for 122 m to its intersection with the north-western edge of the channel, then south-westerly on a bearing of 245° along the north-western edge of that channel to a point, being its intersection with a line bearing 155° from High Water Mark and in line with the easternmost dolphin at the jetty, then north-westerly along that line to High Water Mark and then generally south-westerly along High Water Mark to the point of commencement;

(f) **Port Pirie**

The portion of the Port Pirie River which lies to the southward of a line drawn east-north-east and west-south-west through No 11 Side Channel Beacon, at such times as a signal in the form of a drum shape with black and yellow vertical stripes or a flashing light of amber colour is displayed from the stobie pole adjacent to the watch officer's office at No 4 berth during the hours of daylight and darkness respectively;

(g) **Thevenard**

The area bounded as follows:

commencing at a point being the intersection of High Water Mark and a line 200 m from and parallel to the southern face of the jetty, then approximately south-westerly along that line to its intersection with a line at right angles to it and 200 m distant to seaward at its nearest point to the seaward end of the jetty, then approximately northerly along the latter line to its intersection with a line being the production seawards of the north boundary of H.B. Block 1, then approximately easterly along that produced line to High Water Mark, then approximately southerly along High Water Mark to the point of commencement;

(h) **Wallaroo**

The area bounded as follows:

commencing at the north-western corner of lot 242, town of Wallaroo, then generally north-westerly to the intersection with a line 150 m from and parallel to the southern face of the shipping pier, then north-westerly along the latter line to a point opposite the seaward end of the shipping pier, then north-westerly a further 120 m on the production north-westerly of the latter line, then north-easterly along a line at right angles to the latter line to its intersection with a line 150 m from and parallel to the northern face of the new shipping pier, then south-easterly along the latter line to its intersection with High Water Mark, then generally south-westerly along High Water Mark to its intersection with the northern boundary of lots 261 and 262, then westerly along the latter boundary to the western corner of lot 261, then south-westerly along the north-western boundary of lot 260, then south-easterly along the south-western boundary of lot 260 to High Water Mark, then generally north-westerly, westerly, south-westerly and westerly along High Water Mark to its intersection with the south-western boundary of lot 252, then north-westerly along that boundary to the western corner of lot 252, then generally south-westerly along the north-western boundaries of lots 251, 250, Reserve, 248, 247, 246, 245, 244, 243 and 242 to the point of commencement;

(i) **Whyalla**

The area bounded as follows:

commencing at the intersection of high water mark and the production westerly of the face of the wharf on the north side of the Inner Harbor, then along the face of that wharf to its seaward end, then approximately south-easterly to the entrance beacon, then approximately southerly to a light beacon being the central of 3 beacons marking the northern side of the No 2 Ore Channel, then approximately south-easterly to the light beacon marking the northern side of the seaward end of that channel, then at an angle of 90° bearing approximately south-westerly for 140 m then bearing approximately north-westerly to the light beacon marking the inner end of the southern side of the channel, then approximately south-westerly to a point on the production of the line of dolphins at No 1 Ore Jetty and 120 m distant from the south-westerly face of the most south-westerly dolphin, then approximately north-westerly and parallel to the centre line of the latter jetty, to high water mark, then along high water mark to the point of commencement.

2—4 knot limit—all vessels

The speed limit in the following waters is 4 knots:

(a) **Cowell**

The portion of the waters of Cowell (Franklin Harbor) bounded by and to the west of a line commencing at the seaward end of the jetty and extending in a south-westerly direction to the seaward end of the southern breakwater;

(b) **Kingston**

The portion of the waters of Maria Creek seaward of a line 50 m upstream of, and parallel to, the eastern boundary of the boat ramp, that portion of the waters of Lacepede Bay in the channel between the northern groyne and the southern groyne (extending from Maria Creek to a line drawn between the western-most end of the northern groyne and the navigation light at the western end of the southern groyne) and that portion of the waters of Lacepede Bay within a 75 m radius of the midpoint of that line;

(c) **Lincoln Cove Marina**

The portion of the waters within Lincoln Cove Marina bounded by a line commencing at the eastern extremity of the northern breakwater and extending to the starboard land entrance beacon (F1.G), then to the port land entrance beacon (F1.R), and then to the eastern extremity of the southern breakwater;

(d) **Moonta Bay/Port Hughes**

The portion of the waters of Spencer Gulf between the prolongation seaward of the northern boundary of North Terrace, Moonta Bay, and the prolongation seaward of the southern boundary of the Copper Coast District Council (at South Beach) and within 200 m seaward of the shoreline;

(e) **North Arm**

The portion of the North arm bounded by a line extending generally north and south along the western face of the Wave Screen at the western end and the Grand Trunkway Bridge at the eastern end;

(f) **Port Adelaide**

The area comprising the full width of Port Adelaide River—

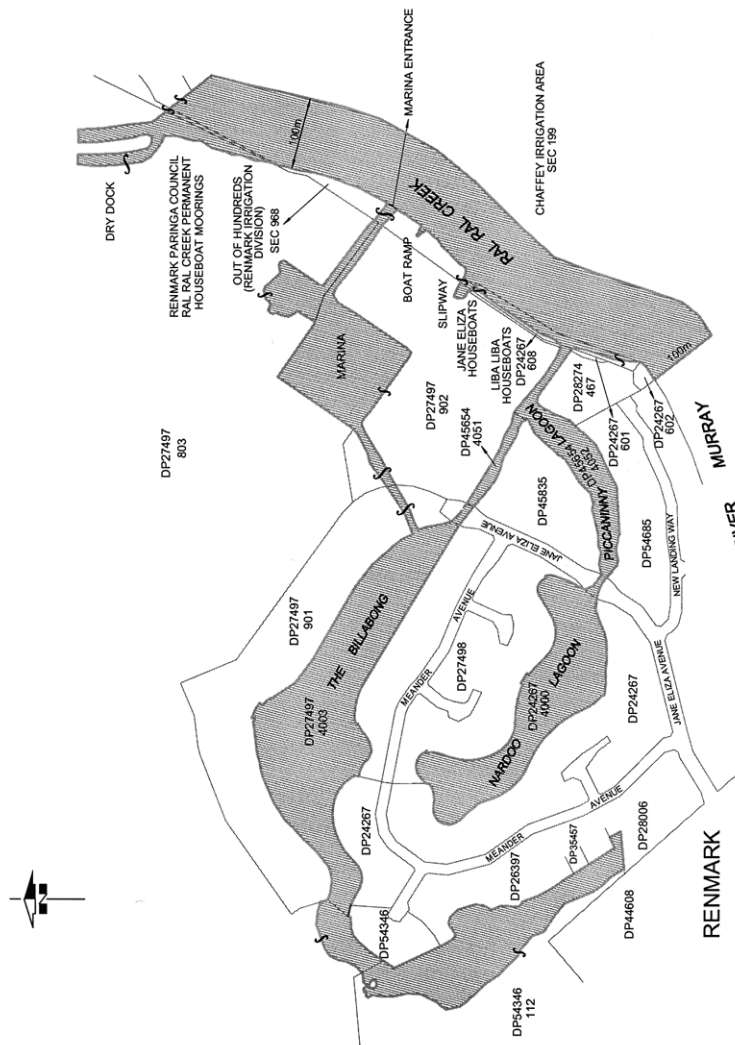
- (i) lying abreast of any vessel for the time being moored at any wharf or any established mooring place together with the area lying 200 m upstream or downstream of that area; or
- (ii) lying abreast of any dredge or marine works in progress between the Fairway Beacon and Jervois Bridge together with the area lying 200 m upstream or downstream of that area; or
- (iii) lying 100 m upstream or downstream of the Birkenhead Bridge, a Port River Expressway Bridge or the Jervois Bridge;

(g) **Renmark**

The area comprising—

- (i) the waters of Ral Ral Creek bounded in the north by a line extending south-east from the south-easternmost corner of the dry dock and in the south by the prolongation in a generally south-easterly direction of the south-western boundary of Lot 602 of Deposited Plan No 24267; and
- (ii) the waters to the east of Ral Ral Creek bounded as follows:
 - (A) in the north by a line extending south-east from the south-easternmost corner of the dry dock referred to in subparagraph (i);

- (B) in the south by the prolongation in a generally south-easterly direction of the south-western boundary of Lot 602 of Deposited Plan No 24267;
 - (C) in the west by Ral Ral Creek;
 - (D) in the east by a line running parallel to, at a distance of 100 m from, the western bank of Ral Ral Creek; and
- (iii) the creeks, tributaries, lakes, lagoons or other bodies of water (collectively known as the Jane Eliza Waterways) connected, whether directly or indirectly, to the waters described in subparagraph (i).



(h) **Victor Harbor**

The portion of the waters of Encounter Bay commencing at the intersection of high water mark and the base of the north-western edge of the jetty adjacent to the boat ramp at Rosetta Head, then generally easterly along the north-western edge of the jetty, then generally north-easterly and easterly along the starboard hand channel markers of the navigation channel to the solar light navigation aid at the eastern entrance to the navigation channel, then generally westerly and south-westerly along the port hand channel markers of the navigation channel to the southern-most port hand channel marker, then to a point, on high water mark, 40 m south-east of the point of commencement, then generally north-westerly along high water mark to the point of commencement;

(i) **Wallaroo Bay**

Area 1: the portion of the waters of Wallaroo Bay extending to 200 m seaward from the shoreline, bounded at 1 end by a straight line being the prolongation seaward of the southern boundary of Phillips Street, Wallaroo and at the other by the southern breakwater near Copper Cove Marina;

Area 2: the portion of the waters of Wallaroo Bay extending to 200 m seaward from the shoreline, bounded at 1 end by the northern breakwater near Copper Cove Marina and at the other by a straight line extending westerly from the northern end of Otago Road, North Beach;

Area 3: the portion of the waters of Wallaroo Bay extending to 200 m seaward from the shoreline, bounded at 1 end by a straight line being the prolongation seaward of the southern boundary of Oceanview Drive, North Beach and at the other by a straight line being the prolongation seaward of the northern boundary of North Beach Road, North Beach;

(j) **West Beach**

The portion of the sea along the metropolitan foreshore within the Adelaide Shores boat ramp facility at West Beach bounded as follows:

- on the south and west by the Adelaide Shores boat ramp and rigging area and the adjoining breakwater;
- on the north by the northern breakwater;
- on the east by the high water mark;
- on the north-west by a straight line across the entrance to the Adelaide Shores boat ramp facility joining the northern end of the western breakwater and the western end of the northern breakwater.

(k) **Port Broughton**

The area bounded as follows:

commencing at the stick beacon without a top-mark situated approximately 655 m north-north-west of the centre of sea-end of the Port Broughton jetty and between stick beacons No's 34 and 35 which are both surmounted by black triangles (the 3 beacons are on the western side of the Port Broughton channel) then due east to high water mark on the eastern side of Muntoora Arm, then generally southerly along the high water mark to its intersection with the production westerly of the southern side of Edmund Street, then west-north-westerly on a line parallel to the jetty to intersect high water mark on the western side of the Muntoora Arm, then generally north-easterly, easterly, south-easterly, north-easterly and north-westerly along high water mark to a point due west of the point of commencement then due east to the point of commencement;

(l) **Edithburgh Harbor**

The waters within the Edithburgh boating facility bounded by the northern and southern breakwaters and the waters within a 100 m radius of the centrepoint of the eastern end of the southern breakwater.

3—4 knot limit—personal watercraft

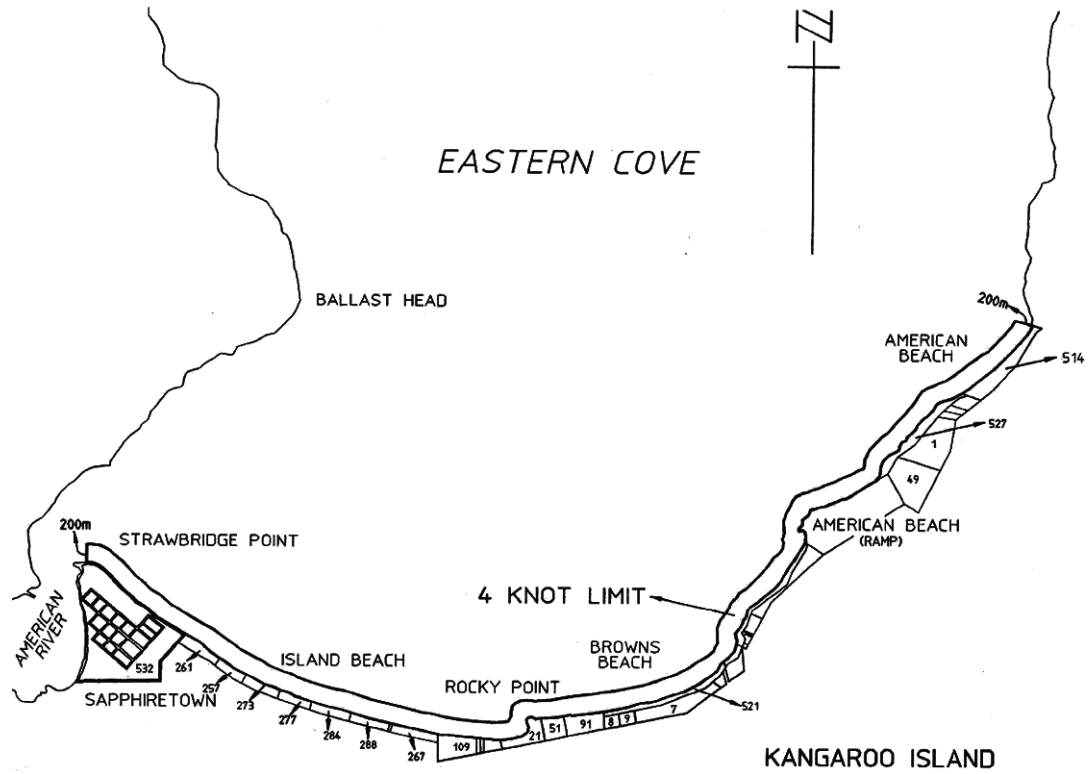
The speed limit applicable to personal watercraft in the following waters is 4 knots:

(a) **Beachport**

The portion of the waters of Rivoli Bay, Beachport, between a straight line extending easterly from the eastern extremity of Section 467, Hundred of Rivoli Bay, and the prolongation, south-easterly, of the western boundary of Section 465, Hundred of Rivoli Bay, and within 100 m seaward of high water mark;

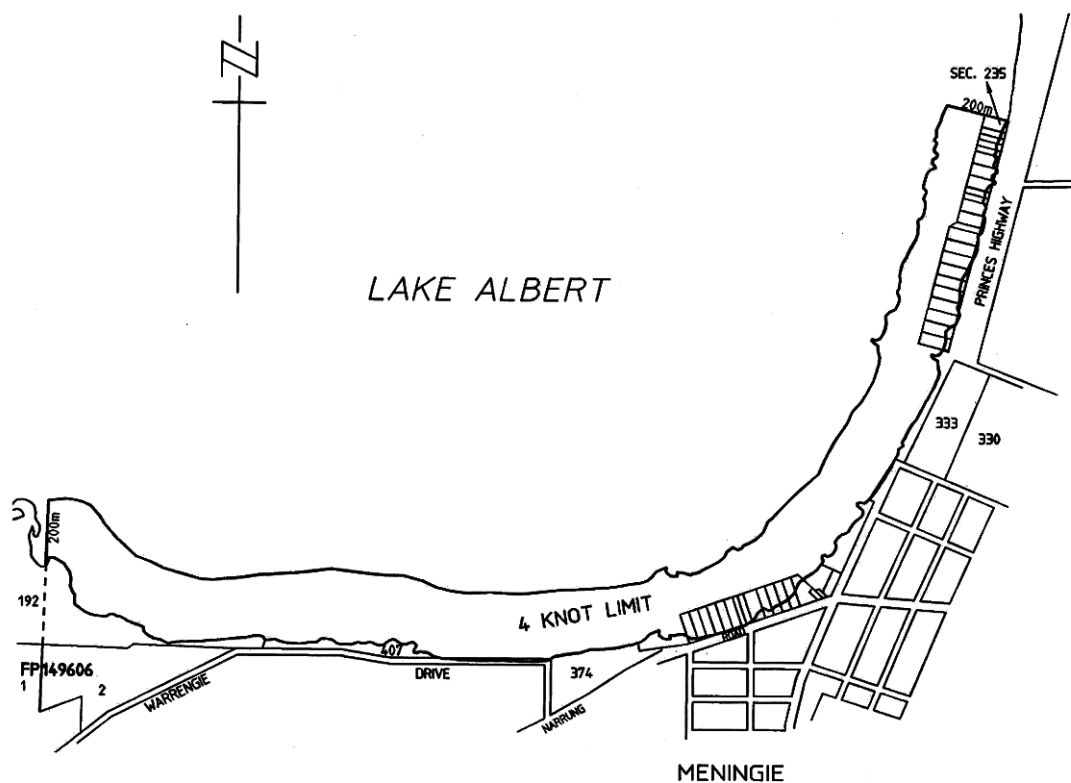
(b) **Kangaroo Island**

The portion of the waters of Eastern Cove, Kangaroo Island, between a straight line extending northerly from the northern extremity of Strawbridge Point and the prolongation, westerly, of the northern boundary of Section 514, Hundred of Dudley, and within 200 m seaward of high water mark;



(c) **Meningie**

The portion of the waters of Lake Albert, Meningie, between the prolongation, northerly, of the far western boundary of Allotment 2 in Filed Plan 149606 and the prolongation, westerly, of the northern boundary of Section 235, Hundred of Bonney, and within 200 m of the shoreline;

(d) **Metropolitan Foreshore**

The portion of the sea along the metropolitan foreshore from the landward end of the southern breakwater of the Outer Harbor to the southern end of Sellicks Beach and 200 m seaward of the shoreline;

(e) **River Murray**

All creeks, tributaries, lakes, lagoons and other bodies of water connected to the River Murray between the border of South Australia and a line joining the upstream sides of the landings used by the ferry at Wellington, except a body of water that has been exempted by the CEO by notice in the Gazette.

(f) **Southend**

The portion of the waters of Rivoli Bay, Southend, between the prolongation, north-easterly, of the northern boundary of Section 372, Hundred of Rivoli Bay, and the prolongation, north-westerly, of the north-east boundary of Section 108, Hundred of Rivoli Bay, and within 100 m seaward of high water mark;

(g) **Victor Harbor**

The following areas:

- (i) the portion of the waters of the sea within 200 m of the centreline of the Granite Island causeway;

- (ii) the portion of the waters of the sea within 200 m of the high water mark of Granite Island, Seal Island, Wright Island or West Island;
- (iii) the portion of the waters of the sea within 200 m of the high water mark of the mainland coastline within the area of the City of Victor Harbor, being waters within the area bounded—
 - (A) on the east by the prolongation, generally south and to seaward, of the easterly boundary of the area of the City of Victor Harbor (ie the eastern side of Ocean Road, Port Elliot); and
 - (B) on the west by a line joining the most southerly point of King Head to the most southerly point of West Island.

Schedule 11—Recreational vessels without compliance plate: maximum number of persons

1—Maximum number of persons that may be carried on a recreational vessel that does not have a compliance plate

The maximum number of persons that may be carried on a recreational vessel that does not have a compliance plate fitted by the manufacturer stating the maximum number of persons that may be safely carried as determined in accordance with AS 1799.1 must be determined in accordance with the following tables:

Table 1—Maximum safe capacity (adults) for conventional vessels without flybridges

Length (m)	3	3.5	4	4.5	5	5.5	6	7	8	9	10
Breadth (m)											
1	2	3	3								
1.5	3	3	4	4	5	5	6				
2			4	5	5	6	6	7	8	10	11
2.5					6	7	7	8	9	11	12
3							8	9	10	12	13
3.5									11	13	14
4									12	14	15
4.5											16

Example—

A vessel with a length of 5.5 m and a breadth of 2 m has a capacity of 6 adults.

Table 2—Maximum safe capacity (adults) for conventional vessels with flybridges

Length (m)	4	4.5	5	5.5	6	7	8	9	10
Breadth (m)									
1.5	3	3	4	4	4				
2	3	4	4	5	5	6	7	8	8
2.5			5	5	6	7	8	9	9
3					6	7	8	9	10

Length (m)	4	4.5	5	5.5	6	7	8	9	10
Breadth (m)									
3.5							9	10	11
4								11	12
4.5									13

Example—

A flybridge vessel with a length of 8 m and a breadth of 2.5 m has a capacity of 8 adults.

Schedule 12—Boat havens**Note—**

Unless the contrary intention appears, the maps in this Schedule are provided for convenience of reference only.

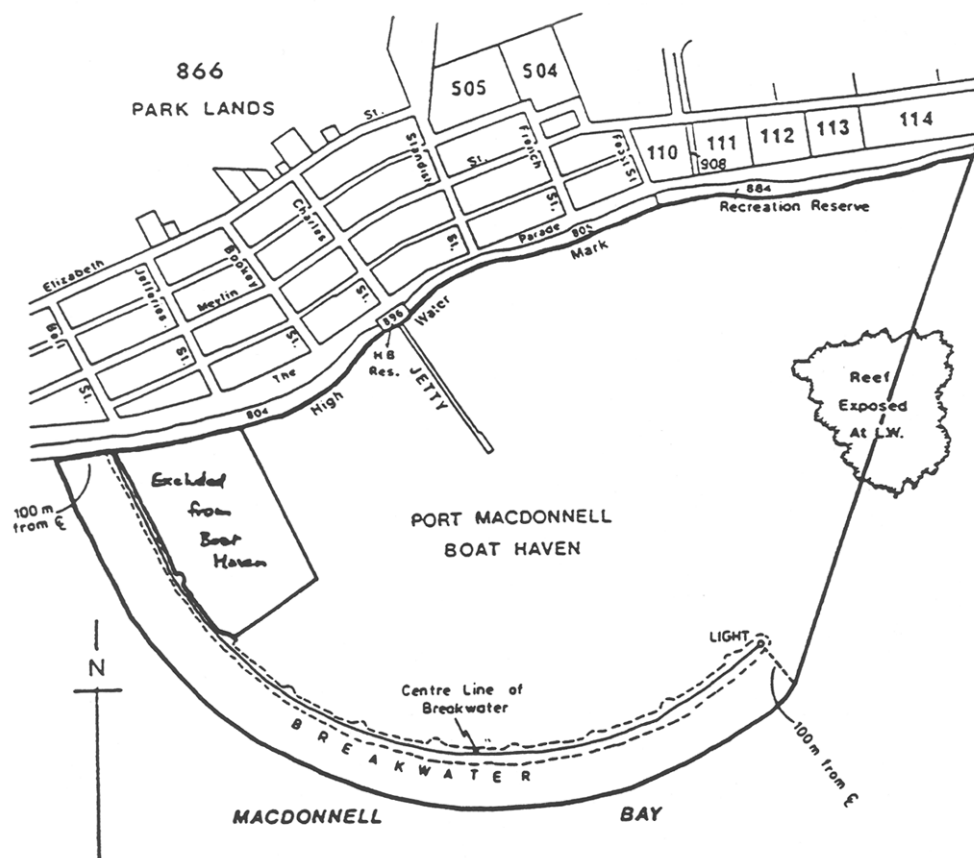
North Arm Boat Haven

The portion of the waters of the North Arm of the Port Adelaide River bounded by a line extending generally north and south along the western face of the Wave Screen at the western end and the Grand Trunkway Bridge at the eastern end.

Port MacDonnell Boat Haven

The waters of Port MacDonnell harbor excluding the waters within the area bounded as follows:

- (a) on the south-east by a line joining the centre of the second turning bay on the breakwater to the seaward end of the jetty;
- (b) on the south-west by the centre line of the breakwater;
- (c) on the north by high water mark;
- (d) on the north-east by the production seaward of the north-eastern boundary of Jefferies Street.



Schedule 13—Notice requirements

A notice required under regulation 189(12) must contain—

- (1) a statement that a copy of the evidence obtained through the operation of a camera installed by the CEO on, or in the immediate vicinity of, the Port River Expressway Bridges on which the allegation is based may be viewed on application to the CEO.
- (2) a statement that the CEO will, in relation to the question of withdrawal of the expiation notice, reminder notice or complaint, give due consideration to any exculpatory evidence that is verified by statutory declaration and furnished to the CEO within the period specified in the notice.

Schedule 14—Fees and levies

1—Interpretation

For the purposes of this Schedule—

- (a) when calculating a fee expressed as an amount per metre, part of a metre is to be regarded as a metre; and
- (b) when calculating a fee expressed as an amount per hour, part of an hour is to be regarded as an hour; and
- (c) an observation vessel is to be regarded as a Class 3 vessel.

2—Fees and levies payable to CEO

A fee or levy fixed by this Schedule is payable to the CEO.

3—Fees and levies

Fees relating to Part 7 (Harbors and ports)

1	Application for pilotage exemption certificate	\$501.00
2	Application for renewal of pilotage exemption certificate	\$250.00
3	Issue of replacement pilotage exemption certificate	\$48.25

Fees relating to Part 8 (Crewing)

4	Application for exemption from crewing requirements	\$114.00
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Fees relating to Part 9 (Certificates of competency etc)

5	Application for certificate of competency—	
	(a) for trading vessels operating solely on the River Murray or inland waters—	
	(i) Master Class 4 River Murray and Inland Waters	\$739.00
	(ii) Master Class 5 River Murray and Inland Waters (including Houseboat)	\$612.00
	(iii) Coxswain River Murray and Inland Waters	\$464.00
	(b) for other trading vessels and fishing vessels—	
	(i) Master Class 3 or Skipper Grade 1	\$1 181.00
	(ii) Master Class 4, Mate Class 4 or Skipper Grade 2	\$975.00
	(iii) Master Class 5 or Skipper Grade 3	\$800.00
	(iv) Coxswain	\$464.00
	(v) Marine Engineer Class 3	\$974.00
	(vi) Marine Engine Driver Grade 1	\$739.00
	(vii) Marine Engine Driver Grade 2	\$552.00
	(viii) Marine Engine Driver Grade 3	\$338.00

6	Second or subsequent attempt at examination for certificate of competency—	
	(a) for trading vessels operating solely on the River Murray or inland waters—	
	(i) Master Class 4 River Murray and Inland Waters	
	• written examination	\$42.00
	• oral examination	\$274.00
	(ii) Master Class 5 River Murray and Inland Waters (including Houseboat)	
	• written examination	\$42.00
	• oral examination	\$150.00
	(iii) Coxswain River Murray and Inland Waters	
	• written examination	\$42.00
	• oral examination	\$126.00
	(b) for other trading vessels and fishing vessels—	
	(i) Master Class 3 or Skipper Grade 1	
	• written examination	\$82.50
	• oral examination	\$296.00
	(ii) Master Class 4, Mate Class 4 or Skipper Grade 2	
	• written examination	\$64.00
	• oral examination	\$274.00
	(iii) Master Class 5 or Skipper Grade 3	
	• written examination	\$42.00
	• oral examination	\$210.00
	(iv) Coxswain	
	• written examination	\$42.00
	• oral examination	\$126.00
	(v) Marine Engineer Class 3	
	• written examination	\$109.00
	• oral examination	\$274.00
	(vi) Marine Engine Driver Grade 1	
	• written examination	\$96.50
	• oral examination	\$167.00
	(vii) Marine Engine Driver Grade 2	
	• written examination	\$64.00
	• oral examination	\$109.00
	(viii) Marine Engine Driver Grade 3	
	• written examination	\$42.00

7	Written examination (whether first or subsequent attempt)—	
	(a) for Boat Operator's Licence	\$33.50
	(b) for Special Permit	\$15.50
8	Practical test for Special Permit	nil
9	Issue of Boat Operator's Licence—	
	(a) if applicant has held Special Permit	\$14.50
	(b) in any other case	\$32.50
10	Issue of Special Permit	\$14.00
11	Application for exemption from requirement to hold certificate of competency	\$114.00
12	Application for endorsement of certificate of competency	\$114.00
13	Application for recognition of qualification under law of some other place as equivalent to certificate of competency—	
	(a) if applicant not required to sit examination	\$114.00
	(b) if applicant required to sit examination	\$402.00
14	Application for re-validation of certificate of competency	\$28.50
15	Issue of replacement certificate of competency—	
	(a) Boat Operator's Licence or Special Permit	\$14.50
	(b) other	\$114.00

Fees relating to Part 10 (Hire and drive vessels)

16	Fees in relation to inspection of hire and drive houseboat—	
	(a) for initial certificate of inspection, according to length of vessel as follows:	
	(i) not more than 5 m	\$332.00
	(ii) more than 5 m but not more than 6 m	\$389.00
	(iii) more than 6 m but not more than 7 m	\$447.00
	(iv) more than 7 m but not more than 8 m	\$507.00
	(v) more than 8 m but not more than 9 m	\$569.00
	(vi) more than 9 m but not more than 10 m	\$632.00
	(vii) more than 10 m but not more than 11 m	\$697.00
	(viii) more than 11 m but not more than 12 m	\$763.00
	(ix) more than 12 m but not more than 13 m	\$829.00
	(x) more than 13 m but not more than 14 m	\$897.00
	(xi) more than 14 m but not more than 15 m	\$967.00
	(xii) more than 15 m but not more than 16 m	\$1 037.00
	(xiii) more than 16 m but not more than 17 m	\$1 108.00
	(xiv) more than 17 m but not more than 18 m	\$1 180.00
	(xv) more than 18 m but not more than 19 m	\$1 252.00
	(xvi) more than 19 m but not more than 20 m	\$1 325.00

(xvii)	more than 20 m but not more than 21 m	\$1 400.00
(xviii)	more than 21 m but not more than 22 m	\$1 475.00
(xix)	more than 22 m but not more than 23 m	\$1 551.00
(xx)	more than 23 m	\$1 628.00
(b)	for subsequent certificate of inspection, according to length of vessel as follows:	
(i)	not more than 5 m	\$218.00
(ii)	more than 5 m but not more than 6 m	\$257.00
(iii)	more than 6 m but not more than 7 m	\$299.00
(iv)	more than 7 m but not more than 8 m	\$341.00
(v)	more than 8 m but not more than 9 m	\$383.00
(vi)	more than 9 m but not more than 10 m	\$426.00
(vii)	more than 10 m but not more than 11 m	\$469.00
(viii)	more than 11 m but not more than 12 m	\$513.00
(ix)	more than 12 m but not more than 13 m	\$556.00
(x)	more than 13 m but not more than 14 m	\$601.00
(xi)	more than 14 m but not more than 15 m	\$646.00
(xii)	more than 15 m but not more than 16 m	\$691.00
(xiii)	more than 16 m but not more than 17 m	\$736.00
(xiv)	more than 17 m but not more than 18 m	\$782.00
(xv)	more than 18 m but not more than 19 m	\$827.00
(xvi)	more than 19 m but not more than 20 m	\$873.00
(xvii)	more than 20 m but not more than 21 m	\$919.00
(xviii)	more than 21 m but not more than 22 m	\$966.00
(xix)	more than 22 m but not more than 23 m	\$1 013.00
(xx)	more than 23 m	\$1 060.00
(c)	for inspection pursuant to condition of licence under Part 8 of Act (for example, due to damage or alteration of houseboat)	\$142.00 per hour
(d)	for non-attendance by owner of houseboat or agent at inspection—	
(i)	for initial or subsequent certificate of inspection	50% of relevant inspection fee under paragraph (a) or (b)
(ii)	pursuant to condition of licence under Part 8 of Act	\$267.00
(e)	for examination of plans for construction or alteration of houseboat	\$142.00 per hour
17	Issue of replacement or additional certificate of inspection	\$58.00

- | | | |
|----|--|---|
| 18 | Application for extension of period for which initial or subsequent certificate of inspection remains in force | 1/4 of relevant inspection fee under item 16(a) or (b) for each month or part of a month of extension |
|----|--|---|

Fees relating to Part 11 (Registration (including vessels to which regulation 147 applies))

- | | | |
|----|---|--|
| 19 | Application for registration of vessel— | |
| | (a) recreational vessel comprised of personal watercraft— | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$272.00 \$250.00 \$264.50 |
| | (b) other recreational vessel according to length as follows: | |
| | (i) not more than 3.5 m— | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$36.50 \$14.50 \$29.00 |
| | (ii) more than 3.5 m but not more than 6 m | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$67.00 \$45.50 \$60.00 |
| | (iii) more than 6 m but not more than 10 m | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$147.00 \$125.00 \$139.50 |
| | (iv) more than 10 m but not more than 15 m | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$209.00 \$188.00 \$202.50 |
| | (v) more than 15 m but not more than 20 m | |
| | <ul style="list-style-type: none"> • initial registration • subsequent registration in same name • subsequent registration in different name | <ul style="list-style-type: none"> \$272.00 \$250.00 \$264.50 |

	(vi) more than 20 m	
	• initial registration	\$314.00
	• subsequent registration in same name	\$292.00
	• subsequent registration in different name	\$306.50
	(c) vessels required to be registered under regulation 147—	
	• initial registration	\$323.00
	• subsequent registration	\$212.00
20	Application for exemption from requirement for vessel to be registered	nil
21	Trade plates—	
	(a) application for initial issue	\$66.50
	(b) application for subsequent issue	\$45.50
	(c) issue of replacement certificate or label	\$14.50
	(d) surrender of trade plates	\$14.50
22	Application for assignment of new identification mark	\$14.50
23	Application for transfer of registration of vessel	\$14.50
24	Issue of replacement certificate of registration	\$14.50
25	Issue of replacement registration label	\$14.50
26	Application for cancellation of registration	\$14.50
27	Application for appointment as boat code agent	\$125.00
28	Application for further term of appointment as boat code agent	\$98.50
29	Application for approval as boat code examiner	\$62.50
30	Application for further term of approval as boat code examiner	\$31.50
31	Set of 20 HIN plates	\$97.00
32	Pad of 50 interim boat code certificates	\$26.00
33	Duplicate copy of boat code certificate	\$14.50
	Fees relating to Part 11 (Certificates of survey)	
34	Fees payable by applicant for certificate of survey or consent to structural alteration to hull or material alteration to equipment—	
	(a) for survey for initial certificate, according to length of vessel as follows:	
	(i) not more than 5 m	\$665.00
	(ii) more than 5 m but not more than 6 m	\$777.00
	(iii) more than 6 m but not more than 7 m	\$894.00
	(iv) more than 7 m but not more than 8 m	\$1 015.00
	(v) more than 8 m but not more than 9 m	\$1 138.00
	(vi) more than 9 m but not more than 10 m	\$1 265.00

