

LG301\*

LOCAL GOVERNMENT ACT 1995

*Shire of Wagin*

EXTRACTIVE INDUSTRIES LOCAL LAW 2015

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the local government of the Shire of Wagin resolved on 28th June 2016 to make the following local law.

PART 1—PRELIMINARY

**Citation**

1.1 This local law may be cited as the *Shire of Wagin Extractive Industries Local Law 2015*.

**Commencement**

1.2 This local law will come into operation fourteen (14) days after the day on which it is published in the *Government Gazette*.

**Application**

1.3 (1) The provisions of this local law—

(a) subject to paragraphs (b), (c), (d) and (e)—

(i) apply and have force and effect throughout the whole of the district; and

(ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;

(b) do not apply to the extraction of minerals under the *Mining Act 1978*;

(c) do not apply to the carrying on of an extractive industry on Crown land;

(d) do not affect the validity of any licence issued under any previous Extractive Industries local law applicable to the district; and

(e) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land.

(2) In subclause (1)(e) land includes adjoining lots or locations in the same occupation or ownership of the owner and occupier referred to in subclause (1)(e).

**Definitions**

1.4 In this local law, unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*carry on an extractive industry* means quarrying and excavating for stone, gravel, sand and other material;

*CEO* means the Chief Executive Officer of the local government;

*district* means the district of the local government;

*excavation* includes quarry;

*licence* means a licence issued under this local law;

*licensee* means the person named in the licence as the licensee;

*Local Government* means the Shire of Wagin;

*occupier* has the meaning given to it in the Act;

*owner* has the meaning given to it in the Act;

*person* does not include the local government;

*secured sum* means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1; and

*site* means the land specified by the local government in a licence.

PART 2—LICENCING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

**Extractive Industries Prohibited Without Licence**

2.1 A person must not carry on an extractive industry—

(a) unless the person is the holder of a valid and current licence; and

(b) unless the person is the holder of a current planning approval for that extractive industry granted by the local government under the relevant local planning scheme; and

(c) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

#### **Application for Licence**

2.2 A person seeking the issue of a licence in respect of any land must apply in the form determined by the local government from time to time and must forward the application duly completed and signed by the applicant and the owner of the land to the CEO together with—

- (a) the application fee as prescribed by the local government;
- (b) three (3) copies of a detailed plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
  - (i) the location, area, depth and volume of extraction (existing and proposed final contours at 1 metre intervals);
  - (ii) the distances from lot boundaries and all dwellings and other sensitive uses within a 1km radius of the extraction site;
  - (iii) road frontages and property access;
  - (iv) details of nearby and surrounding land uses;
  - (v) existing vegetation, wetlands, and watercourses, and distance to the proposed area of extraction;
  - (vi) areas of extracted materials, top soil and overburden stockpiles; and
  - (vii) the location of any buildings associated with the proposal;
- (c) a report accompanying the above plans, detailing—
  - (i) the type of material to be excavated;
  - (ii) the method(s) of extraction, including blasting, crushing and other on-site processing works;
  - (iii) a description of the methods by which vegetation is to be cleared and extracted material, overburden and top soil stockpiled and/or removed;
  - (iv) the hours of operation (including blasting, crushing and excavation);
  - (v) the anticipated overall lifespan of the extractive industry;
  - (vi) the type, volume, location and method of storage of any chemicals;
  - (vii) the type of equipment to be used, including size of trucks and machinery;
  - (viii) any on-site maintenance and/or refuelling of trucks or machinery;
  - (ix) the number and type of truck movements per day/week;
  - (x) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (xi) proposed haulage routes and destinations; and
  - (xii) proposed road warning signage; and
- (d) the required report will also address the following environmental considerations—
  - (i) noise, dust and vibration abatement measures;
  - (ii) visual impact assessment, with particular reference to major roads, tourist routes and interest points, and surrounding properties and structures;
  - (iii) drainage implications including surface and ground water impacts;
  - (iv) acid sulphate soil risks (if any) and appropriate management measures;
  - (v) proposed end use of site;
  - (vi) a detailed rehabilitation plan including types of materials, staging, source of materials, re-contouring, replacement of topsoil, screen planting and revegetation (vegetation species and densities);
  - (vii) assessment of the risk of spreading *Phytophthora dieback* and management techniques appropriate to that level of risk;
  - (viii) management techniques to address potential conflict with surrounding land uses and protection of environmental attributes; and
  - (ix) any other assessment that the local government may require, including but not limited to Aboriginal and Heritage considerations.

### **PART 3—DETERMINATION OF APPLICATION**

#### **Determination of Application**

3.1 (1) The local government may refuse to consider an application for a licence that is not accompanied by the fees, information and documents required by clause 2.2.

(2) The local government may undertake consultation with surrounding land owners prior to determining the application.

- (3) The applicant will be responsible for paying a consultation fee to the local government, as determined by the local government, to meet expenses for the local government undertaking any consultation under subclause (2).
- (4) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
  - (b) approve the application—
    - (i) over the whole or part of the land in respect of which the application is made; and
    - (ii) on such terms and conditions, if any, as it sees fit.
- (5) Without limiting subclause (4), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
  - (b) the appropriate siting of access thoroughfares, buildings and plant;
  - (c) the stockpiling of material;
  - (d) the hours during which any excavation work may be carried out;
  - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
  - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
  - (g) the depths below which a person must not excavate;
  - (h) distances from adjoining land or roads within which a person must not excavate;
  - (i) the safety of persons employed at or visiting the excavation site;
  - (j) the control of dust and wind-blown material;
  - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - (l) the prevention of the spread of dieback or other disease;
  - (m) the drainage of the excavation site and the disposal of water;
  - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
  - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
  - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
  - (s) any other matter for properly regulating the carrying on of an extractive industry.
- (6) Where the local government approves an application for a licence, it must—
- (a) determine the licence period, which must not exceed 21 years from the date of issue of the licence; and
  - (b) approve the issue of a licence in the form determined by the local government from time to time.

