

Frances Bay Marine Facility – Crown Land Licence

Commercial vessels

Part A			
Applicant details			
Full name			
Company name			
ABN/ACN (or equivalent)			
Street address			
Phone number		Email address	
Preferred method of contact			Phone / email / mail
Vessel details			
As listed in attachment 1 – for each additional vessel, add an attachment			
Licence specifics			
Resident pen required (no less than 3 months) - if yes, complete attachment 2			Yes / No
Casual pen required (less than 3 months)			Yes / No
Part B - declaration by deed poll			
This declaration by deed poll is made in favour of the Northern Territory of Australia (the Territory) by:			
	(full name)		(address)
<p>1. I warrant that I am duly authorised and have legal authority to sign this deed poll for and on behalf of the licensee;</p> <p>2. I make this application for a Crown land licence in accordance with s 90 of the <i>Crown Lands Act 1992</i> to access and use the facilities at the Frances Bay Marine Facility for the purpose of operating the vessel(s) listed at attachment 1.</p> <p>3. I have attached a colour copy of proof of identity (driver licence or passport preferred) to this application.</p> <p>4. I understand:</p> <ul style="list-style-type: none">a. should this application be successful any licence granted will be on the terms at part C, part D and item 9 of part F (if any) below.b. the grant of any licence is conditional upon:			

i. obtaining a trading account for the purposes of any charges, incurred in connection with the licence;

ii. the provision of full colour side view photographs of the vessel showing the vessel name and registration number; and

iii. provision of certificates of currency of the insurances required by the licence and the *Crown Lands Act 1992*;

c. the allocation of berths is at the sole discretion of the Territory; and

d. where there are no berths available I may be placed on a waiting list and the Territory may contact me to offer a Crown land licence.

5. I acknowledge:

a. that I have read and understood the conditions of the licence at part C, part D and item 9 of part F (if any), including those referred to in condition 4 of part C;

b. for the purpose of condition 1 of schedule 1 of the regulations, it is my responsibility to obtain all approvals, permits or other licences (for example sacred sites clearance certificates, development approvals, environmental approvals etc); and

c. that the licence area may be subject to existing native title rights as defined in the *Native Title Act 1993* (Cth) and nothing in the licence takes away from the exercise of those rights by the holders of those rights.

6. Without limiting any condition of the licence, the Act or the regulations, release from and indemnify the Northern Territory of Australia and the Minister for Lands, Planning and Environment against all actions, suits, proceedings, claims, damages, demands, costs, third party actions, reasonable expenses or other liabilities of any nature whatsoever and howsoever arising, in connection with this licence, including any claim for and compensation arising out of the grant of this licence pursuant to the *Native Title Act 1993* (Cth).

Executed as a deed poll

Signed sealed and delivered by

Full name			
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Signature		Date	
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In the presence of (witness)

Full name			
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Signature		Date	
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Part C – prescribed conditions of licence

- Pursuant to s 90 of the *Crown Lands Act 1992* (**the Act**), the licensee named at item 1 of the particulars at part F (**the particulars**) has made an application for the grant of a licence to access, occupy or use the licence area described in item 2 of the particulars.
- Under s 91 of the Act, the Minister grants to the licensee a licence on the following terms (**this licence**) for the purpose described in item 3 of the particulars (**the purpose**).