(vii)	more than 10 m but not more than 11 m	\$1 394.00
(viii)	more than 11 m but not more than 12 m	\$1 525.00
(ix)	more than 12 m but not more than 13 m	\$1 659.00
(x)	more than 13 m but not more than 14 m	\$1 795.00
(xi)	more than 14 m but not more than 15 m	\$1 934.00
(xii)	more than 15 m but not more than 16 m	\$2 074.00
(xiii)	more than 16 m but not more than 17 m	\$2 215.00
(xiv)	more than 17 m but not more than 18 m	\$2 359.00
(xv)	more than 18 m but not more than 19 m	\$2 505.00
(xvi)	more than 19 m but not more than 20 m	\$2 652.00
(xvii)	more than 20 m but not more than 21 m	\$2 801.00
(xviii)	more than 21 m but not more than 22 m	\$2 951.00
(xix)	more than 22 m but not more than 23 m	\$3 102.00
(xx)	more than 23 m but not more than 24 m	\$3 255.00
(xxi)	more than 24 m but not more than 25 m	\$3 409.00
(xxii)	more than 25 m but not more than 26 m	\$3 565.00
(xxiii)	more than 26 m but not more than 27 m	\$3 722.00
(xxiv)	more than 27 m but not more than 28 m	\$3 879.00
(xxv)	more than 28 m but not more than 29 m	\$4 039.00
(xxvi)	more than 29 m but not more than 30 m	\$4 199.00
(xxvii)	more than 30 m but not more than 31 m	\$4 361.00
(xxviii)	more than 31 m but not more than 32 m	\$4 523.00
(xxix)	more than 32 m but not more than 33 m	\$4 687.00
(xxx)	more than 33 m but not more than 34 m	\$4 852.00
(xxxi)	more than 34 m but not more than 35 m	\$5 017.00
(xxxii)	more than 35 m but not more than 36 m	\$5 184.00
(xxxiii)	more than 36 m but not more than 37 m	\$5 352.00
(xxxiv)	more than 37 m but not more than 38 m	\$5 521.00
(xxxv)	more than 38 m but not more than 39 m	\$5 690.00
(xxxvi)	more than 39 m but not more than 40 m	\$5 861.00
(xxxvii)	more than 40 m but not more than 41 m	\$6 032.00
(xxxviii)	more than 41 m but not more than 42 m	\$6 205.00
(xxxix)	more than 42 m but not more than 43 m	\$6 378.00
(xl)	more than 43 m but not more than 44 m	\$6 552.00
(xli)	more than 44 m but not more than 45 m	\$6 727.00
(xlii)	more than 45 m but not more than 46 m	\$6 902.00

(xliii)	more than 46 m but not more than 47 m	\$7 079.00
(xliv)	more than 47 m but not more than 48 m	\$7 256.00
(xlv)	more than 48 m but not more than 49 m	\$7 435.00
(xlvi)	more than 49 m	\$7 613.00
(b)	for survey for subsequent certificate—first visit for Class 1 or 2 vessel that has not been surveyed by classification society—according to length of vessel as follows:	
(i)	not more than 5 m	\$324.00
(ii)	more than 5 m but not more than 6 m	\$385.00
(iii)	more than 6 m but not more than 7 m	\$446.00
(iv)	more than 7 m but not more than 8 m	\$509.00
(v)	more than 8 m but not more than 9 m	\$572.00
(vi)	more than 9 m but not more than 10 m	\$636.00
(vii)	more than 10 m but not more than 11 m	\$700.00
(viii)	more than 11 m but not more than 12 m	\$766.00
(ix)	more than 12 m but not more than 13 m	\$832.00
(x)	more than 13 m but not more than 14 m	\$897.00
(xi)	more than 14 m but not more than 15 m	\$964.00
(xii)	more than 15 m but not more than 16 m	\$1 031.00
(xiii)	more than 16 m but not more than 17 m	\$1 098.00
(xiv)	more than 17 m but not more than 18 m	\$1 166.00
(xv)	more than 18 m but not more than 19 m	\$1 235.00
(xvi)	more than 19 m but not more than 20 m	\$1 304.00
(xvii)	more than 20 m but not more than 21 m	\$1 372.00
(xviii)	more than 21 m but not more than 22 m	\$1 442.00
(xix)	more than 22 m but not more than 23 m	\$1 511.00
(xx)	more than 23 m but not more than 24 m	\$1 582.00
(xxi)	more than 24 m but not more than 25 m	\$1 652.00
(xxii)	more than 25 m but not more than 26 m	\$1 722.00
(xxiii)	more than 26 m but not more than 27 m	\$1 793.00
(xxiv)	more than 27 m but not more than 28 m	\$1 864.00
(xxv)	more than 28 m but not more than 29 m	\$1 935.00
(xxvi)	more than 29 m but not more than 30 m	\$2 007.00
(xxvii)	more than 30 m but not more than 31 m	\$2 079.00
(xxviii)	more than 31 m but not more than 32 m	\$2 151.00
(xxix)	more than 32 m but not more than 33 m	\$2 223.00
(xxx)	more than 33 m but not more than 34 m	\$2 296.00
(xxxi)	more than 34 m but not more than 35 m	\$2 367.00
(xxxii)	more than 35 m but not more than 36 m	\$2 440.00

(xxxiii) more than 36 m but not more than 37 m	\$2 514.00
(xxxiv) more than 37 m but not more than 38 m	\$2 587.00
(xxxv) more than 38 m but not more than 39 m	\$2 660.00
(xxxvi) more than 39 m but not more than 40 m	\$2 734.00
(xxxvii) more than 40 m but not more than 41 m	\$2 808.00
(xxxviii) more than 41 m but not more than 42 m	\$2 882.00
(xxxix) more than 42 m but not more than 43 m	\$2 956.00
(xl) more than 43 m but not more than 44 m	\$3 031.00
(xli) more than 44 m but not more than 45 m	\$3 105.00
(xlii) more than 45 m but not more than 46 m	\$3 180.00
(xliii) more than 46 m but not more than 47 m	\$3 255.00
(xliv) more than 47 m but not more than 48 m	\$3 330.00
(xlv) more than 48 m but not more than 49 m	\$3 405.00
(xlvi) more than 49 m	\$3 480.00
(c) for survey for subsequent certificate—first visit for Class 3 vessel that has not been surveyed by classification society—according to length of vessel as follows:	
(i) not more than 5 m	\$356.00
(ii) more than 5 m but not more than 6 m	\$423.00
(iii) more than 6 m but not more than 7 m	\$491.00
(iv) more than 7 m but not more than 8 m	\$560.00
(v) more than 8 m but not more than 9 m	\$629.00
(vi) more than 9 m but not more than 10 m	\$699.00
(vii) more than 10 m but not more than 11 m	\$770.00
(viii) more than 11 m but not more than 12 m	\$842.00
(ix) more than 12 m but not more than 13 m	\$914.00
(x) more than 13 m but not more than 14 m	\$987.00
(xi) more than 14 m but not more than 15 m	\$1 061.00
(xii) more than 15 m but not more than 16 m	\$1 134.00
(xiii) more than 16 m but not more than 17 m	\$1 209.00
(xiv) more than 17 m but not more than 18 m	\$1 283.00
(xv) more than 18 m but not more than 19 m	\$1 358.00
(xvi) more than 19 m but not more than 20 m	\$1 434.00
(xvii) more than 20 m but not more than 21 m	\$1 510.00
(xviii) more than 21 m but not more than 22 m	\$1 586.00
(xix) more than 22 m but not more than 23 m	\$1 662.00
(xx) more than 23 m but not more than 24 m	\$1 739.00
(xxi) more than 24 m but not more than 25 m	\$1 816.00
(xxii) more than 25 m but not more than 26 m	\$1 894.00

(xxiii)	more than 26 m but not more than 27 m	\$1 973.00
(xxiv)	more than 27 m but not more than 28 m	\$2 051.00
(xxv)	more than 28 m but not more than 29 m	\$2 129.00
(xxvi)	more than 29 m but not more than 30 m	\$2 207.00
(xxvii)	more than 30 m but not more than 31 m	\$2 286.00
(xxviii)	more than 31 m but not more than 32 m	\$2 365.00
(xxix)	more than 32 m but not more than 33 m	\$2 445.00
(xxx)	more than 33 m but not more than 34 m	\$2 525.00
(xxxi)	more than 34 m but not more than 35 m	\$2 605.00
(xxxii)	more than 35 m but not more than 36 m	\$2 685.00
(xxxiii)	more than 36 m but not more than 37 m	\$2 765.00
(xxxiv)	more than 37 m but not more than 38 m	\$2 846.00
(xxxv)	more than 38 m but not more than 39 m	\$2 927.00
(xxxvi)	more than 39 m but not more than 40 m	\$3 008.00
(xxxvii)	more than 40 m but not more than 41 m	\$3 088.00
(xxxviii)	more than 41 m but not more than 42 m	\$3 171.00
(xxxix)	more than 42 m but not more than 43 m	\$3 252.00
(xl)	more than 43 m but not more than 44 m	\$3 333.00
(xli)	more than 44 m but not more than 45 m	\$3 416.00
(xlii)	more than 45 m but not more than 46 m	\$3 498.00
(xliii)	more than 46 m but not more than 47 m	\$3 580.00
(xliv)	more than 47 m but not more than 48 m	\$3 663.00
(xlv)	more than 48 m but not more than 49 m	\$3 746.00
(xlvi)	more than 49 m	\$3 828.00
(d)	for survey for subsequent certificate—second or subsequent visit for vessel that has not been surveyed by classification society	\$142.00 per hour
(e)	for survey for subsequent certificate if vessel has been surveyed by classification society	\$142.00 per hour
(f)	for survey of alterations or repairs to vessel	\$142.00 per hour
(g)	for non-attendance by owner of vessel or agent at survey—	
(i)	for initial certificate of survey	50% of relevant survey fee under paragraph (a)
(ii)	for subsequent certificate of survey—	
	• in the case of a first visit	50% of relevant survey fee under paragraph (b) or (c)
	• in the case of a second or subsequent visit	\$267.00
(iii)	of alterations or repairs to vessel	\$267.00
(h)	for examination and approval of plans for construction or alteration of vessel	\$142.00 per hour

	(i) for attendance of surveyor at inclining experiment	\$216.00
	(j) for examination and approval of vessel's stability information—	
	(i) if information is based on metacentric height (GM) criteria	\$219.00
	(ii) in any other case	\$142.00 per hour minimum fee: \$649.00
	(k) for alteration to certificate of survey if consent given	\$58.00
35	Application for exemption from requirement for vessel to be surveyed	\$267.00
36	Application for recognition of certificate or document issued under some other law as equivalent to certificate of survey	\$267.00
37	Issue of replacement certificate of survey	\$58.00
Fees relating to Part 11 (Loadline certificates)		
38	Fees payable by applicant for loadline certificate—	
	(a) application fee	\$267.00
	(b) assessment fee	\$142.00 per hour after first hour
39	Application for exemption from requirement for loadline certificate	\$267.00
40	Application for recognition of certificate or document issued under some other law as equivalent to loadline certificate	\$267.00
41	Issue of replacement loadline certificate	\$58.00
Fees relating to Part 14 (Boat havens)		
42	Application for permit to moor vessel in boat haven—	
	(a) <i>North Arm Boat Haven</i>	
	(i) annual permit—	
	• fishing vessel 9 m and over in length	\$65.00 per metre
	• fishing vessel less than 9 m in length	\$87.00 per metre
	• tender vessel	\$65.00 per metre
	• the above is subject to the following maximum fees:	
	• Fishing vessel and 2 tender vessels	\$421.00
	• Fishing vessel and 3 tender vessels	\$478.00
	• Other vessels 12 m or more in length	\$164.00 per metre
	• Other vessels less than 12 m in length	\$1 954.00
	(ii) temporary permit (1 week or part of a week)	\$57.50

- | | |
|---------------------------------------|-------------------|
| (b) <i>Port MacDonnell Boat Haven</i> | |
| (i) annual permit | \$87.00 per metre |
| (ii) temporary permit (24 hours) | \$5.50 |

Levies (Part 15)

43 Facilities levy for power-driven recreational vessel—

- | | |
|---|----------|
| (a) personal water craft | \$25.00 |
| (ab) houseboat, paddle steamer, or other vessel designed for inland waters, that is operated only on the River Murray and moored (when not in use or under inspection, service or repair) at a permanent mooring facility on the River Murray | \$32.50 |
| (b) other, according to length of vessel as follows: | |
| (i) not more than 3.1 m | nil |
| (ii) more than 3.1 m but not more than 3.5 m | \$25.00 |
| (iii) more than 3.5 m but not more than 5 m | \$41.50 |
| (iv) more than 5 m but not more than 6 m | \$50.00 |
| (v) more than 6 m but not more than 7 m | \$58.50 |
| (vi) more than 7 m but not more than 8 m | \$66.50 |
| (vii) more than 8 m but not more than 9 m | \$75.00 |
| (viii) more than 9 m but not more than 10 m | \$83.50 |
| (ix) more than 10 m but not more than 11 m | \$91.50 |
| (x) more than 11 m but not more than 12 m | \$100.00 |
| (xi) more than 12 m but not more than 13 m | \$108.00 |
| (xii) more than 13 m but not more than 14 m | \$117.00 |
| (xiii) more than 14 m but not more than 15 m | \$125.00 |
| (xiv) more than 15 m but not more than 16 m | \$133.00 |
| (xv) more than 16 m but not more than 17 m | \$142.00 |
| (xvi) more than 17 m but not more than 18 m | \$150.00 |
| (xvii) more than 18 m but not more than 19 m | \$158.00 |
| (xviii) more than 19 m but not more than 20 m | \$167.00 |
| (xix) more than 20 m in length | \$208.00 |

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 226 of 2009

MTR09/054

South Australia

Environment Protection Regulations 2009

under the *Environment Protection Act 1993*

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- 8 Form of site contamination audit statement

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Schedule 5—Revocation and transitional provisions

Part 1—Revocation

- 1 Revocation of *Environment Protection (Beverage Container) Regulations 2008*
- 2 Revocation of *Environment Protection (Exempt Classes of Persons and Activities) Regulations 2001*
- 3 Revocation of *Environment Protection (Fees and Levy) Regulations 1994*
- 4 Revocation of *Environment Protection (General) Regulations 1994*
- 5 Revocation of *Environment Protection (Site Contamination) Regulations 2008*

Part 2—Transitional provisions

- 6 Continuation of accreditation in respect of prescribed activities of environmental significance
- 7 Continuation of accreditation of site contamination auditors
- 8 Continuation of approved weighbridges

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Environment Protection Regulations 2009*.

2—Commencement

These regulations will come into operation on 1 September 2009.

3—Interpretation

(1) In these regulations, unless the contrary intention appears—

accreditation, in relation to a site contamination auditor, means accreditation under Part 5 Division 2;

accreditation committee means a committee established by the Board under section 17 of the Act to advise the Authority in relation to accreditation of site contamination auditors;

accredited activity means a prescribed activity of environmental significance carried on by a licensee in respect of which accreditation is granted under regulation 36;

Act means the *Environment Protection Act 1993*;

Adelaide airshed means the area described in Schedule 2 clause 2;

agriculture includes horticulture;

approved estimation or monitoring technique for an activity means—

- (a) an estimation technique set out in an EET manual for the activity; or
- (b) a technique or method approved by the Authority for the activity by condition of licence or otherwise;

approved weighbridge means a weighbridge—

- (a) that is operated in accordance with a licence issued under the *Trade Measurement Act 1993*; or
- (b) that is approved by the Authority under regulation 69;

asbestos includes unbound or friable asbestos and bound or non-friable asbestos;

assessable site—see subregulation (2);

assessable vehicle—each vehicle approved by the Authority for the transport of waste under a licence that authorises a waste transport business is to be taken to be an assessable vehicle;

copper means copper and its compounds;

designated air pollutant means sulphur dioxide, nitrogen oxides, particulates, volatile organic compounds or lead, but does not include ethanol emitted in the course of a prescribed activity of environmental significance specified in Schedule 1 clause 6(2) or (11) of the Act (breweries, wineries and distilleries);

designated water pollutant means heat, suspended solids, nitrogen, phosphorus, organic matter, zinc, lead or copper;

dredging means the prescribed activity of environmental significance specified in Schedule 1 clause 7(4) of the Act;

earthworks drainage means the prescribed activity of environmental significance specified in Schedule 1 clause 7(6) of the Act;

EET manual for an activity means a manual setting out techniques for making estimates in relation to the activity published by the Commonwealth for the purposes of the National Pollutant Inventory—see www.npi.gov.au;

environment management component means the environment management component of an annual authorisation fee for a licence (see regulation 30 and Schedule 2 Part 2);

EPA odour criteria means the criteria specified in *EPA Guideline 373/06 Odour assessment using odour source modelling* as issued by the Authority in April 2007;

fee unit—see regulation 4;

flat fee component means the flat fee component of an annual authorisation fee for a licence (see regulation 29);

green waste means waste comprised of plants or plant matter, including leaves, twigs, branches, tree trunks, prunings, grass clippings, fruit, vegetables and fruit or vegetable scraps;

inert waste means solid waste that has no active chemical or biological properties and is not subject to biological or chemical breakdown;

lead means lead and its compounds;

licence period, in relation to a licence, means the period of 12 months from the first anniversary of the grant or renewal of the licence and each subsequent period of 12 months;

Note—

This is to be distinguished from the term of the licence (which is a period determined by the Authority under section 43 of the Act).

liquid organic chemical substances means oil, petroleum or biofuels, other than when stored in the fuel tank of a motor vehicle for the purposes of powering the vehicle;

listed substance means a substance listed in Schedule 3 clause 4;

marine environment means—

- (a) marine waters; or
- (b) land that is covered with marine waters (whether permanently or from time to time);

metropolitan Adelaide has the same meaning as in the *Development Act 1993*;

metropolitan coastal waters means the body of waters extending 3 nautical miles seaward from the coastline forming the western boundary of metropolitan Adelaide;

motor vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle;

Mount Gambier airshed means the area described in Schedule 2 clause 3;

Mount Lofty Ranges Water Protection Area means the Mount Lofty Ranges Water Protection Area as declared under Part 8 of the Act;

National Pollutant Inventory means the inventory established as a result of the *National Environment Protection (National Pollutant Inventory) Measure*;

nitrogen means total nitrogen;

organic matter—see subregulation (3);

particulates means particulate matter 10 micrometres or less in diameter, and includes red dust particulates;

pesticides includes herbicides and fungicides;

phosphorous means total phosphorus;

pollutant load-based component means the pollutant load-based component of the resource efficiency component of an annual authorisation fee for a licence (see regulation 31);

Port Pirie airshed means the area described in Schedule 2 clause 4;

Port River region means the area described in Schedule 2 clause 5;

prescribed activity of environmental significance means an activity specified in Schedule 1 Part A of the Act;

red dust particulates means haematite or goethite;

reporting period means—

- (a) for a licence authorising an activity in respect of which a report is provided to the Authority for the purposes of the National Pollutant Inventory—the period to which the report relates; or
- (b) for any other licence—the 12 month period approved by the Authority for the licence by condition of the licence or by notice in writing to the licensee;

resource efficiency component—the resource efficiency component of the annual authorisation fee for a licence is comprised of the pollutant load-based component and the water reuse component (see regulation 28);

resource recovery, in relation to waste, means—

- (a) reusing the waste; or
- (b) recycling the waste; or
- (c) recovering energy or other resources from the waste;

responsible auditor, in relation to a site contamination audit, means the site contamination auditor who personally carried out or directly supervised the work involved in the audit;

septic tank effluent means effluent that is ordinarily collected by means of a septic tank, waterless composting toilet, aerated wastewater treatment system or similar on-site waste collection system;

South East Water Protection Area means the South East Water Protection Area as declared under Part 8 of the Act;

Upper Spencer Gulf means the waters described in Schedule 2 clause 6;

vessel means—

- (a) a ship or boat; or
- (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in transporting passengers or goods by water; or
- (c) a structure that is designed to float in water and is used for commercial, industrial or research purposes;

waste fill means waste consisting of clay, concrete, rock, sand, soil or other inert mineralogical matter in pieces not exceeding 100 millimetres in length and containing chemical substances in concentrations (calculated in a manner determined by the Authority) less than the concentrations for those substances set out in the following table (but does not include waste consisting of or containing asbestos or bitumen):

Chemical substance	Concentration (milligrams per kilogram of waste fill)	Chemical substance	Concentration (milligrams per kilogram of waste fill)
Aldrin/dieldrin (total)	2	Ethylbenzene	3.1
Arsenic	20	Heptachlor	2
Barium	300	Lead	300
Benzene	1	Manganese	500
Benzo(a)pyrene	1	Mercury	1
Beryllium	20	Nickel	60
Cadmium	3	Petroleum hydrocarbons TPH C6-C9 (total)	65
Chlordane	2	Phenolic compounds (total)	0.5
Chromium (III)	400	Polychlorinated biphenyls (PCBs)	2
Chromium (VI)	1	Polycyclic aromatic hydrocarbons (PAH) (total)	5
Cobalt	170	Petroleum hydrocarbons TPH>C9	1000
Copper	60	Toluene	1.4
Cyanides (total)	500	Xylene (total)	14
DDT	2	Zinc	200

waste transport business means a waste transport business (category A) or a waste transport business (category B);

waste transport business (category A) means the prescribed activity of environmental significance specified in Schedule 1 clause 3(5) of the Act;

waste transport business (category B) means the prescribed activity of environmental significance specified in Schedule 1 clause 3(6) of the Act;

wastewater includes—

- (a) sewage, and septic tank effluent, whether treated or untreated; and
- (b) water containing commercial or industrial waste;

water reuse component means the water reuse component of the resource efficiency component of an annual authorisation fee for a licence (see regulation 32);

Whyalla airshed means the area described in Schedule 2 clause 7;

zinc means zinc and its compounds.

- (2) For the purposes of these regulations, the following principles apply in relation to an *assessable site*:
- (a) each location specified in a licence at which a prescribed activity of environmental significance may be undertaken is to be taken to be an assessable site;
 - (b) if various places are specified in a licence as a single location, then the various premises are together to be taken to be an assessable site;
 - (c) if a licence authorises a prescribed activity of environmental significance to be undertaken by means of mobile works, then the various premises at which the mobile works are used are together to be taken to be an assessable site;
 - (d) the prescribed activities of dredging, earthworks drainage and a waste transport business are not to be regarded as being undertaken at an assessable site.
- (3) A reference in these regulations to an amount of *organic matter* is a reference to the biochemical oxygen demand of the organic matter expressed in kilograms (determined in accordance with an approved estimation or monitoring technique for the activity that produces the organic matter).

4—Monetary value of fee unit

In these regulations, the monetary value of a fee unit is as follows:

- (a) for the purposes of the annual authorisation fee for a licence (including a projected annual authorisation fee under regulation 27(4) and (5))—
 - (i) for the flat fee component—\$52.50;
 - (ii) for the environment management component—\$551.00;
 - (iii) for the pollutant load-based component—\$5.15;
 - (iv) for the water reuse component—\$13.00;
- (b) for the purposes of the waste depot levy under regulation 70(1)(a)—\$12.60;
- (c) for all other purposes—\$16.30.

Part 2—General provisions supporting Act

5—Prescribed national scheme laws (section 3)

- (1) For the purpose of paragraph (a) of the definition of *the prescribed national scheme laws* in section 3(1) of the Act, the *National Environment Protection Council Act 1994* of the Commonwealth is the prescribed law of the Commonwealth.
- (2) For the purpose of paragraph (b) of the definition of *the prescribed national scheme laws* in section 3(1) of the Act, the *National Environment Protection Council (South Australia) Act 1995* is the prescribed law of this State.

6—Consultation with prescribed bodies required before certain regulations made (section 5A)

- (1) For the purposes of section 5A of the Act, the following bodies are prescribed in relation to the making of a regulation declaring something to be a pollutant or to constitute environmental harm:
 - (a) Ai Group (SA Branch);

- (b) Australian Conservation Foundation Inc;
 - (c) Australian Institute of Environmental Health;
 - (d) Beverage Industry Environment Council (BIEC);
 - (e) Conservation Council of South Australia Incorporated;
 - (f) Environmental Defenders Office (SA) Incorporated;
 - (g) Environment Business Australia;
 - (h) Local Government Association of South Australia Incorporated;
 - (i) National Environmental Law Association Limited (SA Branch);
 - (j) Royal Australian Chemical Institute Inc.;
 - (k) South Australian Chamber of Mines and Energy Incorporated;
 - (l) South Australian Employers' Chamber of Commerce and Industry Incorporated (trading as Business SA);
 - (m) South Australian Farmers' Federation Incorporated;
 - (n) South Australian Fire and Emergency Services Commission (established under Part 2 Division 1 of the *Fire and Emergency Services Act 2005*);
 - (o) The Nature Conservation Society of South Australia Incorporated;
 - (p) United Trades and Labour Council (trading as SA Unions);
 - (q) Waste Management Association of Australia Incorporated.
- (2) For the purposes of section 5A of the Act, the following bodies are prescribed in relation to the making of a regulation declaring something to be waste:
- (a) Ai Group (SA Branch);
 - (b) Conservation Council of South Australia Incorporated;
 - (c) Local Government Association of South Australia Incorporated;
 - (d) South Australian Employers' Chamber of Commerce and Industry Incorporated (trading as Business SA);
 - (e) Waste Management Association of Australia Incorporated.

7—Board of Authority (section 14B)

- (1) For the purposes of section 14B(4) of the Act, the Minister must, in relation to the selection of persons for appointment to the Board, consult with the following bodies:
- (a) in relation to the selection for appointment of a person with practical knowledge of, and experience in, industry, commerce or economic development—
 - (i) Ai Group (SA Branch); and
 - (ii) South Australian Chamber of Mines and Energy Incorporated; and
 - (iii) South Australian Employers' Chamber of Commerce and Industry Incorporated (trading as Business SA); and
 - (iv) South Australian Farmers' Federation Incorporated;

- (b) in relation to the selection for appointment of a person with practical knowledge of, and experience in, environmental conservation and advocacy on environmental matters on behalf of the community—
 - (i) Conservation Council of South Australia Incorporated; and
 - (ii) Environmental Defenders Office (SA) Incorporated;
 - (c) in relation to the selection for appointment of a person with practical knowledge of, and experience in, the reduction, reuse, recycling and management of waste or the environmental management industry—
 - (i) Environment Business Australia; and
 - (ii) The Association of Consulting Engineers Australia; and
 - (iii) Waste Management Association of Australia Incorporated;
 - (d) in relation to the selection for appointment of a person with legal qualifications and experience in environmental law—
 - (i) National Environmental Law Association Limited (SA Branch); and
 - (ii) Environmental Defenders Office (SA) Incorporated;
 - (e) in relation to the selection for appointment of a person with practical knowledge of, and experience in, local government—Local Government Association of South Australia Incorporated.
- (2) A body consulted by the Minister under subregulation (1) must, within a reasonable period of time specified by the Minister, nominate a panel of up to 3 persons, including at least 1 woman and 1 man, from which selection for appointment may be made.

8—Environment Protection Fund (section 24)

- (1) For the purposes of section 24(3)(a) of the Act, the prescribed percentage of fees (other than expiation fees) to be paid into the Environment Protection Fund is 5%.
- (2) For the purposes of section 24(3)(b) of the Act, the prescribed percentage of penalties recovered in respect of offences (other than expiation fees or penalties to which a council is entitled) to be paid into the Environment Protection Fund is 100%.
- (3) For the purposes of section 24(3)(ba) of the Act, the prescribed percentage of amounts recovered by the Authority, by negotiation or as a result of civil proceedings, in respect of contraventions to be paid into the Environment Protection Fund is 100%.
- (4) For the purposes of section 24(3)(e) of the Act, the prescribed percentage of levy payments under Part 15 of the Act to be paid into the Environment Protection Fund is 5%.

9—Normal procedure for making policies (section 28)

For the purposes of section 28 of the Act, the following bodies are prescribed:

- (a) Ai Group (SA Branch);
- (b) Australian Conservation Foundation Inc;
- (c) Australian Institute of Environmental Health;
- (d) Beverage Industry Environment Council (BIEC);
- (e) Conservation Council of South Australia Incorporated;
- (f) Environmental Defenders Office (SA) Incorporated;

- (g) Environment Business Australia;
- (h) Local Government Association of South Australia Incorporated;
- (i) National Environmental Law Association Limited (SA Branch);
- (j) Royal Australian Chemical Institute Inc.;
- (k) South Australian Chamber of Mines and Energy Incorporated;
- (l) South Australian Employers' Chamber of Commerce and Industry Incorporated (trading as Business SA);
- (m) South Australian Farmers' Federation Incorporated;
- (n) South Australian Fire and Emergency Services Commission (established under Part 2 Division 1 of the *Fire and Emergency Services Act 2005*);
- (o) The Nature Conservation Society of South Australia Incorporated;
- (p) United Trades and Labour Council (trading as SA Unions);
- (q) Waste Management Association of Australia Incorporated.

10—Simplified procedure for making certain policies (section 29)

For the purposes of section 29 of the Act—

- (a) the following bodies are prescribed:
 - (i) Department of Environment and Climate Change (New South Wales);
 - (ii) Department of Environment and Conservation (Western Australia);
 - (iii) Department of Environment and Resources Management (Queensland);
 - (iv) Department of Environment, Climate Change, Energy and Water (Australian Capital Territory);
 - (v) Department of Environment, Food and Rural Affairs (United Kingdom);
 - (vi) Department of Natural Resources, Environment, the Arts and Sport (Northern Territory);
 - (vii) Department of Primary Industries, Parks, Water and Environment (Tasmania);
 - (viii) Department of Sustainability and Environment (Victoria);
 - (ix) Department of the Environment, Water, Heritage and the Arts (Commonwealth);
 - (x) enHealth Council (Commonwealth);
 - (xi) Environment Agency (United Kingdom);
 - (xii) Environmental Protection Agency (Ireland);
 - (xiii) Environmental Protection Agency (United States);
 - (xiv) Environment Protection Authority (Northern Territory);
 - (xv) European Environment Agency;
 - (xvi) International Organisation for Standards;
 - (xvii) National Health and Medical Research Council;

- (xviii) Scottish Environment Protection Agency;
 - (xix) Standards Australia;
 - (xx) The Department of Climate Change (Commonwealth);
 - (xxi) United Nations Environment Program;
 - (xxii) Victorian Environment Protection Authority;
 - (xxiii) World Health Organisation; and
- (b) the following bodies, formed under an agreement between the governments of the Commonwealth and the States and Territories of the Commonwealth and New Zealand and comprised of Ministerial representatives from time to time of those governments, are prescribed:
- (i) Environment Protection and Heritage Council;
 - (ii) Health, Community and Disability Services Ministerial Council;
 - (iii) Ministerial Council on Mineral and Petroleum Resources;
 - (iv) Natural Resource Management Ministerial Council;
 - (v) Planning, Housing and Local Government Ministerial Council.

11—Certain amendments may be made without following normal procedure (section 32)

For the purposes of section 32(1)(c) of the Act, the Minister may make changes of the following kinds to the *Environment Protection (Burning) Policy 1994* by notice in the Gazette under that section:

- (a) clause 4(2)(c) of the *Environment Protection (Burning) Policy 1994* may be amended so that—
- (i) an additional council area or portion of a council area is referred to in the provision if the council for the area has applied to the Minister for that change to be made;
 - (ii) a reference to a council, council area or portion of a council area is changed to reflect a change in an official name;
 - (iii) a reference to a council, council area or portion of a council area is removed if the council or council area has ceased to exist or the portion has ceased to exist or ceased to be within a specified council area;
- (b) Schedule 1 of the *Environment Protection (Burning) Policy 1994* may be amended so that—
- (i) an additional council area or portion of a council area is referred to in the Schedule if the council for the area has applied to the Minister for that change to be made;
 - (ii) a reference to a council, council area or portion of a council area is changed to reflect a change in an official name;
 - (iii) a reference to a council, council area or portion of a council area is removed if the council or council area has ceased to exist or the portion has ceased to exist or ceased to be within a specified council area.

12—Certain matters to be referred to Water Resources Minister (section 64)

- (1) For the purposes of section 64(2) of the Act, the period allowed for a response from the Water Resources Minister in respect of an application for an environmental authorisation referred to that Minister is 2 months.
- (2) Pursuant to section 64(6) of the Act, the Authority must not make a decision on an application referred to the Water Resources Minister without having regard to the response of that Minister.

13—Powers of authorised officers (section 87)

For the purposes of section 87(3)(a) of the Act, the following are prescribed as vehicles in relation to which an authorised officer may exercise powers of entry and inspection:

- (a) a vehicle used to carry waste;
- (b) a vehicle used in the course of or in connection with an activity authorised or required to be authorised by an environmental authorisation;
- (c) a vehicle reasonably suspected of being a vehicle referred to in paragraph (a) or (b).

14—Issue of warrants (section 88)

For the purposes of section 88(7)(a) of the Act, the prescribed form of a notice to be prepared by an authorised officer who executes a warrant is the form set out in Schedule 1 clause 1.

15—Authority may recover civil penalty in respect of contravention (section 104A)

For the purposes of section 104A(3)(a) of the Act, the prescribed form of a notice to be served by the Authority is the form set out in Schedule 1 clause 2.

