

Western Australia

**Evaporites (Lake MacLeod) (Cape Cuvier
Berth) By-laws 1991**

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Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991

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Western Australia

Evaporites (Lake MacLeod) Agreement Act 1967

Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991

Part 1 — Preliminary

1. Citation

These by-laws may be cited as the *Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991*¹.

2. Application

Unless the context otherwise requires, these by-laws apply to all berth installations and berth services whether the property of the Company and whether controlled or managed by the Company or otherwise, and in relation to all vessels, motor vehicles and persons in, entering, calling at, using, or departing from or in the vicinity of the jetty and berth area.

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;

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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 authorised 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

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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*², 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 authorised 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

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include a vessel used for the transport of troops, stores or equipment;

work boat means any vessel authorised 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.]

Part 2 — Regulation of vessels, etc. in or in vicinity of jetty and berth area

4. Berthing

A master of a vessel shall not berth or unberth the vessel within the jetty and berth area or cause or allow it to be so berthed or unberthed without the prior permission of the Marine Supervisor.

5. Directions of Harbour Master

The master of a vessel within the jetty and berth area shall not be obliged to comply with the provisions of by-law 4 or any permission given thereunder if to do so would constitute a failure to comply with any direction given by the Harbour Master under the *Shipping and Pilotage Act 1967*.

6. No interference with access

The master of a vessel (other than a vessel within the jetty and berth area which is directed by the Harbour Master so to do under the *Shipping and Pilotage Act 1967*) shall not cause or permit the vessel to be anchored, berthed or moored so as to obstruct the approach to any jetty.

7. Mooring equipment

The master of a vessel moored within the jetty and berth area shall cause the vessel to have such cables, warps, hawsers, fenders and mooring ropes as in the opinion of the Harbour Master are reasonable and necessary for the proper securing of the vessel.

8. Permission for repairs

- (1) The master, owner or agent of any vessel at anchor in the vicinity of the jetty and berth area or occupying a berth shall notify the Harbour Master of any intention to undertake repairs

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to engines or other repairs of whatsoever nature to that vessel whilst it is at anchor or occupying the berth.

- (2) The master of a vessel shall not cause or permit any repairs of the nature referred to in sub-bylaw (1) to be done unless permission to do so in writing is first obtained from the Harbour Master.

9. Equipment for convenience and safety whilst berthed

The master of a vessel shall at all times cause the vessel to be provided with such gangways, manropes, ladders and similar appliances and shall exhibit such lights as in the opinion of the Harbour Master are necessary for the convenience and safety of persons passing to and from the vessel.

10. Provision of tackle

Notwithstanding any permission granted under by-law 18 by the Marine Supervisor, the master of a vessel shall provide such tackle as in the opinion of the Marine Supervisor is necessary for the proper slinging of all cargo unloaded from the vessel on to any jetty or work boat or loaded or intended to be loaded from any jetty or work boat into the vessel.

11. Master to keep vessel clear

The master of a vessel shall keep the vessel and all boats, rigging, ropes, hawsers, and other equipment or fittings thereof, and gangways used or intended to be used in connection with the vessel, at all times free and clear of any shiploader, gear, plant or other thing on any jetty, irrespective of whether that shiploader, gear, plant or other thing is stationary or in use.

12. Tackle not to be cast off without permission

Unless the Harbour Master otherwise permits, a person shall not cut, cast off or interfere in any way with any rope or tackle made fast or attached to any mooring buoy or any vessel occupying a berth, if that rope or tackle has been made fast or

attached in accordance with any direction of the Harbour Master.

13. Working propeller

Unless the Harbour Master otherwise permits, a person shall not work or cause to be worked the propeller of any vessel while that vessel is occupying any berth, and notwithstanding that any such permission has been given a person shall not work that propeller or cause it to be worked if that working may cause damage to any property, or injure any person, but nothing in this by-law shall preclude the working of any propeller for the safe berthing or unberthing of any vessel.