3. For the purpose of s 93 of the Act, the term of this licence will commence on the commencement date set out at item 4 of the particulars and expire on 31 March the following year, unless varied, extended or renewed by the Minister (**the term**).
4. The statutory conditions of this Licence are prescribed at:
 - a. s 92(1) of the Act¹; and
 - b. schedule 1 of the *Crown Lands Regulations 1992*² (**the regulations**).
5. If there is licence class specified at item 9 of the particulars, the additional prescribed conditions set out in schedule 2 of the regulations for that class of licence apply.
6. Subject to the Minister’s powers under s 94 of the Act, no licence fee is payable on this licence.
7. For the purpose of s 94A of the Act the Minister may determine that royalties will be payable on this licence if set out at item 9 of the particulars.
8. For the purposes of condition 10(1) of schedule 1 of the regulations the licensee must hold a boat insurance policy for third party damages and liabilities, including wreck, salvage and pollution coverage, for not less than twenty million dollars (\$20,000,000.00) unless another amount is specified at item 6 of the particulars.
9. Pursuant to s 92(3)(d) of the Act, it is a further condition of this licence that:
 - a. the licensee’s right to surrender under section 94B(2) of the Act is on condition that the licensee gives 10 business days’ prior written notice, unless otherwise notified in writing by the Territory;
 - b. the Minister may determine that the licensee must hold for the term the additional insurances (if any) of the types and amounts set out at item 7 of the particulars;
 - c. the Minister may impose a licence fee or may determine that a licence fee is to be adjusted in the manner set out at Item 9 (if any);
 - d. notwithstanding condition 3, the grant of this licence does not commence until the duly executed deed poll at part B is submitted and this licence is signed by the Minister or the Minister’s delegate.
10. Without limiting the conditions of this licence, you must comply with the general conditions at part D below, which take precedence over the terms of this licence to the extent of any inconsistency.
11. The Minister may, pursuant to:
 - a. s 92(3) of the Act, vary a prescribed condition, impose any other conditions that the Minister considered appropriate and vary those conditions during the term; and
 - b. s 94B(1) of the Act, cancel this licence at any time during the term with immediate effect;
12. Pursuant to s 94B(2) of the Act, the licensee may surrender this licence at any time during the term, subject to condition 9(a) of this licence.
13. The licensee must during the term comply with all applicable laws of the Northern Territory and the Commonwealth in force from time to time.
14. For the purpose of this licence, the contact details for the Territory are at item 8 of the particulars

Part D – general conditions of licence

1. Definitions

1.1. In these general conditions the following definitions apply:

¹ <https://legislation.nt.gov.au/en/Legislation/CROWN-LANDS-ACT-1992>

² <https://legislation.nt.gov.au/Legislation/CROWN-LANDS-REGULATIONS-1992>

- a) **Application** means the application made by the licensee for this licence at part A;
- b) **Berth** means a berth or mooring allocated to the licensee by the Territory within the licence area;
- c) **Casual pen** means a short term berth;
- d) **Charges** mean the fees, charges and expenses payable under clause 4 of part D, including those charges described at item 5 of part F, utility charges such as electricity and water, and other usage charges such as storage fees, equipment hire and after-hours lock movement;
- e) **Collective harbour authorities** means the Territory, port management officer, regional harbour master and any other competent authority;
- f) **Frances Bay Mooring Basin** means the Frances Bay Mooring Basin also known as the Duck Pond located at Lot 6404, 56 Frances Bay Dr Darwin NT 0800;
- g) **Frances Bay Wharf Facilities** means any of:
 - i. Hornibrooks Pontoon
 - ii. Fisherman’s Wharf; and
 - iii. Raptis Wharf;
- h) **Licence area** means the area identified at part E for the purpose of the licensee accessing and occupying a berth;
- i) **Licensee’s invitees** means any guests and other invitees of the licensee;
- j) **Resident pen** means a long term berth in the Frances Bay Mooring Basin required for a period in excess of 3 months, which, if applicable, is described at attachment 2 to this licence;
- k) **Port management officer** means the person appointed by the port operator of the port of Darwin;
- l) **Port of Darwin** has the same meaning as in the *Port of Darwin Act 2015*;
- m) **Port operator** has the same meaning as in the *Ports Management Act 2015*;
- n) **Regional harbour master** means the person appointed under s 19(1) of the *Ports Management Act 2015*; and
- o) **Vessel** means the vessel specified in the application or as notified by the licensee to the Territory;

2. Licensee acknowledgements

- 2.1. The licensee acknowledges that the licensee’s rights to the licence area and berth are:
- i. subject to any rights to use and occupy the licence area held by any other person, whether those rights arise under agreement with the licensee or otherwise; and
 - ii. is conditional on any other person using or occupying the licence area at the commencement of this licence vacating the licence area and giving up any rights they may have in respect of the licence area.
- 2.2. The Territory is at no time under any obligation to take any action to remove any vessel or person from, force any person to vacate or otherwise remove a person’s rights in respect of the Licence Area, except in circumstances where such rights result from an act (where an act does not include an omission) of the Territory;

3. Licensee obligations

- 3.1. The licensee must, at all times during the term, ensure that:
- a) the vessel is in a seaworthy condition, and identified, marked, equipped and maintained as required by any of the collective harbour authorities.
 - b) when the vessel is berthed:

