

LG301\*

## LOCAL GOVERNMENT ACT 1995

### *City of Cockburn*

#### (LOCAL GOVERNMENT ACT) AMENDMENT NO. 2 LOCAL LAW 2013

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the City of Cockburn resolved on 12 December 2013 to adopt the following local law.

#### 1. Citation

This local law may be cited as the *City of Cockburn (Local Government Act) Amendment No. 2 Local Law 2013*.

#### 2. Commencement

This local law comes into operation 14 days after the day of its publication in the *Government Gazette*.

#### 3. Principal Local Laws

The *City of Cockburn (Local Government Act) Local Laws 2000* as published in the *Government Gazette* on 9 October 2000 and as published and amended in the *Government Gazette* on 13 November 2001, 15 November 2002, 26 September 2003, 25 November 2003, 27 July 2004, 17 May 2005, 11 January 2008, 10 December 2010, 16 December 2011, and 22 June 2012, is referred to as the Principal Local Law. The Principal Local Law is amended.

#### 4. Part VI amended

After clause 6.18 insert the following—

#### *Division 4—Street Entertainers*

##### 6.19 Interpretation

In this Division, unless the context otherwise requires—

##### 6.20 Permit required to perform

- (1) A person shall not perform in a public place without a permit.
- (2) An exemption to s 6.20 (1) may be granted if the City has requested a person to perform at events run by the City.

##### 6.21 Variation of permitted area and permitted time

- (1) An authorised person may by notice in writing to a permit holder vary—
  - (a) the permitted area;
  - (b) the permitted time; or
  - (c) both the permitted area and the permitted time,

shown on a permit.

- (2) An authorised person may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

##### 6.22 Obligations of permit holder

Authorised officers may ask a person performing to cease performing immediately if they—

- (a) are not properly dressed in clothing which covers the body to prevent indecent exposure;
- (b) act in an offensive manner;
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit;
- (d) sell or offer for sale any articles, commodity or services with the exception of the performer's own original CDs and DVDs;
- (e) use dangerous implements or materials as part of the performance without a local government permission;
- (f) use foul or abusive language;
- (f) use animals in their act;
- (g) are intoxicated or under the influence of drugs;
- (h) cause a nuisance or obstruct pedestrian or vehicle traffic and entrances to shops or buildings;
- (i) interfere with an approved entertainment or activity;

- (j) do not keep their site safe and clean while working' and
- (k) solicit donations in appreciation of their performance.

#### *Division 5— Permits*

#### **Subdivision 1—Applying for a permit**

##### **6.23 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person may apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government or an authorised person may require an applicant to give local public notice of the application for a permit.
- (5) The local government or an authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2).

##### **6.24 Decision on application for permit**

- (1) The local government or an authorised person may—
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If the local government or an authorised person approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government or an authorised person refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government or an authorised person to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government or an authorised person to refuse the application for a permit on other grounds under subclause (1)(b).

#### **Subdivision 2—Conditions**

##### **6.25 Conditions which may be imposed on a permit**

The local government or an authorised person may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) the payment of a deposit or bond against possible damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

##### **6.26 Imposing conditions under a policy**

- (1) In this clause—

*policy* means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.24(1)(a).

(2) Under clause 6.24(1)(a) the local government or an authorised person may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 6.24(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

#### **6.27 Compliance and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government or an authorised person may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

### **Subdivision 3—General**

#### **6.28 Duration of permit**

A permit is valid for one year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 6.32.

#### **6.29 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of—

- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit with appropriate modifications.

#### **6.30 Transfer of permit**

(1) An application for the transfer of a valid permit is to—

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government or an authorised person may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government or an authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government or an authorised person approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government or an authorised person approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

#### **6.31 Production of permit**

A permit holder is to produce to an authorised person the permit issued by the local government immediately upon being required to do so by that authorised person.

#### **6.32 Cancellation of permit**

(1) Subject to clause 6.33, a permit may be cancelled by the local government or an authorised person if—

- (a) the permit holder has not complied with a—
    - (i) condition of the permit; or
    - (ii) provision of any written law which may relate to the activity regulated by the permit; or
  - (b) it is relevant to the activity regulated by the permit that—
    - (i) the permit holder has become bankrupt, or gone into liquidation;
    - (ii) the permit holder has entered into any composition or arrangement with creditors; or
    - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (2) On the cancellation of a permit the permit holder is to be taken to have forfeited any fees paid in respect of the permit.
- (3) An authorised person may cancel a permit if, in the opinion of the authorised person, the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or the performance otherwise constitutes a nuisance.

### **6.33 Application of Part 9 Division 1 of Act**

When the local government or an authorised person makes a decision—

- (a) under clause 6.23(1); or
  - (b) as to whether it will renew, vary, or cancel a permit,
- the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

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Dated: 13 December 2013.

The Common Seal of the City of Cockburn was affixed under the authority of a resolution of Council in the presence of—

LOGAN K. HOWLETT, Mayor.  
STEPHEN CAIN, Chief Executive Officer.