

AUSTRALIAN CAPITAL TERRITORY

LAKE BURLEY GRIFFIN ORDINANCE 1965

EXPLANATORY MEMORANDUM

No. 1 of 1965

With the completion of the construction of the Scrivener Dam wall and the build up of waters in the basin of Lake Burley Griffin, temporary control was established over all activities within the lake area under the Lake Burley Griffin (Temporary Control) Ordinance 1963.

That Ordinance was to be replaced by a more permanent measure at the conclusion of the initial filling, testing and stabilisation period.

A number of activities have already been approved and conducted under exemption from the Minister under the Lake Burley Griffin (Temporary Control) Ordinance 1963. However, these were done as a matter of expediency pending the introduction of new legislation.

The Lake Burley Griffin Ordinance 1965 provides for a comprehensive control to be exercised over the activities which may be permitted in or on the lake or within the lake area, and in general terms:—

- (a) repeals the Lake Burley Griffin (Temporary Control) Ordinance 1963;
- (b) defines the lake and the lake area;
- (c) vests in the Commonwealth the control of the lake and provides for related matters to be the responsibility of the Commonwealth;
- (d) provides for the control by the Minister of any facilities which may be afforded by the lake.

Section 5 sub-section (2.) of the Ordinance provides that Lake Burley Griffin is to be that part of the City of Canberra coloured blue on the copy of the Canberra City plan signed by the Minister. In order that the activities on the lake may be supervised and the provisions of the Ordinance enforced, Sections 6, 7 and 8 provide that the Minister may appoint a person to be the Superintendent of Lake Burley Griffin (with powers conferred by the Ordinance) and may appoint inspectors.

Section 9 empowers an inspector or a member of the police to enter or inspect any sites, premises, vehicles or boats and give reasonable directions to persons using the lake area for the safe and proper use of the area and associated works; he will,

however, be required to produce on request a certificate issued by the Minister that he is an inspector for the purpose of this Ordinance.

If necessary an inspector or a member of the police force may use a vehicle or boat within the lake area and not be liable to any fare normally chargeable for the hire or use of the vehicle or boat.

A penalty of £20 is provided for obstructing an inspector or a member of the police force in the execution of his duty or for failing to comply with a direction given by one of these persons.

For the Commonwealth to have control over the waters of the lake, section 11 vests in the Commonwealth the right to the use, flow and control of the waters in the lake and in the rivers, streams and creeks, flowing into the lake.

While it has been thought desirable to extend the controls applicable to the lake to these tributaries, it is proposed that these provisions should not affect the rights of people through whose land the waters flow. Sub-section (2.) of section 11 therefore, exempts such lessees otherwise the rights that these lessees currently possess would be abrogated.

Sections 12 and 13 provide that the Minister may authorise:—

- (a) the raising or lowering of the level of water in the lake;
- (b) the stoppage of the flow;
- (c) permitting the flow; and
- (d) increasing the rate of flow of water from the lake.

In authorising these actions the Minister is required to cause such action to be taken to minimise the detriment, inconvenience and damage that may result from such action. If, as a result of the authorised action, damage is caused to land the Commonwealth becomes liable to pay compensation to the owner of the land. Compensation is to be determined by agreement or failing agreement by litigation against the Commonwealth by the owner.

The Minister may erect signs within the lake area or on Scrivener Dam to define areas in which certain activities are permitted, restricted, or prohibited, such as launching, mooring and beaching of boats, swimming, or to convey information or warning to persons using the lake, the foreshores of the lake or an associated work. A penalty of £20 is provided for failure to comply with the directions specified in the sign.

While the Minister may generally define areas in which swimming is permitted or prohibited, section 15 specifically prohibits swimming in or diving onto that part of the lake between Commonwealth Avenue Bridge and Kings Avenue Bridge or swimming underneath or diving from these bridges. A penalty of £20 may be incurred for an offence against this provision.

A penalty of £20 may be imposed on a person damaging, removing or otherwise interfering with a sign erected under the authority of the Minister.

Section 18 provides that the Minister may approve the anchoring of buoys in the lake or the erection of wharves or jetties within the lake area and a penalty of £20 may be imposed on a person who without the approval of the Minister anchors a buoy in the lake or erects or commences to erect a wharf or jetty within the lake area.

For the purpose of carrying out essential works or for other reasons, the Minister may declare by notice in the Gazette an area of the lake to be a prohibited area and the boundary of a prohibited area may be defined by such means as the Minister thinks necessary. Persons other than those engaged in the execution of official duties may incur a fine of £20 if they enter or be in a prohibited area.

The Minister may, by a suitable notice published in a daily newspaper circulating in the Territory declare a part of the lake to be a closed area for a particular period of time. He may also authorise the conduct of a function within the closed area and empower the organising body to make an admission charge. Persons who have not paid the admission charge or are not connected with the conduct of the function or are not engaged on official duties within the enclosed area may be excluded from the area.

Section 23 prohibits the anchoring of a boat on the lake between the hours of sunset and sunrise; however, it will be a defence if the defendant satisfies the Court that the boat was anchored for the purpose of fishing.

Under the provisions of sections 24 to 27 inclusive, the use of power boats on the lake, hovercraft within or above the lake area and water skiing on the lake are restricted. The Minister may, subject to such conditions as he thinks fit grant permission for a person to engage in these activities within the lake area. Penalties are provided for engaging in these activities without the approval of the Minister or for failure to comply with conditions under which the approval is given.

If in the opinion of an inspector or a member of the Police Force, a vehicle or boat in the lake area should be moved in the interests of safety, or of the public or for providing free passage, the owner may be directed to move the vehicle or boat to another place in or from the lake area. If necessary, an inspector or a member of the Police Force may move or remove the vehicle or boat and the Commonwealth may recover the cost of moving or removal. An inspector or a member of the Police Force will not be liable for any damage he may cause to a vehicle or boat in the proper exercise of his powers.

Penalties are provided for a person:—

- (a) using a boat as a house boat or a place of living within the lake area;
- (b) camping or permitting a caravan to stand within the lake area between the hours of sunset and sunrise;

- (c) interfering with or destruction or damage to trees, shrubs or flowers, signs, notices or any other property of the Commonwealth within the lake area;
- (d) depositing rubbish except in a receptacle provided for the purpose;
- (e) polluting the waters in the lake or flowing into the lake.

Section 34 provides that the Minister may issue licences to sell or hire articles or goods or to hire boats or to carry passengers or goods in a boat for hire or reward. A licence issued in pursuance of this section may be cancelled at any time by the Minister.

In dealing with the prevention of collisions on the lake Part V of the Ordinance provides rules of the water applying to boats navigating the lake and concerning the lights to be displayed at night by boats according to their size. These rules are modelled on those developed for this purpose in New South Wales.

Penalties are provided for a person navigating a boat in a dangerous or careless manner or navigating while intoxicated.

All penalties for offences against this Ordinance are qualified by the terms of section 51 which provides that a person is not liable to be convicted of an offence if he can satisfy the Court that the offence could not have been avoided by any reasonable effort on his part or that the action he took was reasonable was intended to avoid a dangerous situation which had arisen and for which he could not have been responsible.

The Minister may make regulations not inconsistent with the Ordinance and penalties not exceeding £20 may be imposed under these regulations.

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