14. Vessel to have sufficient ballast

Notwithstanding anything contained in any other by-law, the master of a vessel occupying any berth or at anchor shall have on board at all times such quantity of cargo or ballast as may be necessary —

- (a) to keep the vessel safe; and
- (b) to prevent damage or injury to all berth installations.

15. Vessel to be in seagoing condition

Notwithstanding anything contained in any other by-law, the master of a vessel occupying any berth or at anchor shall at all times maintain the vessel —

- (a) in a seagoing condition; and
- (b) so as to be ready to put to sea without any delay.

16. Safety precautions

A person shall not without the permission of the Marine Supervisor —

- (a) embark upon or land from any vessel occupying any berth except in a manner approved by the Marine Supervisor;

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- (b) or unless directed to do so by the pilot of that vessel, embark upon or land from any vessel while such vessel is berthing or unberthing and is in motion; or
- (c) enter upon any berth installation.

17. Permission to leave vessel

The master of a vessel shall not, without the prior permission of the Marine Supervisor, leave the vessel or permit any other officer or member of the crew of the vessel to do so.

18. Embarkation, jetty and berth area

A person shall not cause or permit any passengers, cargo or ballast to be embarked or shipped, or disembarked or unshipped, on or from any vessel in the jetty and berth area, unless —

- (a) the Marine Supervisor otherwise permits; or
- (b) the person is acting in compliance with a direction given by the Harbour Master under by-law 19.

19. Direction of Harbour Master paramount

The master of a vessel within the jetty and berth area shall comply with any direction given by the Harbour Master under the *Shipping and Pilotage Act 1967*.

20. Watchman

The master of a vessel the tonnage of which —

- (a) exceeds 150 tonnes shall cause a watchman to be kept on duty on the deck of the vessel; or
- (b) does not exceed 150 tonnes shall cause at least one person to be on board,

whilst the vessel occupies a berth.

21. Cargo loaded and discharged

- (1) The master of a vessel onto which or from which cargo is loaded or unloaded shall ensure that the cargo is handled only by members of the crew of the vessel or persons employed or provided by or on behalf of the Company, unless the Marine Supervisor has otherwise given permission.
- (2) The master of a vessel onto which or from which cargo is loaded or unloaded or onto which or from which passengers are embarked or disembarked shall ensure that the cargo or passengers shall be loaded, unloaded, embarked or disembarked, as the case may be, only at such places on any jetty or other berth installation as have previously been approved by the Marine Supervisor, and any cargo which is to be loaded onto a vessel from a jetty or which has been unloaded onto a jetty shall be stacked or stored only at such places or areas as have previously been approved by the Marine Supervisor.
- (3) The master of a vessel who is required to use the services of tugs, lines launches or work boats shall use such tugs, lines launches or work boats and associated personnel as are provided by the Company.

22. Discharges into water

A person shall not deposit, discharge or permit to fall into the water, other than at a place previously designated for that purpose by the Harbour Master, any matter likely —

- (a) to interfere with or inconvenience any shipping using any jetty or other berth installation; or
- (b) to damage any jetty or other berth installation or other property of the Company.

23. Matter deposited on jetty or berth

A person shall not without the prior written permission of the Marine Supervisor deposit or cause or permit to be deposited

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any matter on any jetty or other berth installation or other property of the Company.

24. Openings to be screened

Unless prior permission is given by the Harbour Master, the master of a vessel in or in the vicinity of the jetty and berth area shall ensure that all openings out of which steam, water, fluids or waste is liable to be discharged from the vessel are properly screened and protected so as to prevent any such discharge.

25. Fire

- (1) An officer or member of the crew of a vessel, or an officer of the Company, who discovers or is aware of an outbreak of fire in or on board any vessel in or in the vicinity of the jetty and berth area shall forthwith —
 - (a) raise an alarm; and
 - (b) notify the Marine Supervisor and Harbour Master of that outbreak.
- (2) An officer or member of the crew of a vessel in or on board which there is an outbreak of fire, or an officer of the Company, shall give such assistance in extinguishing the fire and protecting the berth installations and other vessels as the Marine Supervisor may direct.
- (3) A person shall not break, sound or in any manner operate or interfere with any electrical or other fire alarm on any jetty or other berth installation or other premises of the Company except in the case of an outbreak of fire.