16—Public register (section 109)

- (1) For the purposes of section 109(3)(1) of the Act, the following information must be recorded in the register:
 - (a) if an environmental authorisation is subject to a condition requiring compliance with an environment improvement programme under section 44 of the Act—details of the environment improvement programme;
 - (b) such information as the Authority considers appropriate as to the results of tests or monitoring or evaluation undertaken in compliance with conditions of an environmental authorisation under section 52 of the Act;
 - (c) such information as the Authority considers appropriate relating to any determination of the Authority under section 58 of the Act;
 - (d) details of each environment performance agreement entered into under section 59 of the Act;
 - (e) details of each report of an environmental assessment carried out in relation to land for the purposes of—
 - (i) an approved voluntary site contamination assessment proposal under section 103I of the Act; or
 - (ii) an approved voluntary site remediation proposal under section 103K of the Act;

- (f) details of each report of an environmental assessment carried out, for any other purpose and at any time in relation to land, by or on behalf of the Authority;
 - (g) details of each report known as a "Health Commission Report" prepared on behalf of the South Australian Health Commission (under the repealed *South Australian Health Commission Act 1976*) in relation to pollution of land or contamination of land by chemical substances;
 - (h) copies of each written warning issued by the Authority in relation to an alleged contravention of the Act;
 - (i) details of each pre-1 July 2009 site audit report carried out in relation to land;
 - (j) details of licences to operate a waste depot issued under the repealed *South Australian Waste Management Commission Act 1979* or the repealed *Waste Management Act 1987*;
 - (k) details of licences issued under the repealed *South Australian Waste Management Commission Act 1979* to produce waste of a prescribed kind (within the meaning of that Act);
 - (l) details of licences issued under the repealed *Waste Management Act 1987* to produce prescribed waste (within the meaning of that Act);
 - (m) details of any records that the former South Australian Waste Management Commission held under the repealed *Waste Management Act 1987* of waste (within the meaning of that Act) being deposited on land between 1 January 1983 and 30 April 1995.
- (2) In this regulation—

environmental assessment, in relation to land, means an assessment of the existence or nature or extent of—

- (a) site contamination (as defined in the Act) at the land; or
- (b) any other contamination of the land by chemical substances,

and includes such an assessment in relation to water on or below the surface of the land;

pre-1 July 2009 site audit, in relation to land, means a review (carried out by a person recognised by the Authority as an environmental auditor) that examines environmental assessments or remediation of the land for the purposes of determining—

- (a) the nature and extent of contamination of the land by chemical substances present or remaining on or below the surface of the land; and
- (b) the suitability of the land for a particular use; and
- (c) what remediation is or remains necessary for a particular use,

but does not include a site contamination audit (as defined in the Act) completed on or after 1 July 2009;

pre-1 July 2009 site audit report means a detailed written report that sets out the findings of a pre-1 July 2009 site audit.

Part 3—Environmental authorisations

Division 1—General provisions supporting Part 6 of Act

17—Notice and submissions in respect of applications for environmental authorisations (section 39)

For the purposes of section 39(4) of the Act, notice is not required to be given to an owner or occupier of adjacent land in circumstances in which—

- (a) the owner or occupier is the applicant; or
- (b) the owner or occupier has previously received notice in relation to the same activity at the land albeit as part of a works approval application.

18—Time limit for determination of applications (section 42)

For the purposes of section 42 of the Act, the prescribed period is—

- (a) in the case of an application that is required to be referred to the Water Resources Minister under Part 8 Division 1 of the Act—3 months; or
- (b) in the case of an application in respect of which public notice is not required under section 39 of the Act—1 month; or
- (c) in any other case—2 months unless the Authority determines that the application involves matters of special complexity or requires an extended period for consideration of submissions from interested persons, in which case, the period may be extended by the Authority to a period, not exceeding 4 months, determined by the Authority.

19—Term and renewal of environmental authorisations (section 43)

For the purposes of section 43(3) of the Act, an application for renewal of an environmental authorisation must be made—

- (a) if the Authority has specified a number of days for that purpose by condition of the authorisation—not less than that number of days before the date of expiry of the authorisation; or
- (b) in any other case—not less than 60 days before the date of expiry of the authorisation.

20—Notice and submissions in respect of proposed variations of conditions (section 46)

For the purposes of section 46 of the Act, notice of a proposed variation of a condition of an environmental authorisation is not required to be given to an owner or occupier of adjacent land if—

- (a) the owner or occupier is the holder of the environmental authorisation; or
- (b) the proposed variation consists of the revocation of an obsolete condition of the environmental authorisation.

21—Criteria for grant and conditions of environmental authorisations (section 47)

For the purposes of section 47(4) of the Act—

- (a) the following South Australian Acts are prescribed:

- (i) *Adelaide Dolphin Sanctuary Act 2005*;
 - (ii) *Aquaculture Act 2001*;
 - (iii) *Development Act 1993*;
 - (iv) *Mining Act 1971*;
 - (v) *Natural Resources Management Act 2004*;
 - (vi) *Petroleum Act 2000*;
 - (vii) *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987*;
 - (viii) *Radiation Protection and Control Act 1982*;
 - (ix) *River Murray Act 2003*;
 - (x) *Water Resources Act 1997*;
 - (xi) *Zero Waste SA Act 2004*; and
- (b) the following Acts of other States and Territories are prescribed:
- (i) *Environmental Offences and Penalties Act 1989* (repealed) of New South Wales;
 - (ii) *Environmental Protection Act 1986* of Western Australia;
 - (iii) *Environmental Protection Act 1994* of Queensland;
 - (iv) *Environment Management and Pollution Control Act 1994* of Tasmania;
 - (v) *Environment Protection Act 1970* of Victoria;
 - (vi) *Environment Protection Act 1997* of the Australian Capital Territory;
 - (vii) *Protection of the Environment Operations Act 1997* of New South Wales;
 - (viii) *Waste Management and Pollution Control Act* of the Northern Territory;
 - (ix) *Western Australian Marine (Sea Dumping) Act 1981* of Western Australia;
- (c) the following Acts of the Commonwealth are prescribed:
- (i) *Environment Protection and Biodiversity Conservation Act 1999*;
 - (ii) *Environment Protection (Sea Dumping) Act 1981*;
 - (iii) *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
 - (iv) *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

22—Annual fees and returns (section 48)

- (1) For the purposes of section 48(2)(a) of the Act, the date in each year before which the holder of an environmental authorisation must lodge an annual return with the Authority is—
- (a) if the Authority has fixed a date for that purpose by condition of the authorisation— that date; or
 - (b) in any other case—no later than 90 days before the anniversary of the grant or renewal of the authorisation.

- (2) For the purposes of section 48(2)(b) of the Act, the date in each year before which the holder of an environmental authorisation must pay the annual authorisation fee to the Authority is—
- (a) if a date is specified for the purpose in the authorisation—that date; or
 - (b) in any other case—the date falling 1 month after each anniversary of the grant of the authorisation.
- (3) For the purposes of section 48(4) of the Act, the penalty for failure to lodge an annual return or pay an annual authorisation fee is—
- (a) if the default occurs up to or including 30 June 2010—\$20 plus 1% of the annual authorisation fee for the first month (or part of a month) for which the default continues and 2% of the annual authorisation fee for each further month (or part of a month) for which the default continues; and
 - (b) if the default occurs after 30 June 2010—\$300 or 5% of the annual authorisation fee (whichever is higher) for each month (or part of a month) for which the default continues.

Note—

If there has been a failure to lodge an annual return and pay an annual authorisation fee, the penalty for default is payable in respect of each failure.

23—Transfer of environmental authorisations (section 49)

For the purposes of section 49(3) of the Act—

- (a) the following South Australian Acts are prescribed:
 - (i) *Adelaide Dolphin Sanctuary Act 2005*;
 - (ii) *Aquaculture Act 2001*;
 - (iii) *Development Act 1993*;
 - (iv) *Mining Act 1971*;
 - (v) *Natural Resources Management Act 2004*;
 - (vi) *Petroleum Act 2000*;
 - (vii) *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987*;
 - (viii) *Radiation Protection and Control Act 1982*;
 - (ix) *River Murray Act 2003*;
 - (x) *Water Resources Act 1997*;
 - (xi) *Zero Waste SA Act 2004*; and
- (b) the following Acts of other States and Territories are prescribed:
 - (i) *Environmental Offences and Penalties Act 1989* (repealed) of New South Wales;
 - (ii) *Environmental Protection Act 1986* of Western Australia;
 - (iii) *Environmental Protection Act 1994* of Queensland;
 - (iv) *Environment Management and Pollution Control Act 1994* of Tasmania;

- (v) *Environment Protection Act 1970* of Victoria;
- (vi) *Environment Protection Act 1997* of the Australian Capital Territory;
- (vii) *Protection of the Environment Operations Act 1997* of New South Wales;
- (viii) *Waste Management and Pollution Control Act* of the Northern Territory;
- (ix) *Western Australian Marine (Sea Dumping) Act 1981* of Western Australia;
- (c) the following Acts of the Commonwealth are prescribed:
 - (i) *Environment Protection and Biodiversity Conservation Act 1999*;
 - (ii) *Environment Protection (Sea Dumping) Act 1981*;
 - (iii) *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
 - (iv) *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

24—Conditions requiring financial assurance to secure compliance with Act (section 51)

For the purposes of section 51(4) of the Act, the interest payable in respect of an amount representing a pecuniary sum or part of a pecuniary sum that is to be repaid to the holder of an environmental authorisation is to be calculated at a rate 1% less than the rate earned from investment of the Environment Protection Fund (or the relevant part of the Fund) during the period that the amount has been credited to the Fund.

Division 2—Application and authorisation fees

Subdivision 1—Works approvals

25—Works approvals—Application fee for grant, authorisation fee on grant or renewal and annual authorisation fee

- (1) The application fee for a works approval payable under section 38(1) of the Act is 10 fee units.
- (2) However, if public notice is to be given under section 39(1), or section 39(1) and (2), of the Act in respect of the application, the amount otherwise payable under subregulation (1) is increased by the amount determined by the Authority to be the cost of publication of the notice but not exceeding—
 - (a) if the notice and other similar notices are to be published together by the Authority—5 fee units;
 - (b) in any other case—20 fee units.
- (3) The application fee for the renewal of a works approval payable under section 43(2) of the Act is 10 fee units.
- (4) The authorisation fee payable under section 40 or 43(5) of the Act, and the annual authorisation fee payable under section 48 of the Act, for a works approval is the number of fee units determined according to the estimated cost at the time of the grant of the works approval of the proposed works as follows:

Estimated cost of proposed works	Fee units
Up to and including \$10 000	10
More than \$10 000 but not more than \$50 000	20

Estimated cost of proposed works	Fee units
More than \$50 000 but not more than \$500 000	40
More than \$500 000 but not more than \$5 million	60
More than \$5 million but not more than \$50 million	100
More than \$50 million	200

- (5) In this regulation, a reference to the estimated cost of proposed works is a reference to the amount estimated by the Authority to be the total cost of the works to which the approval relates excluding any part of the costs determined by the Authority to be attributable to—
- the purchase of land; or
 - building or other work that will not contribute directly or substantially to the prescribed activity of environmental significance to which the application relates.

Note—

An annual authorisation fee is only payable for a works approval granted or renewed for a term of 2 or more years (see section 48 of the Act).

Subdivision 2—Exemptions

26—Exemptions—Application fee for grant, authorisation fee for grant or renewal and annual authorisation fee

- The application fee for an exemption payable under section 38(1) of the Act is 43 fee units.
- However, if public notice is to be given under section 39(1), or section 39(1) and (2), of the Act in respect of the application, the amount otherwise payable under subregulation (1) is increased by the amount determined by the Authority to be the cost of publication of the notice but not exceeding—
 - if the notice and other similar notices are to be published together by the Authority—5 fee units;
 - in any other case—20 fee units.
- The application fee for the renewal of an exemption payable under section 43(2) of the Act is 10 fee units.
- The authorisation fee payable under section 40 or 43(5) of the Act, and the annual authorisation fee payable under section 48 of the Act, for an exemption will be at 1 of the following levels:
 - 10 fee units;
 - a multiple of 10 fee units up to 100 units;
 - 100 fee units;
 - a multiple of 100 fee units up to 2 500 units.
- The level of the authorisation fee and annual authorisation fee for an exemption is to be determined by the Authority at its discretion having regard to the following:
 - the factors specified in section 25(2) of the Act;
 - any relevant environment protection policy;
 - whether the applicant will be bound by an environment improvement programme;

- (d) the time of the day and the period for which the exemption will operate;
- (e) the number of people affected by, or the extent of any other environmental impact of, the activity to which the exemption will relate;
- (f) any relevant matter arising under the *Development Act 1993* or a Development Plan or development authorisation under that Act in relation to the location of the activity to which the exemption will relate;
- (g) any other matter considered relevant by the Authority.

Note—

An annual authorisation fee is only payable for an exemption granted or renewed for a term of 2 or more years (see section 48 of the Act).

Subdivision 3—Licences

27—Licences—Application fee for grant and authorisation fee for grant or renewal

- (1) The application fee for a licence payable under section 38(1) of the Act is 10 fee units.
- (2) However, if public notice is to be given under section 39(1), or section 39(1) and (2), of the Act in respect of the application, the amount otherwise payable under subregulation (1) is increased by the amount determined by the Authority to be the cost of publication of the notice but not exceeding—
 - (a) if the notice and other similar notices are to be published together by the Authority—5 fee units;
 - (b) in any other case—20 fee units.
- (3) The application fee for the renewal of a licence payable under section 43(2) of the Act is 10 fee units.
- (4) The authorisation fee payable under section 40 of the Act for the grant of a licence is the amount determined by the Authority to be the ***applicant's projected annual authorisation fee***, being the amount of the annual authorisation fee (excluding the resource efficiency component) that would be payable by the applicant if the applicant were the holder of a licence liable to pay an annual authorisation fee under section 48 of the Act in respect of the projected licence period, calculated by reference to the Authority's reasonable assumptions as to what would be the nature and level of the applicant's activities if carried on for the whole of the period to which the calculations relate.
- (5) The authorisation fee payable under section 43(5) of the Act for renewal of a licence is the amount determined by the Authority to be the ***applicant's projected annual authorisation fee***, being the amount of the annual authorisation fee that would be payable by the applicant if the applicant were the holder of a licence liable to pay an annual authorisation fee under section 48 of the Act in respect of the projected licence period, calculated by reference to the Authority's reasonable assumptions as to what would be the nature and level of the applicant's activities if carried on for the whole of the periods to which the calculations relate.
- (6) For the purposes of determining the applicant's projected annual authorisation fee—
 - (a) a reference in regulation 28 to an annual authorisation fee is to be read as if it were a reference to the projected annual authorisation fee; and
 - (b) subject to subregulation (7), a reference in these regulations to the current licence period is to be read as if it were a reference to the projected licence period; and

- (c) a reference in these regulations to activities authorised by the licence is to be read as if it were a reference to activities to be authorised by the licence.
- (7) If the projected licence period is less than or more than 12 months—
- (a) a pro rata adjustment is to be made to the amount of the environment management component, and, in the case of renewal, the resource efficiency component, by applying the proportion that the length of the projected licence period bears to 12 months; and
 - (b) the pro rata adjustment is to be made on the basis of months, parts of a month being counted as a full month; and
 - (c) for the purposes of determining the environment management component, if the number of fee units specified in Schedule 2 Part 2 depends on an indicator of the level of activity during the licence period, the indicator is to be determined by the Authority on the basis of the Authority's estimates in relation to the activity during a period of 12 months rather than during the projected licence period.

Examples—

- 1 If the term of the licence is 3 months, the proportion that the length of the projected licence period bears to 12 months would be $\frac{1}{4}$.
 - 2 If the term of the licence is $3\frac{1}{2}$ months, the proportion that the length of the projected licence period bears to 12 months would be $\frac{1}{3}$.
- (8) In this regulation—
- projected licence period*** means—
- (a) in the case of a licence for which the holder is not liable to pay an annual authorisation fee under section 48 of the Act (by reason of the fact that the term of the licence is less than 2 years or that it is an environmental authorisation of a prescribed class)—the term of the licence;
 - (b) in the case of a licence for which the holder is liable to pay an annual authorisation fee under section 48 of the Act—the period between the grant or renewal of the licence and the commencement of the first licence period for which an annual authorisation fee will be payable.

28—Licences—Annual authorisation fee

- (1) The annual authorisation fee payable under section 48 of the Act for a licence is the sum of—
- (a) the flat fee component determined in accordance with regulation 29; and
 - (b) the environment management component determined for the current licence period in accordance with regulation 30; and
 - (c) the resource efficiency component comprising—
 - (i) if the pollutant threshold is exceeded in the reporting period immediately preceding the current licence period—the pollutant load-based component determined in accordance with regulation 31; and
 - (ii) if the low salinity water threshold is exceeded in the reporting period immediately preceding the current licence period—the water reuse component determined in accordance with regulation 32.

Note—

An annual authorisation fee is only payable for a licence granted or renewed for a term of 2 or more years (see section 48 of the Act).

- (2) The ***pollutant threshold*** is exceeded in a reporting period if—
- (a) the amount of a designated air pollutant emitted to air during the period from an assessable site specified in the licence exceeds—
 - (i) in the case of sulphur dioxide or nitrogen oxides—10 000 kilograms; or
 - (ii) in the case of particulates or volatile organic compounds—1 000 kilograms; or
 - (iii) in the case of lead—100 kilograms; or
 - (b) the amount of a designated water pollutant discharged to waters during the period from an assessable site specified in the licence exceeds—
 - (i) in the case of heat—10 megawatts; or
 - (ii) in the case of suspended solids, nitrogen, phosphorus, organic matter or zinc—1 000 kilograms; or
 - (iii) in the case of lead or copper—100 kilograms,in each case, assessed in accordance with an approved estimation or monitoring technique for the activity that produces the pollutant.
- (3) The ***low salinity water threshold*** is exceeded in a reporting period if 10 megalitres or more of water is discharged to the marine environment during that period (whether directly or indirectly through pipes or channels) from an assessable site specified in the licence and the average salinity of water so discharged is less than 1 500 milligrams of total dissolved solids per litre (assessed in accordance with an approved estimation or monitoring technique for the activity that produces the water).
- (4) The pollutant threshold or low salinity water threshold is to be taken to have been exceeded in the reporting period immediately preceding the current licence period (the ***relevant reporting period***) if—
- (a) the Authority is satisfied that the threshold has been exceeded in the relevant reporting period on the basis of information reported to the Authority in relation to the activities authorised by the licence (for the purposes of the National Pollutant Inventory, conditions of licence or otherwise); or
 - (b) the Authority has not received information for the relevant reporting period or has not had an opportunity to determine whether it is satisfied as to the accuracy of information reported to the Authority for the relevant reporting period, but is satisfied that the threshold has been exceeded in the reporting period immediately preceding the relevant reporting period on the basis of information reported to the Authority in relation to the activities authorised by the licence (for the purposes of the National Pollutant Inventory, conditions of licence or otherwise); or
 - (c) the Authority is satisfied on the basis of its reasonable assumptions as to the nature and level of the activities authorised by the licence that the threshold would be exceeded if the activities were to be carried on over a 12 month period (whether or not they have in fact been carried on over such a period).

- (5) If discharges of liquid pollutants from 2 or more activities authorised by separate licences (whether or not held by the same person) are mixed by use of the same pipe or channel or otherwise so as to constitute a single discharge to waters, the Authority is to—
- (a) determine the annual authorisation fee payable for the licence as if the discharge to waters were the result of activities authorised by a single licence; and
 - (b) apportion the amount so determined between the separate licences concerned—
 - (i) on such basis as may be nominated by the holder of the licences, or, if there is more than 1 holder, on such basis as may be agreed by the holders; or
 - (ii) in the absence of such a nomination or agreement, on a basis determined by the Authority having regard to the respective environmental impacts of the discharges resulting from the activities authorised by the separate licences.

29—Flat fee component

- (1) The flat fee component is 1 fee unit.
- (2) If no environment management component is payable for the licence, no flat fee component is payable.

30—Determining environment management component

- (1) The environment management component is comprised of—
 - (a) a separate amount payable for each assessable site specified in the licence as follows:
 - (i) if the licence authorises only 1 prescribed activity of environmental significance to be carried on at the site during the licence period—the number of fee units specified in Schedule 2 Part 2 for the activity;
 - (ii) if the licence authorises 2 or more prescribed activities of environmental significance to be carried on at the site during the licence period—the highest number of fee units specified in Schedule 2 Part 2 for any of the activities (or the higher number, in the case of only 2 such activities); and
 - (b) if the licence authorises a waste transport business—the number of fee units determined as follows:
 - (i) the number of fee units specified in Schedule 2 Part 2 for the activity for each vehicle that is an assessable vehicle during the licence period adjusted, if the vehicle is not an assessable vehicle for the whole of the licence period, by applying the proportion that the number of months during the licence period for which the vehicle is an assessable vehicle bears to 12 months;
 - (ii) for the purposes of the adjustment, part of a month is to be counted as a full month;

- (iii) if the same vehicle is an assessable vehicle for the purposes of both a waste transport business (category A) and a waste transport business (category B) and a different number of fee units is specified in Schedule 2 Part 2 for the vehicle in those different businesses—the number of fee units for the vehicle is the higher number of fee units so specified adjusted, if the vehicle is not an assessable vehicle for the whole of the licence period, as set out in subparagraphs (i) and (ii); and
 - (c) if the licence authorises dredging—the number of fee units specified in Schedule 2 Part 2 for the activity for each day on which the activity is undertaken during the licence period; and
 - (d) if the licence authorises earthworks drainage—the number of fee units specified in Schedule 2 Part 2 for the activity for each day on which the activity is undertaken during the licence period.
- (2) If the number of fee units specified in Schedule 2 Part 2 depends on an indicator of the level of activity during the licence period, the indicator is to be determined by the Authority on the basis of the Authority's estimates in relation to the activity during the licence period.
- (3) Amounts determined under this regulation are subject to any necessary adjustment under regulation 33 after the end of the licence period.

31—Determining pollutant load-based component

- (1) The pollutant load-based component is comprised of a separate amount payable for each assessable site specified in the licence.
- (2) The amount payable for an assessable site is the sum of—
- (a) the fee units for each designated air pollutant emitted to air from the site in the course of a prescribed activity of environmental significance during the designated reporting period determined in accordance with subregulation (3); and
 - (b) the fee units for each designated water pollutant discharged to waters (other than groundwater) from the site (whether directly or indirectly through pipes or channels) in the course of a prescribed activity of environmental significance during the designated reporting period determined in accordance with subregulation (4).
- (3) The number of fee units for a designated air pollutant is to be determined in accordance with the following formula:

$$DAP = T \times N \times Z$$

where—

DAP is the number of fee units for the designated air pollutant

T is the weight (in tonnes rounded to the nearest 0.1 tonne) of the pollutant emitted to air during the reporting period, assessed—

- (a) in accordance with an approved estimation or monitoring technique for the activity that resulted in the emission; or
- (b) if the pollutant threshold is taken to be exceeded under regulation 28(4)(c)—on the basis of the Authority's own estimates and reasonable assumptions as to the nature and level of the licensee's activities

N is the number of fee units for the pollutant specified in Table 1

Z is the zone weighting determined in accordance with Table 1 by reference to the pollutant and the location of the assessable site from which the pollutant is emitted (and if the site is located in 2 areas listed in the table, the higher zone weighting applies).

Table 1—Fee units and zone weightings for designated air pollutants

Pollutant	Fee units	Location of assessable site	Zone weighting
sulphur dioxide	1	All areas	1
nitrogen oxides	1	Adelaide airshed	2
		Other areas	1
particulates	10	Mount Gambier airshed	2
		In the case of red dust particulates—Whyalla airshed	4
		Other areas	1
volatile organic compounds	10	Adelaide airshed	1.5
		Areas outside the Adelaide airshed that are within a council area	1
		Other areas	0.5
lead	100	Port Pirie airshed	15
		Other areas	1

- (4) The number of fee units for a designated water pollutant is to be determined in accordance with the following formula:

$$DWP = T \times N \times Z$$

where—

DWP is the number of fee units for the designated water pollutant

T is—

- (a) the weight (in tonnes rounded to the nearest 0.1 tonne); or
- (b) in the case of heat—the number of megawatts (rounded to the nearest megawatt),

of the pollutant discharged to waters during the reporting period, assessed—

- (c) in accordance with an approved estimation or monitoring technique for the activity resulting in the discharge; or
- (d) if the pollutant threshold is taken to be exceeded under regulation 28(4)(c)—on the basis of the Authority's own estimates and reasonable assumptions as to the nature and level of the licensee's activities

N is the number of fee units for the pollutant specified in Table 2

Z is the zone weighting determined in accordance with Table 2 by reference to the pollutant and the location of the waters into which the pollutant is discharged (and if the pollutant is discharged into 2 areas listed in the table, the higher zone weighting applies).

Table 2—Fee units and zone weightings for designated water pollutants

Pollutant	Fee units	Location of waters	Zone weighting
heat	1	All waters of the State	1
suspended solids	10	Metropolitan coastal waters	2
		All other waters of the State	1
nitrogen	10	Port River region or Metropolitan coastal waters	3
		All other waters of the State	1
phosphorus	10	Port River region	2
		All other waters of the State	1
organic matter	10	Lake Bonney (South East)	2
		All other waters of the State	1
zinc	10	Upper Spencer Gulf	2
		All other waters of the State	1
copper, lead	100	Upper Spencer Gulf	2
		All other waters of the State	1

(5) If the pollutant threshold is taken to be exceeded under regulation 28(4)(b) or regulation 28(4)(c), the pollutant load-based component is subject to any necessary adjustment under regulation 33 after the end of the licence period.

(6) In this regulation—

designated reporting period means—

- (a) if the pollutant threshold is taken to be exceeded under regulation 28(4)(a)—the reporting period immediately preceding the current licence period;
- (b) if the pollutant threshold is taken to be exceeded under regulation 28(4)(b)—the reporting period immediately preceding the reporting period referred to in paragraph (a);
- (c) if the pollutant threshold is taken to be exceeded under regulation 28(4)(c)—a hypothetical reporting period of 12 months.

32—Determining water reuse component

- (1) The water reuse component is comprised of a separate amount payable for each assessable site specified in the licence.
- (2) The water reuse component is 1 fee unit for each megalitre (rounded to the nearest megalitre) of wastewater discharged to the marine environment (whether directly or indirectly through pipes or channels) in the course of a prescribed activity of environmental significance during the designated reporting period—
 - (a) measured in accordance with an approved estimation or monitoring technique for the activity; or
 - (b) if the low salinity water threshold is taken to be exceeded under regulation 28(4)(c)—estimated by the Authority on the basis of its reasonable assumptions as to the nature and level of the licensee's activities.

(3) If the low salinity water threshold is taken to be exceeded under regulation 28(4)(b) or regulation 28(4)(c), the water reuse component is subject to any necessary adjustment under regulation 33 after the end of the licence period.

(4) In this regulation—

designated reporting period means—

- (a) if the low salinity water threshold is taken to be exceeded under regulation 28(4)(a)—the reporting period immediately preceding the current licence period;
- (b) if the low salinity water threshold is taken to be exceeded under regulation 28(4)(b)—the reporting period immediately preceding the reporting period referred to in paragraph (a);
- (c) if the low salinity water threshold is taken to be exceeded under regulation 28(4)(c)—a hypothetical reporting period of 12 months.

33—Adjustment of annual authorisation fee or projected annual authorisation fee after end of licence period or projected licence period

(1) If the Authority is satisfied after the end of a licence period that the annual authorisation fee determined for the period (as based on estimates made by the Authority under this Division or under the substituted provisions) was an amount less than the amount calculated by reference to the activity as actually undertaken during the licence period or the reporting period immediately preceding the licence period, the Authority may, by notice in writing to the holder of the licence or by conditions of the licence, require the holder of the licence to pay to the Authority, within a specified period, the amount determined by the Authority to represent the difference between those 2 amounts.

Note—

If no resource efficiency component was payable because the pollutant threshold or low salinity water threshold was determined in accordance with regulation 28(4)(b) or (c) as not having been exceeded but information subsequently reported to the Authority shows that the threshold would have been exceeded under regulation 28(4)(a) if that information had then been available and the Authority had been satisfied as to its accuracy, this subregulation will apply and a resource efficiency component will become payable.

(2) If the holder of a licence satisfies the Authority (by such evidence as the Authority may require) after the end of a licence period that the annual authorisation fee paid for the period (as based on estimates made by the Authority under this Division or under the substituted provisions) was more than the amount calculated by reference to the activity as actually undertaken during the licence period or the reporting period immediately preceding the licence period, the Authority must refund to the holder of the licence the amount determined by the Authority to represent the difference between those 2 amounts.

(3) In this regulation—

annual authorisation fee includes a projected annual authorisation fee under regulation 27;

licence period includes a projected licence period under regulation 27;

substituted provisions means—

- (a) regulation 10 of the *Environment Protection (Fees and Levy) Regulations 1994* as in force immediately before their variation by the *Environment Protection (Fees and Levy) Variation Regulations 2008*; or

- (b) regulation 11 of the *Environment Protection (Fees and Levy) Regulations 1994* as in force immediately before the commencement of these regulations.

34—Cessation of activity

Despite regulation 28, the following provisions apply in the case of the cessation of a prescribed activity of environmental significance carried on pursuant to a licence:

- (a) if—
 - (i) the licence has been renewed under section 43(6) of the Act or is subject to conditions under section 52A or 56(2)(b) of the Act; and
 - (ii) the activity ceased before the commencement of the current licence period, no environment management component or flat fee component is payable for that period;
- (b) in the case of an activity for which the amount of the environment management component does not depend on an indicator of the level of activity during the licence period—
 - (i) if the licence is subject to conditions under section 52A or 56(2)(b) of the Act and the holder of the licence satisfies the Authority that the activity is to cease during the current licence period, a pro rata adjustment is to be made to the amount of the environment management component for that period by applying the proportion that the number of months in that period before the activity is to cease bears to 12 months; and
 - (ii) if conditions are imposed on the licence under section 52A or 56(2)(b) of the Act during the current licence period and the activity ceases during that period, the Authority must, no later than the end of that period, refund to the holder of the licence a proportion of the environment management component for that period, being the proportion that the number of months remaining in that period after the cessation of the activity or the imposition of the conditions (whichever is the later) bears to 12 months; and
 - (iii) for the purposes of this paragraph, a part of a month is to be counted as a full month.

Division 3—Discounts and other benefits for accredited licensees

35—Benefits of accreditation

An accredited licensee is entitled to—

- (a) a 50% reduction in the authorisation fee otherwise payable under section 40 or 43 of the Act, or the annual authorisation fee otherwise payable under section 48 of the Act, in relation to the accredited activity; and
- (b) any other variations to the licence conditions favourable to the licensee considered appropriate by the Authority.

36—Accredited licences

- (1) A licensee may apply to the Authority to be accredited as an accredited licensee in respect of a particular prescribed activity of environmental significance carried on at premises occupied by the licensee.

- (2) An application for accreditation must be made in a manner and form approved by the Authority and accompanied by any information required by the Authority.
- (3) Subject to this regulation, the Authority may grant accreditation if satisfied that—
 - (a) the activity is being carried on at the premises to a high level of environmental performance; and
 - (b) that performance can be maintained for the duration of the term of the licence.
- (4) In determining the level of environmental performance for the purposes of subregulation (3), the Authority may take into consideration the following:
 - (a) the licensee's record of compliance with the Act and statutory instruments under the Act;
 - (b) whether the licensee has an environment improvement programme in place in respect of the activity;
 - (c) any other matter it considers relevant.
- (5) The Authority must not grant accreditation unless satisfied that the licensee has in place in respect of the activity the following:
 - (a) an environment management system approved by the Authority;
 - (b) an environmental audit and compliance program approved by the Authority.
- (6) The Authority must, within 14 days of granting an application for accreditation, publish a notice in the Gazette specifying the name of the accredited licensee, the premises at which the accredited activity is carried on and the nature of that activity.
- (7) An accreditation may, with the approval of the Authority, be transferred simultaneously with the transfer of a licence under section 49 of the Act.

37—Performance reports

- (1) An accredited licensee must submit a performance report to the Authority within 60 days after the end of each financial year or such further period as the Authority may approve containing details of environmental performance at the premises at which the accredited activity is carried on during the financial year.
- (2) A performance report must—
 - (a) be prepared in a form approved by the Authority; and
 - (b) contain information or details required by the Authority; and
 - (c) be authorised by the licensee.

38—Review of accreditation

- (1) The Authority may, at any time, review the accreditation of an accredited licensee.
- (2) The Authority must give the licensee notice of its intention to conduct a review under this regulation.
- (3) The Authority may cancel an accreditation if of the opinion that—
 - (a) the accredited activity is no longer being carried on at the premises to a high level of environmental performance; or
 - (b) the licensee has contravened the Act or a statutory instrument under the Act; or

- (c) the licensee no longer has in place or is implementing in respect of the accredited activity—
 - (i) an environment management system approved by the Authority; or
 - (ii) an environment improvement programme approved by the Authority; or
 - (iii) an environmental audit and compliance program approved by the Authority.
- (4) If a licensee's accreditation is cancelled, the licensee must pay to the Authority an amount equal to the licence fee reduction resulting from the accreditation multiplied by the proportion that the number of days in the remainder of the current licence period bears to the number of days in the licence period.

Division 4—Miscellaneous fees relating to environmental authorisations

39—Late application for renewal (section 43(4))

For the purposes of section 43(4) of the Act, the fee for late application for renewal of an environmental authorisation is—

- (a) if the application is made before or on 30 June 2010—\$20 plus 1% of the authorisation fee payable on renewal for the first month (or part of a month) for which the application is late and 2% of the authorisation fee for each further month (or part of a month) for which the application is late; and
- (b) if the application is made after 30 June 2010—\$300 or 5% of the authorisation fee (whichever is higher) payable on renewal for each month (or part of a month) for which the application is late.