#### **Payment of Annual Licence Fee**

3.2 On or before 31 December in each year, a licensee must pay to the local government the annual licence fee determined by the local government from time to time.

### **PART 4—TRANSFER AND CANCELLATION OF LICENCE**

#### **Transfer of Licence**

4.1 (1) An application for the transfer of a licence must—

- (a) be made in writing;
  - (b) be signed by the licensee and the proposed transferee of the licence;
  - (c) be accompanied by the current licence;
  - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
  - (e) include any information that the local government may reasonably require; and
  - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

#### **Cancellation of Licence**

- 4.2 (1) The local government may cancel a licence where the licensee has—
- (a) ceased to substantially carry on the extractive industry for a period in excess of 12 consecutive months;
  - (b) been convicted of an offence against—
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry; or
  - (c) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government;
  - (d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law;
  - (e) failed to pay the annual licence fee under clause 3.2; or
  - (f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
- (a) it shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice;
  - (c) it shall require the licensee to restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as it may subsequently agree in writing with the licensee; and
  - (d) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

#### **Variation of Licence**

- 4.3 (1) An application to vary a licence must—
- (a) be made in writing;
  - (b) be signed by the licensee and the owner of the excavation site (if different to the licensee);
  - (c) be accompanied by the current licence;
  - (d) include any information that the local government may reasonably require; and
  - (e) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application to vary a licence, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves a licence variation, it shall notify the licensee and owner of the excavation site in a written form determined by the local government from time to time and signed by the CEO.

### **Security for Restoration and Reinstatement**

5.1 (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—

- (a) as a condition of a licence; or
- (b) before the issue of a licence,

the licensee must give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) Prior to the commencement of an extractive industry, a bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

### **Use by the Local Government of Secured Sum**

5.2 (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within a reasonable period of time from the completion of the excavation or portion of the excavation specified in the licence conditions,

then—

- (c) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
- (d) the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.

(2) Subclauses 5.2(1)(c) and (d) also apply if a licensee fails to carry out or complete restoration and reinstatement works as required by the local government as a result of cancelling the licence.

(3) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.

(3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

## **PART 6—LIMITATIONS AND PROHIBITIONS**

### **Blasting**

6.1 (1) A person must not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) subject to subclause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
  - (i) the time and duration of blasting;
  - (ii) the purposes for which the blasting may be used; and
  - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

(2) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty \$2,000

## **PART 7—MISCELLANEOUS PROVISIONS**

### **Public Liability**

7.1 (1) A licensee must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

#### **Mines Safety and Inspection Act and Environmental Protection Act**

7.2 (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—

(a) comply with all applicable provisions of that Act or those Acts; and

(b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

(2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

### **PART 8—OBJECTIONS AND APPEALS**

#### **Local Government Act**

8.1 When the local government makes a decision as to whether it will—

(a) grant a person a licence under this local law; or

(b) transfer, cancel or vary a licence that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

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Dated this 6th day of July, 2016.

The Common Seal of the Shire of Wagin was affixed by authority of a resolution of the Council in the presence of—

Cr PHILLIP BLIGHT, Shire President.  
Mr PETER WEBSTER, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

CITY OF BAYSWATER

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

CITY OF BAYSWATER

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Council of the City of Bayswater resolved on 31 May 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Bayswater Local Government Property Local Law 2016*.

1.2 Commencement

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

1.3 Definitions

In this local law unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*applicant* means a person who applies for a permit under clause 3.2;

*authorised person* means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

*boat* means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

*building* means any building which is local government property and includes a—

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room, and includes all plumbing, electrical installations, fixtures, fittings, furniture and other contents, owned or under the care, control and management of the local government; and
- (c) a jetty;

*CEO* means the chief executive officer of the local government;

*children's playground* means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

*commencement day* means the day on which this local law comes into operation;

*controller* means the person or persons for the time being appointed by the local government to direct, control and manage a golf course and includes any assistant to the controller approved in writing by the local government;

*Council* means the council of the local government;

*date of publication* means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

*determination* means a determination made under clause 2.1;

*district* means the district of the local government;

*function* means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

*golf course* means all that portion of land which is set aside and laid out as a golf course and includes all tees, fairways, greens, adjacent rough areas, practice tees, practice fairways,

practice greens and any driving range; and all buildings, structures, fittings, fixtures and equipment forming part thereof;

**law** means the system of rules which are applicable to Western Australia or the Commonwealth and is recognised as regulating the actions of its members and which it may enforce by the imposition of penalties;

**liquor** has the same meaning as is given to it in section 3 of the *Liquor Control Act 1988*;

**local government** means the City of Bayswater;

**local government property** means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

**manager** means the person for the time being employed by the local government to control and manage a pool area or other facility which is local government property and includes the person's assistant or deputy;

**model aircraft** means a drone not used for commercial or research purposes;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** does not include the local government;

**pool area** means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

**prohibited drug** is given its meaning under section 4 of the *Misuse of Drugs Act 1981*;

**Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**sign** includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

**Schedule** means a schedule in this local law;

**trading** means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of—

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
  - (d) a pram, a stroller or a similar device; and
  - (e) a boat.