26. Explosives

The master of a vessel having explosives on board, other than pyrotechnics which are required by the Commonwealth or the State to be carried on board, shall not cause or permit the vessel to enter the jetty and berth area or to lie within a distance of one kilometre from any part of it for any purpose unless the

permission of the Chief Inspector and the Harbour Master has first been obtained.

27. Inflammable cargo

Inflammable cargo shall not be unloaded unless the Marine Supervisor is satisfied that it is imported under authority of a licence or permit granted by the Chief Inspector under the *Explosives and Dangerous Goods Act 1961*.

28. Explosion

Unless the prior written permission of the Marine Supervisor has been obtained, a person shall not fire any gun or explode any detonator or other explosive signal (save as a signal of distress) or use any explosive in or in the vicinity of the jetty and berth area or any other vessel.

29. Naked light

The master of a vessel in or in the vicinity of the jetty and berth area shall not cause or permit any flare-up lamp, fire or naked light of any kind to be used in the hold of the vessel, whether for the purpose of working cargo or otherwise.

30. Trespass

A person shall not trespass on, use for recreation, make fast to, damage, injure, or otherwise interfere with any berth installation.

31. Obstruction of persons

A person shall not obstruct or hinder the Company, any of its officers or any other person in the rendering or provision of any berth service, and shall comply with any reasonable direction of the Marine Supervisor with respect to any such rendering or provision.

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32. Obstruction relating to cargo

A person shall not obstruct or interfere with the loading or unloading of cargo or the embarkation or disembarkation of passengers within or in the vicinity of the jetty and berth area, and shall comply with any reasonable direction of the Marine Supervisor with respect to that loading, unloading, embarkation or disembarkation.

33. Hydrant

Unless the prior written permission of the Marine Supervisor has been obtained, a person shall not, except in the case of an outbreak of fire, turn any valve or cock of, or open or shut or tamper or interfere with, any fire plug or hydrant on any jetty or other berth installation.

34. Interference with plant

A person shall not play, tamper or in any way interfere with any plant, machinery, gear, equipment or fittings or any electric light or power mains on any jetty or other berth installation.

35. Nuisance

A person shall not do any act under or upon any jetty which —

- (a) does not already constitute an offence against these by-laws; but
- (b) constitutes a public or private nuisance.

36. Notice boards

A person shall not remove, deface or otherwise interfere with any notice board erected on or in the vicinity of any jetty or other berth installation.

37. Defacement and bill posting prohibited

Unless the prior permission of the Marine Supervisor has been obtained, a person shall not write or paint on, or place any notice board, placard, sign or document on, any jetty or other berth installation.

38. Life-saving appliances

A person shall not interfere with any life-saving gear, boat hook, drag, grapnel, life-buoy or other apparatus placed on any jetty or other berth installation and used or intended for the purpose of saving persons from drowning, unless that interference is for the purpose of saving life or for such other purpose as is approved by the Marine Supervisor from time to time.

39. Vehicles on jetty

- (1) Unless the prior permission of the Marine Supervisor has been obtained, a person shall not drive or permit to be driven any motor vehicle upon any jetty or any approach thereto, and if that permission is granted a person —
 - (a) shall not park the motor vehicle except in an area set aside for that purpose;
 - (b) when in a place where a notice is maintained indicating that standing or parking or the speed of a motor vehicle is prohibited, limited or restricted, shall comply with that prohibition or with the terms of that limitation or restriction;
 - (c) shall not allow the motor vehicle to approach within 20 metres of any inflammable or explosive goods or cargo;
 - (d) shall comply with all directions relating to the disposal of the motor vehicle and given by the Marine Supervisor or any other officer of the Company authorised by the Marine Supervisor for that purpose.