40—Renewal without application (section 43(6))

If an environmental authorisation under which activities continue to be undertaken is renewed under section 43(6) of the Act (without application), the holder of the authorisation must pay the Authority the authorisation fee that would have been payable under section 43(5) of the Act had the authorisation been renewed on application.

41—Conditions requiring approval of certain works and processes (section 54C)

- (1) The prescribed fee payable for an application for an approval required by conditions of an environmental authorisation imposed under section 54C(2) of the Act in relation to—
 - (a) the construction or alteration of a building or structure, or the installation or alteration of plant or equipment, for use for an activity carried on under the authorisation (*works*); or
 - (b) a change in process undertaken under the authorisation,

is the number of fee units determined according to the cost of the works or change in process estimated by the Authority as follows:

Estimated cost of works or change in process	Fee units
Up to and including \$10 000	10
More than \$10 000 but not more than \$50 000	20
More than \$50 000 but not more than \$500 000	40
More than \$500 000 but not more than \$5 million	60

<u>Estimated cost of works or change in process</u>	<u>Fee units</u>
More than \$5 million but not more than \$50 million	100
More than \$50 million	200

(2) If the application relates to both works and a change in process, the prescribed fee payable for the application will be determined as if separate applications had been made, 1 in relation to the works and the other in relation to the change in process.

(3) In this regulation, a reference to the estimated cost of works is a reference to the amount estimated to be the total cost of the works to which the application relates excluding any part of the costs determined by the Authority to be attributable to—

- (a) the purchase of land; or
- (b) building or other work that will not contribute directly or substantially to the prescribed activity of environmental significance to which the application relates.

Part 4—Beverage containers

42—Beverage (section 65)

The following liquids are excluded from the ambit of the definition of *beverage* in section 65 of the Act:

- (a) concentrated fruit or vegetable juice, or concentrated fruit and vegetable juice, intended to be diluted with water before consumption;
- (b) a health tonic that is—
 - (i) registered on the Australian Register of Therapeutic Goods under the *Therapeutic Goods Act 1989* of the Commonwealth; and
 - (ii) supplied with a label or other accompanying document specifying—
 - (A) that the tonic is for medicinal purposes; and
 - (B) a recommended maximum dosage.

43—Collection depot (section 65)

For the purposes of the definition of *collection depot* in section 65 of the Act, a reverse vending machine is a facility of a prescribed kind.

44—Refund amount (section 65)

For the purposes of the definition of *refund amount* in section 65 of the Act, the following refund amounts are prescribed:

- (a) for category A containers—\$0.10;
- (b) for category B containers—\$0.10.

45—Exemption of certain containers by regulation (section 67)

- (1) Pursuant to section 67 of the Act, the following classes of containers are exempt from the application of Part 8 Division 2 of the Act:
 - (a) containers used for the purpose of containing milk (other than flavoured milk);
 - (b) containers used for the purpose of containing 1 litre or more of flavoured milk;

- (c) containers used for the purpose of containing 1 litre or more of pure juice (comprising at least 90% fruit juice or vegetable juice or a mixture of fruit and vegetable juices);
 - (d) containers used for the purpose of containing more than 3 litres of beverage;
 - (e) containers constructed of cardboard and plastic, cardboard and foil, or cardboard, plastic and foil (commonly known as casks or aseptic packs) used for the purpose of containing 1 litre or more of wine, wine-based beverage or water (including mineral or spring water);
 - (f) containers constructed of plastic or foil or plastic and foil (commonly known as sachets) used for the purpose of containing 250 millilitres or more of wine.
- (2) Pursuant to section 67 of the Act, until 28 February 2010, category A and category B containers marked with a former approved refund marking are exempt from the application of the following provisions of the Act:
- (a) section 68(3)(a)(i);
 - (b) section 69B(1);
 - (c) section 69B(2).

- (3) In this regulation—

flavoured milk means milk to which flavouring has been added;

milk means cow's milk or the milk of any other animal, soy milk, rice milk or coconut milk and, without limiting that meaning, includes milk that is 1 or more of the following:

- (a) ultra heat treated or reconstituted milk;
- (b) reduced fat milk;
- (c) milk with added protein, milk fat, calcium, vitamins, minerals or other supplements;

wine-based beverage means a pre-mixed beverage that contains—

- (a) wine and another beverage that is not a grape product; and
- (b) less than 10% alcohol by volume at 20° Celsius.

46—Annual returns for collection depots and super collectors (section 69A)

- (1) For the purposes of section 69A(1) of the Act, the date before which the holder of an approval to operate a collection depot or carry on business as a super collector must lodge an annual return with the Authority is, unless some other date is fixed by the Authority by condition of the approval, 30 September in each year.
- (2) For the purposes of section 69A(2) of the Act, the penalty for failure to lodge an annual return is—
 - (a) for the holder of an approval to operate a collection depot—\$20 plus 1% of the application fee set out in Schedule 4 for an approval to operate a collection depot for the first month (or part of a month) for which the default continues and 2% of that application fee for each further month (or part of a month) for which the default continues; and

- (b) for the holder of an approval to carry on business as a super collector—\$20 plus 1% of the application fee set out in Schedule 4 for an approval to carry on business as a super collector for the first month (or part of a month) for which the default continues and 2% of that application fee for each further month (or part of a month) for which the default continues.

47—Offence to claim refund on beverage containers purchased outside State or corresponding jurisdiction (section 69C)

For the purposes of section 69C(2) of the Act, a declaration to be completed by a person presenting containers must include the following:

- (a) the full name and address of the person;
- (b) proof of identity of the person in the form of—
 - (i) the person's driver's licence number; or
 - (ii) if the person is unable to produce his or her driver's licence—a passport, credit or debit card, concession card, gas, electricity or telephone account or similar document or card that has been issued to the person;
- (c) if the person has delivered the containers by vehicle—the registration number of the vehicle and the State or Territory of registration;
- (d) the signature of the person.

48—Certain containers prohibited (section 72)

For the purposes of paragraph (b) of the definition of *prohibited container* in section 72(1)(b) of the Act, a sealed glass container (commonly known as a plasti-shield container) that—

- (a) is designed to contain more than 500 millilitres of beverage; and
- (b) is not designed to be refilled; and
- (c) is covered on the outside with a plastic sheath or coating,

is a sealed glass container of a prescribed kind.

Part 5—Site contamination

Division 1—General provisions supporting Part 10A of Act

49—Occupier (section 103A)

- (1) For the purposes of the definition of *occupier* in section 103A of the Act, a person is to be taken to be an occupier of land if the person owns, or has operational control of, a tank or pipeline, or any works or structure, that—
 - (a) is installed on or traverses the land, whether below or above the ground; and
 - (b) is used to store or convey chemical substances or for some process employing chemical substances.
- (2) For the purposes of subregulation (1), a person has operational control over a tank, pipeline, works or a structure if the person has the authority to introduce and implement environmental or health and safety policies or any other operating policies for the tank, pipeline, works or structure.

50—Potentially contaminating activities (sections 103C and 103H)

- (1) For the purposes of sections 103C and 103H of the Act, the following activities are prescribed as potentially contaminating activities:
 - (a) an activity of a kind set out in Schedule 3 clause 2, undertaken in the course of a business;
 - (b) any other activity (other than an activity of a kind excluded under Schedule 3 clause 2 from the ambit of potentially contaminating activities) undertaken in the course of a business involving—
 - (i) the manufacture, production (including as a by-product or waste) or recycling of a listed substance or a product containing a listed substance; or
 - (ii) the storage at a discrete premises of the business of—
 - (A) 500 litres or more of a liquid listed substance; or
 - (B) 500 kilograms or more of a listed substance other than a liquid;
 - (c) a domestic activity of a kind set out in Schedule 3 clause 3.
- (2) However—
 - (a) the Authority may determine that an activity of a kind referred to in subregulation (1)(a) is not a potentially contaminating activity if the Authority is satisfied that the activity has been carried on in such a manner or on such a scale as to present a negligible risk of site contamination; and
 - (b) the Authority may determine that an activity of a kind referred to in subregulation (1)(b) is not a potentially contaminating activity if the Authority is satisfied that the relevant listed substance has, at all times while at the premises of the business, been contained or incorporated in a product (other than a product that itself is or comprises a listed substance) or container—
 - (i) in insignificant concentrations; or
 - (ii) in such a way as to present a negligible risk of escape of the substance to the environment.
- (3) For the purposes of this regulation, a reference to a discrete premises of a business is, in the case of activities authorised by a licence—
 - (a) a reference to each location specified in the licence at which activities authorised by the licence may be undertaken; or
 - (b) if various places are specified in the licence as a single location at which activities authorised by the licence may be undertaken—a reference to the various places taken together.
- (4) To avoid doubt, an activity of a kind referred to in subregulation (1)(a) or (b) is not precluded from being undertaken in the course of a business merely because it is undertaken for the purposes of research.
- (5) In this regulation—

recycling includes reprocessing, recovery and purification.

51—Causing site contamination (section 103D)

Changes in the use of land within the meaning of the *Development Act 1993* are a prescribed kind of change of use for the purposes of section 103D(2) of the Act.

52—Liability for property damage etc caused by person entering land—exemptions (section 103M)

- (1) A person is exempt from the application of section 103M(2) of the Act if the person enters or does anything on land on behalf of the occupier of the land in order to carry out—
 - (a) the requirements of a site contamination assessment order or site remediation order that has been issued to the occupier; or
 - (b) a voluntary site contamination assessment proposal or voluntary site remediation proposal that has been approved by the Authority on the application of the occupier.
- (2) A person is exempt from the application of section 103M(3) of the Act if the person enters or does anything on land on behalf of the owner of the land in order to carry out—
 - (a) the requirements of a site contamination assessment order or site remediation order that has been issued to the owner; or
 - (b) a voluntary site contamination assessment proposal or voluntary site remediation proposal that has been approved by the Authority on the application of the owner.

Division 2—Site contamination auditors

Subdivision 1—Accreditation

53—Eligibility for accreditation

- (1) A person is eligible for accreditation as a site contamination auditor if the person—
 - (a) has the qualifications, experience, knowledge, understanding and ability set out in subregulation (2); and
 - (b) is a fit and proper person to be accredited.
- (2) An applicant for accreditation must—
 - (a) have a tertiary qualification approved by the Authority in a relevant discipline; and
 - (b) have a total of at least 8 years of experience in the assessment and remediation of site contamination; and
 - (c) have knowledge and understanding at a level satisfactory to the Authority of—
 - (i) the provisions of the Act and these regulations relating to site contamination assessment, remediation, audits and auditors; and
 - (ii) codes of practice, guidelines and standards prepared or approved by the Authority that apply to site contamination assessment, remediation, audits and auditors; and
 - (iii) the field of site contamination assessment and remediation; and
 - (d) have a demonstrated ability to put the knowledge and understanding referred to in paragraph (c) into practice, to a degree satisfactory to the Authority.
- (3) For the purposes of determining whether a person is eligible for accreditation under subregulation (1), the Authority may, without limitation, take into account—
 - (a) any recommendations made in relation to the person by an accreditation committee; or

- (b) any offence committed by the person against the Act, these regulations or legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or
- (c) any offence punishable by imprisonment committed by the person; or
- (d) the cancellation or suspension of accreditation or similar authority held by the person, or the disqualification of the person from practising as a site contamination auditor, under these regulations or under legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or
- (e) whether, during the period of 10 years preceding the application for accreditation, the person has been an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors.

54—Application for accreditation

- (1) An application for accreditation must—
 - (a) be made to the Authority in the manner and form approved by the Authority; and
 - (b) be signed by the applicant and completed in accordance with the instructions contained in the form; and
 - (c) subject to subregulation (2), be accompanied by the fee for an application for accreditation as set out in Schedule 4.
- (2) The application fee referred to in subregulation (1)(c) is not payable in respect of a person entitled under the *Mutual Recognition Act 1992* of the Commonwealth, as adopted by the *Mutual Recognition (South Australia) Act 1993*, to be registered (as defined in that Commonwealth Act) in this State as a site contamination auditor.
- (3) An applicant for accreditation must—
 - (a) consent to the conduct by the Authority of inquiries relating to any accreditation or similar authority held at any time by the person under these regulations or under legislation similar to these regulations in force in another State or Territory of the Commonwealth; and
 - (b) provide the Authority with any information required by the Authority (verified, if the Authority so requires, by statutory declaration) for the purposes of determining the application including (without limitation) criminal record checks relating to the applicant; and
 - (c) supply the Authority with 1 or more digital photographs of the applicant as specified by the Authority.
- (4) The Authority may, on receipt of an application for accreditation under this regulation, refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee).

55—Grant of accreditation

- (1) The Authority may refuse an application for accreditation if—
 - (a) the person has not made due application for accreditation under this Division; or
 - (b) the applicant has not complied with a requirement of this Part or a requirement of the Authority made in connection with the application; or

- (c) the Authority is not satisfied that the applicant is eligible for accreditation.
- (2) The Authority is not required, if it has assessed a person's qualifications, experience, knowledge, understanding or ability to be appropriate for accreditation, to assess the person's qualifications, experience, knowledge, understanding or ability again on a subsequent application by the person for accreditation (or renewal of accreditation).
- (3) The Authority may decline to grant accreditation unless or until the fee for the grant of accreditation as set out in Schedule 4 is paid.

56—Conditions of accreditation

- (1) The Authority may impose—
 - (a) a condition requiring the person to undertake ongoing professional development; and
 - (b) any other conditions the Authority thinks fit.
- (2) Without limiting the effect of subregulation (1), the Authority must make it a condition of every accreditation that—
 - (a) the holder of the accreditation will, when acting as a site contamination auditor, act diligently, impartially and conscientiously; and
 - (b) the holder of the accreditation will maintain arrangements enabling him or her to have access, from time to time as necessary in the course of carrying out site contamination audits, to a team of persons, constituted in a manner approved by the Authority, to provide technical expertise in fields outside his or her personal expertise; and
 - (c) the holder of the accreditation will not, when acting as a site contamination auditor, fail to comply with any guidelines issued from time to time by the Authority (insofar as they may be relevant in the circumstances of any particular case); and
 - (d) the holder of the accreditation will hold or be covered by a professional indemnity insurance policy approved by the Authority; and
 - (e) the holder of the accreditation will have an identity card issued by the Authority available for inspection at all times when present as a site contamination auditor at a site the subject of site contamination assessment or remediation; and
 - (f) if the holder of the accreditation is charged with or convicted of—
 - (i) an offence against the Act, this Part or legislation similar to this Part in force in another State or a Territory of the Commonwealth; or
 - (ii) an offence punishable by imprisonment,he or she will, within 14 days, give written notice of the charge or conviction to the Authority containing details of the offence; and
 - (g) if the holder of the accreditation—
 - (i) is dismissed from employment in response to allegations of misconduct; or
 - (ii) resigns from employment following allegations of misconduct,he or she will, within 14 days, give written notice of that fact to the Authority.
- (3) The Authority may, by written notice, vary or revoke a condition, or impose a condition, of a person's accreditation as a site contamination auditor.

- (4) A condition may only be imposed or varied—
 - (a) on application by the site contamination auditor or with the auditor's agreement; or
 - (b) after giving the site contamination auditor reasonable notice of the proposed condition or variation and allowing the auditor at least 14 days within which to make submissions to the Authority in relation to the proposed condition or variation.

57—Offence to contravene certain conditions of accreditation

If a site contamination auditor contravenes a condition of the person's accreditation that requires the Authority to be notified of a matter or imposes a restriction on the work undertaken by the person, the person is guilty of an offence.

Maximum penalty: \$4 000.

Expiation fee: \$300.

58—Annual fee

- (1) A site contamination auditor must, on or before the date falling 1 month after each anniversary of the grant of accreditation (other than in a year in which the accreditation is due to expire), pay to the Authority the annual fee for accreditation as set out in Schedule 4.
- (2) If an accredited site contamination auditor fails to pay a fee in accordance with this regulation, the Authority may, by written notice, require the auditor to make good the default and, in addition, to pay to the Authority as a penalty for default \$20 plus 1% of the annual accreditation fee for the first month (or part of a month) for which the default continues and 2% of the annual fee for accreditation for each further month (or part of a month) for which the default continues.

59—Term and renewal of accreditation

- (1) Subject to this Part, accreditation remains in force for a term not exceeding 5 years determined by the Authority and specified in the accreditation on its grant or renewal.
- (2) An application for renewal of accreditation must—
 - (a) be made not less than 90 days before the expiry of the accreditation; and
 - (b) be made to the Authority in the manner and form approved by the Authority; and
 - (c) be signed by the applicant and completed in accordance with the instructions contained in the form; and
 - (d) be accompanied by the fee for renewal of accreditation as set out in Schedule 4.
- (3) The Authority may, at the Authority's discretion, determine a late application for renewal provided that the applicant pays, in addition to the fee for renewal of accreditation, a late fee comprised of \$20 plus 1% of the fee for renewal of accreditation for the first month (or part of a month) for which the application is late and 2% of the fee for renewal of accreditation for each further month (or part of a month) for which the application is late.
- (4) The Authority may, on receipt of an application for renewal under this Division—
 - (a) refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee); and

- (b) require the applicant to provide any information required by the Authority (verified, if the Authority so requires, by statutory declaration) for the purposes of determining the application including (without limitation) criminal record checks relating to the applicant; and
- (c) refuse to renew the applicant's accreditation on any ground on which an application for accreditation may be refused under regulation 55 or on which accreditation may be cancelled under regulation 60.

60—Disciplinary action against site contamination auditors and voluntary suspension

- (1) The Authority may, if satisfied that there is cause for disciplinary action against a site contamination auditor, do 1 or more of the following:
 - (a) suspend any accreditation held by the person;
 - (b) cancel any accreditation held by the person;
 - (c) disqualify the person from obtaining accreditation.
- (2) There is cause for disciplinary action against a site contamination auditor if the Authority is satisfied that—
 - (a) the person—
 - (i) obtained accreditation improperly; or
 - (ii) has contravened the Act or this Part; or
 - (iii) has contravened a condition of accreditation; or
 - (iv) has ceased to undertake the activities authorised by accreditation; or
 - (v) has not paid fees or charges payable under this Part to the Authority within the required time; or
 - (b) events have occurred such that the person would not, if he or she were to apply for accreditation, be eligible for accreditation.
- (3) A suspension under this regulation—
 - (a) may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Authority; and
 - (b) may be expressed to have effect at a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- (4) A disqualification under this regulation may disqualify a person from obtaining accreditation—
 - (a) permanently; or
 - (b) for a specified period or until the fulfilment of specified conditions; or
 - (c) until further order of the Authority.
- (5) The Authority must, before acting under this regulation—
 - (a) give written notice to the site contamination auditor of the proposed action specifying the reasons for the proposed action; and
 - (b) allow the site contamination auditor at least 14 days within which to make submissions to the Authority in relation to the proposed action.

- (6) The Authority may, on application by a site contamination auditor, suspend the auditor's accreditation for a specified period of not less than 3 months and not more than 2 years or the term of the accreditation, whichever is the shorter period, if the Authority is satisfied that the auditor does not intend to undertake site contamination audits during that period.
- (7) A person whose accreditation is suspended is taken not to hold accreditation for the period of the suspension.
- (8) However—
 - (a) the person is taken to continue to hold accreditation for the purposes of the requirements of section 103Y of the Act (relating to furnishing the Authority with an annual return and notifying the Authority of a change in the person's particulars); and
 - (b) the date of expiry of the person's accreditation remains unchanged despite the suspension.
- (9) In this regulation—

site contamination auditor means—

 - (a) a person who is the holder of accreditation; or
 - (b) a person who was formerly the holder of accreditation; or
 - (c) a person who, although not the holder of accreditation, engaged in an activity for which accreditation was required (under section 103U of the Act).

61—Surrender of accreditation

A person may, with the approval of the Authority, surrender the person's accreditation.

62—Return of certificate of accreditation and identity card

- (1) If accreditation of a person as a site contamination auditor is surrendered, suspended or cancelled, the person must, within 14 days, return the certificate of accreditation and any identity card to the Authority.

Maximum penalty: \$2 500.
Expiation fee: \$160.
- (2) If, on an application under regulation 54, a certificate of accreditation or identity card has been issued to a person but the fee payable in respect of the person's application or accreditation has not been paid (whether because of the dishonouring of a cheque or otherwise), the person must, at the direction of the Authority, return the certificate or card to the Authority.

Maximum penalty: \$2 500.
Expiation fee: \$160.
- (3) The Authority may issue to the holder of accreditation, on payment by the person of the fee for replacement of the certificate of accreditation or identity card as set out in Schedule 4, a certificate of accreditation or identity card in replacement of a current certificate of accreditation or identity card if satisfied that—
 - (a) the current certificate or card has been lost, destroyed or damaged; or
 - (b) any particulars appearing on the current certificate or card are incorrect.

- (4) If the Authority issues a replacement certificate of accreditation or identity card to a person, the person must, at the direction of the Authority, return any original (or previous duplicate) certificate of accreditation or identity card in the person's possession to the Authority.

Maximum penalty: \$2 500.

Expiation fee: \$160.

63—Appeals

- (1) A person may appeal to the Administrative and Disciplinary Division of the District Court against a decision of the Authority—
 - (a) refusing to grant an application by the person for accreditation or renewal of accreditation; or
 - (b) determining the term of the person's accreditation; or
 - (c) imposing or varying a condition of the person's accreditation or determining a matter in relation to such a condition; or
 - (d) suspending or cancelling the person's accreditation or imposing a disqualification on the person.
- (2) Subject to this regulation, an appeal must be made within 1 month after the making of the decision.
- (3) The Authority must, if so required by the person to whom an appealable decision relates, state in writing the reasons for the Authority's decision.
- (4) If the reasons of the Authority are not given in writing at the time of making the decision and the person to whom the decision relates (within 1 month of the making of the decision) requires the Authority to state the reasons in writing, the time for instituting an appeal runs from the time at which the person receives the written statement of those reasons.

64—Register of site contamination auditors

- (1) The Authority must keep a register of persons accredited under this Division.
- (2) The register must include, in relation to each accredited person—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) the qualifications for accreditation held by the person; and
 - (c) details of any specialist qualifications held by the person and determined by the Authority to be appropriate for inclusion on the register; and
 - (d) details of any condition of the person's accreditation requiring supervision of the person or restricting the scope or type of work the person may undertake as site contamination auditor; and
 - (e) the expiry date of the person's accreditation; and
 - (f) the person's accreditation number; and
 - (g) details concerning any disciplinary action taken against the person by the Authority under regulation 60,

and may include other information as the Authority thinks fit.

- (3) The Authority may remove or correct an entry in the register as required without giving notice to any person.

- (4) The Authority must—
- (a) make a record of the full name of each site contamination auditor and the information entered in the register under subregulation (2)(b), (c), (d), (e) and (f) in relation to the auditor available for inspection on application to the Authority; and
 - (b) make a record of the full name of each site contamination auditor and the information entered in the register under subregulation (2)(e) and (f) in relation to the auditor available for inspection on a website established by the Authority.
- (5) An apparently genuine document purporting to be signed by the Authority stating that, at a specified date, or during a specified period—
- (a) a specified person was accredited under this Division unconditionally or subject to specified conditions; or
 - (b) a specified person was not accredited under this Division,
- will, in any legal proceedings, constitute proof of the matters stated in the document in the absence of proof to the contrary.

Subdivision 2—Requirements applying to auditors

65—Annual returns by auditors (section 103Y(2))

For the purposes of section 103Y(2) of the Act, an annual return relating to site contamination audits for which a site contamination auditor is or was the responsible auditor must be in the form set out in Schedule 3 clause 5.

66—Notifications by auditors after commencement or termination of audit (section 103Z(3))

For the purposes of section 103Z(3) of the Act—

- (a) a notification by a site contamination auditor after the commencement of a site contamination audit for which the auditor is or was the responsible auditor must be in the form set out in Schedule 3 clause 6; and
- (b) a notification by a site contamination auditor of the termination before completion of a site contamination audit for which the auditor is or was the responsible auditor must be in the form set out in Schedule 3 clause 7.

67—Site contamination audit report summary and statement (section 103Z(4))

- (1) A site contamination audit report required under section 103Z(4)(a) and (b)(i) of the Act must include a summary of the findings of the site contamination audit to which it relates that—
- (a) is in the form set out in Schedule 3 clause 8 for site contamination audit statements; and
 - (b) is certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 3 clause 8.

- (2) A site contamination audit statement required under section 103Z(4)(b)(ii) of the Act in relation to a site contamination audit must comprise—
 - (a) a copy of the summary in the site contamination audit report relating to the audit and itself be certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 3 clause 8; or
 - (b) a photocopy, faxed copy or electronic copy of the summary as certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 3 clause 8.

68—Site contamination audit statements to be provided to prescribed bodies (section 103Z(4))

For the purposes of section 103Z(4)(b)(ii) of the Act, if—

- (a) an application for approval of a proposed development under the *Development Act 1993* relates to land the subject of a site contamination audit; and
- (b) a body other than the council for the area in which the land is situated is a relevant authority for the purposes of assessment of the proposed development under the *Development Act 1993*,

that body is a prescribed body to which a site contamination audit statement must be provided in relation to that audit.

Part 6—Waste depot levy

69—Approval of weighbridges

- (1) The Authority may, by notice in writing, approve a weighbridge subject to such conditions as it thinks fit and may vary or revoke an approval at any time.
- (2) Without limiting the generality of subregulation (1), the conditions may specify requirements as to—
 - (a) maintenance of the weighbridge; and
 - (b) certification of the accuracy of the weighbridge.

70—Waste depot levy (section 113)

- (1) Subject to this Part, the levy payable by the holder of a waste depot licence in respect of waste that is received at the depot for the purpose of being disposed of at the depot is to be determined as follows:
 - (a) per tonne of solid waste (other than waste fill) disposed of at the depot—
 - (i) if the depot is situated outside of metropolitan Adelaide and the waste has been brought to the depot from premises situated outside of metropolitan Adelaide—1 fee unit;
 - (ii) if the depot is situated in metropolitan Adelaide and the waste has been brought to the depot by or on behalf of a council the area of which lies wholly outside of metropolitan Adelaide—1 fee unit;
 - (iii) in any other case—2 fee units;
 - (b) per kilolitre of liquid waste disposed of at the depot—0.65 fee units;
 - (c) per tonne of waste fill disposed of at the depot—0 fee units.

- (2) For the purposes of section 113(4) of the Act, the penalty for default in making a levy payment is—
- (a) if the default occurs up to or including 30 June 2010—2 fee units plus 1% of the amount due for the first month (or part of a month) for which the default continues and 2% of the amount due for each further month (or part of a month) for which the default continues; and
 - (b) if the default occurs after 30 June 2010—\$300 or 5% of the amount due for each month (or part of a month) for which the default continues.

71—Reporting of mass or volume of waste received at depots

- (1) This regulation applies only in relation to waste that is received at a waste depot for the purpose of being disposed of at the depot.
- (2) Subject to regulation 75, a person licensed to conduct a waste depot must, no later than 28 days after the last day of each month, furnish to the Authority a return showing—
- (a) in respect of solid waste—
 - (i) the total mass (in tonnes) of waste received at the depot during each day of that month and the total received during the whole of that month; and
 - (ii) if the depot is situated outside of metropolitan Adelaide—the total mass (in tonnes) of waste received at the depot from premises situated outside of metropolitan Adelaide during the whole of that month; and
 - (iii) if the depot is situated in metropolitan Adelaide—the total mass (in tonnes) of waste brought to the depot by or on behalf of a council the area of which lies wholly outside of metropolitan Adelaide during the whole of that month; and
 - (iv) if the mass of any waste received at the depot is determined in accordance with subregulation (5)(a)(ii)—the classes of vehicles (as set out in subregulation (7)), and the number of vehicles in each of those classes, on or in which that waste was delivered to the depot during each day of that month and during the whole of that month; and
 - (b) in respect of liquid waste—the total volume (in kilolitres) of waste received at the depot during each day of that month and the total received during the whole of that month.

Maximum penalty: \$4 000.

Expiation fee: \$300.

- (3) For the purposes of a return under this regulation, the mass or volume of waste received at a depot must be determined in accordance with this regulation.

Maximum penalty: \$4 000.

Expiation fee: \$300.

- (4) The mass or volume of waste received at a waste depot is to be calculated as the aggregate of the mass or volume of waste delivered on or in each vehicle to the depot measured (except where the mass is calculated by reference to subregulation (7) rather than by measurement)—
- (a) in the case of waste weighed on a weighbridge installed before the commencement of this subregulation—to the highest level of weighing accuracy for the particular design of weighbridge;

- (b) in any other case—to the nearest 0.02 tonnes or kilolitres.
- (5) The mass of solid waste delivered on or in a vehicle must be determined as follows:
- (a) in the case of waste delivered on or in a vehicle of a class set out in subregulation (7)—the mass of the solid waste—
 - (i) may be determined by use of an approved weighbridge; or
 - (ii) if not so determined—will be taken to be the average net mass of waste for the relevant class of vehicle as set out in that subregulation;
 - (b) in any other case—the mass must, subject to regulation 73(1), be determined by use of an approved weighbridge.
- (6) The volume of liquid waste delivered on or in a vehicle—
- (a) may be determined by use of a dipstick pre-calibrated for the liquid waste container on the vehicle; or
 - (b) may be measured by means of a volume measuring device, installed at the depot, the calibration of which has been approved in writing by the Authority; or
 - (c) may be calculated—
 - (i) by measuring the net mass of the liquid waste by use of an approved weighbridge; and
 - (ii) by dividing that measurement by the predetermined mass per kilolitre of the particular liquid waste; or
 - (d) may be taken to be that certified, in a cartnote signed by both the producer and transporter of the waste, to be the volume of liquid waste to be delivered on or in the vehicle to the depot; or
 - (e) if a liquid waste container on the vehicle is full—
 - (i) may be calculated from the dimensions of the container; or
 - (ii) in the case of a container the capacity of which has been predetermined by a volume calibration method (approved in writing by the Authority) and marked on the container—may be taken to be that capacity.
- (7) For the purposes of this regulation—
- (a) vehicles are to be divided into the following classes:
 - (i) car or station wagon (***class 1 vehicle***);
 - (ii) car type utility, panel van or single box axle trailer (***class 2 vehicle***);
 - (iii) large utility, large van or multiple axle trailer (***class 3 vehicle***); and
 - (b) the average net mass of waste will be taken to be—
 - (i) for a class 1 vehicle—0.2 tonnes;
 - (ii) for a class 2 vehicle—0.7 tonnes;
 - (iii) for a class 3 vehicle—1.3 tonnes.

72—Certain depots must have approved weighbridge

- (1) Subject to this regulation and regulation 73(2), if a waste depot has, in a financial year, received 10 000 tonnes or more of solid waste for disposal at the depot, the holder of the waste depot licence must ensure that an approved weighbridge is installed at the depot no later than 4 months after the end of that financial year for weighing solid waste received at the depot.

Maximum penalty: \$4 000.

Expiation fee: \$300.

- (2) The Authority may, on application by the holder of a waste depot licence within the relevant 4 month period referred to in subregulation (1), extend the period within which an approved weighbridge must be installed at the depot by a further period of 2 months.
- (3) Despite subregulation (1), the holder of a waste depot licence is not required to comply with the requirement to have a weighbridge installed at the depot if—
- (a) a weighbridge located at a place other than the depot was used by the licence holder before 1 October 2000 for the purpose of weighing waste received for disposal at the depot; and
 - (b) the licence holder currently owns and operates the weighbridge for that purpose.

73—Exemptions from approved weighbridge requirements

- (1) The Authority may, on application by the holder of a waste depot licence, exempt the holder from compliance with the requirement in regulation 71(5)(b) that the mass of solid waste is to be determined by use of an approved weighbridge if satisfied that—
- (a) the depot will receive less than 10 000 tonnes of solid waste for disposal at the depot in each financial year; and
 - (b) the depot uses adequate alternative methods of measuring the mass of solid waste received at the depot.
- (2) The Authority may, on application by the holder of a waste depot licence, exempt the holder from compliance with the requirement in regulation 72(1) that an approved weighbridge is to be installed at the depot if satisfied that—
- (a) the depot will cease operating within 12 months; or
 - (b) suitable arrangements are in place for the waste to be weighed at an approved weighbridge located at a place other than the depot.
- (3) An exemption issued by the Authority under this regulation—
- (a) must be by notice in writing; and
 - (b) may be subject to conditions; and
 - (c) may be varied or revoked by the Authority, by further notice in writing, at any time.

74—Verification of returns by volumetric survey

- (1) The holder of a waste depot licence must—
- (a) in the case of a depot that has, during any financial year, received 10 000 tonnes or more of solid waste for disposal at the depot; or
 - (b) if requested by the Authority during a financial year,

provide the Authority, no later than 3 months after the end of that financial year (or such later time as the Authority may allow), with a volumetric survey of landfill at the depot prepared by a licensed or registered surveyor under the *Survey Act 1992* or a person, or person of a class, approved by the Authority.

Maximum penalty: \$4 000.

Expiation fee: \$300.

- (2) A volumetric survey provided to the Authority under this regulation must—
- (a) show contour lines at not more than 1 metre intervals; and
 - (b) have an error margin of not more than 5%.

75—Special provision for certain councils for waste fees

- (1) This regulation only applies to a council if—
- (a) the whole of the council area is outside of metropolitan Adelaide; and
 - (b) all of the waste received for disposal at depots operated by the council has been brought to the depots from premises situated outside of metropolitan Adelaide; and
 - (c) each depot operated by the council receives less than 10 000 tonnes of solid waste for disposal at the depot in any financial year.
- (2) For the purpose of determining the levy payable by a council under section 113 of the Act in respect of solid waste received at all depots operated by the council, the council may elect, by written notice to the Authority—
- (a) not to comply with regulation 71 in respect of solid waste received at those depots; and
 - (b) to take the mass of solid waste received during each month at those depots to be the mass determined in accordance with the following formula:

$$M = \frac{P \times 0.4}{12}$$

where—

M is the mass of solid waste in tonnes

P is the population of the area of the council as at the previous 30 June as given by the Australian Bureau of Statistics in its publication "Regional Population Growth, Australia" (Catalogue No. 3218.0).