**Unreasonable behaviour** means any behaviour that would be deemed unacceptable by a reasonable person in that situation, any behaviour contrary to signs or facility rules, or any behaviour deemed unacceptable by the manager of the facility.

#### 1.4 Interpretation

In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

#### 1.5 Application

- (1) This local law applies throughout the district.
- (2) Notwithstanding anything to the contrary in this local law, the local government may—
  - (a) hire local government property to any person; or
  - (b) enter into an agreement with any person regarding the use of any local government property.
- (3) This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth).

#### 1.6 Repeal

- (1) The following local laws are repealed—
  - (a) *By-laws for Controlling of Reserves* published in the *Government Gazette* on 15 July 1938 and amendments;
  - (b) *By-laws Relating to Shire of Bayswater Public Golf Course* published in the *Government Gazette* on 26 February 1965 and amendments;

- (c) *By-laws Relating to Bayswater Aquatic Centre* published in the *Government Gazette* on 30 July 1982 and amendments;
  - (d) *By-laws Relating to Use of Halls and Other Buildings* published in the *Government Gazette* on 25 January 1985 and amendments.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

## PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

### *Division 1—Determinations*

#### **2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
- (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

#### **2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
- (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

#### **2.3 Discretion to erect sign**

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

#### **2.4 Determination to be complied with**

A person shall comply with a determination.

#### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.

(2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

## **2.6 Amendment or revocation of a determination**

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

### *Division 2—Activities which may be pursued or prohibited under a determination*

## **2.7 Activities which may be pursued on specified local government property**

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) bring, ride or drive an animal;
- (b) take, ride or drive a vehicle, or a particular class of vehicle;
- (c) fly or use a motorised model aeroplane;
- (d) use, launch or sail a motorised model boat, including electronic and remote controlled model boats;
- (e) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (h) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (i) play or practice—
  - (i) golf or archery;
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

## **2.8 Activities which may be prohibited on specified local government property**

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) smoking on premises;
- (b) bring, ride or drive an animal;
- (c) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (d) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (e) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (f) use, launch or fly motorised model aeroplanes, helicopters, drones, gliders or rockets that are propelled by electrical, mechanical, hydraulic, combustion or pyrotechnic means;
- (g) use, launch or sail a motorised model boat, including electronic and remote controlled model boats;
- (h) taking or using a boat, or a particular class of boat;
- (i) the playing or practice of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (j) the playing or practice of any ball game which may cause detriment to the property or adjacent property or any fauna on the property;
- (k) fishing, boating, kayaking or any other water sport activity on lakes or water bodies signposted as wildlife reserves;

- (l) the release of 20 or more balloons including gas-inflated balloons at or about the same time; and
  - (m) the traversing of land which in the opinion of the City has environmental value warranting such protection, either absolutely or except by paths provided for that purpose
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.
- (3) In this clause—
- premises* means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

*Division 3—Transitional*

**2.9 Signs taken to be determinations**

- (1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

**PART 3—PERMITS**

*Division 1—Preliminary*

**3.1 Application of Part**

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

*Division 2—Applying for a permit*

**3.2 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall 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 from time to time;
  - (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 may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

**3.3 Decision on application for permit**

- (1) The local government 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 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 refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

*Division 3—Conditions*

**3.4 Conditions which may be imposed on a permit**

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—
  - (a) the payment of a fee;

- (b) compliance with a standard or a policy of the local government adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
- (a) when fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of material or external decorations;
  - (d) rules about the use of furniture, plant and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
  - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
  - (i) the prohibition on the conduct of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987*;
  - (j) whether or not the hire is for the exclusive use of the local government property;
  - (k) the obtaining of a policy of insurance in the names of both the local government and the hirer, 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 hire of the local government property by the hirer;
  - (l) the amplification of, or any noise complies at all times with the *Environmental Protection (Noise) Regulations 1997*; and
  - (m) the provision of an indemnity from the hirer, 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 hire of the local government property by the hirer.

### 3.5 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 3.3(1)(a).

- (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government shall 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 3.3(2).
- (4) An application for a permit shall be deemed 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 shall be deemed to be information within section 5.94(u)(i) of the Act.

### 3.6 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

## *Division 4—General*

### 3.7 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 3.12.

### 3.8 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 this Part shall apply to an application for the renewal of a permit as though it were an application for a permit.

### 3.9 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 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 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 approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.
- (4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### 3.10 Production of permit

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

### 3.11 Cancellation of permit

- (1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
  - (a) condition of the permit; or
  - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder—
  - (a) shall return the permit as soon as practicable to the CEO; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

### *Division 5—When a permit is required*

### 3.12 Activities needing a permit

- (1) A person shall not without a permit—
  - (a) subject to subclause (3), hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (d) teach, coach or train any person on local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose drive or ride or take any vehicle on to local government property; or park or stop any vehicle on local government property;
  - (h) conduct a function on local government property;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose and in accordance with the *Bush Fires Act 1954* and other local laws;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
  - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

(3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### **3.13 Permit required to camp outside a facility**

(1) In this clause—

*facility* has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.

(2) This clause does not apply to a facility operated by the local government.

(3) A person shall not without a permit—

- (a) camp on, or lodge at local government property;
- (b) occupy any structure at night for the purpose of sleeping on local government property;
- (c) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
- (d) park a vehicle on local government property where that vehicle is being used by that person or any other person, for purposes of camping or sleeping on local government property.

