

3. Interpretation

In these by-laws, unless the contrary intention appears —

“**ballast**” means any fluid commonly used for the ballasting of vessels;

“**beacon**” includes any berth installation placed in aid of navigation other than a harbour light;

“**berth**” means any place within the jetty and berth area at which a vessel is anchored, moored or berthed and includes an anchorage, jetty, or vessel;

“**berth installation**” means any work or thing (whether above or below high water mark and whether within the jetty and berth area or otherwise) for the improvement, protection, management, maintenance, repair or use of the jetty and berth area or as an aid to navigation including, without limiting the generality of the foregoing —

- (a) any jetty or berth;
- (b) any concrete support block or pipeline;
- (c) any mooring buoy, dolphin or stationary vessel;
- (d) any beacon or harbour light;
- (e) any reclamation of land from the sea or from the jetty and berth area or any channel or basin or any excavation, deepening, dredging or widening of any channel or basin or other part of the jetty and berth area or any wall, embankment or breakwater which is now or hereafter erected, constructed, maintained, repaired, installed, or done on or in any land held or occupied by the Company under any tenure or which is otherwise under the management, control or occupation of the Company;

“**berth service**” means any service or facility rendered or provided by or on behalf of the Company or a related corporation for or in connection with vessels using the jetty and berth area, a jetty or other berth installation or for or in connection with the improvement, protection, management, maintenance, repair or use of the jetty and berth area including, without limiting the generality of the foregoing, towage services and loading supervision, whether that service or facility is rendered or provided above or below high water mark and whether within the jetty and berth area or otherwise;

“**cargo**” means stores, goods, wares, merchandise, chattels, livestock, evaporites, ores, minerals, metals and their products and any other article capable of being loaded or unloaded into or from any vessel;

“**Chief Inspector**” has the meaning given by the *Explosives and Dangerous Goods Act 1961*;

“**consignee**” means any person other than the Company or a related corporation to whom any cargo is consigned, and includes the owner of that cargo, the agent for that owner, the agent for the sale or custody of the cargo, the holder of any bill of lading or other document representing the cargo and any other person having any right, title or interest to or in the cargo or the possession thereof;

“**consignor**” means any person other than the Company or a related corporation consigning any cargo, and includes the owner, shipper, agent for the owner or shipper, and any other person having right, title or interest to or in that cargo or the possession thereof;

- “deadweight tonnes” or “dwt”**, in relation to a registered vessel, means the registered summer deadweight calculated in accordance with the standard of measurement adopted by the authority by which the vessel is registered and expressed in tonnes;
- “dues”** includes any due, rate, charge or payment payable or leviable under these by-laws and includes any amount, indemnity or compensation required by any of these by-laws to be paid;
- “harbour light”** means any berth installation which is a light erected in aid of navigation;
- “Harbour Master”** means any harbour master appointed under section 4 of the *Shipping and Pilotage Act 1967* for the Port of Carnarvon, and includes any person authorized by such a harbour master to act on his behalf;
- “jetty”** means any landing place or landing stage, or any part thereof (whether above or below high water mark) which is used, or is intended for use, within the jetty and berth area and which is erected, constructed, installed, maintained or used on any land held or occupied by the Company under any tenure or which is otherwise under the management, control or occupation of the Company, and includes any plant, machinery, equipment, installation, structures or premises erected, constructed, installed or maintained or used on or in connection with the same;
- “jetty and berth area”** means that part of Mineral Lease 245SA issued under the *Mining Act 1904*, being below high water mark and north of the shore line, and an area described as **“in the vicinity of”** the jetty and berth area means that area within a 2 kilometre radius of any part of the jetty and berth area;
- “lighter”** includes any barge or other vessel of a light nature capable of being used for loading, unloading or transporting cargo in the jetty and berth area;
- “lines launch”** means any vessel authorized by the Harbour Master or the Company to perform the services of a lines launch;
- “master”** includes every person, not being an officer of the Company or a pilot, having the command, charge, custody or control of a vessel for the time being;
- “mooring buoy”** means any mooring buoy within the jetty and berth area and includes all attached fittings and equipment as well as the fittings and equipment used or intended to be used for securing the mooring buoy to the sea-floor;
- “mooring line”** means any line used to moor or assist in mooring a vessel in a berth;
- “motor vehicle”** means a vehicle of any description drawn or propelled by mechanical power and used or intended for use on land;
- “officer”**, in relation to the Company, includes any director, secretary, agent or employee of the Company;
- “owner”**, in relation to cargo, includes any consignor, consignee, shipper or agent for the sale or custody or loading or unloading of cargo and includes also the holder of any bill of lading or other document representing such cargo and every person having or claiming any right,

title or interest thereto and includes the Crown in right of, and any instrumentality of, the State, but does not include the Company or a related corporation;

“owner”, in relation to a vessel, includes a part owner of the vessel, the holder of any share or interest in the vessel, whether beneficial or otherwise, every person for the time being responsible for the navigation, manning or management of the vessel, the master of the vessel, the agent of the owner, and, where the owner is a body corporate, the directors thereof, and **“owner”** includes the Crown in right of, and any instrumentality of, the State, but does not include the Company or a related corporation or a pilot;

“pilot” means a person appointed under section 4 of the *Shipping and Pilotage Act 1967* to be a pilot for the port of Carnarvon;

“related corporation”, in relation to the Company, means a body corporate that is deemed to be related to the Company by virtue of section 50 of the *Corporations Act 2001* of the Commonwealth;

“the Marine Supervisor” means the officer appointed by the Company to that office for the purpose of these by-laws and includes any deputy of that officer nominated by the Company;

“tonnes” or **“tonnage”**, in relation to a registered vessel, means the gross registered tonnes or tonnage calculated in accordance with the standard of measurement adopted by the authority by which the vessel is registered and expressed in tonnes;

“unberth” means to remove from a berth;

“vessel” includes any ship, boat and every other vessel used or designed for use for any purpose on or in the sea or the jetty and berth area or in navigation, however propelled;

“vessel of war” means a vessel built for combatant service or converted for that purpose and a tanker conveying fuel oil for such a vessel provided that vessel or tanker is owned or otherwise directly managed and controlled by the Government of any foreign country which is a party with the Commonwealth to any military alliance and is not engaged in trade, but does not include a vessel used for the transport of troops, stores or equipment;

“work boat” means any vessel authorized by the Harbour Master or the Company to perform the services of a work boat.

[By-law 3 amended in Gazette 14 Jun 2002 p. 2795-6.]