- (3) If a council makes an election under this regulation, regulation 71 does not apply in respect of solid waste received at any depot operated by that council.
- (4) If a council satisfies the Authority that recycling is operating in a council area so that waste disposed of to landfill is reduced by a certain proportion, the levy payable by the council is reduced by subtracting that proportion from the levy that would otherwise be payable by the council as determined in accordance with this regulation.

Part 7—Other fees and charges

76—Registration or cancellation of registration of environment protection order (section 95)

For the purposes of section 95(4a) of the Act—

- (a) the prescribed amount recoverable in respect of the registration of an environment protection order in relation to land from the person to whom the order was issued is—
 - (i) for the first entry made by the Registrar-General in registering the order—18 fee units; and
 - (ii) for each subsequent entry made by the Registrar-General in registering the order—5 fee units; and
- (b) the prescribed amount recoverable in respect of the cancellation of registration of an environment protection order in relation to land from the person to whom the order was issued is—
 - (i) for the first endorsement made by the Registrar-General in cancelling the registration of the order—13 fee units; and
 - (ii) for each subsequent endorsement made by the Registrar-General in cancelling the registration of the order—1 fee unit.

77—Registration or cancellation of registration of clean-up order or clean-up authorisation (section 103)

For the purposes of section 103(2a) of the Act—

- (a) the prescribed amount recoverable in respect of the registration of a clean-up order or clean-up authorisation from the person whose contravention gave rise to the issuing of the order or authorisation is—
 - (i) for the first entry made by the Registrar-General in registering the order or authorisation—18 fee units; and
 - (ii) for each additional entry made by the Registrar-General in registering the order or authorisation—5 fee units; and
- (b) the prescribed amount recoverable in respect of the cancellation of registration of a clean-up order or clean-up authorisation from the person whose contravention gave rise to the issuing of the order or authorisation is—
 - (i) for the first endorsement made by the Registrar-General in cancelling the registration of the order or authorisation—13 fee units; and
 - (ii) for each subsequent endorsement made by the Registrar-General in cancelling the registration of the order or authorisation—1 fee unit.

78—Registration or cancellation of site contamination assessment order or site remediation order (section 103R)

For the purposes of section 103R(2) of the Act—

- (a) the prescribed amount recoverable in respect of the registration of a site contamination assessment order or site remediation order in relation to land from the person to whom the order was issued is—

- (i) for the first entry made by the Registrar-General in registering the order—18 fee units; and
 - (ii) for each subsequent entry made by the Registrar-General in registering the order—5 fee units; and
- (b) the prescribed amount recoverable in respect of the cancellation of registration of a site contamination assessment order or site remediation order in relation to land from the person to whom the order was issued is—
- (i) for the first endorsement made by the Registrar-General in cancelling the registration of the order—13 fee units; and
 - (ii) for each subsequent endorsement made by the Registrar-General in cancelling the registration of the order—1 fee unit.

79—Prescribed fee for emergency authorisation (section 105)

- (1) Subject to this regulation, the prescribed fee in respect of an emergency authorisation for the purposes of section 105(2)(a) of the Act is 37 fee units.
- (2) If the Authority is satisfied that—
- (a) the circumstances giving rise to the issuing of the authorisation were within the control of the person to whom it is issued; and
 - (b) there is no need for inspection by an authorised officer of the place or vehicle in respect of which the authorisation is to apply,
- the prescribed fee is 26 fee units.
- (3) If the Authority is satisfied that the circumstances giving rise to the issuing of the authorisation were beyond the control of the person to whom it is issued, the prescribed fee is 0 fee units.

80—Recovery of administrative and technical costs associated with contraventions (section 135)

- (1) For the purposes of section 135(1)(c) of the Act, the fee payable in respect of action taken to investigate a contravention of the Act is—
- (a) in the case of action commenced during business hours, the sum of—
 - (i) 11 fee units; and
 - (ii) if the action exceeds 2 hours in duration—
 - (A) 4 fee units for each subsequent hour or part of an hour for action taken during business hours; and
 - (B) 8 fee units for each subsequent hour or part of an hour for action taken outside of business hours; and
 - (b) in the case of action commenced outside of business hours, the sum of—
 - (i) 21 fee units; and
 - (ii) if the action exceeds 2 hours in duration—
 - (A) 4 fee units for each subsequent hour or part of an hour for action taken during business hours; and

- (B) 8 fee units for each subsequent hour or part of an hour for action taken outside of business hours.
- (2) For the purposes of section 135(1)(c) of the Act, the fee payable in respect of action taken to issue an order under Part 10 of the Act in respect of a contravention of the Act is 11 fee units.
- (3) In this regulation—
business hours means the hours between 8.45 am and 5 pm on any day other than a Saturday, Sunday or public holiday.

81—Interest on amounts recoverable by Authority under sections 64D, 95, 103 and 103R

For the purposes of sections 64D(1)(a), 95(5)(a), 103(3)(a) and 103R(4)(a) of the Act, the prescribed rate of interest per annum on an amount recoverable by the Authority but not paid within the period fixed by the Authority is 24% calculated in respect of each month (or part of a month) for which the amount remains unpaid.

82—Further fees

Further fees are payable for the purposes of the Act as set out in Schedule 4.

Part 8—Miscellaneous

83—Payment of fees by instalments and recovery of fees

- (1) The Authority may, in allowing the payment of a fee under the Act or these regulations by instalments, add to each amount payable as an instalment a charge by way of interest, or an administrative fee, as determined by the Authority with the approval of the Minister.
- (2) The Authority may recover any instalment of a fee or other amount payable by a person under the Act or these regulations—
- (a) as a debt by action in a court of competent jurisdiction; or
 - (b) by adding the amount so payable to a fee otherwise payable under the Act or these regulations by that person.
- (3) If the Authority allows a fee to be paid by instalments, the fee is the amount that would be payable under the Act or these regulations apart from this regulation plus, for each instalment that is not paid by the date for payment—
- (a) if the default occurs up to or including 30 June 2010—\$20 plus 1% of the instalment for the first month for which the default continues and 2% of the instalment for each further month for which the default continues; and
 - (b) if the default occurs after 30 June 2010—\$300 or 5% of the instalment (whichever is higher) for each month (or part of a month) for which the default continues.

84—Authority may require copy of decision on development applications

If an application for development authorisation is referred to the Authority under the *Development Act 1993*, the relevant authority that determines the application under that Act must, if required by the Authority by notice in writing, furnish the Authority with a full copy of the relevant authority's decision on the application as soon as practicable (but not later than 1 month) after the decision is made.

85—Exemption from requirement for licence for transportation of controlled waste

- (1) A person will be exempt from the requirement under section 36 of the Act to hold a licence in respect of the transportation of controlled waste into or through South Australia from another participating State, or from South Australia to another participating State if—
- (a) the person holds a licence or other similar authority that—
 - (i) has been granted by a participating State other than South Australia; and
 - (ii) is the same as or has a similar effect to an environmental authorisation that authorises the activities specified in clause 3(5) or clause 3(6) (or both) of Schedule 1 Part A of the Act, and
 - (b) the person ensures that a copy of the consignment authorisation obtained in relation to the controlled waste being transported is carried in the vehicle transporting the waste; and
 - (c) the person ensures that the conditions to which the consignment authorisation is subject (if any) are complied with to the extent that those conditions apply to the transportation of the controlled waste; and
 - (d) the person complies with the conditions of the person's licence or other authority granted by the participating State, to the extent that those conditions apply to the transportation of the controlled waste.

- (2) In this regulation—

Commonwealth Act means the *National Environment Protection Council Act 1994* of the Commonwealth, as in force from time to time;

consignment authorisation has the same meaning as in the Controlled Waste Transport Measure;

controlled waste has the same meaning as in the Controlled Waste Transport Measure;

Controlled Waste Transport Measure means the National Environment Protection (Movement of Controlled Waste Between States and Territories) Measure made on 26 June 1998 and as in force from time to time under the Commonwealth Act;

participating State means a participating State, or a participating Territory, within the meaning of the Controlled Waste Transport Measure.

86—Exemption from item 4(c) of Schedule 1 of *Environment Protection (Air Quality) Policy 1994*

The generation of electricity by gas turbines located outside metropolitan Adelaide is exempt from the application of item 4(c) of Schedule 1 of the *Environment Protection (Air Quality) Policy 1994*.

87—Transitional provisions relating to bodies corporate under repealed Acts

- (1) In this regulation—

former body corporate means—

- (a) the Environmental Protection Council established under the *Environmental Protection Council Act 1972*;
- (b) the South Australian Waste Management Commission continued in existence under the *Waste Management Act 1987*.

- (2) Pursuant to section 140(5) of the Act, the following provisions apply in relation to a former body corporate:
- (a) a reference to a former body corporate in an instrument or in a judgement, order or process of a court will be taken to be a reference to the Authority;
 - (b) legal proceedings commenced by or against a former body corporate may be continued by or against the Authority;
 - (c) the Registrar-General will, on application by the Authority and on being furnished with such duplicate certificates of title or other documents as the Registrar-General may require, register the Authority as the proprietor of an interest in land vested in the Authority by this regulation.

Schedule 1—Forms

1—Form of notice of execution of warrant (regulation 14)

Notice of execution of warrant

Environment Protection Act 1993—section 88(7)

*TO: The occupier of *[insert address or description of place]*

*TO: The person apparently in charge of *[insert description of vehicle]*

TAKE NOTICE that—

- *[insert name of Justice]*, a Justice of the Peace, did at *[insert time]* on *[insert date]* issue a warrant to break into or open any part of, or anything in or on—
 - * the place described above.
 - * the vehicle described above.
- I *[insert name of authorised officer]*, an authorised officer under the *Environment Protection Act 1993* did execute the warrant on *[insert date]*.
- * No property was seized.
 - * The following items of property were seized:
[insert details]

Date:

Signature of authorised officer:

**Strike out whichever is inapplicable*

2—Form of notice of right to elect to be prosecuted (regulation 15)

Civil penalty for contravention—notice of right to elect to be prosecuted for contravention

Environment Protection Act 1993—section 104A(3)

File Number:

Issued by:

Date:

To: *[insert title (Mr/Mrs/Ms) and full name, company name (if applicable), postal address and any other information relevant for service of the notice]*

Notice to alleged offender

1 The Environment Protection Authority (the Authority) is satisfied that you have committed an offence by contravening a provision of the *Environment Protection Act 1993* as follows:
Provision contravened:
Address or location of contravention:
Details of contravention:

2 The purpose of this notice is to advise you that you may, by written notice to the Authority, elect to be prosecuted for the contravention (see section 104A(3) of the Act).

If you do not elect to be prosecuted, the Authority may commence civil penalty proceedings under section 104A of the Act for the purpose of obtaining an order from the Court that you pay an amount as a civil penalty in respect of the contravention.

In these civil proceedings, any contravention of the Act would only need to be proved on the balance of probabilities.

3 **If you elect to be prosecuted, rather than negotiating a civil penalty with the Authority or facing civil penalty proceedings, you must serve a written notice on the Authority within 21 days after service of this notice.**

4 The following matters are relevant to the provision of a notice of election to the Authority:

- (1) The notice must be addressed to the Authority as follows:
[insert relevant information]
- (2) You may choose to use the Attachment (below) or you may inform the Authority by your own letter, quoting your name and the File Number shown at the top of this document.
- (3) Section 104A of the Act may be found at www.legislation.sa.gov.au and additional information about the Act can be obtained from www.epa.sa.gov.au. Information concerning this notice can also be obtained by telephoning the Manager, Investigations Branch on *[insert telephone number]*.
- (4) If you do not, within 21 days after service of this notice, give notice to the Authority of election to be prosecuted, proceedings may be commenced to recover a civil penalty in the Environment, Resources and Development Court.

Attachment—Notice to Authority of election to be prosecuted

To: Environment Protection Authority
[insert address]

File number of notice under section 104A(3) of the *Environment Protection Act 1993*:
[insert file number]

*** Individual**

I elect to be prosecuted for the alleged contravention specified in the notice of the file number set out above.

Name in full:

Contact details:

Date:

Signed:

*** Company**

I, having authority to act for and on behalf of the company in this matter, give notice that the company elects to be prosecuted for the alleged contravention specified in the notice of the file number set out above.

Name of company:

Name in full of person with authority to act:

Contact details:

Date:

Signed:

**Strike out whichever is inapplicable*

Schedule 2—Environmental authorisations—application and authorisation fees

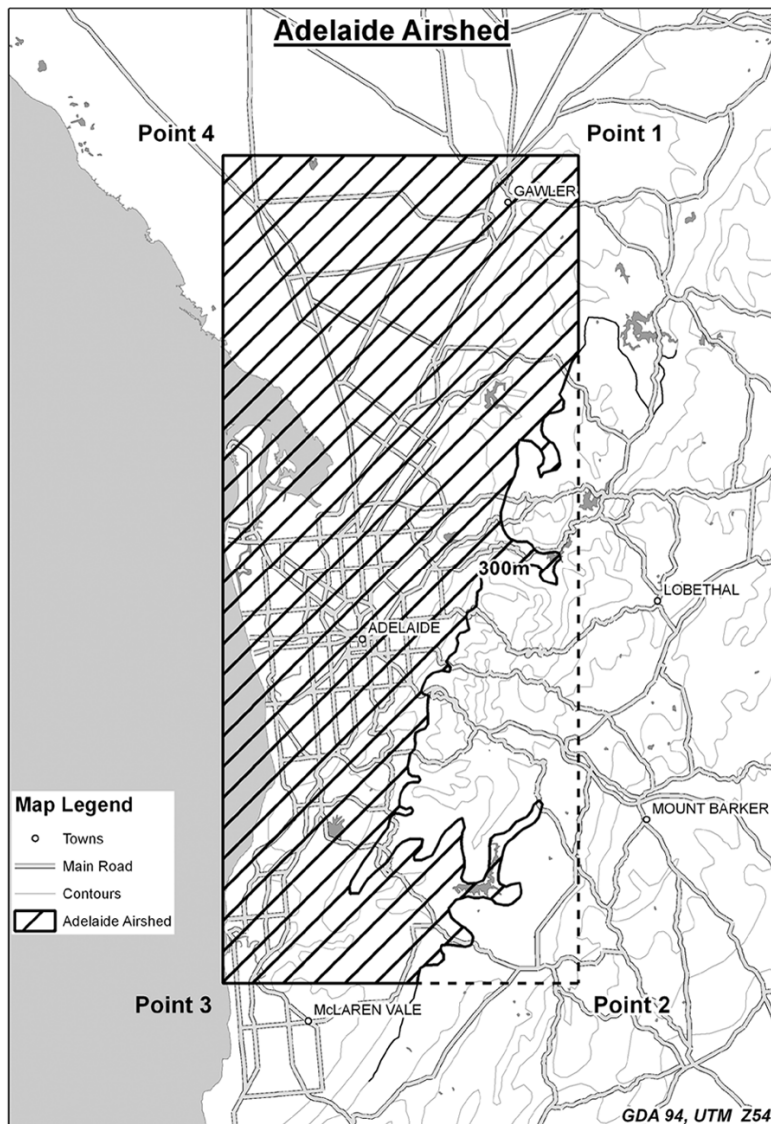
Part 1—Descriptions and maps of areas (regulation 3)

1—Interpretation

- (1) For the purposes of the descriptions in this Schedule—
 - (a) all lines are geodesic lines based on the Geocentric Datum of Australia 1994 (GDA94) as defined in the Commonwealth of Australia Gazette GN35 of 6 September 1995; and
 - (b) all coordinates are given according to the Map Grid of Australia 1994 (a projection of the geographical coordinate set (latitude and longitude) of GDA94 by Universal Transverse Mercator, using the GRS80 ellipsoid, according to the relevant zone).
- (2) The point references given in a description in this Schedule are references to the corresponding points in the map that follows the description.
- (3) The maps included in this Schedule are provided for convenience of reference only.

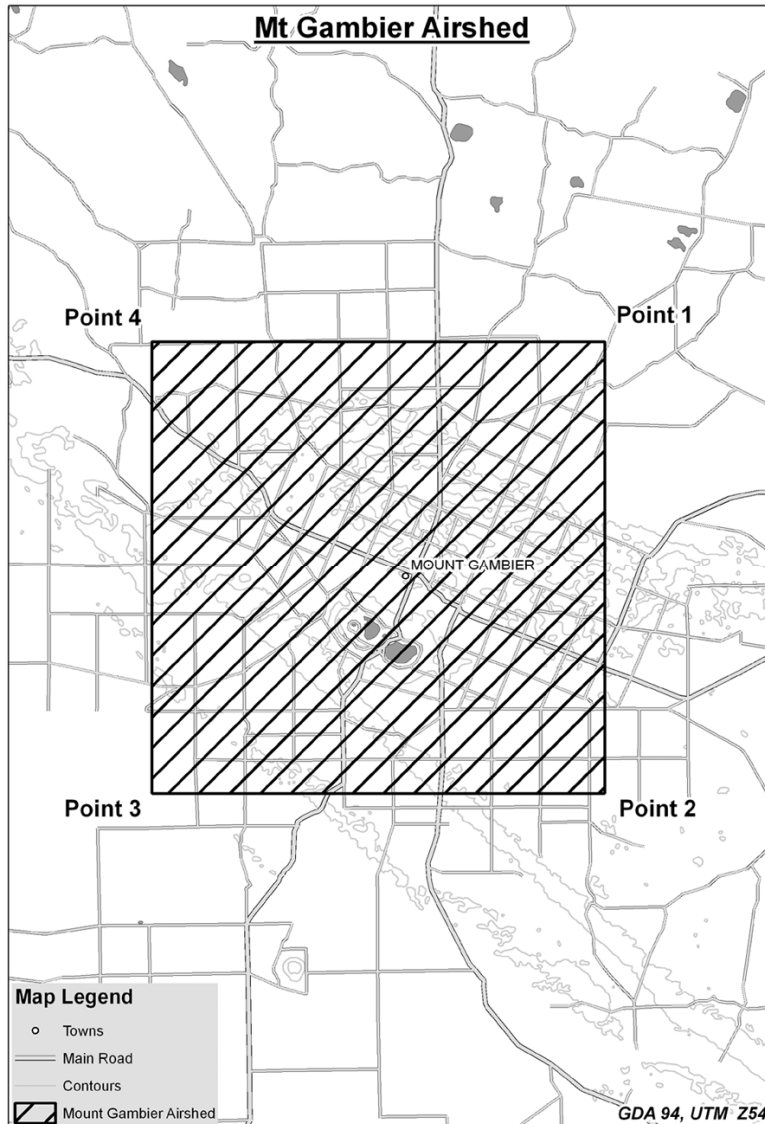
2—Adelaide airshed

The Adelaide airshed is comprised of the area contained within and bounded by a line commencing (in zone 54) at East 299000m, North 6173000m (point 1), then southerly to East 299000m, North 6103000m (point 2), then westerly to East 269000m, North 6103000m (point 3), then northerly to East 269000m, North 6173000m (point 4), then easterly to the point of commencement, but excluding that part of the area that is more than 300 metres above sea level.



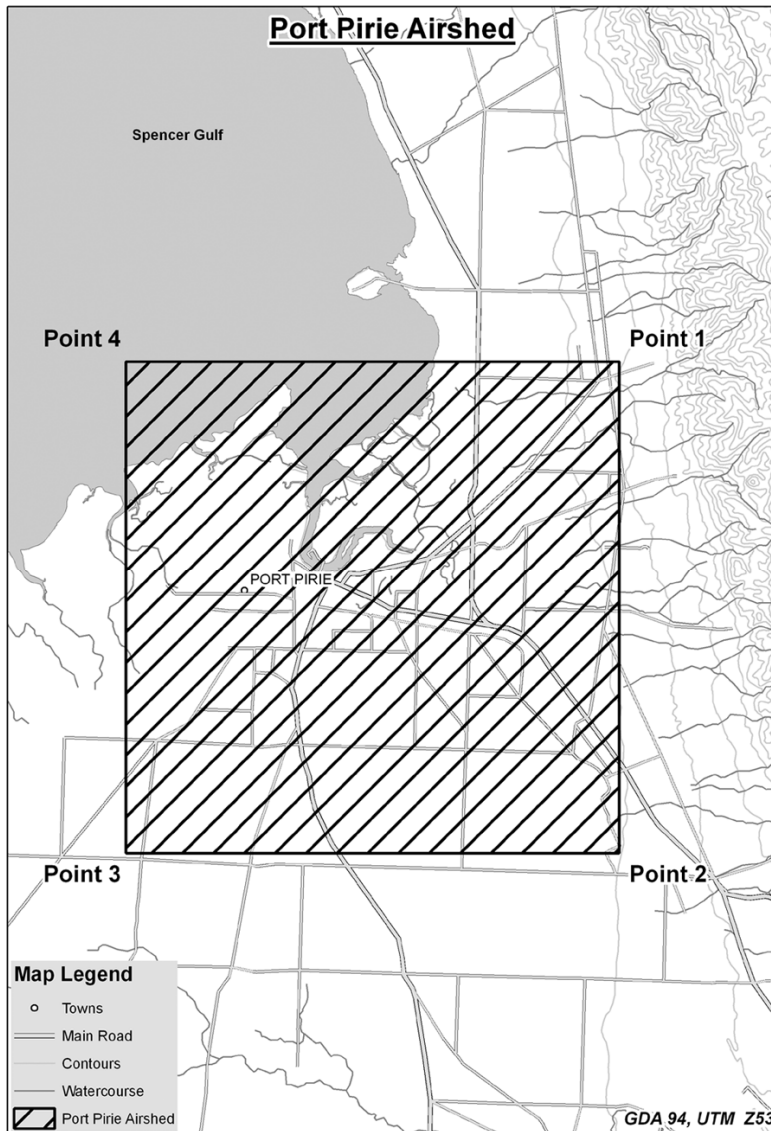
3—Mount Gambier airshed

The Mount Gambier airshed is comprised of the area contained within and bounded by a line commencing (in zone 54) at East 487100m, North 5821300m (point 1), then southerly to East 487100m, North 5806300m (point 2), then westerly to East 472100m, North 5806300m (point 3), then northerly to East 472100m, North 5821300m (point 4), then easterly to the point of commencement.



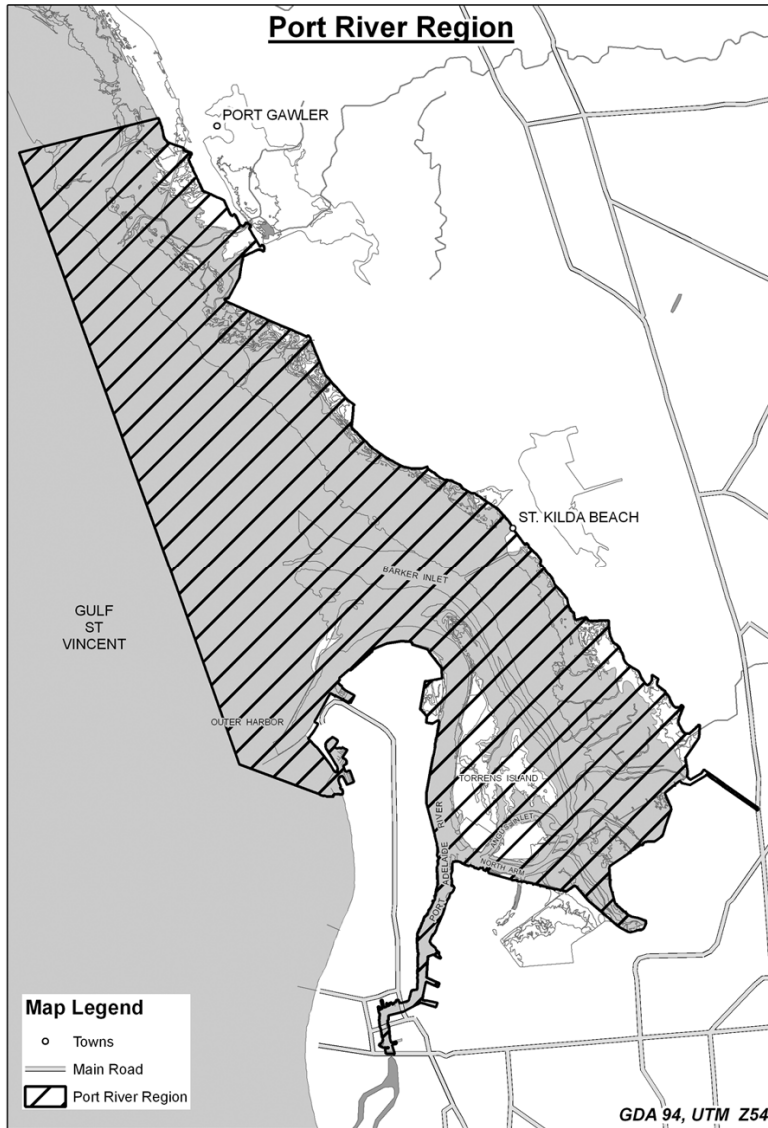
4—Port Pirie airshed

The Port Pirie airshed is comprised of the area contained within and bounded by a line commencing (in zone 53) at East 790400m, North 6330700m (point 1), then southerly to East 790400m, North 6315700m (point 2), then westerly to East 775400m, North 6315700m (point 3), then northerly to East 775400m, North 6330700m (point 4), then easterly to the point of commencement.



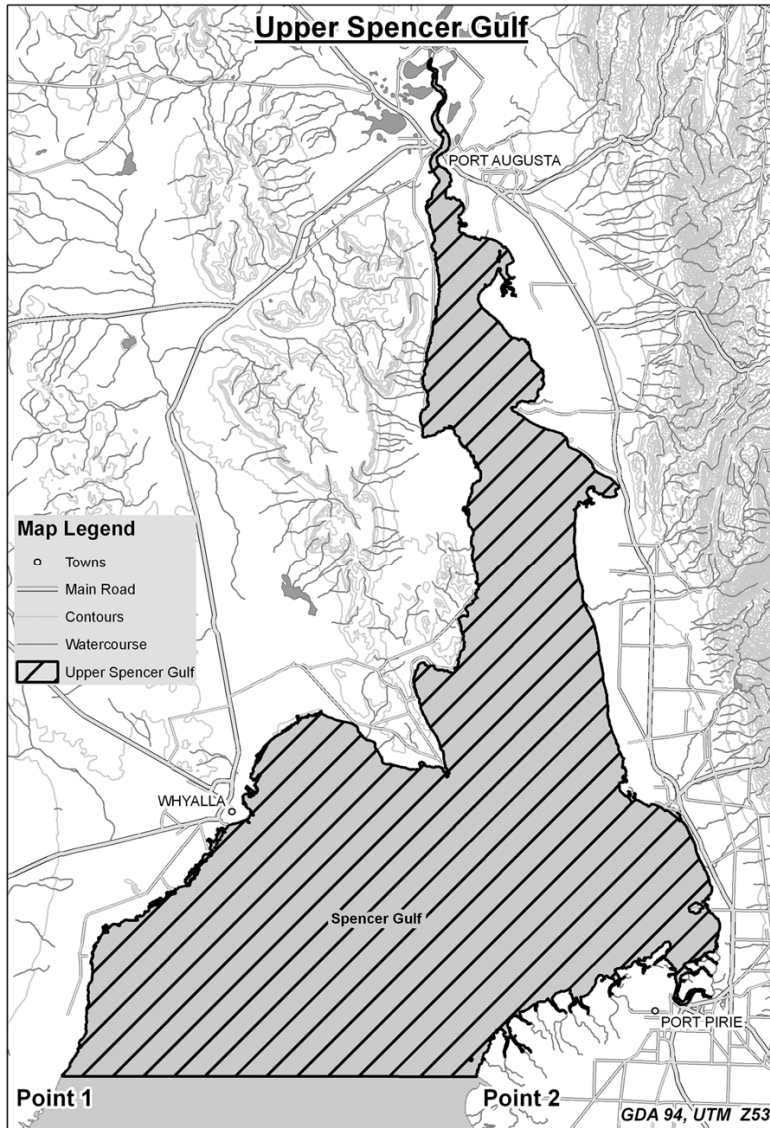
5—Port River region

The Port River region comprises the waters (within the limits of the State and vested in the Crown) of the Adelaide Dolphin Sanctuary established by the *Adelaide Dolphin Sanctuary Act 2005* as at 1 July 2008.



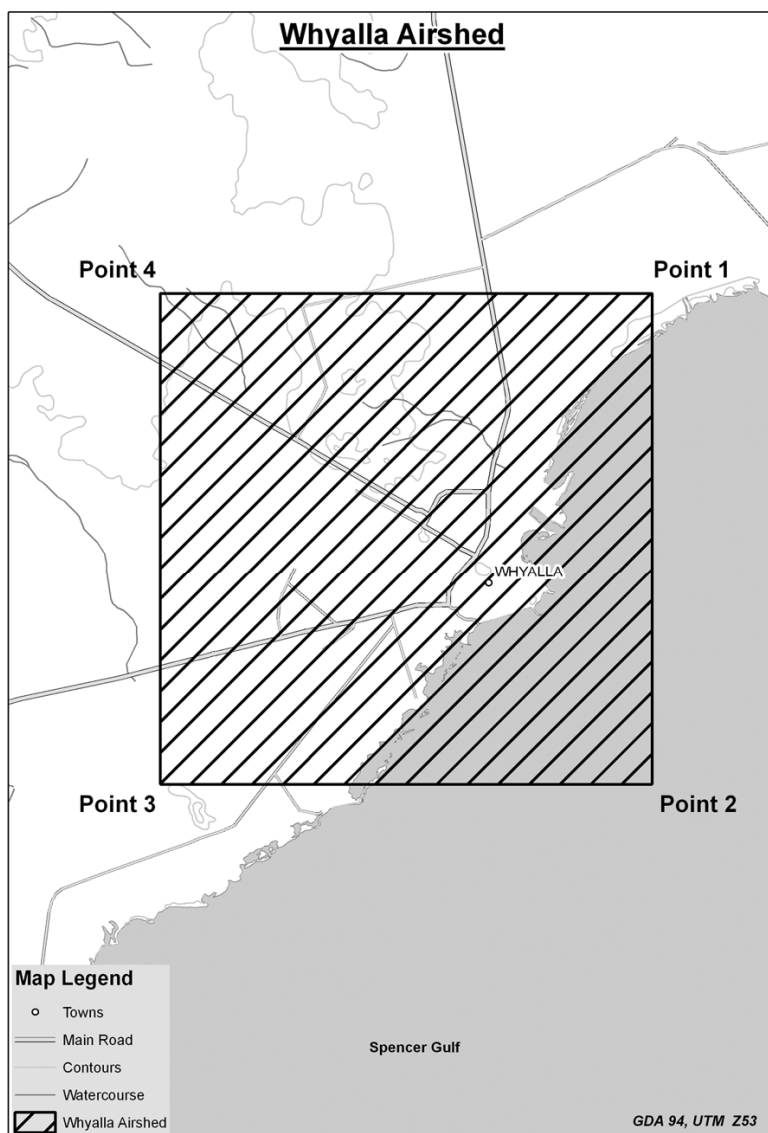
6—Upper Spencer Gulf

The Upper Spencer Gulf is comprised of the waters contained within and bounded by a line commencing (in zone 53) at the location on mean high water springs closest to East 725057m, North 6317924m (point 1), then following the line of mean high water springs (initially proceeding northerly) to a location on that line closest to East 762853m, North 6317892m (point 2), then westerly to the point of commencement.



7—Whyalla airshed

The Whyalla airshed is comprised of the area contained within and bounded by a line commencing (in zone 53) at East 790400m, North 6330700m (point 1), then southerly to East 790400m, North 6315700m (point 2), then westerly to East 775400m, North 6315700m (point 3), then northerly to East 775400m, North 6330700m (point 4), then easterly to the point of commencement.



Part 2—Environment management component (regulation 30)

8—Interpretation

- (1) A reference in this Part to a *prescribed activity of environmental significance* is to be taken to be a reference to the corresponding activity specified in Schedule 1 Part A of the Act.

- (2) A reference in this Part to a ***prescribed environmental measure*** means a reference to the following measures in place during the licence period:
- (a) for an activity specified in clause 1(6) of Schedule 1 Part A of the Act (wood preservation works)—a system for the on-site containment of the preservatives used in the works and for monitoring whether groundwater is contaminated by a preservative used in the works;
 - (b) for an activity specified in clause 3(2) of Schedule 1 Part A of the Act (sewage treatment works or septic tank effluent disposal scheme)—a system for the disposal of wastewater collected or otherwise managed in the works or scheme involving the sustainable reuse of the wastewater or disposal of the wastewater to an evaporation lagoon;
 - (c) for an activity specified in clause 3(3) of Schedule 1 Part A of the Act (waste depot for solid waste)—a leachate and landfill gas management system that complies with the guidelines entitled *Environmental management of landfill facilities (municipal solid waste and commercial industrial general waste)* as issued by the Authority in January 2007;
 - (d) for an activity specified in clause 6(1) of Schedule 1 Part A of the Act (abattoirs, slaughterhouses or poultry processing works)—measures that result in wastewater produced at the works complying with each of the following levels:
 - (i) less than 100 milligrams per litre of biochemical oxygen demand averaged over the licence period;
 - (ii) an oil and grease level that is at least 99% less than that of the untreated wastewater;
 - (iii) less than 50 milligrams per litre of suspended solids averaged over the licence period,assessed in accordance with an approved estimation or monitoring technique for the activity;
 - (e) for an activity specified in clause 6(3) of Schedule 1 Part A of the Act (composting works)—a system for preventing the contamination of groundwater by chemical substances in the compost, by means, for example, of a suitable lining under the compost;
 - (f) for an activity specified in clause 6(7) of Schedule 1 Part A of the Act (rendering or fat extraction works)—measures that result in wastewater produced at the works complying with each of the following levels:
 - (i) less than 100 milligrams per litre of biochemical oxygen demand averaged over the licence period;
 - (ii) an oil and grease level that is at least 99% less than that of the untreated wastewater;
 - (iii) less than 50 milligrams per litre of suspended solids averaged over the licence period,assessed in accordance with an approved estimation or monitoring technique for the activity;
 - (g) for an activity specified in clause 6(11) of Schedule 1 Part A of the Act (a winery or distillery)—measures that result in wastewater produced at the winery or distillery complying with each of the following levels:

- (i) an electrical conductivity or total dissolved solids load that is at least 50% lower than that of the untreated wastewater;
- (ii) less than 100 milligrams per litre of biochemical oxygen demand averaged over the licence period;
- (iii) less than 50 milligrams per litre of suspended solids averaged over the licence period,

assessed in accordance with an approved estimation or monitoring technique for the activity.