- i. in a pen of the mooring basin, the vessel is stern to the finger wharf;
 - ii. it is berthed in the specified berth only and in the correct manner so as to avoid any damage to the facilities, other vessels, or other property;
 - c) the vessel has appropriate deck fittings and berthing lines from the vessel to any bollards in the licence area, and for this purpose all deck fittings and berthing lines must be:
 - i. of such type and strength as are adequate for the purposes of securing the vessel to the bollards in the licence area; and
 - ii. maintained to a reasonable standard, as may be required by the collective harbour authorities.
 - d) the licensee and any of the licensee’s invitees do not do anything in or around the licence area which may be unlawful, or, in the opinion of the Territory, annoying, dangerous, offensive or may cause a nuisance to other users in the vicinity of the licence area.
- 3.2. The licensee must, at all times during the term only berth, and manoeuvre the vessel in accordance with any directions of the collective harbour authorities.
- 3.3. The Licensee must not, at any time during the term:
- a) allow the vessel to exceed a speed of 5 knots when approaching, departing or being moved in the vicinity of the licence area;
 - b) allow any intoxicating liquor to be consumed on the licence area unless confined to the vessel and otherwise in compliance with the *Liquor Act 2019*;
 - c) allow any:
 - i. inflammable substances or liquids;
 - ii. contaminated bilge water;
 - iii. any effluent
 - iv. fuel;
 - v. oil; or
 - vi. rubbish or general waste
 to be emptied, spilled, poured or otherwise disposed of into, or from the licence area or the vicinity of the licence area;
 - d) allow for the use of power leads within the Frances Bay Mooring Basin or Frances Bay Wharf facilities within the licence area unless they show an inspection tag permitting it to be used to connect power from each individual power outlet to the vessel.
 - e) allow the connection of any individual power outlet unless:
 - i. if connecting to a 15A outlet, cable is not less than 2.5mm flexible cable;
 - ii. if connecting to a 32A outlet, cable is not less than 6mm flexible cable;
 - iii. if connecting to a 50A or 63A outlet, cable is not less than 16mm flexible cable; and
 - iv. all plugs and sockets are weatherproof.
 - f) allow any swimming, diving or fishing on or from the licence area
 - g) permit any children under the age of 12 years to be on the vessel whilst in the licence area unless accompanied and supervised by a person over the age of 18 years;
 - h) use or allow the use of toilets on the vessel whilst in the licence area or otherwise use the licence area unless the vessel has a working holding tank fitted;
 - i) ensure that any animals brought into the licence area are kept under control by a person over the age of 18 years old;
 - j) carry out any major repairs to the vessel (such as welding, grinding or other metal work) in the Frances Bay Mooring Basin or Frances Bay Wharf facilities without the Territory’s prior written consent. Minor repairs to a vessel (such as internal painting, mechanical adjustments and

electrical repairs) are permitted within the licence area, but must be done in accordance with any written requirements of the Territory.

- k) cause nor permit any damage to the Territory’s facilities or property or the property of any third party or cause any injury or death to any person in relation to its use of the licence area or otherwise in connection with this licence. The licensee must immediately notify the Territory’s contact person of any such damage, injury or death caused or noticed by the licensee or any of the licensee’s invitees.

3.4. The licensee is responsible for the conduct of the licensee’s invitees at all times during the term.

4. Charges

4.1. The licensee must pay all charges within the times set out below at clauses 4(b) or 4(c), unless otherwise agreed.

4.2. If the term is for 3 months or more (billed quarterly in advance):

- i. the entirety of the charges for the first 3 months; and
- ii. thereafter, 3 monthly (or part thereof on a pro rata basis); or

4.3. If the term is less than 3 months, the entirety of the charges for the term (billed monthly in arrears).

4.4. The Territory may increase charges during the term in accordance with the schedule of charges for ‘wharves and moorings in Frances Bay, Darwin’ published on the Northern Territory Government website from time to time.

5. Directions and relocation

5.1. The licensee (and the vessel) are at all times subject to and must comply with any and all directions of any of the collective harbour authorities.

5.2. Allocation of a berth within the licence area is in the sole discretion of the Territory and the licensee must not allow its vessel to occupy any other area which is not allocated to it by the Territory or allow any other vessel to occupy the berth.