(4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a), (b) or (c) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### **3.14 Permit required for possession and consumption of liquor**

(1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

- (a) that is permitted under the *Liquor Control Act 1988* and
- (b) a permit has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

#### *Division 6—Responsibilities of a permit holder*

### **3.15 Responsibilities of permit holder**

A holder of a permit shall in respect of local government property to which the permit relates—

- (a) maintain law and order and decent behaviour by all in attendance at any function held on or within a local government property or building;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (c) leave the local government property or building in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property or building to the local government;
- (e) make good any damage to the local government property or building which occurs during the term of hire, or at the option of the local government, pay the local government the cost of the repair and replacement of any such property;
- (f) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose;
- (g) ensure that all tents, beach shades or windbreak structures erected on local government property are weighted down through the use of sandbags or similar items and thereby prevent the use of any pegs, pickets and stakes whatsoever; and
- (h) comply with all conditions that are imposed on the hire and use of the local government property or building.

## **PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY**

### *Division 1—Behaviour on and interference with local government property*

#### **4.1 Behaviour which interferes with others**

A person shall not in or on any local government property behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use the property;
- (b) interferes with the enjoyment of a person using the property; or
- (c) is likely to interfere with the amenity of adjoining residential properties.

#### **4.2 Behaviour detrimental to property**

(1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property

(2) In subclause (1)—

*detrimental to the property* includes—

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, or a seat provided for the use of any person or a building.

#### **4.3 Taking or injuring any fauna**

(1) A person shall not take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so and so as not to contravene the *Animal Welfare Act 2002*.

(2) In this clause—

*animal* means any living thing that is not a human being or plant; and

*fauna* means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur

#### **4.4 Taking or damaging any flora**

(1) A person shall not take, damage, or attempt to take or damage any flora which is on or above any local government property, unless that person is authorised under a written law to do so.

(2) In this clause—

*flora* means all vascular plants.

#### **4.5 Intoxicated persons not to enter local government property**

A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

#### **4.6 No prohibited drugs**

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

#### **4.7 Appropriate behaviour and adequate clothing**

(1) A person over the age of 6 years shall not on or in any local government property—

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure;
- (b) loiter outside or act in an unacceptable manner, in any portion of a toilet block or change room facility set aside for the opposite or same gender; and
- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

(2) Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

#### **4.8 Refusal of entry to local government property**

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

### *Division 2—Circuses on local government property*

#### **4.9 No functions with wild animals**

A function shall not be conducted on local government property, for public entertainment or otherwise, if the function involves the display or performance of—

- (a) lions, tigers, leopards, other great cats, elephants, bears, giraffes, monkeys or apes; or
- (b) any other type of animal which, in the opinion of the local government, is either dangerous or wild by nature.

### *Division 3—Signs*

#### **4.10 Signs**

(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is—

- (a) not to be inconsistent with any provision of this local law or any other written law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

### *Division 1—Swimming pool/Gymnasium areas*

#### 5.1 Directions of manager to be observed

Every person, coach and spectator at a swimming pool/gymnasium, shall at all times observe any reasonable direction given by the manager or authorised person.

#### 5.2 When entry must be refused

(1) A manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a swimming pool/gymnasium area any person who—

- (a) in her or his opinion is—
  - (i) under the age of 13 years and who is unaccompanied by a responsible person over the age of 16 years;
  - (ii) apparently suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iii) under, or apparently under the influence of liquor or a prohibited drug;
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

(2) A person shall on being requested by the manager or authorised person to leave a swimming pool/gymnasium area, do so immediately, quietly and peacefully.

(3) The manager or authorised person may temporarily suspend admission to, or remove from a swimming pool/gymnasium area or any part thereof, all or any person or persons, if in their opinion, such action is necessary or desirable.

(4) At the discretion of the manager or authorised person, the swimming pool/gymnasium area or any part thereof, may at any time be set aside for the use of certain persons to the exclusion of others.

#### 5.3 Swimming Carnivals

A person, club, organisation or association conducting a carnival or event at a swimming pool shall take reasonable steps to prevent overcrowding and ensure that no damage is done to the buildings or fencing or any other portion of the swimming pool/gymnasium areas and that these local laws are observed by all competitors, officials and spectators attending the carnival or event.

#### 5.4 Water-based Excursions

A State Education Department School conducting a school water-based excursion shall do so as a minimum, in accordance with the *Education Department of Western Australia Outdoor Education and Recreation Activities Policy*.

#### 5.5 Responsibilities of swimming pool/gymnasium users

A person while in the swimming pool/gymnasium areas shall not—

- (a) consume foodstuffs or drinks in any specific area in which food consumption is prohibited;
- (b) climb up or upon any roof, fence, wall or partition in the swimming pool/gymnasium area; or
- (c) whilst suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the swimming pool, spa or pool gymnasium areas.

### *Division 2—Beaches*

#### 5.6 Persons to comply with signs and directions

(1) In this Division—

*beach* includes the foreshore of the Swan River within the City of Bayswater.

(2) A person shall—

- (a) not act in contravention of any sign erected on a beach designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach; and
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means, unless he or she has obtained permission to enter from the local government.

### *Division 3—Fenced or closed property*

#### 5.7 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

### *Division 4—Toilet blocks and change rooms*

#### 5.8 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or

- (b) males, then a person of the female gender shall not use that entry of the toilet block or change room.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—
  - (a) under the age of 8 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

#### *Division 5—Golf course*

### **5.9 Interpretation**

In this Division—

**controller** means the person appointed by the local government to direct, control and manage a golf course;

**golf course** means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and includes all buildings, structures, fittings, fixtures and equipment on that land.