9—Environment management component

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
Clause 1	Petroleum and chemical	
cl 1(1)	Chemical storage and warehousing facilities	3
cl 1(2)(a)(i)	Chemical works (inorganic) comprising—	
	(a) a soda ash plant	80
	(b) works associated with a uranium plant (where the main or a significant product is uranium)	20
	(c) works of any other kind	8
cl 1(2)(a)(ii)	Chemical works (organic) comprising—	
	(a) works emitting less than 100 tonnes of volatile organic compounds during the licence period	8
	(b) works emitting 100 tonnes or more of volatile organic compounds during the licence period	12
cl 1(2)(b)	Chemical works (salt production)	3
cl 1(3)	Coke works	80
cl 1(4)	Oil refineries	80
cl 1(5)(a)	Petroleum production, storage or processing works or facilities (storage)	3
cl 1(5)(b)	Petroleum production, storage or processing works or facilities (production) comprising—	
	(a) works or facilities emitting less than 500 tonnes of volatile organic compounds during the licence period	8
	(b) works or facilities emitting 500 tonnes or more but less than 1 000 tonnes of volatile organic compounds during the licence period	50
	(c) works or facilities emitting 1 000 tonnes or more of volatile organic compounds during the licence period	80
cl 1(6)	Wood preservation works comprising—	
	(a) works using, during the licence period, boron or other light organic solvents approved by the Authority as preservatives presenting a low environmental risk	8

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(b) works using, during the licence period, other preservatives (eg preservatives containing heavy metals or creosote)—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	20
	(ii) in any other case	50
Clause 2	Manufacturing and mineral processing	
cl 2(1)	Abrasive blasting comprising—	
	(a) mobile works	3
	(b) works other than mobile works	2
cl 2(2)	Hot mix asphalt preparation comprising—	
	(a) mobile works	12
	(b) works other than mobile works	8
cl 2(3)	Cement works comprising—	
	(a) works emitting less than 100 tonnes of particulates during the licence period	20
	(b) works emitting 100 tonnes or more of particulates during the licence period	50
cl 2(4)	Ceramic works comprising—	
	(a) glass works emitting 25 tonnes or more of particulates during the licence period	50
	(b) brick works emitting 2 tonnes or more of fluorides during the licence period	12
	(c) other glass works or brick works	8
	(d) works of any other kind (eg pottery works)	2
cl 2(5)	Concrete batching works (whether or not mobile)	2
cl 2(6)	Drum reconditioning works	3
cl 2(7)	Ferrous and non-ferrous metal melting works comprising—	
	(a) works producing emissions of more than 2 500 kilograms of volatile organic compounds during the licence period in respect of which—	
	(i) the Authority is satisfied of compliance by the licensee with the EPA odour criteria	12
	(ii) the Authority is satisfied of non-compliance by the licensee with the EPA odour criteria	50
	(b) works producing emissions of 2 500 kilograms or less of volatile organic compounds during the licence period	4
cl 2(8)	Metallurgical works	80
cl 2(9)	Mineral works	12
cl 2(10)	Pulp or paper works	80

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
cl 2(11)	Scrap metal recovery works	3
cl 2(12)(a)	Surface coating works (metal finishing)	8
cl 2(12)(b)	Surface coating works (hot dip galvanizing) comprising—	
	(a) works producing emissions to air during the licence period of 1 000 kilograms or more of zinc	12
	(b) works producing emissions to air during the licence period of 100 kilograms or more but less than 1 000 kilograms of zinc	8
	(c) works producing emissions to air during the licence period of less than 100 kilograms of zinc	4
cl 2(12)(c)	Surface coating works (spray painting or powder coating)	3
cl 2(13)	Wood processing works comprising—	
	(a) works producing emissions to air during the licence period of 50 tonnes or more of particulates	12
	(b) works producing emissions to air during the licence period of less than 50 tonnes of particulates	3
cl 2(14)	Maritime construction works	3
cl 2(15)	Vehicle production works	20
Clause 3	Waste treatment and disposal	
cl 3(1)(a)	Incineration works (chemical wastes)	50
cl 3(1)(b)	Incineration works (medical wastes, cytotoxic wastes, quarantine wastes)	50
cl 3(1)(c)	Incineration works (cremation)	2
cl 3(1)(d)	Incineration works (solid municipal waste)	50
cl 3(1)(e)	Incineration works (solid trade waste)	50
cl 3(2)(a)	Sewage treatment works or septic tank effluent disposal schemes (discharge to marine waters) comprising—	
	(a) works or a scheme discharging 1 000 megalitres or more of wastewater during the licence period	80
	(b) works or a scheme discharging 500 megalitres or more but less than 1 000 megalitres of wastewater during the licence period	50
	(c) works or a scheme discharging 100 megalitres or more but less than 500 megalitres of wastewater during the licence period	12
	(d) works or a scheme discharging 50 megalitres or more but less than 100 megalitres of wastewater during the licence period	8
	(e) works or a scheme discharging 20 megalitres or more but less than 50 megalitres of wastewater during the licence period	4
	(f) works or a scheme discharging less than 20 megalitres of wastewater during the licence period	3

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
cl 3(2)(b)	Sewage treatment works or septic tank effluent disposal schemes (discharge to land or waters within the Mount Lofty Ranges Water Protection Area) comprising—	
	(a) works or a scheme discharging 500 megalitres or more of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	50
	(ii) in any other case	80
	(b) works or a scheme discharging 100 megalitres or more but less than 500 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	20
	(ii) in any other case	50
	(c) works or a scheme discharging 50 megalitres or more but less than 100 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	8
	(ii) in any other case	12
	(d) works or a scheme discharging 20 megalitres or more but less than 50 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	4
	(ii) in any other case	8
	(e) works or a scheme discharging less than 20 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	3
	(ii) in any other case	4
cl 3(2)(c)	Sewage treatment works or septic tank effluent disposal schemes (discharge to land or waters other than marine waters and other than within the Mount Lofty Ranges Water Protection Area) comprising—	
	(a) works or a scheme discharging 1 000 megalitres or more of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	50

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(ii) in any other case	80
	(b) works or a scheme discharging 500 megalitres or more but less than 1 000 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	20
	(ii) in any other case	50
	(c) works or a scheme discharging 100 megalitres or more but less than 500 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	8
	(ii) in any other case	12
	(d) works or a scheme discharging 50 megalitres or more but less than 100 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	4
	(ii) in any other case	8
	(e) works or a scheme discharging 20 megalitres or more but less than 50 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	3
	(ii) in any other case	4
	(f) works or a scheme discharging less than 20 megalitres of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or scheme	2
	(ii) in any other case	3
cl 3(3)	Waste or recycling depots (solid waste for on-site disposal) comprising—	
	(a) a depot receiving more than 200 000 tonnes of solid waste (other than waste fill) during the licence period—	

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(i) if—	50
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	80
(b)	a depot receiving more than 100 000 tonnes but not more than 200 000 tonnes of solid waste (other than waste fill) during the licence period—	
	(i) if—	20
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	50
(c)	a depot receiving more than 50 000 tonnes but not more than 100 000 tonnes of solid waste (other than waste fill) during the licence period—	
	(i) if—	12
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	20
(d)	a depot receiving more than 20 000 tonnes but not more than 50 000 tonnes of solid waste (other than waste fill) during the licence period—	
	(i) if—	8
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	12
(e)	a depot receiving more than 5 000 tonnes but not more than 20 000 tonnes of solid waste (other than waste fill) during the licence period—	

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(i) if—	4
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	8
	(f) a depot receiving more than 2 000 tonnes but not more than 5 000 tonnes of solid waste (other than waste fill) during the licence period—	
	(i) if—	3
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	4
	(g) a depot receiving more than 1 000 tonnes but not more than 2 000 tonnes of solid waste (other than waste fill) during the licence period—	
	(i) if—	2
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	3
	(h) a depot receiving 1 000 tonnes or less of solid waste (other than waste fill) during the licence period—	
	(i) if—	1
	(A) the waste is inert waste; or	
	(B) the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the depot	
	(ii) in any other case	2
cl 3(3)	Waste or recycling depots comprising a winery wastewater treatment works—the fee units payable are those that would be payable if the depot were a sewage treatment works or a septic tank effluent disposal scheme under clause 3(2) of Schedule 1 of the Act.	
cl 3(3)	Waste or recycling depots (for disposal of liquid waste) (other than winery wastewater treatment works) comprising—	
	(a) a depot receiving more than 100 000 kilolitres of liquid waste during the licence period—	

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	50
	(ii) involving disposal other than to a sewer	80
	(b) a depot receiving more than 50 000 kilolitres but not more than 100 000 kilolitres of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	20
	(ii) involving disposal other than to a sewer	50
	(c) a depot receiving more than 20 000 kilolitres but not more than 50 000 kilolitres of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	12
	(ii) involving disposal other than to a sewer	20
	(d) a depot receiving more than 5 000 kilolitres but not more than 20 000 kilolitres of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	8
	(ii) involving disposal other than to a sewer	12
	(e) a depot receiving more than 2 000 kilolitres but not more than 5 000 kilolitres of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	4
	(ii) involving disposal other than to a sewer	8
	(f) a depot receiving more than 1 000 kilolitres but not more than 2 000 kilolitres of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	3
	(ii) involving disposal other than to a sewer	4
	(g) a depot receiving 1 000 kilolitres or less of liquid waste during the licence period—	
	(i) involving disposal to a sewer or other off-site wastewater treatment plant subject to a licence	2
	(ii) involving disposal other than to a sewer	3
cl 3(3)	Waste or recycling depots (waste for resource recovery or transfer) comprising—	
	(a) a depot receiving more than 200 000 tonnes of waste during the licence period for resource recovery or transfer to another location	50

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(b) a depot receiving more than 100 000 tonnes but not more than 200 000 tonnes of waste during the licence period for resource recovery or transfer to another location	20
	(c) a depot receiving more than 50 000 tonnes but not more than 100 000 tonnes of waste during the licence period for resource recovery or transfer to another location	12
	(d) a depot receiving more than 20 000 tonnes but not more than 50 000 tonnes of waste during the licence period for resource recovery or transfer to another location	8
	(e) a depot receiving more than 5 000 tonnes but not more than 20 000 tonnes of waste during the licence period for resource recovery or transfer to another location	4
	(f) a depot receiving more than 2 000 tonnes but not more than 5 000 tonnes of waste during the licence period for resource recovery or transfer to another location	3
	(g) a depot receiving more than 1 000 tonnes but not more than 2 000 tonnes of waste during the licence period for resource recovery or transfer to another location	2
	(h) a depot receiving 1 000 tonnes or less of waste during the licence period for resource recovery or transfer to another location	1
cl 3(3)	Waste or recycling depots (battery recycling)	1
cl 3(4)	Activities producing listed wastes comprising—	
	(a) an activity producing medical waste and no other listed waste during the licence period	1
	(b) in any other case—	
	(i) an activity producing more than 250 tonnes of listed waste during the licence period	8
	(ii) an activity producing more than 100 tonnes but not more than 250 tonnes of listed waste during the licence period	3
	(iii) an activity producing more than 5 tonnes but not more than 100 tonnes of listed waste during the licence period	2
	(iv) an activity producing 5 tonnes or less of listed waste during the licence period	1
cl 3(5)	Waste transport business (category A)—	
	(a) for each vehicle that is an assessable vehicle during the licence period and is not used other than to collect and transport medical waste not exceeding 40 litres at any 1 time	0.3

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(b) for each vehicle that is an assessable vehicle during the licence period other than a vehicle referred to in the preceding paragraph	0.9
cl 3(6)	Waste transport business (category B)—for each vehicle that is an assessable vehicle during the licence period	0.3
Clause 4 Activities in specified areas		
cl 4(1)	Brukungu mine site and associated acid neutralisation plant	30
cl 4(2)(a)	Discharge during the licence period of stormwater to underground aquifers by means other than a stormwater drainage system from land or premises situated in the area of the City of Mount Gambier or the Western Industrial Zone of the area of the District Council of Mount Gambier (as defined in the relevant Development Plan under the <i>Development Act 1993</i>)	12
cl 4(2)(b)	Discharge during the licence period of stormwater to underground aquifers from a stormwater drainage system situated in the City of Mount Gambier or the Western Industrial Zone of the area of the District Council of Mount Gambier (as defined in the relevant Development Plan under the <i>Development Act 1993</i>)	12
cl 4(2)(c)	Discharge during the licence period of stormwater to underground aquifers from a stormwater drainage system situated in metropolitan Adelaide—	
	(a) if 50 megalitres or more is discharged during the licence period	4
	(b) if 10 megalitres or more but not more than 50 megalitres is discharged during the licence period	3
	(c) if less than 10 megalitres is discharged during the licence period	2
Clause 5 Animal husbandry, aquaculture and other activities		
cl 5(1)	Cattle feedlots	4
cl 5(3)	Saleyards comprising—	
	(a) a saleyard located within the South East Water Protection Area—	
	(i) if 20 megalitres or more of effluent is produced at the saleyard during the licence period	12
	(ii) if less than 20 megalitres is produced at the saleyard during the licence period	4
	(b) a saleyard located outside the South East Water Protection Area—	
	(i) if 20 megalitres or more of effluent is produced at the saleyard during the licence period	8
	(ii) if less than 20 megalitres is produced at the saleyard during the licence period	3
cl 5(4)	Piggeries comprising—	

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(a) a piggery producing more than 200 000 kilograms of nitrogen during the licence period	12
	(b) a piggery producing more than 100 000 kilograms but not more than 200 000 kilograms of nitrogen during the licence period	8
	(c) a piggery producing more than 50 000 kilograms but not more than 100 000 kilograms of nitrogen during the licence period	4
	(d) a piggery producing more than 20 000 kilograms but not more than 50 000 kilograms of nitrogen during the licence period	3
	(e) a piggery producing not more than 20 000 kilograms of nitrogen during the licence period	2
Clause 6	Food production and animal and plant product processing	
cl 6(1)	Abattoirs, slaughterhouses or poultry processing works comprising—	
	(a) an abattoir and rendering plant producing 100 megalitres or more of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the plant or that all the wastewater is discharged to a sewer or to some other off-site wastewater treatment plant subject to a licence	12
	(ii) in any other case	20
	(b) an abattoir and rendering plant producing less than 100 megalitres of wastewater during the licence period	12
	(c) works not associated with a rendering plant producing 100 megalitres or more of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority that all the wastewater is discharged to a sewer or to some other off-site wastewater treatment plant subject to a licence	3
	(ii) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	4
	(iii) in any other case	8
	(d) works not associated with a rendering plant producing less than 100 megalitres of wastewater during the licence period	3
cl 6(2)	Breweries comprising—	
	(a) a brewery producing 20 megalitres or more of wastewater during the licence period	20

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(b) a brewery producing less than 20 megalitres of wastewater during the licence period	4
	(c) a brewery disposing of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act during the licence period	3
cl 6(3)	Composting works comprising—	
	(a) works receiving, during the licence period, only green waste—	
	(i) in the case of works the floor of which is 15 metres or less above groundwater—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	2
	(B) in any other case	4
	(ii) in the case of works the floor of which is more than 15 metres above groundwater	2
	(b) works receiving, during the licence period, only animal manure or only animal manure and green waste—	
	(i) in the case of works the floor of which is 15 metres or less above groundwater—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	3
	(B) in any other case	8
	(ii) in the case of works the floor of which is more than 15 metres above groundwater	3
	(c) works receiving, during the licence period, waste of any other kind (whether or not in addition to animal manure or green waste)—	
	(i) in the case of works the floor of which is 15 metres or less above groundwater—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	4
	(B) in any other case	12
	(ii) in the case of works the floor of which is more than 15 metres above groundwater	4
cl 6(4)	Fish processing works comprising—	
	(a) works disposing of wastewater to marine or inland waters during the licence period	8
	(b) works disposing of wastewater to land (and not to marine or inland waters) during the licence period	4

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(c) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act or not disposing of wastewater at all during the licence period	3
cl 6(5)	Milk processing works comprising—	
	(a) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	8
	(b) works of any other kind	12
cl 6(6)(a)	Produce processing works (deep fat frying, roasting or drying)	4
cl 6(6)(b)	Produce processing works (disposing, during the licence period, of wastewater otherwise than to sewer or septic tank effluent disposal system) comprising—	
	(a) olive processing works	12
	(b) works of any other kind	8
cl 6(7)	Rendering or fat extraction works comprising—	
	(a) works producing 100 megalitres or more of wastewater during the licence period—	
	(i) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works or that all the wastewater is discharged to a sewer or to some other off-site wastewater treatment plant subject to a licence	12
	(ii) in any other case	20
	(b) works producing less than 100 megalitres of wastewater during the licence period	12
cl 6(8)	Curing or drying works	3
cl 6(9)	Tanneries or fellmongeries comprising—	
	(a) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	3
	(b) works of any other kind—	
	(i) if the works produce more than 10 megalitres of wastewater during the licence period	12
	(ii) if the works produce 10 megalitres or less of wastewater during the licence period	3
cl 6(10)	Woolscouring or wool carbonising works comprising—	
	(a) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	3
	(b) works of any other kind	8
cl 6(11)(a)	Wineries or distilleries (works outside the Mount Lofty Ranges Water Protection Area) comprising—	

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(a) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	3
	(b) works of any other kind (ie works not disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act)—	
	(i) in the case of works producing 20 megalitres or less of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	3
	(B) in any other case	4
	(ii) in the case of works producing more than 20 megalitres but no more than 60 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	12
	(B) in any other case	20
	(iii) in the case of works producing more than 60 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	20
	(B) in any other case	50
cl 6(11)(b)	Wineries or distilleries (works within the Mount Lofty Ranges Water Protection Area) comprising—	
	(a) works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	4
	(b) works not disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act—	
	(i) in the case of works producing 10 megalitres or less of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	4
	(B) in any other case	8
	(ii) in the case of works producing more than 10 megalitres but no more than 60 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	12

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(B) in any other case	20
	(iii) in the case of works producing more than 60 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of an effective prescribed environmental measure for the works	20
	(B) in any other case	50
Clause 7	Materials handling and transportation	
cl 7(1)	Bulk shipping facilities	8
cl 7(2)	Railway operations	8
cl 7(3)(a)	Crushing, grinding or milling works (chemicals or rubber)	4
cl 7(3)(b)	Crushing, grinding or milling works (agricultural crop products) comprising—	
	(a) olive processing works (whether or not mobile)	
	(i) in the case of works disposing, during the licence period, of all wastewater to a sewer or other off-site wastewater treatment plant licensed under the Act	3
	(ii) in any other case	12
	(b) mobile works other than olive processing works	8
	(c) works of any other kind	4
cl 7(3)(c)	Crushing, grinding or milling works (rock, ores or minerals)	4
cl 7(4)	Dredging—for each day on which dredging occurs during the licence period	1
cl 7(5)	Coal handling and storage	3
cl 7(6)	Earthworks drainage—for each day on which earthworks drainage takes place during the licence period	0.25
cl 7(7)	Extractive industries—	
	(a) within the Mount Lofty Ranges Water Protection Area	4
	(b) in any other area	3
Clause 8	Other	
cl 8(1)	Aerodromes	3
cl 8(2)(a)	Fuel burning comprising—	
	(a) the burning of coal or wood—	
	(i) at premises within the Adelaide airshed—	
	(A) resulting in the emission of 500 tonnes or more of nitrogen oxides during the licence period	80

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
	(B) resulting in the emission of 30 tonnes or more but less than 500 tonnes of nitrogen oxides during the licence period	50
	(C) resulting in the emission of less than 30 tonnes of nitrogen oxides during the licence period	12
	(ii) at premises in any other area—	
	(A) resulting in the emission of 500 tonnes or more of nitrogen oxides during the licence period	50
	(B) resulting in the emission of 30 tonnes or more but less than 500 tonnes of nitrogen oxides during the licence period	12
	(C) resulting in the emission of less than 30 tonnes of nitrogen oxides during the licence period	4
	(b) the burning of diesel in internal combustion engines for a total of less than 25 hours during the licence period	1
	(c) the burning of diesel in any other circumstances or for any other purpose or the burning of any fuel other than coal, wood or diesel—	
	(i) at premises within the Adelaide airshed—	
	(A) resulting in the emission of 500 tonnes or more of nitrogen oxides during the licence period	50
	(B) resulting in the emission of 30 tonnes or more but less than 500 tonnes of nitrogen oxides during the licence period	20
	(C) resulting in the emission of less than 30 tonnes of nitrogen oxides during the licence period	8
	(ii) at premises in any other area—	
	(A) resulting in the emission of 500 tonnes or more of nitrogen oxides during the licence period	20
	(B) resulting in the emission of 30 tonnes or more but less than 500 tonnes of nitrogen oxides during the licence period	8
	(C) resulting in the emission of less than 30 tonnes of nitrogen oxides during the licence period	3
cl 8(2)(b)	Fuel burning comprising the burning of fuel to stove enamel or to bake or dry substances releasing dust or air impurities	3
cl 8(3)	Helicopter landing facilities	1
cl 8(4)(a)	Marinas and boating facilities (moorings or dry storage)	2

Schedule 1 of Act	Prescribed activity of environmental significance (including indicator of level of activity if applicable)	Fee units
cl 8(4)(b)	Marinas and boating facilities (repair and maintenance facilities)	3
cl 8(5)	Motor racing or testing venues	3
cl 8(6)	Shooting ranges	1
cl 8(7)	Discharges to marine or inland waters (heat, or antibiotic or chemical water treatments)—	
	(a) for discharges of 100 megalitres or more during the licence period	20
	(b) for discharges of 10 megalitres or more but less than 100 megalitres during the licence period	8
	(c) for discharges of less than 10 megalitres during the licence period	4

Schedule 3—Site contamination

Part 1—Potentially contaminating activities (regulation 50)

1—Interpretation

In this Part—

recycling includes reprocessing, recovery and purification.

2—Activities undertaken in course of business

Activity	Definition
Abrasive blasting	Operation of works for abrasive blast cleaning or disposal of abrasive blasting material (including mobile abrasive blasting works and abrasive blast cleaning carried out in fully enclosed booths but excluding abrasive blast cleaning undertaken for residential purposes)
Acid sulphate soil generation	Oxidation of iron sulphide in potential acid sulphate soil material (sulphidic material) resulting in formation of actual acid sulphate soil material or sulphuric material
Agricultural activities	Any of the following activities undertaken in the course of agriculture: <ul style="list-style-type: none"> (a) burial of animals or parts of animals; (b) burial of other waste; (c) irrigation using wastewater; (d) intensive application or administration of a listed substance to animals, plants, land or water (excluding routine spraying, in accordance with manufacturers' instructions, of pesticides used in broad-acre farming)
Airports, aerodromes or aerospace industry	Operation of premises for commercial or charter aircraft take-off and landing or manufacture, repair or maintenance of commercial or charter aircraft or aircraft equipment

Activity	Definition
Animal burial	Burial of animals or parts of animals other than in the course of agriculture
Animal dips or spray race facilities	Operation of animal dips or spray race facilities
Animal feedlots	Operation of confined yards or areas for holding of animals and feeding of animals principally by mechanical means or by hand
Animal saleyards	Operation of yards at which cattle, sheep or other animals are gathered and confined for the purpose of their sale, auction or exchange (including associated transport loading facilities and associated wastewater disposal)
Asbestos disposal	Disposal of asbestos or asbestos products
Asphalt or bitumen works	Operation of works for manufacture of asphalt or bitumen
Battery manufacture, recycling or disposal	Assembly, disassembly, manufacture or recycling of batteries (excluding storage of batteries for sale)
Breweries	Production of beer by infusion, boiling or fermentation
Brickworks	Production of bricks (including glazing of bricks)
Bulk shipping facilities	Operation of facilities for bulk handling of agricultural crop products, rock, ores, minerals or liquid organic chemical substances to or from wharf or wharveside facility (including sea-port grain terminals)
Cement works	Operation of works for production of cement clinker or grinding of cement clinker using argillaceous and calcareous materials
Ceramic works	Operation of works for manufacture of tiles, pipes, pottery goods, refractories or other ceramic products
Charcoal manufacture	Manufacture of charcoal
Coal handling or storage	Handling of coal, coke or carbonaceous material by any means or storage of coal, coke or carbonaceous reject material
Coke works	Production, quenching, cutting, crushing or grading of coke
Compost or mulch production or storage	Production or storage of compost, mulch or garden soils
Concrete batching works	Operation of works for production of concrete or concrete products manufactured by inclusion of cement, sand, rock, aggregate or similar materials
Curing or drying works	Operation of works for smoking, drying or curing meat, fish or other edible products by application of heat or smoke
Defence works	Operation of military defence establishments (including training areas)
Desalination plants	Operation of desalination plants
Dredge spoil disposal or storage	Disposal of dredge spoil onto land or storage of dredge spoil
Drum reconditioning or recycling works	Operation of works for reconditioning or recycling of metal or plastic drums
Dry cleaning	Operation of premises for dry cleaning
Electrical or electronics component manufacture	Manufacture of electrical or electronics components

Activity	Definition
Electrical substations	Operation of electrical substations
Electrical transformer or capacitor works	Operation of works for manufacture, repair, storage or disposal of electrical transformers, capacitors or associated equipment or fluids
Electricity generation or power plants	Operation of electricity generation or power plants
Explosives or pyrotechnics facilities	Operation of facilities for manufacture of explosives or pyrotechnics
Fertiliser manufacture	Manufacture of agricultural fertiliser
Fibreglass manufacture	Manufacture of fibreglass products
Fill or soil importation	Importation, to premises of a business, of soil or other fill originating from a site at which another potentially contaminating activity has taken place
Fire extinguisher or retardant manufacture	Manufacture of fire extinguishers or fire retardants
Fire stations	Underground storage of fuel at fire stations
Fire training areas	Operation of premises for fire training involving the use of liquid fuel, fire accelerants, aqueous film forming foam or similar substances
Foundry	Manufacture of metal products by injecting or pouring molten metal into moulds
Fuel burning facilities	Burning of solid or liquid fuel (including for generation of power or steam at rate of heat release exceeding 1MW)
Furniture restoration	Restoration of furniture
Gasworks	Operation of gasworks or gas holders
Glass works	Operation of works for manufacture of glass products
Glazing	Glazing of ceramics or pottery
Hat manufacture or felt processing	Manufacture of hats or processing of felt
Incineration	Incineration within the meaning of Schedule 1 Part A clause 3(1) of the Act
Iron or steel works	Operation of works for manufacture of iron or steel
Laboratories	Operation of laboratories
Landfill sites	Operation of sites for disposal of waste onto or into land
Lime burner	Manufacture (by means of kiln) of cement or lime from limestone (including associated storage of waste)
Metal coating, finishing or spray painting	Finishing, treating or coating of metal (including anodising, galvanising, pickling, electroplating, heat treatment, powder coating, enamelling and spray painting)
Metal forging	Forging of metal products
Metal processing, smelting, refining or metallurgical works	Operation of works for melting (by means of furnace) of ferrous or non-ferrous metal or smelting or reduction of ores to produce metal

Activity	Definition
Mineral processing, metallurgical laboratories or mining or extractive industries	Chemical or physical extraction or processing of metalliferous ores, storage of mining or exploration waste (for example, in tailings dams, overburden or waste rock dumps) mining or processing of minerals or operation of laboratories or pilot facilities for processing or testing of minerals
Mirror manufacture	Manufacture of mirrors
Motor vehicle manufacture	Manufacture of motor vehicles
Motor vehicle racing or testing venues	Operation of facilities designed and used for motor vehicle competitions or motor vehicle speed or performance trials
Motor vehicle repair or maintenance	Operation of premises for repair or maintenance of motor vehicles or parts of motor vehicles (including engine reconditioning works)
Motor vehicle wrecking yards	Operation of yards for wrecking or dismantling of motor vehicles or parts of motor vehicles
Mushroom farming	Farming of mushrooms
Oil recycling works	Operation of works for recycling of oil
Oil refineries	Operation of works for refining of crude petroleum oil or shale
Paint manufacture	Manufacture (including blending, mixing and formulation) of paint
Pest control works	Operation of premises for storage of pesticides or filling or washing of tanks used in pest control operations
Plastics manufacture works	Operation of works for manufacture (including blending, mixing and formulation) of plastics or plastic components (excluding processing and moulding of plastics manufactured elsewhere)
Printing works	Operation of printing works
Pulp or paper works	Operation of works for manufacture of timber pulp or paper
Railway operations	Railway operations within the meaning of Schedule 1 Part A clause 7(2) of Act
Rubber manufacture or processing	Manufacture or processing of rubber or rubber products
Scrap metal recovery	Recovery (including cleaning) of scrap metal
Service stations	Operation of retail fuel outlets
Ship breaking	Wrecking or dismantling of ships
Spray painting	Spray painting other than spray painting of metal
Tannery, fellmongery or hide curing	Operation of works for preservation or treatment of animal skins or hides
Textile operations	Manufacture or dyeing of fabrics or materials
Transport depots or loading sites	Operation of transport depots or loading sites
Tyre manufacture or retreading	Manufacture or retreading of tyres
Vermiculture	Cultivation of earthworms for production of earthworms or earthworm castings
Vessel construction, repair or maintenance	Operation of works or facilities (whether on water or land) for construction, repair or maintenance of vessels

Activity	Definition
Waste depots	Reception, storage or treatment (including recycling) of waste or disposal of waste to land or water
Wastewater storage, treatment or disposal	Storage (including in tanks, lagoons and ponds) or treatment (including recycling) of wastewater or disposal of wastewater to land or water
Water discharge to underground aquifer	Direct discharge of water from surface of land to underground aquifer
Wetlands or detention basins	Operation of bodies of water less than 6 metres deep for collection and management of stormwater or other wastewater for urban amenity, flood mitigation or ecological or other environmental purposes
Wineries or distilleries	Operation of works for processing grapes or other produce to make wine or spirits
Wood preservation works	Operation of works involving treatment or preservation of timber using chemicals
Woolscouring or wool carbonising works	Operation of works involving cleaning or carbonising of wool other than in course of handicraft business where wool is further processed for retail sale
Works depots	Operation of works depots by councils or utilities

3—Domestic activities

Activity	Definition
Fill or soil importation	Importation, to domestic premises, of soil or other fill originating from a site at which another potentially contaminating activity has taken place
Liquid organic chemical substances—storage	Storage of more than 500 litres of liquid organic chemical substances in underground or aboveground tanks or vessels at a discrete premises (excluding storage of oil for domestic heating at the premises)

4—Listed substances

Acidic solutions
 Acids
 Adhesives (excluding solid inert polymeric materials)
 Alkali metals
 Alkaline earth metals
 Alkaline solutions
 Alkalis
 Antimony
 Antimony compounds
 Antimony solutions
 Arsenic
 Arsenic compounds
 Arsenic solutions
 Asbestos
 Barium compounds
 Barium solutions
 Beryllium

Beryllium compounds
Boron
Boron compounds
Cadmium
Cadmium compounds
Cadmium solutions
Calcium carbide
Carbon disulphide
Carcinogens
Chlorates
Chromium compounds
Chromium solutions
Copper compounds
Copper solutions
Cyanide complexes
Cyanides
Cyanide solutions
Cytotoxic wastes
Dangerous substances within the meaning of the *Dangerous Substances Act 1979*
Distillation residues
Equipment containing mercury
Fluoride compounds
Halogens
Heterocyclic organic compounds containing oxygen, nitrogen or sulphur
Isocyanate compounds (excluding solid inert polymeric materials)
Laboratory chemicals
Lead compounds
Lead solutions
Lime sludges or slurries
Liquid organic chemical substances
Manganese compounds
Medical waste within the meaning of Schedule 1 Part B of the Act
Mercaptans
Mercury compounds
Mutagens
Nickel compounds
Nickel solutions
Nitrates
Organic halogen compounds (excluding solid inert polymeric materials)
Organic phosphates
Organic solvents
Organometallic residues
Oxidising agents
Paint sludges or residues
Perchlorates
Peroxides
Pesticides
Pharmaceutical wastes or residues
Phenolic compounds (excluding solid inert polymeric materials)
Phosphorus
Phosphorus compounds

Poisons within the meaning of the *Drugs Act 1908*
Polychlorinated biphenyls
Radionuclides
Reactive chemicals
Reducing agents
Selenium
Selenium compounds
Selenium solutions
Silver compounds
Silver solutions
Solvent recovery residues
Sulphides
Sulphide solutions
Surfactants
Teratogens
Thallium
Thallium compounds
Thallium solutions
Vanadium compounds
Zinc compounds
Zinc solutions

Part 2—Annual returns by auditors (regulation 65)

5—Form of annual return

Annual return by auditor

(under section 103Y of the *Environment Protection Act 1993*)

Period to which annual return relates***:

Name of auditor*:

Auditor's accreditation number:

Term of auditor's accreditation: _____ to _____

Name of auditor's company or business:

Auditor's business address:

Auditor's business telephone number(s):

Auditor's fax number:

Auditor's email address:

Provide details** of each audit undertaken during the period to which the return relates*** for which the auditor was the responsible auditor* including the following details for each audit:

- the EPA reference and site location;
- if the person for whom the audit has been commissioned is different to the person last notified to the EPA, the name of the new person and his or her commissioning authority (eg EPA, owner, occupier, developer or other);

- whether the audit was, during that period, commenced, ongoing, completed or terminated before completion;
- if the audit was commenced, completed or terminated during that period, the date of commencement, completion or termination.