5.3. The Territory reserves the right to direct the licensee to relocate to another berth and once requested the licensee must immediately relocate its vessel to the other berth, in which case the new berth will be the berth for the purpose of this licence.

5.4. If the Territory issues a direction under clause 5.3 the Territory will provide notice of the new berth to the licensee within 5 business days of the requirement to re-locate the vessel.

5.5. Where the number of vessels of a licensee within the Frances Bay Mooring Basin exceeds their resident pen allocation, a casual pen rate will be applied to the last vessel to enter.

5.6. Where the licensee seeks to relinquish a berth, the licensee must give the Territory not less than 10 business days’ written notice by completing and submitting attachment 2.

6. Removal of vessel

6.1. The Territory may by notice in writing, require the licensee to remove the vessel from the licence area within 3 days, if:

- a) following the expiration of this licence, a further licence is not granted by the Territory to the licensee for the vessel; or
- b) this licence is terminated.

6.2. If the licensee fails to remove the vessel in accordance with a notice provided to it:

- a) under condition 6.1 above; or

<p>b) in accordance with an exercise of rights under any law, the Territory, may remove or procure the removal of the vessel from the licence area.</p> <p>6.3. In the event the vessel is removed or stored in accordance with clause 6.2 above:</p> <p>a) all costs associated with removing and storing the vessel and associated charges, including outstanding charges, will be a debt due and payable to the Territory by the licensee; and</p> <p>b) the vessel will remain at the risk of the licensee in all respects and the Territory will not be liable for any loss, damage or liability suffered or incurred by the licensee.</p> <p>6.4. If the vessel is stored by the Territory and the licensee does not remove the vessel from the storage location within 30 business days, the Territory may, subject to the provisions of the <i>Uncollected Goods Act 2004</i> take possession of the vessel and arrange for the vessel to be sold or otherwise disposed of in its sole discretion.</p>
<p>7. New licence</p>
<p>7.1. If requested by the licensee, the Territory may, in its absolute discretion, grant a new licence to the licensee on the same terms as this licence (save that the licence charges applicable will be those that apply as at the date of the extension) for a period notified to the licensee by the authorised Territory representative.</p>
<p>8. Lien, seizure and sale</p>
<p>8.1. The licensee acknowledges that, to the extent permitted by law, where there is an amount due and payable to the Territory under this document (including a debt), the Territory will have a lien on the vessel, its fittings and contents and the Territory may seize, attach and detain the vessel until fully paid or, if unpaid, may sell the vessel to recover the amount outstanding and associated costs.</p>
<p>9. Emergencies</p>
<p>9.1. If any of the collective harbour authorities, in any of their individual discretions, considers that an emergency situation exists, any of them may carry out such safety measures as are considered desirable in the circumstances and may cause the vessel to be removed from the licence area by whatever means considered fit.</p> <p>9.2. The vessel, equipment, mooring lines and fittings will remain at the risk of the licensee in all respects and the Territory will not be liable for any loss, damage or liability suffered or incurred by the licensee as a result.</p> <p>9.3. The licensee must immediately upon request provide to the Territory's contact person a set of the vessel's main door hatch and ignition keys for use in an emergency situation.</p>
<p>10. Change of ownership</p>
<p>10.1. If the licensee (or the vessel owner, if different to the licensee) enters into any agreement to sell or otherwise dispose of the vessel, the licensee must:</p> <p>a) within 7 days of entering into a contract for the sale of the vessel, or other transfer of interest in the vessel, notify the Territory of that sale or change in interest; and</p> <p>b) subject to clause 8.2, ensure the vessel is removed from the licence area prior to the completion of the contract of sale or transfer.</p> <p>10.2. The licensee will not be required to move the vessel if the new owner has made a successful application to the Territory for a licence for the licence area in respect of the vessel.</p>

11. Risks and warranty

11.1. To the extent permitted by law, the Territory gives no warranty that the licence area or any other Territory facilities are, or will remain fit, suitable or adequate for all or any of the purposes of the licensee and all warranties (if any) as to the suitability, fitness and adequateness of the licence area or other Territory facilities are hereby expressly excluded.