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- (2) The Marine Supervisor or any other officer of the Company may move from any jetty or approach thereto to any other place any unattended motor vehicle or any motor vehicle the driver of which has failed to comply with any direction of the Marine Supervisor.
- (3) A person shall not cause or permit to be placed or to remain on a jetty any motor vehicle, cargo or other load in excess of the load limits determined from time to time by the Marine Supervisor and contained in a notice at the abutment of the jetty.

40. Disorderly persons

The Marine Supervisor and any other officer of the Company may take such steps as are necessary to prevent any intoxicated, idle or disorderly person from entering upon any jetty or other berth installation and to remove any such person who has so entered.

41. No assembly on jetty

Unless the prior permission of the Marine Supervisor has been obtained, a person shall not address any assembly of persons under or upon any jetty.

42. Children on jetty

A person having the custody or control of a child under the age of 12 years shall not cause or permit the child to enter, or remain upon, any jetty unless accompanied by a person aged 18 years or over.

43. Fishing

A person shall not fish from any part of any jetty or other berth installation.

44. No building allowed on jetty

Unless the prior permission of the Marine Supervisor has been obtained, a person shall not erect any building, staging or structure on or in any jetty or other berth installation.

45. No entry

The Company may by notice placed on a jetty close that jetty or part thereof, and a person shall not thereafter enter upon that jetty or that part without the prior written consent of the Marine Supervisor.

Part 3 — Dues

46. Payment of revenue

- (1) All dues are hereby levied and charged for the use and benefit of the Company and (notwithstanding any other provision of these by-laws) the owner, master and agent (other than the Company or a related corporation) of a vessel in respect of, or in connection with which, any dues are payable shall be jointly and severally liable to the Company for those dues.
- (2) All dues shall be paid to the Company which may at any time sue for and recover the same in any court of competent jurisdiction.
- (3) All dues shall be paid before the vessel in respect of, or in connection with which, they are charged or payable leaves the jetty and berth area, but the Company may accept in lieu of that payment a written guarantee from the master, owner or agent of the vessel in the form set out in Schedule 1 that those dues will be paid within 14 days after the departure of the vessel from the jetty and berth area.
- (4) Unless the Company has accepted a guarantee in the form referred to in sub-by-law (3) in relation to a vessel in respect of, or in connection with which, any dues are charged or payable and unpaid, the Marine Supervisor may detain that vessel until those dues are paid.

47. Liability of consignee and consignor

- (1) Where the owner, master or agent fails to pay the dues levied and charged under by-law 46 —
 - (a) the consignee shall be liable to pay to the Company the dues in respect of all inward cargo; and
 - (b) the consignor shall be liable to pay to the Company the dues in respect of all outward cargo.

- (2) Nothing in this by-law limits the right of the Company to recover dues from any person (other than the consignee or consignor) who may be liable to pay the charges.

48. Tonnage and other charges

- (1) The appropriate tonnage charge set out in Part 1 of Schedule 2 shall be paid in respect of the occupancy by a vessel of a berth.
- (2) For the purpose of assessing a tonnage charge referred to in sub-bylaw (1), a vessel shall be deemed to occupy a berth from the time when the first line is made fast until the last line is let go and, if after the first line is made fast the vessel is required to leave the berth prior to completion of loading, and then to re-enter the berth to complete loading, the aggregate period constituted by those individual periods of occupancy shall be regarded as its occupancy of the berth.
- (3) The appropriate tonnage charge set out in Part 2 of Schedule 2 shall be paid in respect of each entry by a vessel into the jetty and berth area, and for the purposes of assessing that charge an entry shall be defined as an entry by a vessel into the jetty and berth area for the purpose of loading a cargo but is limited to a maximum of one entry per total loading.
- (4) The charge set out in Part 3 of Schedule 2 shall be paid each calendar year, in respect of the entry into or operation within the jetty and berth area of every tug, lighter, barge, lines launch, and launch registered under the *W.A. Marine (Hire and Drive Vessels) Regulations 1983*.

49. Certificate of registry

The master of every vessel occupying or about to occupy a berth shall produce the certificate of registry of such vessel to the Marine Supervisor or any other officer of the Company upon demand.