Has the auditor, during the period to which the return relates***, under these regulations or under legislation similar to these regulations in force in another State or Territory of the Commonwealth—

- | | |
|--|--------|
| • been the subject of disciplinary action (or any preliminary investigations preceding such possible action)? | Yes/No |
| • had his or her accreditation or similar authority suspended or cancelled? | Yes/No |
| • been disqualified from acting as a site contamination auditor? | Yes/No |
| • had conditions imposed on his or her accreditation or similar authority limiting the range of activities that he or she may undertake? | Yes/No |
| • had an application for such accreditation or similar authority refused? | Yes/No |

If yes to any of the above questions, provide details**:

What is the amount and the expiry date of the policy of professional indemnity insurance held by the auditor or by which the auditor is covered?

Indicate auditor's current employment status:

Employee	Yes/No
Self employed	Yes/No
Partner	Yes/No
Unemployed	Yes/No

Other [provide details]:

Indicate auditor's current accreditation status under these regulations:

Accredited	Yes/No
Under suspension other than voluntary suspension	Yes/No
Under voluntary suspension	Yes/No
Previously accredited	Yes/No

Other [provide details]:

Indicate details of any professional development or training relating to site contamination undertaken by the auditor during the period to which the return relates***:

Declaration

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed*:

Dated:

** This form must be completed and signed by the responsible auditor, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audits.*

*** If insufficient space, details may be annexed to this form.*

**** The period to which the return relates is the 12 month period commencing 8 weeks before the anniversary of the day on which the auditor's accreditation was last renewed or, in the case of an auditor in his or her first year of accreditation, the period from the day on which the auditor's accreditation was granted to 8 weeks before the anniversary of that day.*

This annual return must be lodged with the EPA in accordance with section 103Y of the Environment Protection Act 1993.

Part 3—Notifications by auditors after commencement or termination of audit (regulation 66)

6—Form of notification by auditor after commencement of audit

Notification by auditor after commencement of audit

(under section 103Z of the *Environment Protection Act 1993*)

Name of auditor*:

Auditor's accreditation number:

Term of auditor's accreditation: _____ to _____

Name of auditor's company or business:

Auditor's project reference:

Name of audit site *[if applicable]*:

Address of audit site:

Name of council for area in which audit site is situated *[if within council area]*:

Provide the following particulars** relating to the relevant land and the audit site:

- certificates of title of all the relevant land and an indication of whether the audit site comprises all or part only of the land shown on or described in the certificates of title;
- details sufficient to identify the location of the land, including section or allotment numbers, area and hundred and AMG co-ordinates (GDA 94, UTM 53 and 54);
- audit plans indicating the location and extent of the audit site (which must comply with the guidelines issued by the EPA from time to time).

Name of owner of audit site:

Name of occupier of audit site:

Name, postal address and position of person who commissioned audit:

Indicate authority of person who commissioned audit:

EPA	Yes/No
Owner	Yes/No
Occupier	Yes/No

Developer Yes/No

Other *[please specify]*:

Indicate reasons for audit *[indicate all reasons]*:

Required under the *Development Act 1993* Yes/No

Required under the *Environment Protection Act 1993* Yes/No

Other *[please specify]*:

If audit is required under the *Environment Protection Act 1993*, provide EPA reference number:

Indicate audit purposes *[indicate all purposes]*:

Determining the nature and extent of any site contamination present or remaining on or below the surface of the site Yes/No

Determining the suitability of the site for a sensitive use or another use or range of uses Yes/No

Determining what remediation is or remains necessary for a specified use or range of uses Yes/No

[NB: An audit may be required for all of the above purposes.]

Date of commencement of audit:

Estimated date of completion of audit:

If this audit is 1 of a series of audits to be undertaken in relation to the audit site, indicate the total number of audits proposed to be undertaken (if known) and the completion or estimated completion dates for those audits (if known)**:

Indicate:

- proposed site use:
- current site use, or, if currently unoccupied, most recent site use:
- any potentially contaminating activities (within the meaning of regulation 50 of these regulations) known to have occurred at the site:

If audit is required for development consent under the *Development Act 1993*, indicate:

- relevant planning authority:
- development application number *[if known]*:
- site zoning:

Declaration

I am not aware of any conflict of interest within the meaning of section 103X of the *Environment Protection Act 1993* that would preclude me from undertaking this audit.

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed*:

Dated:

** This form must be completed and signed by the “responsible auditor”, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This notification must be lodged with the EPA.

Details of this notification will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

7—Form of notification by auditor after termination (before completion) of audit

Notification by auditor after termination (before completion) of audit

(under section 103Z of the *Environment Protection Act 1993*)

Name of auditor*:

Auditor’s accreditation number:

Name of auditor’s company or business:

EPA reference:

Name of audit site *[if applicable]*:

Address of audit site:

Name, postal address and position of person who terminated audit:

Indicate authority of person who terminated audit:

EPA	Yes/No
Owner	Yes/No
Occupier	Yes/No
Developer	Yes/No
Auditor	Yes/No

Other *[please specify]*:

Date audit terminated:

Reasons for termination**:

Declaration

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed*:

Dated:

** This form must be completed and signed by the “responsible auditor”, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This notification must be lodged with the EPA.

Details of this notification will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

Part 4—Site contamination audit statement (regulation 67)

8—Form of site contamination audit statement

Site contamination audit statement

(under section 103Z of the *Environment Protection Act 1993*)

This statement contains the summary of the findings of the site contamination audit set out in the site contamination audit report titled: *[insert title of site contamination audit report]* (referred to in this form as the **report**) dated: *[insert report date]*

Name of auditor*:

Auditor's accreditation number:

Name of auditor's company or business:

Auditor's project reference:

EPA reference:

Name of audit site *[if applicable]*:

Address of audit site:

Name of council for area in which audit site is situated *[if within council area]*:

Provide the following particulars** relating to the relevant land and the audit:

- certificates of title of all the relevant land and an indication of whether the audit site comprises all or part only of the land shown on or described in the certificates of title;
- details sufficient to identify the location of the land, including section or allotment numbers, area and hundred and AMG co-ordinates (GDA 94, UTM 53 and 54);
- if the audit site comprises part only of the land described in the certificates of title, or if there is no certificate of title for the land comprising the audit site—survey plans prepared by a licensed surveyor;
- audit plans indicating the location and extent of the audit site (which must comply with the guidelines issued by the EPA from time to time).

Name of owner of audit site:

Name of occupier of audit site:

Name, postal address and position of person who commissioned audit:

Indicate authority of person who commissioned audit:

EPA	Yes/No
Owner	Yes/No
Occupier	Yes/No
Developer	Yes/No
Other <i>[please specify]</i> :	

Reasons for audit *[indicate all reasons]:*

Required under the *Development Act 1993* Yes/No

Required under the *Environment Protection Act 1993* Yes/No

Other *[please specify]:*

If audit was required under the *Environment Protection Act 1993*, provide EPA reference number:

Audit purposes *[indicate all purposes]:*

Determining the nature and extent of any site contamination present or remaining on or below the surface of the site Yes/No

Determining the suitability of the site for a sensitive use or another use or range of uses Yes/No

Determining what remediation is or remains necessary for a specified use or range of uses Yes/No

[NB: An audit may be required for all of the above purposes.]

If audit was required for development consent under the *Development Act 1993*, provide:

- name of relevant planning authority:
- development application number *[if known]:*
- site zoning:
- proposed site use:

Date of commencement of audit:

Date of notification of commencement of audit to EPA:

Date of completion of audit:

Summary of findings

Provide the summary of the findings of the site contamination audit as set out in the report.

If there is insufficient space on this form, provide the summary as an annexure to this form.

[NB: A site contamination audit report must comply with the guidelines from time to time issued by the EPA.]

Certification of copy of summary of findings

I certify that the summary of findings contained within or annexed to this statement represents a true and accurate summary of the findings of the site contamination audit set out in the report.

Signed*:

Dated:

** This form must be completed and signed by the “responsible auditor”, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This site contamination audit statement must be lodged, on completion of the audit, with the council for the area in which the audit site is situated and any prescribed body (see regulation 68 of these regulations).

The report (including the summary of findings) will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

Schedule 4—Miscellaneous fees

1	On application for approval of the transfer of an environmental authorisation under section 49(5) of the Act for which the authorisation fee last paid or payable—	
	(a) was less than \$1 000	5 fee units
	(b) was not less than \$1 000 but not more than \$1 999	10 fee units
	(c) was not less than \$2 000 but not more than \$4 999	20 fee units
	(d) was not less than \$5 000 but not more than \$9 999	30 fee units
	(e) was not less than \$10 000 but not more than \$49 999	50 fee units
	(f) was \$50 000 or more	100 fee units
2	For beverage container approvals under Part 8 Division 2 of the Act—	
	(a) for application for approval of a class of containers as category A or category B containers (section 68 of Act)	no fee
	(b) for application for approval to operate a collection depot (section 69 of Act)	\$78.00
	(c) for application for approval to carry on business as a super collector (section 69 of Act)	\$573.00
3	For accreditation as site contamination auditor under section 103V of the Act and Part 5 Division 2 of these regulations—	
	(a) for application for accreditation (regulation 54)	\$396.00
	(b) for grant of accreditation (regulation 55) or renewal of accreditation (regulation 59)	\$4 074.00
	(c) annual fee for accreditation (regulation 58)	\$2 355.00
	(d) for replacement of certificate of accreditation or identity card (regulation 62)	\$52.00
4	For inspection of the register under section 109(5) of the Act—	
	(a) for each manual inspection	1 fee unit

- | | | |
|------|---|------------|
| (b) | for each inspection requiring access to a computer— | |
| (i) | for the first 10 minutes (or part of that 10 minutes) of access | 1 fee unit |
| (ii) | for each additional 10 minutes (or part of that 10 minutes) of access | 1 fee unit |
| 5 | For a copy of part of the register under section 109(6) of the Act— | |
| (a) | for the first page | \$4.10 |
| (b) | for each additional page | \$1.40 |

Schedule 5—Revocation and transitional provisions

Part 1—Revocation

1—Revocation of *Environment Protection (Beverage Container) Regulations 2008*

The *Environment Protection (Beverage Container) Regulations 2008* are revoked.

2—Revocation of *Environment Protection (Exempt Classes of Persons and Activities) Regulations 2001*

The *Environment Protection (Exempt Classes of Persons and Activities) Regulations 2001* are revoked.

3—Revocation of *Environment Protection (Fees and Levy) Regulations 1994*

The *Environment Protection (Fees and Levy) Regulations 1994* are revoked.

4—Revocation of *Environment Protection (General) Regulations 1994*

The *Environment Protection (General) Regulations 1994* are revoked.

5—Revocation of *Environment Protection (Site Contamination) Regulations 2008*

The *Environment Protection (Site Contamination) Regulations 2008* are revoked.

Part 2—Transitional provisions

6—Continuation of accreditation in respect of prescribed activities of environmental significance

An accreditation as an accredited licensee in respect of a particular prescribed activity of environmental significance in force under regulation 11A of the revoked *Environment Protection (Fees and Levy) Regulations 1994* immediately before the commencement of these regulations will be taken to be an accreditation granted in respect of the licensee and activity under regulation 36 of these regulations.

7—Continuation of accreditation of site contamination auditors

- (1) An accreditation of a site contamination auditor in force under Part 3 Division 1 of the revoked *Environment Protection (Site Contamination) Regulations 2008* immediately before the commencement of these regulations will be taken to be an accreditation of the site contamination auditor under Part 5 Division 2 of these regulations.

- (2) The accreditation under Part 5 Division 2 of these regulations is subject to the same conditions as the accreditation under the revoked *Environment Protection (Site Contamination) Regulations 2008* and will expire on the date on which the accreditation under those regulations would have expired.

8—Continuation of approved weighbridges

An approval of a weighbridge in force under the revoked *Environment Protection (Fees and Levy) Regulations 1994* immediately before the commencement of these regulations will be taken to be an approval of the weighbridge under regulation 69 of these regulations.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 227 of 2009

EPCS09/0004, EPCS09/0005

South Australia

Subordinate Legislation (Postponement of Expiry) Regulations 2009

under the *Subordinate Legislation Act 1978*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Postponement of expiry for 1 year—Regulations made before 1 January 1999

Schedule 1—Postponement of expiry

Schedule 2—Revocation of *Subordinate Legislation (Postponement of Expiry) Regulations 2008*

1—Short title

These regulations may be cited as the *Subordinate Legislation (Postponement of Expiry) Regulations 2009*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

In these regulations—

Act means the *Subordinate Legislation Act 1978*.

4—Postponement of expiry for 1 year—Regulations made before 1 January 1999

The expiry under Part 3A of the Act of the regulations listed in Schedule 1 is postponed for a period of 1 year commencing on 1 September 2009.

Schedule 1—Postponement of expiry

ASER (Restructure) Regulations 1998 made under the *ASER (Restructure) Act 1997*

Bank Merger (BankSA and Advance Bank) Regulations 1996 made under the *Bank Merger (BankSA and Advance Bank) Act 1996*

Bank Mergers (South Australia) (St. George/Advance) Regulations 1998 made under the *Bank Mergers (South Australia) Act 1997*

Births, Deaths and Marriages Registration Regulations 1996 made under the *Births, Deaths and Marriages Registration Act 1996*

Building Work Contractors Regulations 1996 made under the *Building Work Contractors Act 1995*

Business Names Regulations 1996 made under the *Business Names Act 1996*

Children's Services (Child Care Centre) Regulations 1998 made under the *Children's Services Act 1985*

City of Adelaide (Elections and Polls) Regulations 1998 made under the *City of Adelaide Act 1998*

City of Adelaide (Members Allowances and Benefits) Regulations 1998 made under the *City of Adelaide Act 1998*

Community Titles Regulations 1996 made under the *Community Titles Act 1996*

Consumer Credit (South Australia) (Savings and Transitional) Regulations 1996 made under the *Consumer Credit (South Australia) Act 1995*

Consumer Transactions Regulations (No. 2) 1996 made under the *Consumer Transactions Act 1972*

Controlled Substances (Poisons) Regulations 1996 made under the *Controlled Substances Act 1984*

Controlled Substances (Volatile Solvents) Regulations 1996 made under the *Controlled Substances Act 1984*

Conveyancers Regulations 1995 made under the *Conveyancers Act 1994*

Co-operatives Regulations 1997 made under the *Co-operatives Act 1997*

Criminal Investigation (Extraterritorial Offences) Regulations 1986 made under the *Criminal Investigation (Extraterritorial Offences) Act 1984*

Criminal Law Consolidation (Medical Termination of Pregnancy) Regulations 1996 made under the *Criminal Law Consolidation Act 1935*

Crown Lands Regulations 1996 made under the *Crown Lands Act 1929*

Dog and Cat Management Regulations 1995 made under the *Dog and Cat Management Act 1995*

Dog Fence Regulations 1997 made under the *Dog Fence Act 1946*

Education (Registration of Non-Government Schools) Regulations 1998 made under the *Education Act 1972*

Education Regulations 1997 made under the *Education Act 1972*

Electoral Regulations 1997 made under the *Electoral Act 1985*

Electricity (General) Regulations 1997 made under the *Electricity Act 1996*

Electricity (Principles of Vegetation Clearance) Regulations 1996 made under the *Electricity Act 1996*

Employment Agents Registration Regulations 1995 made under the *Employment Agents Registration Act 1993*

Expiation of Offences Regulations 1996 made under the *Expiation of Offences Act 1996*

Explosives Regulations 1996 made under the *Explosives Act 1936*

Fair Trading (Pre-paid Funerals Code of Practice) Regulations 1996 made under the *Fair Trading Act 1987*

Fees Regulation (Assessment of Requirements—Water and Sewerage) Regulations 1997 made under the *Fees Regulation Act 1927*

Financial Institutions Duty Regulations 1998 made under the *Financial Institutions Duty Act 1983*

Fisheries Management (Blue Crab Fishery) Regulations 1998 made under the *Fisheries Management Act 2007*

Gas Regulations 1997 made under the *Gas Act 1997*

Guardianship and Administration Regulations 1995 made under the *Guardianship and Administration Act 1993*

Harbors and Navigation (Breath Analysis and Blood Test) Regulations 1997 made under the *Harbors and Navigation Act 1993*

History Trust of South Australia Regulations 1995 made under the *History Trust of South Australia Act 1981*

Juries (General) Regulations 1998 made under the *Juries Act 1927*

Land Agents Regulations 1995 made under the *Land Agents Act 1994*

Land and Business (Sale and Conveyancing) Regulations 1995 made under the *Land and Business (Sale and Conveyancing) Act 1994*

Land Valuers Regulations 1995 made under the *Land Valuers Act 1994*

Libraries Regulations 1998 made under the *Libraries Act 1982*

Liquor Licensing (Dry Areas—Long Term) Regulations 1997 made under the *Liquor Licensing Act 1997*

Liquor Licensing (Dry Areas—Short Term) Regulations 1997 made under the *Liquor Licensing Act 1997*

Liquor Licensing (General) Regulations 1997 made under the *Liquor Licensing Act 1997*

Livestock Regulations 1998 made under the *Livestock Act 1997*

Local Government (Cemetery) Regulations 1995 made under the *Local Government Act 1934*

Mental Health Regulations 1995 made under the *Mental Health Act 1993*

Mines and Works Inspection Regulations 1998 made under the *Mines and Works Inspection Act 1920*

Mining Regulations 1998 made under the *Mining Act 1971*

Motor Vehicles Regulations 1996 made under the *Motor Vehicles Act 1959*

National Parks and Wildlife (Hunting) Regulations 1996 made under the *National Parks and Wildlife Act 1972*

National Parks and Wildlife (Parking) Regulations 1997 made under the *National Parks and Wildlife Act 1972*

Natural Gas Authority Regulations 1995 made under the *Natural Gas Authority Act 1967*

Occupational Health, Safety and Welfare Regulations 1995 made under the *Occupational Health, Safety and Welfare Act 1986*

Opal Mining Regulations 1997 made under the *Opal Mining Act 1995*

Plumbers, Gas Fitters and Electricians Regulations 1995 made under the *Plumbers, Gas Fitters and Electricians Act 1995*

Prisoners (Interstate Transfer) Regulation 1984 made under the *Prisoners (Interstate Transfer) Act 1982*

Psychological Practices Regulations 1996 made under the *Psychological Practices Act 1973*

Public and Environmental Health (Waste Control) Regulations 1995 made under the *Public and Environmental Health Act 1987*

Public Corporations (Adelaide Festival Centre Trust) Regulations 1998 made under the *Public Corporations Act 1993*

Public Corporations (Education Adelaide) Regulations 1998 made under the *Public Corporations Act 1993*

Public Corporations (Land Management Corporation) Regulations 1997 made under the *Public Corporations Act 1993*

Public Corporations (Lotteries Commission—Tax and Other Liabilities) Regulations 1997 made under the *Public Corporations Act 1993*

Public Corporations (Playford Centre) Regulations 1996 made under the *Public Corporations Act 1993*

Public Corporations (TransAdelaide—Tax and Other Liabilities) Regulations 1997 made under the *Public Corporations Act 1993*

Public Corporations (Transmission Lessor Corporation) Regulations 1995 made under the *Public Corporations Act 1993*

Public Sector Management Regulations 1995 made under the *Public Sector Management Act 1995*

Public Trustee Regulations 1995 made under the *Public Trustee Act 1995*

Railways (Operations and Access) (Evidentiary Provisions) Regulations 1998 made under the *Railways (Operations and Access) Act 1997*

Recreation Grounds Regulations 1996 made under the *Recreation Grounds (Regulations) Act 1931*

Reproductive Technology (Code of Ethical Clinical Practice) Regulations 1995 made under the *Reproductive Technology (Clinical Practices) Act 1988*

Residential Tenancies (General) Regulations 1995 made under the *Residential Tenancies Act 1995*

Residential Tenancies (Water Rates) Regulations 1995 made under the *Residential Tenancies Act 1995*

Retail and Commercial Leases Regulations 1995 made under the *Retail and Commercial Leases Act 1995*

Roxby Downs (Local Government Arrangement) Regulations 1997 made under the *Roxby Downs (Indenture Ratification) Act 1982*

Second-hand Dealers and Pawnbrokers Regulations 1998 made under the *Second-hand Dealers and Pawnbrokers Act 1996*

Second-hand Vehicle Dealers Regulations 1995 made under the *Second-hand Vehicle Dealers Act 1995*

Security and Investigation Agents Regulations 1996 made under the *Security and Investigation Agents Act 1995*

Sewerage Regulations 1996 made under the *Sewerage Act 1929*

South Australian Co-operative and Community Housing (Housing Associations) Regulations 1996 made under the *South Australian Co-operative and Community Housing Act 1991*

South Australian Housing Trust (General) Regulations 1995 made under the *South Australian Housing Trust Act 1995*

South Australian Housing Trust (Water Rates) Regulations 1995 made under the *South Australian Housing Trust Act 1936* and continued in existence for certain purposes under Schedule 2 clause 4 of the *South Australian Housing Trust Act 1995*

State Records Regulations 1998 made under the *State Records Act 1997*

Succession Duties Regulations 1996 made under the *Succession Duties Act 1929*

Superannuation Funds Management Corporation of South Australia Regulations 1995 made under the *Superannuation Funds Management Corporation of South Australia Act 1995*

Technical and Further Education (Vehicles) Regulations 1998 made under the *Technical and Further Education Act 1975*

Travel Agents Regulations 1996 made under the *Travel Agents Act 1986*

Trustee Regulations 1996 made under the *Trustee Act 1936*

Unclaimed Goods Regulations 1998 made under the *Unclaimed Goods Act 1987*

Water Resources (Penrice Exemption) Regulations 1997 made under the *Water Resources Act 1997*

Water Resources Regulations 1997 made under the *Water Resources Act 1997*

Waterworks Regulations 1996 made under the *Waterworks Act 1932*

Wheat Marketing Regulations 1998 made under the *Wheat Marketing Act 1989*

Witness Protection Regulations 1997 made under the *Witness Protection Act 1996*

Workers Rehabilitation and Compensation (Dispute Resolution) Regulations 1996 made under the *Workers Rehabilitation and Compensation Act 1986*

Workers Rehabilitation and Compensation (Rehabilitation Standards and Requirements) Regulations 1996 made under the *Workers Rehabilitation and Compensation Act 1986*

Youth Court (Fees) Regulations 1996 made under the *Youth Court Act 1993*

Schedule 2—Revocation of Subordinate Legislation (Postponement of Expiry) Regulations 2008

The *Subordinate Legislation (Postponement of Expiry) Regulations 2008* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

No 228 of 2009

AGO0056/08CS

South Australia

Legal Practitioners Regulations 2009

under the *Legal Practitioners Act 1981*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Legal Practitioners Regulations 2009*.

2—Commencement

These regulations will come into operation on 1 September 2009.

3—Interpretation

In these regulations—

Act means the *Legal Practitioners Act 1981*;

company practitioner means a company that holds a practising certificate;

registered company auditor has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

trust ledger accounts, in relation to a practitioner, means the detailed accounts required to be kept by the practitioner under section 31(4) of the Act of trust money received, and of any disbursement of or other dealings with the money.

4—Forms

The forms set out in Schedule 1 must—

- (a) be used for the purposes specified in the Schedule; and
- (b) contain the information required by, and be completed in accordance with, the instructions contained in the forms.

5—Fees

The fees set out in Schedule 2 are payable as specified in that Schedule.

Part 2—Practising certificates

6—Notification of changes in practitioner's circumstances

- (1) A legal practitioner must, within 1 month, give the Supreme Court and the Law Society notice in writing containing details of any of the following events:
 - (a) commencement or recommencement of practice on the part of the practitioner;
 - (b) cessation of practice by the practitioner;
 - (c) establishment of a new place of business by the practitioner;
 - (d) closure of a place of business of the practitioner;
 - (e) amalgamation of the practitioner's practice with the practice of another practitioner;
 - (f) entry by the practitioner into partnership with another practitioner;
 - (g) if the practitioner practises in partnership—dissolution of the partnership or the death or retirement of a member of the partnership or addition of a new member;
 - (h) opening or closure of a trust account by the practitioner;
 - (i) appointment by the practitioner of an approved auditor under these regulations;
 - (j) the death, resignation, removal from office or incapacity of an approved auditor appointed by the practitioner under these regulations.
- (2) For the purposes of subregulation (1)(b), a reference to ceasing to practise includes a reference to ceasing to practise in a way that entitles the practitioner to receive trust money or will involve the receipt of trust money.
- (3) The legal representative of a practitioner who dies while engaged in practice on his or her own behalf and not in partnership with another practitioner must, within 1 month after the death or 14 days after the grant of probate or letters of administration (whichever is the later), notify the Supreme Court and the Law Society of the death.
- (4) If the function of receiving notices under subregulation (1) or (3) is assigned to the Law Society under section 52A of the Act, the subregulation is to be taken to require that the notices be given only to the Law Society.

Note—

The functions of the Supreme Court under subregulations (1) and (3) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

Part 3—Notification by interstate practitioners establishing South Australian office

7—Notification by interstate practitioners establishing South Australian office

- (1) For the purposes of section 23D(1) of the Act, an interstate legal practitioner who establishes an office in this State must give the notice required under that section within 28 days after establishing the office.
- (2) For the purposes of section 23D(2) of the Act, the notice must contain the following particulars:
 - (a) the practitioner's full name and date of birth;
 - (b) each jurisdiction in which the practitioner currently holds an interstate practising certificate;
 - (c) what conditions or limitations (if any) are imposed on an interstate practising certificate held by the practitioner;
 - (d) the address of the practitioner's place of business in this State;
 - (e) the practitioner's current residential and other business addresses;
 - (f) whether the practitioner will practise in this State as a member of a partnership, as an employee, or as a director of a company, and, if so, the name and business addresses of the firm, employer or company of which the practitioner is a member, employee or director;
 - (g) whether the practitioner will operate a trust account in this State.

Part 4—Company practitioners

8—Annual return of company practitioner

- (1) If an annual return under section 24 of the Act submitted for lodgement with the Supreme Court—
 - (a) contains matter that is, in a material particular, false or misleading in the form and context in which it is included; or
 - (b) has not been properly completed because of an omission or misdescription; or
 - (c) does not comply with these regulations,the Court may refuse to receive the document and may request that the document be appropriately amended or completed and re-submitted or that a fresh document be submitted in its place.
- (2) A company must, at the request of the Supreme Court, supply the Court with such further documents or information as the Court may reasonably require.

Note—

The functions and powers of the Supreme Court under subregulations (1) and (2) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

9—Supreme Court may obtain certain information

- (1) For the purpose of determining whether a company practitioner has complied with sections 16, 25 and 29 of the Act, the Supreme Court may by notice in writing require the company practitioner or a director of the company to provide the Court with such information in relation to those matters as the Court may reasonably require.
- (2) A company practitioner must comply with a requirement of the Supreme Court under subregulation (1).

Note—

The functions and powers of the Supreme Court under subregulations (1) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

Part 5—Trust accounts and audit

Division 1—Preliminary

10—Interpretation

In this Part—

practitioner means a legal practitioner within the meaning of Part 3 Division 5 of the Act.

Division 2—Trust records

11—General duty with respect to records

- (1) The records required to be kept by a practitioner under this Division—
 - (a) will be subject to audit as records kept under Part 3 Division 5 of the Act; and
 - (b) must be kept by the practitioner accurately and in a manner that enables the receipt and disposition of trust money by the practitioner to be conveniently and properly audited.
- (2) If a practitioner uses a computer program to keep records under this Division, the practitioner must ensure that—
 - (a) at least once in each month, an electronic copy of all the records is made and kept in a safe place at a location other than the premises where the computer program is operating; and
 - (b) before any information is deleted from the computer records, a hard copy of the information is made and kept by the practitioner as part of the practitioner's records; and
 - (c) an up-to-date electronic copy of the computer program is made and kept in a safe place at a location other than the premises where the computer program is operating.

12—Receipting of trust money by practitioner

- (1) If a practitioner receives trust money that must, pursuant to section 31 of the Act, be deposited in the practitioner's trust account, the practitioner must make out a receipt for it—
 - (a) that is legibly written on a form comprised in a series of consecutively pre-numbered duplicate receipt forms marked with the name of the practitioner or firm and the words "Trust Account"; and
 - (b) that contains the following information:
 - (i) —
 - (A) in the case of a payment made by electronic transfer of funds into a practitioner's trust account—the date on which the practitioner makes out the receipt;
 - (B) in any other case—the date of the payment;
 - (ii) the name of the person making the payment;
 - (iii) whether the payment is by cash, cheque, bank cheque or electronic transfer of funds into the practitioner's trust account and, if the payment is by cheque or bank cheque, the name of the drawer of the cheque;
 - (iv) the name of the person for whom the money is received;
 - (v) brief particulars of the purpose of the payment;
 - (vi) the amount of the payment.
- (2) A receipt required under this regulation must be made out—
 - (a) in the case of a payment made by electronic transfer of funds into a practitioner's trust account—immediately the practitioner receives official confirmation that the payment has been made (whether that is by way of receipt by the practitioner of a trust account statement or some other way, whichever occurs sooner); or
 - (b) in any other case—immediately on receipt of the payment.
- (3) The practitioner must make the original receipt available to the person who made the payment of trust money.
- (4) The practitioner must ensure that a legible copy of the receipt is made on the duplicate form containing the same details as the original receipt and must keep the duplicate form as part of the practitioner's records.
- (5) A practitioner need not comply with subregulations (1)(a) and (4) if the practitioner uses a computer program to make out the receipt and the program—
 - (a) automatically produces in chronological sequence consecutively numbered receipts marked with the name of the practitioner or firm and the words "Trust Account"; and
 - (b) automatically makes a separate contemporaneous record of the receipt so that, at any time, a hard copy of the receipt may be produced; and
 - (c) requires input in each field of a data entry screen intended to receive information for the purposes of producing the receipt so that each receipt contains all of the information required by subregulation (1)(b).

13—Payment of trust money by practitioner

- (1) A practitioner must not make a payment of trust money by cash but may—
 - (a) make a payment of trust money by cheque; or
 - (b) authorise a payment of trust money by electronic transfer of funds from the practitioner's trust account to an ADI account.
- (2) If a practitioner makes a payment of trust money by cheque, the practitioner—
 - (a) must ensure that the cheque is marked with the name of the practitioner or firm and the words "Trust Account"; and
 - (b) must—
 - (i) cause the cheque to be crossed and endorsed "Not negotiable"; or
 - (ii) obtain from the person receiving the cheque a receipt that complies with subregulation (3) and keep the receipt as part of the practitioner's records; and
 - (c) must prepare and keep as part of the practitioner's records a cheque stub or voucher containing the following information:
 - (i) the date and reference number of the cheque;
 - (ii) the name of the payee;
 - (iii) the client name or reference and brief particulars of the purpose of the payment;
 - (iv) the amount of the cheque.
- (3) The receipt must be legible and contain the following information:
 - (a) the date and reference number of the cheque;
 - (b) particulars identifying the trust account against which the cheque is drawn;
 - (c) the name of the payee;
 - (d) brief particulars of the purpose of the payment;
 - (e) the amount of the cheque.
- (4) If a practitioner authorises the payment of trust money by electronic transfer of funds, the practitioner—
 - (a) must prepare and keep as part of the practitioner's records the following information:
 - (i) the date and reference number of the payment;
 - (ii) the name of the payee;
 - (iii) the client name or reference and brief particulars of the purpose of the payment;
 - (iv) the name or style of the ADI account to which the payment is made, its number and the identifying numbers of the receiving ADI and its branch;
 - (v) the amount of the payment; and
 - (b) must, on receiving official written confirmation that the payment has been made, keep that confirmation as part of the practitioner's records.

14—Cash books

- (1) A practitioner must keep as part of the practitioner's records—
 - (a) a cash receipts book in which the practitioner records the following information in respect of each receipt of trust money:
 - (i) the date and reference number of the receipt;
 - (ii) the name of the person from whom the money is received;
 - (iii) the client name or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the receipt;
 - (v) the amount of the receipt; and
 - (b) a cash payments book in which the practitioner records the following information in respect of each payment of trust money:
 - (i) the date and reference number of the cheque or electronic transfer of funds by which the payment was made;
 - (ii) the name of the payee;
 - (iii) the client name or reference to which the transaction relates;
 - (iv) brief particulars of the purpose of the payment;
 - (v) the amount of the cheque or electronic transfer of funds.
- (2) A practitioner need not keep a cash receipts book or a cash payments book as required by subregulation (1) if the practitioner uses a computer program to record the information referred to in that subregulation in respect of each receipt or payment of trust money and the program—
 - (a) requires input in each field of a data entry screen intended to receive information in respect of a receipt or payment so that all of the information referred to in subregulation (1) is recorded in respect of each receipt and payment; and
 - (b) is capable, at any time, of producing—
 - (i) a report of the information in respect of receipts of trust money in the order in which they were received; and
 - (ii) a report of the information in respect of payments of trust money in the order in which they were made.
- (3) A practitioner who uses a computer program as referred to in subregulation (2) must ensure that—
 - (a) at the end of each month, hard copies of each of the following reports are produced:
 - (i) a report of the information in respect of receipts of trust money received during that month in the order in which they were received;
 - (ii) a report of the information in respect of payments of trust money made during that month in the order in which they were made; and
 - (b) those hard copies are kept as part of the practitioner's records.
- (4) The records of receipts and payments must be made by the practitioner in accordance with this regulation in the order in which they are received or made, each such record being made within 2 working days after the receipt or payment in question.