### **5.10 Directions of controller to be observed**

While on a golf course, every player, caddie and person shall at all times observe and comply with—

- (a) the direction of a controller in respect of any special conditions of play;
- (b) the requirement of any notice erected to direct or control play; and
- (c) the etiquette of golf and the rules of golf except as varied by any local rules detailed on any score card issued by the controller and displayed on the notice board at the controller's office.

### **5.11 Controller's approval required**

A person shall not, without the prior approval of the controller or authorised officer—

- (a) be accompanied by a non-playing spectator whilst playing golf on a golf course;
- (b) cross or trespass on any portion of the golf course prepared for play or practice or on any practice fairway or practice putting green, unless that person is a fee playing player;
- (c) offer himself for employment or be employed for a fee as a caddie on the golf course; or
- (d) sell, offer or expose for sale or exchange any golf ball or any golf equipment or other goods or services on a golf course.

### **5.12 Inspection of authorisation**

A player or person on a golf course, shall at any time requested by the controller or other authorised person, produce any written authority granted or ticket issued to the player or person, to play golf for the number of holes being played and valid for play on that day and at that time.

### **5.13 Use of vehicles and equipment**

A person shall not—

- (a) take on to a golf course a bicycle, motor cycle, motor car, motorised or other vehicle unless—
  - (i) with the prior consent of the controller; or
  - (ii) the vehicle is under the control of the controller and used for hire purposes;
- (b) drive, use or park a bicycle, motor cycle, motor car, motorised or other vehicle on any portion of a golf course except in such areas paved, marked and set apart for such purposes without the prior consent of the controller;
- (c) while driving, using or parking any bicycle, motor cycle, motor car, motorised or other vehicle on any portion of a golf course, refuse or fail to comply with all signs applicable thereto and any order or direction given by the controller or other authorised person;
- (d) take any golf buggy or like conveyance fitted with wheels on to any part of a golf course unless the width of its wheels are 25mm or greater;
- (e) take any golf bag or golf bag buggy onto any part of the golf course laid out as a putting green, practice putting green, sand trap or bunker; or
- (f) leave on a golf course any vehicle, object or thing or any animal which the controller or other authorised person has directed to be removed.

## **PART 6—FEES FOR AND USE OF LOCAL GOVERNMENT PROPERTY**

### **6.1 No unauthorised entry**

A person, other than an authorised person or contractor appointed by the local government carrying out their normal duties, shall not—

- (a) enter or leave any local government property other than by the public entrance or exit ways, except in an emergency; and
- (b) enter or remain on local government property except on those days and during those times when access is available to the public.

## **6.2 No unauthorised entry to function**

- (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—
- (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.
- (2) The local government may exempt a person from compliance with subclause (1)(b).

## **6.3 No refund of fees**

A person will not be entitled to a refund of any fees paid for—

- (a) entry into or participation in any activity on or in any local government property; or
- (b) where a booking for the use of local government property is cancelled by the hirer;

but the local government may authorise repayment of a part or all of the amount paid.

# **PART 7—JETTIES AND BRIDGES**

## *Division 1—Preliminary*

### **7.1 Interpretation**

- (1) This Part only applies to bridges and jetties which are local government property.
- (2) In this Part—

*jetty* means any jetty, pier, wharf or landing place which is local government property; and

*bulk cargo* means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

## *Division 2—Consents and fees*

### **7.2 Application for consent and application fee**

- (1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.
- (2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.
- (3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.
- (4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.
- (5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

## *Division 3—Prohibitions on use of jetty*

### **7.3 When use of jetty is prohibited**

A person shall not land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government.

## *Division 4—Mooring boats to jetties*

### **7.4 Method of mooring boat**

A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

## *Division 5—When boats may remain at jetty*

### **7.5 When boat may remain moored**

A person in control of a boat shall not moor or make fast the boat to a jetty unless—

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government;
- (c) the loading or discharging of cargo or other goods is in progress in accordance with Division 7; or
- (d) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the local government.

### **7.6 Authorised person may order removal of boat**

Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorised person.

*Division 6—Launching of boats*

**7.7 Restrictions on launching**

A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.

*Division 7—Cargo or other goods*

**7.8 Loading and discharging**

A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods—

- (a) until the cargo or other goods are ready to be loaded or discharged; or
- (b) without the consent of the local government—
  - (i) between the hours of 6.00pm to 6.00am on the next day; or
  - (ii) for longer than 2 consecutive hours.

**7.9 Outgoing cargo not to be stored on jetty**

A person in control of cargo or other goods intended for loading on to a boat shall—

- (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
- (b) load them on to the boat as soon as practicable after the boat is moored or fastened to or alongside the jetty.

**7.10 Removal of incoming cargo from jetty**

Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

**7.11 Authorised person may direct removal**

An authorised person may direct a person who, in the opinion of the authorised person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.

**7.12 Handling of bulk cargo**

Except with the prior consent of the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.

*Division 8—Polluting surrounding area*

**7.13 Polluting surrounding area**

A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

*Division 9—Fishing from jetties and bridges*

**7.14 Limitations on fishing**

A person shall not—

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

**PART 8—OBJECTIONS AND APPEALS**

**8.1 Application of Division 1, Part 9 of the Act**

When the local government makes a decision as to whether it will—

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

**PART 9—MISCELLANEOUS**

**9.1 Authorised person to be obeyed**

A person on local government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.

**9.2 Persons may be directed to leave local government property**

An authorised person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

**9.3 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

#### **9.4 Liability for damage to local government property**

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property

(2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

#### **9.5 Decency of dress**

Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to secure decency, the authorised person may order that person to put on adequate clothing and that person is to comply with the order immediately.