11.2. The licensee and the licensee's invitees use the licence area and any other Territory facilities at their own risk and the Territory excludes liability for any damage to the vessel, equipment, fixtures, fittings or other property, however occurring and including but not limited to damage caused by the acts or omissions of any of the Territory's tenants, licensees, customers, contractors or trespassers, or by any weather conditions, water, heat, fire, emissions, electricity, vermin, explosion, tempest, riot, civil commotion, bursting pipes or by the entry of water from any source whatsoever or by the operation of any fire equipment nor for any loss of profits resulting there from.

12. Compliance with laws, authorisations and policies

12.1. The licensee must comply with:

- a) any laws and requirements including under the:
 - i. *Crown Lands Act 1992*;
 - ii. *Ports Management Act 2015*;
 - iii. *Marine Act 1981*;
 - iv. *Marine Pollution Act 1999*;
 - v. *Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (cth)*; and
 - vi. any other applicable laws, regulations and bylaws of the Northern Territory of Australia or the Commonwealth, including, without limitation, any relating to the navigation and movement of vessels, vessel or personnel or other relevant registrations, dangerous cargoes, seaworthiness, marine safety, the environment, water, pollution and otherwise relating to the licensee's use of the vessel and occupation of the licence area;
- b) any applicable polices of the Territory as notified by the Territory's contact person from time to time;
- c) the safety alert notice issued by NT Worksafe on 1 August 2018 titled 'Safety Alert – Safe Access/Egress to Marine Vessels in Port'
- d) the requirements, standards, guidelines, recommendations or specifications of any of the collective harbour authorities, or any other competent authority in respect of the licensee's navigation, movement and mooring of the vessel including without limitation; and
- e) all necessary survey and licensing regulation requirements in connection to the vessel and its operations.

13. Contamination

13.1. The licensee must at its cost and own expense:

- a) take all reasonable and practical measures to ensure that the environmental impact resulting from its use of the licence area and nearby waterways is prevented; and
- b) immediately clean up any contamination or spills in or affecting the licence area and the port of Darwin, to the extent caused or contributed to by the licensee or the licensee's invitees.

13.2. If, in the event of any pollution, contamination, spills, property damage and the like caused by or in connection with the licensee's use of the licence area and port of Darwin or the Territory's

facilities, the Territory is entitled to take any action required to make good the harm, including without limitation, cleaning up, repairs and wreck removal and the licensee will be responsible for all costs and expenses incurred by the Territory which will be recoverable as a debt due and payable to the Territory.

14. Enforcement costs

14.1. The licensee must pay any and all enforcement expenses (including legal fees on an indemnity basis) incurred by the Territory to recover any amount due, or any action required to be taken by the Territory under this licence.

15. Costs and expenses

15.1. Except as otherwise set out in this licence, each party will be responsible for their own costs and expenses incurred in connection with the preparation and execution of this licence. The licensee will be liable for any costs incurred by the Territory in providing any consents required by the licensee or as a result of any failure by the licensee to comply with any of its requirements under this licence, which costs will be a debt due and payable immediately upon demand by the Territory.

16. No limitation

16.1. The licensee acknowledges and agrees that without prejudice to the Territory's obligations under this licence, nothing in this licence limits or otherwise restricts any of the collective harbour authorities' rights or obligations under any laws or with respect to the management or operation of the licence area and port of Darwin, including making decisions and exercising its rights under law. The licensee acknowledges that pursuant to applicable laws, the Territory is subject to the directions of the Minister, and despite the Territory's obligations under this licence, the Territory is entitled to enforce or comply with any requirement imposed on it by the Minister.

17. No tenancy

17.1. The licensee must not use or allow use of the vessel or the licence area as a primary place of residence. Nothing in this licence confers on the licensee any right as a tenant nor create the relationship of landlord and tenant as defined in the *Residential Tenancies Act 1999*.

18. No assignment

18.1. This licence is not assignable or transferable without the express written consent of the Territory.
 18.2. The licensee must not assign, sublicense or otherwise pass possession of the licence area to a third party without the prior written consent of the Territory (which consent may be withheld by the Territory in its absolute discretion).

19. Suspension of obligations

19.1. Despite any other clause or condition of this licence, if by reason of any event or circumstance which prevents the Territory from performing any obligation under this licence and which is beyond the reasonable control of the Territory or could not have been reasonably avoided, the Territory will not be liable under this licence to the licensee to the extent to which the Territory is so prevented, and the performance of that obligation is suspended.