- (5) Subregulation (4) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the practitioner receives official confirmation that the transfer has occurred.
- (6) The Supreme Court may, on terms and conditions that the Court thinks fit, exempt a practitioner from the obligation to record within the time required under subregulation (4) or (5) a receipt or payment.

Note—

The power of the Court under subregulation (6) is assigned, by rules of court, to the Law Society (see section 52A of the Act and *Supreme Court Admission Rules 1999*).

15—Separate trust ledger accounts

- (1) A practitioner must ensure that the practitioner's trust ledger accounts are kept separately—
 - (a) in respect of each of the practitioner's clients; and
 - (b) if the practitioner performs services for a client in respect of a number of transactions between different parties—in respect of each such transaction.
- (2) The practitioner must record in each of the separate accounts the following details:
 - (a) the name and address of the client to whom the accounts relate;
 - (b) a brief description of the service provided and the transaction to which the accounts relate;
 - (c) in respect of each receipt or disbursement of trust money—
 - (i) the date and reference number of the receipt or disbursement;
 - (ii) the name of the person from whom the money is received or to whom the money is disbursed;
 - (iii) brief particulars of the purpose of the receipt or disbursement;
 - (iv) the amount received or disbursed.
- (3) The practitioner must ensure that any changes in the details referred to in subregulation (2)(a) or (b) are recorded in a manner that enables the changes and the order in which they occurred to be identified.
- (4) If the practitioner transfers money between any of the separate accounts, the practitioner must clearly record the transfer—
 - (a) in both accounts; and
 - (b) in a transfer journal,in sufficient detail that the transfer may be clearly understood.
- (5) The records of receipts, disbursements and transfers must be made by the practitioner in accordance with this regulation in the order in which the receipts, disbursements or transfers are received or made, each such record being made within 2 working days after the receipt, disbursement or transfer in question.
- (6) Subregulation (5) does not apply in relation to receipts or payments by way of electronic transfer of funds, a record of which must be made within 2 working days after the practitioner receives official confirmation that the transfer has occurred.

- (7) The Supreme Court may, on terms and conditions that the Court thinks fit, exempt a practitioner from the obligation to record within the time required under subregulation (5) or (6) a receipt, disbursement, transfer or payment.
- (8) If a practitioner uses a computer program to keep trust ledger accounts or a transfer journal, the practitioner must ensure that—
 - (a) the program is incapable of—
 - (i) recording a transaction that would result in a debit balance in a trust ledger account unless a separate contemporaneous record of the transaction is also made so that, at any time, a hard copy may be produced of all such transactions in chronological order; and
 - (ii) deleting from its records the information relating to a trust ledger account unless—
 - (A) the balance of the account is zero; and
 - (B) a hard copy of all of the information required under this Division relating to the account has been produced; and
 - (C) all cheques drawn against the account have been presented; and
 - (iii) changing existing information relating to a transaction otherwise than by making a further entry showing a separate transaction to effect the change; and
 - (b) the program automatically inserts consecutive page numbers into any hard copy report produced by use of the program; and
 - (c) the program requires input in each field of a data entry screen intended to receive information for the purposes of a trust ledger account or transfer journal so that the entry contains all of the information required by this regulation; and
 - (d) hard copies of the trust ledger accounts and transfer journal are produced within 2 days of a request from an approved auditor or an inspector.

Note—

The power of the Court under subregulation (7) is assigned, by rules of court, to the Law Society (see section 52A of the Act and *Supreme Court Admission Rules 1999*).

16—Reconciliation statements

- (1) A practitioner must, at the end of each month, prepare and keep as part of the practitioner's records—
 - (a) a statement reconciling the balance of the practitioner's cash books, or equivalent computer records, kept under regulation 14 with the balance of the practitioner's trust account; and
 - (b) a statement reconciling the balances of the ledgers comprised in the practitioner's trust ledger accounts with the balance of the practitioner's trust account.
- (2) The practitioner is not required to set out a list of individual balances, or the names of the clients on whose behalf money is held, when preparing the statement referred to in subregulation (1)(b).

17—Transfer of money from trust account to office account

- (1) A practitioner who becomes entitled to money held in the practitioner's trust account in or towards satisfaction of the practitioner's legal costs must, as soon as practicable, transfer the money to an ADI account maintained by the practitioner for receipts other than trust money.
- (2) A practitioner who fails to make such a transfer within 3 months of becoming entitled to do so will be taken to have permitted trust money to be intermixed with other money without the approval of the Supreme Court contrary to section 31(6)(a) of the Act.

18—Practitioner must retain written direction as to disposition of trust money

If a practitioner is given a written direction to dispose of trust money in a specified manner under section 31(2) of the Act, the practitioner must retain the written direction as part of the practitioner's records.

19—Trust account statements

- (1) Pursuant to section 31(7a) of the Act, a practitioner who receives trust money in the course of acting in a matter must provide the person who instructed him or her in the matter with a trust account statement within a reasonable time of—
 - (a) a request by the person who instructed him or her in the matter; or
 - (b) an appropriation of trust money in or towards satisfaction of legal costs payable by the person who instructed him or her in the matter; or
 - (c) the conclusion of the practitioner's involvement in the matter.
- (2) For the purposes of subregulation (1)(b), disbursements to meet court or government fees or charges are not to be treated as legal costs.
- (3) A trust account statement prepared in relation to a matter under this regulation must contain all of the information required to be included in the trust ledger accounts relating to that matter and must include sufficient detail that each receipt, disbursement or transfer of trust money may be clearly understood.

Note—

A trust account statement may consist of a copy of the relevant trust ledger accounts provided it satisfies the requirements of this subregulation.

20—Register of Direct Payments

- (1) If a practitioner receives direct payments of trust money, the practitioner must—
 - (a) keep a register designated the *Register of Direct Payments* as part of the practitioner's records; and
 - (b) record in the register in respect of each receipt of trust money that is not to be deposited in the practitioner's trust account in accordance with a written direction under section 31(2) of the Act the following details:
 - (i) the date of the receipt;
 - (ii) the name of the person on whose behalf the money is received;
 - (iii) the amount of the receipt;
 - (iv) the reference number of any cheque by which the payment was made to the practitioner;
 - (v) the name of the payer;

- (vi) brief particulars of the purpose of the receipt;
 - (vii) the name of the person to whom the money is directed and the date on which it is forwarded.
- (2) If a practitioner uses a computer program to keep the register, the practitioner must ensure that—
- (a) the program requires input in each field of a data entry screen intended to receive information for the purposes of the register so that the entry contains all of the information required to be recorded in the register by this regulation; and
 - (b) the program is capable of producing a hard copy of the register on request of an approved auditor or inspector.

21—Register of Investments

- (1) If a practitioner invests trust money (whether the investment is made in the practitioner's own name, in the name of another or jointly in the practitioner's own name and the name of another), the practitioner must—
- (a) keep a register designated the *Register of Investments* as part of the practitioner's records; and
 - (b) record in the register in respect of each investment of trust money made by the practitioner the following details:
 - (i) the name in which the investment is held;
 - (ii) the name of the person on whose behalf the investment is made;
 - (iii) the amount invested for each person;
 - (iv) the person's address;
 - (v) the date on which the investment is made;
 - (vi) a description of the investment;
 - (vii) details (including the cheque number or other means of identification) of the payment sufficient to identify the payment in the practitioner's trust ledger account;
 - (viii) a statement as to whether a certificate or other document evidencing the investment or security is held by the practitioner;
 - (ix) when the investment matures or is realised (in whole or in part) and the practitioner receives the proceeds on behalf of another person—a reference to the record of receipt kept by the practitioner under regulation 12 in respect of the trust money so received.
- (2) Details need not be recorded in the register in respect of an investment for which the practitioner holds a security that is required to be recorded in the practitioner's Register of Securities under regulation 22.
- (3) The practitioner must keep the register up to date in respect of any interest on an investment to which this regulation applies that has also been invested by the practitioner.

- (4) If a practitioner uses a computer program to keep the register, the practitioner must ensure that—
 - (a) the program requires input in each field of a data entry screen intended to receive information for the purposes of the register so that the entry contains all of the information required to be recorded in the register by this regulation; and
 - (b) the program is capable of producing a hard copy of the register on request of an approved auditor or inspector.

22—Register of Securities

- (1) If a practitioner is authorised (either expressly or by operation of law) to exercise direct or indirect control of a security to which the practitioner is not wholly entitled in law and in equity, the practitioner must—
 - (a) keep a register designated the *Register of Securities* as part of the practitioner's records; and
 - (b) record in the register the details required under subregulation (2) in respect of each such security.
- (2) The following details are required to be recorded in the register:
 - (a) the date the practitioner receives the security;
 - (b) a description of the security;
 - (c) the name of the person on whose behalf, or in trust for whom, the security is held;
 - (d) the date on which the security is delivered out of the practitioner's possession and control;
 - (e) particulars of the person to whom and the circumstances under which the security is disposed of.
- (3) If a practitioner uses a computer program to keep the register, the practitioner must ensure that—
 - (a) the program requires input in each field of a data entry screen intended to receive information for the purposes of the register so that the entry contains all of the information required to be recorded in the register by this regulation; and
 - (b) the program is capable of producing a hard copy of the register on request of an approved auditor or inspector.
- (4) In this regulation—

securities include debentures, bonds, stock, funds, shares, promissory notes and documents of any kind evidencing indebtedness.

23—Period for which accounts and records must be retained

Accounts and records must be retained by a practitioner as follows:

- (a) in the case of trust ledger accounts—for 7 years after the last entry is made;
- (b) in the case of other records required to be kept under this Division—for 7 years after the last entry is made;
- (c) in the case of files relating to trust transactions—for 7 years after the last entry is made.

24—Exemption

- (1) Pursuant to section 38(c) of the Act, but subject to this regulation, a practitioner is exempt from the operation of Part 3 Division 5 of the Act and this Part in respect of the receipt and delivery of a cheque by the practitioner if the cheque—
 - (a) is a crossed cheque expressed to be payable to a person or persons not being or including the practitioner (whether or not it is also expressed to be payable to bearer); and
 - (b) is held by the practitioner for the purpose of delivery to a person to whom the cheque is expressed to be payable (or such a person's agent), and is so delivered.
- (2) Subregulation (1) does not apply to a cheque expressed to be payable to a person in a prescribed relationship with the practitioner (within the meaning of section 5(5) of the Act) if the practitioner advised that such a payment be made and the money concerned would come under the indirect control of the practitioner through the prescribed relationship or otherwise.

Division 3—Approved auditors

25—Approval of auditor by Supreme Court

- (1) Pursuant to section 33(1)(a) of the Act, the Supreme Court may, on application, approve an applicant as an auditor for the purposes of the Act if the applicant—
 - (a) is a public accountant engaged as a principal in practice in South Australia; and
 - (b) has, within the period of 2 years immediately preceding the application, satisfactorily completed the *Basic Solicitors' Trust Accounts Audit Course* conducted by the Law Society; and
 - (c) —
 - (i) is a registered company auditor; or
 - (ii) is a member of The Institute of Chartered Accountants in Australia, the National Institute of Accountants or CPA Australia Ltd who—
 - (A) has been continuously engaged for at least 3 years in practice as a public accountant in the State (either as a principal or as an employee of a public accountant); and
 - (B) has, at least twice within the period of 3 years immediately preceding the application, worked as an assistant in auditing a practitioner's trust account under the direct supervision of an approved auditor (whether the auditor was approved under this regulation or under the revoked regulation); and
 - (C) is of good character.
- (2) The Supreme Court may, if it thinks fit in relation to an applicant, dispense with the requirement that the applicant comply with subregulation (1)(c)(ii)(A) or (B) (or both).
- (3) The Supreme Court may withdraw the approval of an auditor if—
 - (a) the auditor does not satisfy a requirement set out in subregulation (1); or

- (b) the auditor does not comply with a requirement of the Court to attend a refresher course conducted by the Law Society for auditors of solicitors' trust accounts; or
- (c) there is any other sufficient reason to withdraw the approval.

Note—

The functions and powers of the Supreme Court under subregulations (1), (2) and (3) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

26—Appointment of auditor

- (1) A practitioner who commences or recommences to practise the profession of the law and who maintains a trust account must, within 2 months after the commencement or recommencement, appoint an approved auditor for the purposes of Part 3 Division 5 of the Act.
- (2) The appointment by a practitioner of a firm of public accountants of which at least 1 member is an approved auditor will, for the purposes of subregulation (1), be taken to be a valid appointment under that subregulation of each person who is, from time to time, a member of the firm and is an approved auditor.
- (3) An approved auditor or firm may only be appointed by a practitioner under this regulation if the auditor or firm agrees to the appointment by notice in writing addressed to the practitioner.
- (4) A person must not hold himself or herself out, or act, as a practitioner's approved auditor unless—
 - (a) the person is an approved auditor; and
 - (b) the person or his or her firm has agreed to the appointment in accordance with subregulation (3).
- (5) An approved auditor who has been appointed under this regulation may not resign or be removed from office by a practitioner without the prior approval of the Supreme Court.
- (6) Subject to subregulation (2), if an approved auditor appointed under this regulation—
 - (a) dies; or
 - (b) with the approval of the Supreme Court, resigns or is removed from office; or
 - (c) becomes incapable of auditing the accounts of the practitioner (whether because the Court has withdrawn approval or for another reason),

the practitioner must, within 2 months, appoint another approved auditor.

Note—

The functions and powers of the Supreme Court under subregulations (5) and (6) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

27—Auditing accounts and records

- (1) An approved auditor appointed to audit the accounts and records of a practitioner under Part 3 Division 5 of the Act must conduct such audits in accordance with these regulations as and when such audits are required under the Act.

- (2) If a practitioner carries on practice at more than 1 place, the Supreme Court may from time to time give such directions as the Court thinks fit—
- (a) for separate audits of the practitioner's accounts and records in respect of the practice carried on at each place;
 - (b) for the acceptance by the auditor of the certificates of a person approved by the Court with respect to the examination of the accounts and records kept at a branch of the practice.
- (3) In carrying out an audit, the approved auditor must—
- (a) make checks that will enable the auditor to give an opinion as to whether the practitioner has, during the period covered by the audit, complied with the Act and these regulations relating to the practitioner's accounts and records; and
 - (b) ascertain whether a trust account under Part 3 Division 5 of the Act was kept by the practitioner during that period; and
 - (c) make a general test examination of any trust account kept by the practitioner and of the pass books and statements relating to any such account during that period; and
 - (d) ascertain whether the practitioner holds any investments of trust money and obtain independent verification of each such investment; and
 - (e) make a comparison as to no fewer than 2 dates (1 to be the last day of the period of the audit and 1 other to be a date within that period selected by the auditor) between—
 - (i) the liabilities of the practitioner to the practitioner's clients and to other persons in connection with the practitioner's practice as shown by the practitioner's trust ledger accounts and the records kept under Division 2; and
 - (ii) the aggregate of the balances standing to the credit of the practitioner's trust account and on deposit by the practitioner in the combined trust account under section 53 of the Act; and
 - (f) ask for such information and explanations as the auditor may require for the purposes of this regulation.
- (4) For the purpose of making checks, and the general test examination referred to in subregulation (3), the approved auditor is entitled to examine such number of dealings representative of each phase of the practitioner's practice as the auditor in the circumstances considers reasonable.

Note—

The power of the Supreme Court under subregulation (2) is assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

28—Practitioner's statement

- (1) A practitioner who is required to have accounts and records audited by an approved auditor under Part 3 Division 5 of the Act must, within 2 months after the last day of the period to which the audit relates, certify—
- (a) under his or her hand; or
 - (b) in the case of a firm—under the hands of not less than 2 partners of the firm; or

- (c) in the case of a company practitioner—under the hand of 1 or more of the directors of the company,

and deliver to the auditor a statement setting out in detail, as of the last day of the period to which the audit relates—

- (d) the names of all persons on whose behalf the practitioner is holding trust money and the amount of the credit of each such person; and
 - (e) particulars of any trust ledger accounts with a balance that has not (apart from the crediting of interest) changed during the period to which the audit relates, including an explanation of why the balances have been dormant; and
 - (f) particulars of any trust ledger accounts that have had a debit balance during the period to which the audit relates, including an explanation of why the accounts have had a debit balance; and
 - (g) particulars of any trust accounts that have had a debit balance during the period to which the audit relates, including an explanation of why the trust accounts have had a debit balance; and
 - (h) the amount standing on deposit by the practitioner in the combined trust account under section 53 of the Act; and
 - (i) particulars of any occasion within the period to which the audit relates that the practitioner withheld all or part of a deposit required to be made to the combined trust account, including whether the practitioner provided a notice of withholding pursuant to section 53(4) of the Act to the Society and the date on which any such notice was provided; and
 - (j) particulars of any occasion within the period to which the audit relates that the practitioner withdrew funds from the combined trust account including the date and the amount of the withdrawal; and
 - (k) —
 - (i) the names of the ADI accounts in which the balance of the practitioner's trust money is lodged and the balances on that date of those ADI accounts; and
 - (ii) if the trust account balances are not in agreement with the balances of the practitioner's trust ledger accounts—a statement reconciling those balances; and
 - (l) whether the practitioner holds securities or investments (whether alone or jointly with others) that are required under these regulations to be entered in the practitioner's Register of Securities or Register of Investments.
- (2) A statement under subregulation (1) must be dated by the practitioner at the time the practitioner certifies as to the particulars set out in the statement.
- (3) A true copy of the statement under this regulation must be retained by the practitioner and produced on demand to the approved auditor making the next succeeding audit of the practitioner's accounts and records, together with a signed copy of the report of the last preceding audit of the practitioner's accounts and records.

- (4) If a practitioner's accounts and records are being audited for the first time or, if for any other reason a copy of a statement cannot be produced as required under subregulation (3) for the purpose of audit, the practitioner must instead give to the auditor, before the auditor reports, a statement containing the particulars as to trust money, securities and investments held on the first day of the year or other period to which the audit relates.
- (5) A statement under subregulation (4) must be verified by statutory declaration—
 - (a) of the practitioner; or
 - (b) in the case of a firm of practitioners—of not less than 2 of the partners of the firm; or
 - (c) in the case of a company practitioner—of not less than 2 directors of the company.

29—Auditor's report

- (1) The approved auditor must, in each report for the purposes of section 33 of the Act or regulation 33, include all matters relating to the practitioner's accounts and records that should, in the auditor's opinion, be communicated to the Supreme Court and, in particular, deal with each of the following matters:
 - (a) whether the accounts and records appear to have been kept regularly and properly written up at all times;
 - (b) whether the accounts and records have been ready for examination at the times appointed by the auditor;
 - (c) whether the practitioner has complied with the auditor's requirements;
 - (d) whether, at any time during the period of the audit, the practitioner's trust account was overdrawn or deficient and, if so, the full explanation for that given by the practitioner;
 - (e) whether the practitioner has, or has had, any debit balances in his or her trust ledger accounts and the explanation or reason for such a debit given by the practitioner;
 - (f) whether the practitioner has drawn from his or her trust account a sum on account of costs or otherwise without at the same time allocating the drawing to a specific account (other than a sum deposited in the combined trust account under section 53 of the Act);
 - (g) whether the practitioner has complied with section 53 of the Act;
 - (h) whether the practitioner holds any investments of trust money and, if so, any independent verification of such investments obtained by the auditor for the purposes of regulation 27(3)(d);
 - (i) whether the auditor has received and examined the statement given to the auditor under regulation 28 and the result of that examination, including the result of examination in relation to trust ledger accounts with dormant balances;
 - (j) if the practitioner uses a computer program to keep the practitioner's accounts and records, whether the program allows for the accounts and records to be conveniently and properly audited;
 - (k) any other matter required by the Act to be included in the report.

- (2) A report need not deal with deficiencies in a trust account that have been promptly rectified and were due to inadvertence or trust account errors provided that, in the case of deficiencies due to inadvertence, the total of the deficiencies has not exceeded \$100 in any 3 month period.
- (3) Each copy of the report required for the purposes of the Act or these regulations must have attached to it a copy of the practitioner's statement under regulation 28(1).
- (4) The auditor must deliver a copy of the report to the practitioner.
- (5) The practitioner must keep the copy of the approved auditor's report and produce it on demand to the approved auditor making the next succeeding audit of the practitioner's accounts and records.

30—Obtaining information for purposes of audit

An approved auditor appointed by a practitioner is free to examine the accounts, books, papers, securities and other documents that the auditor is entitled to examine under section 35 of the Act at any time during normal business hours of the practitioner during the currency of the appointment of the auditor.

31—Reports of irregularities

- (1) If, on receiving an approved auditor's report, it appears to the Supreme Court that the report discloses an irregularity, the Court must immediately forward a copy of the report to the Law Society.
- (2) If an approved auditor, in the course of auditing a practitioner's accounts and records, discovers—
 - (a) that they are not kept in a manner that enables them to be properly audited; or
 - (b) a matter that appears to the auditor to involve dishonesty or a breach of the law on the part of the practitioner; or
 - (c) a loss or deficiency of trust money or a failure to pay or account for trust money; or
 - (d) a failure to comply with the provisions of the Act or these regulations,the auditor must as soon as possible furnish a report in respect of the discovery to the Supreme Court and the practitioner concerned.
- (3) The Supreme Court must immediately forward a copy of a report under subregulation (2) to the Law Society.
- (4) Subregulations (1) and (3) do not apply if the function of receiving an auditor's report is assigned to the Law Society under section 52A of the Act.

Note—

The functions of the Supreme Court under this regulation are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

32—Access to auditors' reports etc

- (1) On request by a person interested in any money or securities that are or have been or should be held by a practitioner, the Supreme Court may disclose to the person or the person's solicitor any portion of an approved auditor's report, or of a statutory declaration, statement or other evidence, that may affect the person.

- (2) An approved auditor's report or any statutory declaration, statement or other evidence lodged with the Supreme Court under these regulations is available for inspection—
 - (a) by the approved auditor appointed to audit the accounts and records of the same practitioner for the next succeeding year; or
 - (b) by an inspector appointed under section 34 of the Act for any purpose in relation to that practitioner.

Note—

The power of the Supreme Court under subregulation (1) is assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

33—Audit when practitioner ceases to practise or hold trust money

- (1) This regulation applies to a practitioner who—
 - (a) practices on his or her own behalf and not in partnership with another practitioner; or
 - (b) is a partner in a firm; or
 - (c) is a company practitioner,and a reference in this regulation to a practitioner includes a reference to a former practitioner.
- (2) If a practitioner to whom this regulation applies ceases to practise or closes his or her trust account, the practitioner, or, if the practitioner has died, the practitioner's personal representative, must—
 - (a) cause the practitioner's accounts and records under Part 3 Division 5 of the Act to be audited and reported on by an approved auditor for the period from the previous audit up to the date of cessation; and
 - (b) submit a copy of the approved auditor's report to the Supreme Court within 4 months of the practitioner's ceasing to practise or within such further period as the Court may allow.
- (3) Except as otherwise determined by the Supreme Court, the practitioner, or the practitioner's personal representative, must, in each year after the practitioner ceases to practise and until the practitioner's affairs (so far as they relate to trust money and other matters required to be recorded under Division 2) are properly and finally wound up—
 - (a) cause the practitioner's accounts and records under Part 3 Division 5 of the Act to be audited and reported on by an approved auditor for the period from the previous audit up to the next succeeding 30 June or the date of winding up (whichever is earlier); and
 - (b) submit a copy of the approved auditor's report to the Court on or before 31 October in that year or a date being 4 months after the date of winding up (whichever is earlier).
- (4) The relevant provisions of the Act and of these regulations apply (subject to such modifications as may be necessary) to the audit and report required by this regulation.
- (5) The practitioner, or his or her personal representative, must continue to comply with the Act and these regulations as if the practitioner had not ceased to practise until the practitioner's affairs (so far as they relate to trust money and other matters required to be recorded under Division 2) are properly and finally wound up.

- (6) The preceding provisions of this regulation do not apply to a practitioner who, before ceasing to practise, was a member of a firm if all continuing members of the firm and (unless the practitioner is dead) the practitioner certify to the Supreme Court that the trust money and other matters in respect of which records are required to be kept under Division 2 are under the proper administration and control of the continuing partners or some of them.
- (7) The Supreme Court may excuse a practitioner to whom this regulation applies who has ceased to practise and who has complied with this regulation from the obligation to make a statutory declaration under regulation 34 in respect of the period up to the expiration of any practising certificate held by the practitioner when he or she ceased to practise.
- (8) For the purposes of this regulation, a reference to ceasing to practise includes a reference to ceasing to practise in a way that entitles the practitioner to receive trust money or will involve the receipt of trust money.

Note—

The functions and powers of the Supreme Court under subregulations (2), (3), (6) and (7) are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

34—Declaration as to non-keeping of trust account

- (1) If a practitioner ceases to practise, the practitioner (or if he or she has died, the practitioner's personal representative) must, if he or she did not keep a trust account during the financial year up to cessation of practice, within 4 months of the cessation, make a statutory declaration to that effect and forward it to the Supreme Court.
- (2) The Supreme Court must notify the Law Society of the name of any practitioner who makes a statutory declaration under this regulation.
- (3) Subregulation (2) does not apply if the function of receiving a statutory declaration under this regulation is assigned to the Law Society under section 52A of the Act.
- (4) In this regulation—
practitioner includes former practitioner.

Note—

The functions of the Supreme Court under this regulation are assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

35—Audit and report etc for firm operates for each partner

An audit of accounts and records kept by a firm of practitioners and the auditor's report and attached statement relating to the firm's accounts and records will be taken to operate as an audit, report and statement in respect of each legal practitioner who is a partner of the firm.

36—Certain persons may not audit accounts and records of practitioner

A person must not audit the accounts and records of a practitioner if the person—

- (a) is, or has been within 2 years, an employee or partner of the practitioner; or
- (b) is an employee of another practitioner actually in practice; or
- (c) is, himself or herself, a practitioner in practice.

37—Practitioner to bear cost of audit

Subject to any written agreement between a practitioner and a person on behalf of whom the practitioner holds trust money, the practitioner must bear the cost of auditing the accounts and records relating to such trust money.

Part 6—Miscellaneous

38—Miscellaneous prescribed matters under Act

- (1) For the purposes of section 17(2) of the Act, the prescribed fine is—
 - (a) if the applicant has practised the profession of law while not holding a practising certificate for a period not exceeding 3 months—50% of the amount fixed as the fee for the issue or renewal of a practising certificate for at least 6 months;
 - (b) in any other case—100% of the amount of that fee.
- (2) For the purposes of section 21(3)(n)(i)(A) of the Act, the maximum rental is \$36 000 per annum.
- (3) For the purposes of section 21(3)(n)(ii)(A) of the Act, the maximum rental is \$17 000 per annum.
- (4) For the purposes of sections 31(9) and 53(8) of the Act, the prescribed rate is 2% above the rate fixed from time to time on interest on judgment by the Supreme Court under rule 261 of the *Supreme Court Civil Rules 2006*.
- (5) For the purposes of section 60(3) of the Act, the prescribed rate is 10% per annum.
- (6) For the purposes of section 64(2) of the Act, the prescribed percentage is 5%.
- (7) For the purposes of section 95(1)(b)(i) of the Act, the prescribed proportion is 19%.
- (8) For the purposes of section 95(1)(b)(ii) of the Act, the prescribed proportion is 78.5%.

39—Lowest aggregate amount

For the purposes of section 53(4)(b) of the Act, the sum fixed is \$10 000.

40—Oath of public notary

For the purposes of section 91(3) of the Act, the oath to be taken by a person admitted as a public notary under Part 7 of the Act must be in the following form:

"I do swear that I will not make or attest any act, contract or instrument in which I know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary according to the best of my skill and ability. So help me God."

41—Obligation to provide information to Supreme Court

- (1) A practitioner or other person must, if so required by the Supreme Court, furnish to the Court any evidence, record or information reasonably required by the Court for the purpose of determining an application or exercising a discretion under the Act or these regulations.
- (2) If the Supreme Court has, by rules of court, assigned a function or power conferred or vested on it under Part 3 of the Act to a person or body other than a judge of the Court, a person affected by a decision of the assignee, or the failure of the assignee to make a decision, may appeal to the Supreme Court.

- (3) An appeal under this regulation is by way of a fresh hearing.

Note—

The power of the Supreme Court under subregulation (1) is assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the *Supreme Court Admission Rules 1999*).

42—Offences

If a person contravenes, or fails to comply with a provision of these regulations, the person is guilty of an offence.

Maximum penalty: \$10 000.

43—General defence

It is a defence to a charge of an offence under these regulations if the defendant proves that the alleged offence—

- (a) was due to a reasonable mistake; or
- (b) was due to reasonable reliance on information supplied by another person; or
- (c) that—
 - (i) the alleged offence was due to the act or default of another person, to an accident or to some other cause beyond the control of the defendant; and
 - (ii) the defendant took reasonable precautions and exercised due diligence to avoid the contravention.

Schedule 1—Forms

Annual return of company holding practising certificate

1—Name and particulars of practice

- (a) Company practitioner's name:
- (b) Registered office:
- (c) Principal address at which the practice is conducted:
- (d) Full address of all other places where the practice is conducted:
- (e) Business name (if any) under which the practice is carried on:
- (f) Telephone number:
- (g) This return relates to the period from to 30 June

2—Constitution of company practitioner

- (a) Have there been any amendments to the constitution of the company practitioner during the period to which this return relates? If so, give particulars:
- (b) During the period to which this return relates, has the constitution of the company practitioner at all times contained stipulations complying with the requirements of section 16(2)(a) of the Act? If not, give particulars of any non-compliance:
- (c) During the period to which this return relates, have stipulations contained in the constitution of the company practitioner in accordance with the requirements of section 16(2)(a) of the Act been complied with at all times by the company practitioner? If not, give particulars of any non-compliance:

3—Directors

In relation to each person who was at any time during the period to which this return relates a director (within the meaning of the Act) of the company practitioner, state:

- (a) the director's full name and the most recent usual residential address:
- (b) whether the director was a director during the whole of such period and if not, the date on which he or she became, or ceased to be, a director (as the case may be):
- (c) whether the director held a current practising certificate under the Act and, if so, was the practising certificate held for the whole or part of the period and if part only, the period during which the practising certificate was held:
- (d) in the case of a director permitted to hold office under section 16(2)(a)(ii) of the Act, not being a legal practitioner holding a current practising certificate, sufficient particulars of the director's relationship to a director who is a legal practitioner holding a current practising certificate. (This is in order to show compliance with section 16 of the Act during the whole of the period or during that part of the period for which he or she held office as a director.)
- (e) whether he or she was at any time during such period a director of any other company practitioner and if so, full particulars of that other directorship:

4—Shareholders

In relation to each person who was at any time during the period to which this return relates a member of the company practitioner, or the beneficial owner of shares in the company practitioner, state—

- (a) the person's full name and most recent usual residential address:
- (b) in the case of a member, whether the person was a member during the whole of the period and if not, the date on which the person became or ceased to be a member:
- (c) whether the person held a current practising certificate under the Act and whether such practising certificate was held for the whole or part of the period and if part only, the period during which the practising certificate was held:
- (d) in the case of a person being a prescribed relative of a legal practitioner who is a director or employee of the company practitioner, sufficient particulars of his or her relationship to such director or employee of the company practitioner. (This is in order to show compliance with section 16 of the Act during the whole of the period or during that part of the period for which he or she was a member of or the beneficial owner of shares in the company practitioner.)
- (e) the following particulars of all shares owned beneficially by the person at any time during the period:
 - a description of the shares (including the number nominal value and class):
 - particulars of the voting rights (if any) exercisable at a meeting of the members of the company practitioner attached to the shares:
 - if the person was not the holder of the shares, the name and address of the holder and particulars of the nature of the beneficial ownership of the shares of the person:

- if the person became the beneficial owner of the shares at any time during such period—particulars of the date on which and circumstances in which the person became the beneficial owner of the shares:
 - if the person ceased to become the beneficial owner of the shares at any time during the period—particulars of the date on which and circumstances in which the person ceased to be the beneficial owner of the shares:
- (f) the qualification that entitled the person to be a member of the company during the period to which this return relates:

5—Practice in partnership

Has the company practitioner at any time during the period to which this return relates practised as a legal practitioner in partnership with any other person? If so, give particulars:

I DECLARE that the above statements are true in every particular to the best of my knowledge, information and belief.

Dated:

Signature of Director:

Directions for completing return

- (1) The return is to be made by a director of the company practitioner.
- (2) The return is to be lodged with the Supreme Court during July in each year.
- (3) The return is to be made annually in respect of the year ended 30 June or, in the case of a company practitioner's first year, in respect of the period from the date of the issue of a practising certificate to the company and the succeeding 30 June.

Note—

The function of the Supreme Court to receive the return of the company practitioner is assigned by the Court, by rules of court, to the Law Society (see section 52A of the Act and the Supreme Court Admission Rules 1999).

Certificate of Registrar as to Public Notary

I, the Registrar of the Supreme Court of South Australia, certify that of (residence or place of business and profession or occupation), has been sworn to act uprightly and justly in the business of a public notary according to the best of his/her skill and ability, and that he/she has been authorised and admitted to act as a notary within South Australia, and that his/her name was entered on the roll of public notaries on, and remains on the roll.

Dated at Adelaide on:

Registrar of the Supreme Court:

Schedule 2—Fees

1	For the issue or renewal of a practising certificate—	
	(a) for more than 6 months	\$340 fee \$115 levy
	(b) for 6 months or less	\$198 fee \$57 levy
2	Fee to accompany written notice provided under section 23D of the Act	\$30
3	Fee to accompany an annual return lodged under section 24 of the Act	\$46

Schedule 3—Revocation

1—Revocation of *Legal Practitioners Regulations 1994*

The *Legal Practitioners Regulations 1994* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 August 2009

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