### **PART 10—ENFORCEMENT**

#### *Division 1—Notices given under this local law*

##### **10.1 Issue of a notice**

Where the local government requires works to be done to rectify a breach of any condition of permit, or to maintain public safety, the local government may give notice to the permit holder—

- (a) advising details of the breach of the local law or works required; and
- (b) requiring the permit holder to remedy the breach or do the works required within the time specified by the notice.

##### **10.2 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do anything, if a person fails to comply with the notice, that person commits an offence.

##### **10.3 Local government may undertake requirements of notice**

Where a person fails to comply with a notice referred to in clause 10.2, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

#### *Division 2—Offences and penalties*

##### *Subdivision 1—General*

##### **10.4 Offences and general penalty**

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

##### *Subdivision 2—Infringement notices and modified penalties*

##### **10.5 Prescribed offences**

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

##### **10.6 Form of notices**

(1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Evidence in legal proceedings*

**10.7 Evidence of a determination**

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

**SCHEDULE 1—PRESCRIBED OFFENCES**

[clause 10.5]

Item	Clause	Description	Modified Penalty
1	2.4	Failure to comply with determination	150
2	3.6	Failure to comply with conditions of permit	150
3	3.13(1)	Failure to obtain a permit	200
4	3.14(3)	Failure to obtain permit to camp outside a facility	150
5	3.15(1)	Failure to obtain permit for liquor	150
6	3.16	Failure of permit holder to comply with responsibilities	150
7	4.2(1)	Behaviour detrimental to property	200
8	4.3	Taking or injuring any fauna	300
9	4.4	Taking or damaging any flora	300
10	4.5	Entering local government property under the influence of liquor or prohibited drug	150
11	4.10	Failure to comply with sign on local government property	150
12	5.6	Failure to comply with sign or direction on beach	150
13	5.7	Unauthorised entry to fenced or closed local government property	150
14	5.8	Entering a toilet block or change room not for your specified gender	125
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17	7.3	Unauthorised use of any part of jetty which is closed or under repair or construction	125
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26	7.12	Unauthorised deposit of bulk cargo on jetty	125
27	7.13	Tip or deposit anything on to a jetty so as to pollute the surrounding area	150
28	7.14	Fishing from jetty or bridge so as to obstruct a boat or another person	125
29	10.2	Failure to comply with notice	200

**SCHEDULE 2—DETERMINATIONS**

The following determinations have been made by the local government under clause 2.1.

*Definitions*

1.1 In these determinations unless the context otherwise requires—

*local law* means the Local Government Property Local Law made by the local government.

### *Interpretation*

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

### *Application*

#### **1.3 Smoking**

A person must not smoke on premises owned by the local government or under the care, control and management of the local government or within 5m of any such premises.

#### **1.4 Taking or driving a vehicle**

A person shall not take or drive a vehicle on any reserve vested in the local government except upon an area specified by a sign erected on the local government property.

#### **1.5 Speed of vehicles**

A person shall not drive a vehicle on local government property at a speed exceeding 35 kilometres an hour except that—

- (a) on any land marked by a sign as a parking area, a person shall not drive a vehicle at a speed exceeding 8 kilometres an hour; and
- (b) on accessways within any reserve vested in the local government, a person shall not drive a vehicle at a speed exceeding 20 kilometres an hour.

#### **1.6 Taking or riding a bicycle, skateboard, rollerblades, sandboard or similar device**

A person shall not take or ride a bicycle, rollerblades, sandboard or similar device on any reserve, building or property vested in the local government except upon an area specified by a sign erected on the local government property.

#### **1.7 Taking or using a boat**

A person shall not take or use a boat or any particular class of boat on or in any reserve containing a water body owned or vested in the local government.

#### **1.8 Golf, archery, pistol shooting or rifle shooting and use of projectiles**

A person shall not play at or practice golf on any local government property except where a permit specifies a particular local government property.

A person shall not aim, shoot or throw an arrow or similar projectile on any local government property except where a permit specifies a particular local government property.

A person shall not have in their possession any gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property on any local government property except where a permit specifies a particular local government property.

#### **1.9 Ball games**

In this determination fauna and flora means the same as that in clause 4.3(2) of this local law.

A person shall not play or practice at any ball game which may cause detriment to the property or any fauna or flora on any reserve owned or vested in the local government.

A person shall not, on any reserve owned or vested in the local government, play or practice at any ball game which is expressly prohibited by a sign erected pursuant to this local law.

#### **1.10 Model Aircraft**

(1) A person shall not use, launch or fly model aircraft propelled by electrical, mechanical, hydraulic, combustion or pyrotechnic means on or from any local government property in such a manner as to endanger any person or property.

(2) A person shall not use, launch or fly large model aircraft as defined by the Civil Aviation Safety Authority from any local government property.

#### **1.11 Bring, drive or ride an animal**

A person shall not tether any animal to a tree, shrub, tree guard, wall or fence or permit any animal to enter upon or into any local government property except where a permit or determination specifies a particular local government property.

This clause does not apply to assistance animals as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth).

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Dated: 28 June 2016.

The Common Seal of the City of Bayswater was affixed by authority of the Council in the presence of—

BARRY McKENNA, Mayor.  
FRANCESCA LEFANTE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND  
TRADING LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND  
TRADING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Capel resolved on 22nd June 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Capel Activities in Thoroughfares and Public Places and Trading Local Law 2016*.