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50. Exemption from payment

- (1) Vessels of war and vessels owned by the Crown in right of the Commonwealth or the Crown in right of a State shall, if those vessels are not engaged in trade, be exempt from the payment of all dues.
- (2) If any vessel occupies a berth only for the purpose of landing a sick or injured person and remains only for such time as may be necessary for that purpose, the Company may exempt that vessel from all or any dues.

51. Rebates of tonnage rates

When a vessel occupies a berth —

- (a) in distress or under duress; or
- (b) for fitting, refitting or repairs,

the Company may grant to the vessel a rebate of the balance of dues in excess of the dues payable for the occupation by the vessel of a berth for 6 hours.

52. Towage

- (1) There shall be paid in respect of any vessel using the services of a tug provided by or on behalf of the Company the appropriate charge set out in clause 1, 2 or 3 of Schedule 3 and, if a request for the services of such a tug is subsequently cancelled by or on behalf of the applicant vessel before those services are used, the charge set out in clause 4 of that Schedule shall be payable.
- (2) An application for the services referred to in sub-by-law (1) shall be made to the Marine Supervisor in the form set out in Schedule 4.
- (3) The conditions set out in Schedule 5 apply to all towage by tugs under these by-laws, but those conditions do not apply to or affect any claim by the Company for salvage services or services in the nature of salvage.

- (4) The Harbour Master may require the master of a vessel which is being berthed or unberthed to engage the services of one or more tugs provided by or on behalf of the Company for that purpose and an appropriate charge set out in clause 1, 2 or 3 of Schedule 3 shall be paid in respect of, and the conditions referred to in sub-bylaw (3) apply to, any such towage.

53. Miscellaneous charges

- (1) The charges set out in Schedule 6 shall be paid in respect of the services set out in that Schedule, and the conditions set out in that Schedule apply to those services.
- (2) The Harbour Master may require the master of a vessel which is being berthed or unberthed to engage the services of one or more lines launches or work boats provided by or on behalf of the Company for that purpose, and the charges set out in Schedule 6 shall be paid in respect of those services.

54. Manifests

- (1) The master of a vessel desiring to load or unload cargo at a jetty shall, before that loading or unloading begins, deliver to the Marine Supervisor 2 legible and complete copies in the English language of the manifest of that vessel, certified by that master to be true and complete.
- (2) Prior to the unberthing of a vessel —
- (a) which has loaded or unloaded cargo at a jetty, the master of that vessel shall deliver to the Marine Supervisor a statement in duplicate, certified by that master to be true and complete, of any amendments which have been made to the manifest of that vessel, together with the reasons for those amendments, if any;
 - (b) which has loaded cargo at a jetty, the master of that vessel shall deliver to the Marine Supervisor 2 legible and complete copies in the English language of the manifest of that vessel, certified by that master to be true

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and complete and containing such details of the cargo loaded as the Company requires.

55. Vessel to be prepared to load or unload

Prior to the berthing of a vessel, the master of the vessel shall cause the vessel to be ready to load or unload cargo and shall comply with any directions given by the Marine Supervisor in relation thereto.

56. Hatch covers

Upon the completion of the loading or unloading of cargo and at such other times as the Marine Supervisor in his discretion may direct, the master of a vessel shall cause the hatch covers of the vessel to be closed.

Schedule 1

[By-law 46(3)]

Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991

Guarantee

To (name of the Company)

CAPE CUVIER, WESTERN AUSTRALIA

In consideration of the provision of certain services and facilities by you at my request, I (name of master, owner or agent of vessel) hereby guarantee and warrant to you that all dues charged or payable or which may in the future become chargeable or payable under the above by-laws in respect of or in connection with the vessel (insert name of vessel) will be paid within 14 days after the departure of that vessel from the jetty and berth area and I undertake and agree to pay to you forthwith upon the expiration of that period of 14 days the amount of any such dues which have not been paid before that departure. I shall not be discharged or released from this guarantee by any arrangement made between you and the master*, owner* or agent* of that vessel (either with or without my assent) or by any obligation to pay those dues or by any forbearance whether in relation to payment, time, performance or otherwise.