Part E – plan of licence area	
Lot 6404 – “Gobi Desert”	Lot 6405 – “Frances Bay Mooring Basin”
Lot 6657 – “Fishermans Wharf”	Lot 6505 – “Hornibrooks Pontoon / Careening Poles”



Part F – grant and particulars (office use only)

Item 1 – licensee			
Entity name			
Contac person name			
Street address			
Postal address			
Email address		Phone number	

Item 2 – licence area			
Lots 6404, 6405, 6505 and 6657 as per the plan at part E.			
Item 3 - purpose			
Berthing of the vessel(s) identified at part A.			
Item 4 – term			
Commencement date		Expiry date	31 March the following year
Item 5 – charges	As per part D, clause 4.		
Item 6 – insurance amount	No variation to the insurance amount set out at clause 8 in part C.		
Item 7 - additional Insurances (if any)			
Type		Amount	
Hull insurance		On a valued basis	
Insurance under the <i>Return to Work Act 1986</i>		As required by law	
Item 8 – Territory’s contact person		Business Manager Frances Bay Marine Facility, Crown Lands Estate, DLPE 28 Frances Bay Drive Darwin NT 0800 fbmb.dipl@nt.gov.au GPO Box 1680 Darwin NT 0801 Phone: 08 8922 0615	
Item 9 – special conditions			Nil
Signed for and on behalf of the Minister for Lands, Planning and Environment by _____ in accordance with a delegation under the <i>Crown Lands Act 1992</i>			
Signature		Date	
Position			
Attachment 1 – vessel(s)			
Vessel 1 details			

Name			
Registration number (if applicable)			
Owner details (if different to applicant)			
Name			
Phone number		Email address	
Length overall - including bowsprit and duckboard (m)			
Gross register tonnage (t)		Maximum beam (m)	
Draft (m)		Displacement (kg)	
Propulsion type	Inboard / Outboard / Sail / Oars		
Fuel type	Diesel / Petrol		
Hull construction material	Steel / Timber / Aluminium / Fibreglass		
Hull type	Mono / Multi hull		
LPG on board vessel			Yes / No
Vessel 2 details			
Name			
Registration number (if applicable)			
Owner details (if different to applicant)			
Name			
Phone number		Email address	
Length overall - including bowsprit and duckboard (m)			
Gross register tonnage (t)		Maximum beam (m)	
Draft (m)		Displacement (kg)	
Propulsion type	Inboard / Outboard / Sail / Oars		

Fuel type	Diesel / Petrol	
Hull construction material	Steel / Timber / Aluminium / Fibreglass	
Hull type	Mono / Multi hull	
LPG on board vessel		Yes / No
Attachment 2 – request to obtain or relinquish resident pen		
Details		
Entity name		
Vessel name(s) - for pen sizing		
Request to obtain a resident pen		
Effective date		
Transaction	Pen(s) requested	
Number of pens		
Period required (3-month minimum)		
Request to relinquish a resident pen		
Relinquishment date (not less than 10 business days from the date this form will be submitted)		
Transaction	Pen(s) relinquished	
Number of pens		

Collection notice

The Northern Territory Government respects and is committed to safeguarding the confidentiality and privacy of the information that it collects and handles, in accordance with the Northern Territory *Information Act 2002*³.

You have been asked to provide personal information necessary for us to meet your application requirements. You do not have to provide your personal information but if you choose not to, this application will be complete, and we will be unable to process it.

The information you provide will be accessible to the Department of Lands, Planning and Environment and will only be used to provide a department service or program. We will not disclose your personal information to third parties unless, authorised or required by law to do so you have given us consent to share your personal information for a specific purpose.

You may request access to the personal information we hold about you. If you want more information about the Northern Territory's privacy laws, please refer to the Northern Territory *Information Act 2002*, or the Office of the Information Commissioner NT⁴.

How to submit

Email your completed form to fbmb.dlpe@nt.gov.au or deliver in person to our administration office at:
28 Frances Bay Drive
Darwin NT 0800
(Adjacent Fisherman's Wharf)

³ <https://legislation.nt.gov.au/Legislation/INFORMATION-ACT-2002>

⁴ <https://infocomm.nt.gov.au/>