1.2 Definitions

In this local law unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*animal* means any living thing that is not a human being or plant;

*applicant* means a person who applies for a permit;

*authorised person* means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

*built-up area* has the meaning given to it in the *Road Traffic Code 2000*;

*bulk rubbish container* means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

*carriageway* has the meaning given to it in the *Road Traffic Code 2000*;

*CEO* means the chief executive officer of the local government;

*commencement day* means the day on which this local law comes into operation;

*Council* means the council of the local government;

*crossing* means a crossing giving access from a public thoroughfare to—

- (a) private land; or
- (b) a private thoroughfare serving private land;

*district* means the district of the local government;

*fauna* means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

- (a) any class of animal or individual member;
- (b) the eggs or larvae; and
- (c) the carcass, skin, plumage or fur;

*flora* means all vascular plants, seeds and other flora, whether living or dead;

*footpath* means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians;

*garden* means any part of a thoroughfare planted, developed or treated, other than as a lawn, with one or more plants;

*intersection* has the meaning given to it in the *Road Traffic Code 2000*;

*kerb* includes the edge of a carriageway;

*lawn* means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

*liquor* has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

*local government* means the Shire of Capel;

**local government property** means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an ‘otherwise unvested facility’ within section 3.53 of the Act;

**lot** has the meaning given to it in the *Planning and Development Act 2005*;

**nuisance** means—

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social wellbeing of a person; or
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place;

**owner or occupier** in relation to land does not include the local government;

**permissible verge treatment** means any one of the treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** does not include the local government;

**planning scheme** means a planning scheme of the local government made under the *Planning and Development Act 2005*;

**premises** for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

**public place** includes—

- (a) a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;
- (b) parklands, squares, reserves and other lands set apart for the use and enjoyment of the public; and
- (c) all lands vested in or under the care, control or management of the Shire of Capel;

**Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**sign** includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

**thoroughfare** has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management or control of the local government;

**tree** means a woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 2m or higher;

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes—

- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
- (b) a pram, a stroller or a similar device;

**verge** means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath; and

**written law** has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law.

### 1.3 Application

This local law applies throughout the district.

### 1.4 Repeal

(1) The following local law is repealed—

Shire of Capel Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law as published in the *Government Gazette* of 21 February 2001 and amended in the *Government Gazette* of 14 December 2001.

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

### 1.5 Commencement

This local law commences 14 days after the date on which it is published in the *Government Gazette*.

## PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

### *Division 1—General*

#### **2.1 General prohibitions**

- (1) A person shall not—
- (a) plant any plant (except grasses or similar plant) within 6m of an intersection;
  - (b) remove or damage a lawn, garden, plant or part of a plant that is not a tree from or on a thoroughfare unless—
    - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare;
    - (ii) the lawn garden or plant was installed by that person or an earlier owner or occupier of the lot; and
    - (iii) the removal or damage to the lawn, garden or plant is done pursuant to Division 3 of this Part in order to install a permissible verge treatment;
  - (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 1.2m of a carriageway where there is no footpath;
  - (d) take, injure or kill any fauna that is on or above any thoroughfare;
  - (e) place, or allow to be placed or remain, on a thoroughfare any thing (except water) that—
    - (i) obstructs the thoroughfare; or
    - (ii) results in a hazard for any person using the thoroughfare;
  - (f) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
  - (g) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare;
  - (h) within a mall, arcade or veranda of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device;
  - (i) on a public place use anything or do anything so as to create a nuisance; or
  - (j) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare.
- (2) Clause 2.1 (1) does not apply to an activity being undertaken by a person who—
- (a) is an employee or contractor of the local government and is authorised or engaged to undertake that activity; or
  - (b) is otherwise lawfully authorised to undertake that activity.

#### **2.2 Activities allowed with a permit—general**

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) subject to Division 3 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
  - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) deposit or discharge any material including dust, sand, wastewater, waste, mud, concrete, paint, oil or chemicals (but excluding water) in or on a thoroughfare whether by hand, vehicle or otherwise;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.12;
  - (h) fell any tree onto a thoroughfare;
  - (i) remove or damage a tree or part of a tree on a thoroughfare, irrespective of whether the tree was planted by the owner or occupier of the lot abutting that portion of the thoroughfare;
  - (j) unless installing a permissible verge treatment—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (k) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

### 2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
  - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in an unopened container.

#### *Division 2—Vehicle crossing* Subdivision 1—Temporary crossings

### 2.4 Permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be—
- (a) The person named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
  - (b) the registered proprietor of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

#### Subdivision 2—Redundant vehicle crossings

### 2.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossing which does not give access to the lot; and
  - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal;

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

#### *Division 3—Verge treatments* Subdivision 1—Preliminary

### 2.6 Interpretation

In this Division, unless the context otherwise requires—

*acceptable material* means any material which will create a hard surface, and which appears in Schedule 2.

### 2.7 Application

This Division does not apply to areas zoned ‘rural’ or ‘special rural’ under the planning scheme.

#### Subdivision 2—Permissible verge treatments

### 2.8 Permissible verge treatments

- (1) An owner or occupier of land which abuts a verge may on that part of the verge directly in front of her or his land install—
- (a) a permissible verge treatment; or
  - (b) irrigation pursuant to clause 2.10(f).
- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that—
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 1.2m along that part of the verge immediately adjacent to the kerb;

- (iii) it does not include a wall or built structure;
  - (iv) it is not of a thorny, poisonous or hazardous nature; and
  - (v) no plant (except grasses or similar plant) is within 10m of an intersection or within 1.2m of a carriageway where there is no footpath;
- (c) the installation of an acceptable material; or
  - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

### **2.9 Only permissible verge treatments to be installed**

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment, except under the authority of a permit.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.10.