IN WITNESS whereof I, the Master*/Owner*/Agent* of the abovementioned vessel, have set my hand and seal this day of 20.....

Signed, sealed and delivered by the said in the presence of — (Name and address of witness) } (Seal)

*Delete if inapplicable.

Schedule 2

Schedule 2

[By-law 48(1), (3) and (4)]

Part 1

Tonnage charges — Berth dues

The tonnage charge payable in respect of a vessel shall be \$0.008 for each tonne of the tonnage of the vessel for each 4 hours or part thereof during which the vessel occupies a berth, the minimum charge for each occupancy of a berth being a charge for 12 hours.

Part 2

Tonnage charges — Berth capitalization dues

The tonnage charge payable in respect of a vessel shall be \$0.012 for each deadweight tonne of the registered summer deadweight of the vessel for each entry in the jetty and berth area, the minimum charge for each such entry being \$600.

Part 3

Charges — Certain boats

The charge for entry into or operation within the jetty and berth area by tugs, lighters, barges, lines launches and licensed launches shall be \$300 paid annually in advance.

Schedule 3

[By-law 52(1) and (4)]

Towage charges

1. The charge payable for the services of each tug required for the berthing or unberthing of a vessel shall be —

<u>Dwt. of vessel</u>	<u>In and out</u>
	\$
0 — 20 000	3 950
20 001 — 30 000	4 700
30 001 — 35 000	5 400
35 001 — 40 000	6 250
40 001 — 45 000	7 000
45 001 — 50 000	7 800
50 001 — 55 000	8 600
55 001 — 60 000	9 350
60 001 — 65 000	10 150
65 001 — 70 000	10 900
70 001 — 75 000	11 700
75 001 — 80 000	12 500
80 001 — 85 000	13 250
85 001 — 90 000	14 050
90 001 — 100 000	15 600
100 001 — 110 000	17 150

2. The charge payable for the services of each tug required to stand by or to assist in shifting a vessel shall be \$600 for each hour for which those services are required.
3. The charge payable for the services of each tug required for any purpose, other than the purposes referred to in clauses 1 and 2, shall be \$600 for each hour, or part thereof, for which those services are required, with a minimum charge of 2 hours being applicable for each request.
4. If a request for the services of a tug is made, but cancelled before those services are provided, a cancellation charge equal to 50% of the charge payable for those services shall be payable.

Schedule 4

[By-law 52(2)]

Application for towage

I*/We* hereby apply for the services of the tug(s) (name(s)
of tug(s)) for the purpose of berthing and unberthing*/standby*/shifting*/
assisting*/other purpose* (description
of other purpose) the vessel (name of vessel) on
20....., at

..... a.m.*

..... p.m.*

If this application is accepted by the Company, I*/we* agree to pay the charges
therefor in accordance with the *Evaporites (Lake MacLeod) (Cape Cuvier
Berth) By-laws 1991* and to be bound by all the conditions with regard to
towage contained in those by-laws. Any agent signing this application warrants
that he has been authorised by the master and by the owner of the vessel to do
so.

MASTER*/OWNER*/AGENT* OF
..... (NAME OF VESSEL).

*Delete if inapplicable.

Schedule 5

[By-laws 52(3) and 57(4)]

Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991

Conditions of towage

1.

For the purposes of these conditions —

- (a) **hirer** means the master, owner or agent of a vessel requiring towage services from the Company; and
- (b) the phrase **whilst towing** means the period commencing when the tug is in a position to receive orders directly from the vessel of the hirer to pick up ropes or lines or when the tow rope has been passed to or by the tug, whichever is the sooner, and ending when the final orders from that vessel to cast off ropes or lines have been carried out, or when the tow rope has been finally slipped, and the tug is safely clear of the vessel, whichever is the later, and **towing** includes any operation in connection with holding, pushing, pulling or moving the vessel.

2.

On the commencement of the use of the services of a tug, the master and crew thereof become the servants of the hirer or his servants or his agents and anyone on board the vessel of the hirer who is paid by or would or might but for these conditions be deemed to be employed by the Company shall be deemed to be the servant of the hirer.

3.

The Company or any person operating a tug at the request of the Company shall not be liable for any death or injury to any person, or loss of or damage to property —

- (a) occurring whilst towing; or
- (b) arising out of —
 - (i) an act or omission related to the tug or the vessel of the hirer;

Schedule 5 Conditions of towage

- (ii) the negligence of the Company, its servants, agents or any other person operating any tug at the request of the Company;
- (iii) the unseaworthiness, unfitness or breakdown of the tug or any of its equipment or the lack of fuel, stores or speed; or
- (iv) any other cause whatsoever,

and the hirer shall bear the cost resulting from any death, injury, loss or damage of the kind specified in this condition which is suffered by the Company and shall in addition (to the extent if any to which this condition fails to relieve the Company from liability for any such death, injury, loss or damage) indemnify the Company and hold it harmless against that liability, but this condition shall not apply to any death, injury, loss or damage suffered by the hirer and caused by or arising from want of reasonable care on the part of the Company to make the tug seaworthy for its navigation whilst towing (the burden of proving such want of care being upon the hirer).

4.

The hirer shall not bear or be liable for any damage, injury, loss or expense of any description caused by or to the tug otherwise than whilst towing or for loss of life among or injury to the crew of the tug, but nothing contained in this condition shall prejudice any claim the Company may have in admiralty or at common law against the hirer.

5.

The Company may substitute one tug for another and may sub-let or assign the work, wholly or in part, to other tug owners or other persons, who shall also have the benefit of and be bound by these conditions.

6.

Any object, whether afloat or not, in respect of which the services of a tug are sought, will, for the purpose of these conditions, be deemed to be a vessel.

Schedule 6

[By-law 53]

Miscellaneous charges and conditions

Lines launch or work boat

1.

The charge payable for the use of the services of a lines launch or work boat shall be —

- (a) \$600 in and out for each lines launch or work boat employed on each occasion in connection with the berthing or unberthing of a vessel;
- (b) \$150 per hour, or part thereof, for each lines launch or work boat employed on each occasion for services other than the berthing or unberthing of a vessel, the period of use of those services being calculated from the time when the requested lines launch or work boat leaves its usual moorings until that lines launch or work boat returns to its usual moorings,

and, if a lines launch or work boat is requested, but that request is cancelled before its services are used, a cancellation charge of \$150 shall be payable.

Linesmen

2.

- (1) The rate payable for the services of linesmen shall be —
 - (a) \$0.025 per dwt of a vessel in and out for the berthing or unberthing of a vessel; and
 - (b) \$240.00 per hour or part thereof for each attendance on board a vessel to handle lines.
- (2) On the commencement of the use of the services of a lines launch or work boat, the master and crew thereof become the servants of the hirer or his servants or agents and anyone on board the vessel of the hirer who is paid by or would or might but for this condition be deemed to be employed by the Company shall be deemed to be the servant of the hirer.

Schedule 6 Miscellaneous charges and conditions

Mooring lines

3.

The charge payable for the provision of steel mooring lines shall be \$0.005 per dwt of a vessel for each entry by the vessel into the jetty and berth area, the minimum charge being \$250.00, and for the purposes of assessing that charge the expression *entry* shall have the meaning ascribed to it in by-law 48(3).

4.

For the purposes of this Schedule, *hirer* means the master, owner or agent of a vessel requiring towing services from the Company.

Notes

- ¹ This is a compilation of the *Evaporites (Lake MacLeod) (Cape Cuvier Berth) By laws 1991* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991</i>	25 Oct 1991 p. 5509-28	25 Oct 1991
<i>Evaporites (Lake MacLeod) (Cape Cuvier Berth) Amendment By-laws 2001</i>	14 Jun 2002 p. 2795-6	14 Jun 2002
Reprint 1: The <i>Evaporites (Lake MacLeod) (Cape Cuvier Berth) By-laws 1991</i> as at 12 Mar 2004 (includes amendments listed above)		

- ² Repealed by the *Mining Act 1978*.