### **2.10 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permissible verge treatment or who installs or maintains a verge treatment under the authority of a permit shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that the verge treatment does not cause a sight distance obstruction to any person using a path on the verge or carriageway or crossing adjoining the verge or in proximity to it;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, pit, pipe, channel, kerb, public utility service or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
  - (i) do not protrude above the level of lawn when not in use;
  - (ii) are not used at such times as to cause unreasonable inconvenience to pedestrians or other persons; and
  - (iii) do not otherwise present a hazard to pedestrians or other persons.

### **2.11 Notice to owner or occupier**

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

## Subdivision 3—Existing verge treatments

### **2.12 Transitional provision**

(1) In this clause—

*former provisions* means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

## Subdivision 4—Public works

### **2.13 Power to carry out public works on verge**

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

*Division 4—Property numbers*

Subdivision 1—Preliminary

**2.14 Interpretation**

In this Division, unless the context requires otherwise—

**number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

**2.15 Assignment of numbers**

The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

*Division 5—Fencing*

**2.16 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act**

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

*Division 6—Signs erected by the local government*

**2.17 Signs**

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

**2.18 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.17 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 7—Driving on a closed thoroughfare*

**2.19 No driving on closed thoroughfare**

(1) In this clause—

**closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

(2) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

**PART 3—ADVERTISING SIGNS ON THOROUGHFARES**

*Division 1—Preliminary*

**3.1 Interpretation**

In this Part, unless the context otherwise requires—

**advertising sign** means a sign used for the purpose of advertisement or to draw attention to a product, business, person or event and includes a home open sign, display home sign and a garage sale sign;

**direction sign** means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

**display home sign** means a portable free standing sign used to direct people to a display home that is open for inspection by the public;

**garage sale sign** means a portable free standing sign used to direct persons to a garage sale at a residential premises;

**home open sign** means a portable free standing sign used to direct persons to a home for sale that is open for inspection by the public;

**portable direction sign** means a portable free standing directional sign; and

**portable sign** means a portable free standing advertising sign.

## *Division 2—Permit*

### **3.2 Advertising signs and portable direction signs**

(1) A person shall not, without a permit, erect, place or maintain an advertising sign or portable direction sign—

- (a) on or above a thoroughfare;
- (b) on a footpath;
- (c) over any footpath where the resulting vertical clearance between the sign and the path is less than 2.5m;
- (d) on or within 1m of a carriageway;
- (e) on any roundabout or centre median strip of a thoroughfare;
- (f) in any other location where in the opinion of the local government the sign is likely to obstruct lines of sight along a thoroughfare or cause any danger to persons using the thoroughfare; or
- (g) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

(2) Notwithstanding subclause (1) a permit is not required in respect of a home open sign, garage sale sign or display home sign, provided that—

- (a) the sign neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area;
- (b) the sign is placed or erected on a thoroughfare no more than 24 hours prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open;
- (c) there is no more than one home open sign or garage sale sign at any road intersection and no more than six separate signs which delineate no more than 2 alternative routes to the home open or garage sale; and
- (d) in the case of a display home sign, the sign is placed or erected on the thoroughfare which forms the primary street frontage of the display home at a distance not greater than 100m from the display home.

### **3.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) whether or not the sign will create a hazard to persons using a thoroughfare;
- (d) the amount of the public liability insurance cover, if any, to be obtained by the applicant; and
- (e) any other matters it considers relevant.

### **3.4 Exemptions**

(1) The local government may exempt the holder of a valid stall holder's permit, trader's permit, facility permit, or any other event authorisation issued by the local government, from all or part of the prohibitions in clause 3.2 in relation to an advertisement that directly relates to the goods or services which are the subject of the permit or authorisation.

(2) Signs erected by the local government or an authority empowered to do so under a written law are exempted from the requirement to obtain a permit.

### **3.5 Impounding of advertising signs**

Any sign which contravenes clause 3.2 may be removed, impounded, or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

## *Division 3—Conditions on a permit*

### **3.6 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is taken to be approved subject to the following conditions—

- (a) the portable sign shall—
  - (i) not exceed 1m in height
  - (ii) not exceed an area of 1m<sup>2</sup> on any side
  - (iii) relate only to the business activity described on the permit;
  - (iv) not be erected in any position other than immediately adjacent to the building or business to which the sign relates;
  - (v) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  - (vi) be secured in position in accordance with any requirements of the local government;
  - (vii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;

- (viii) be placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing; and
  - (ix) be maintained in good condition;
- (b) no more than one portable sign shall be erected in relation to the one building or business.

## PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

### *Division 1—Animals and vehicles*

#### 4.1 Leaving animal or vehicle in public place or on local government property

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

(4) Subclause 1 does not apply to a person with a disability where the animal is a guide dog or assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth) s9(2).

#### 4.2 Prohibitions relating to animals

(1) In subclause (2), **owner** in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
- (c) train or race the animal on a thoroughfare.

#### 4.3 Fouling of public places in built-up areas

Any person liable for the control of a horse, who permits the horse to excrete in any public place or on any land within the district without the consent of the occupier commits an offence unless the excreta is removed as soon as is practicably possible within the same day and disposed of either on private land with the consent of the occupier or in such other manner as the local government may approve.

#### 4.4 Removal of vehicle or animal

Any animal or vehicle left in contravention of Clause 4.1 may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

### *Division 2—Shopping trolleys*

#### 4.5 Interpretation

In this Division—

**retailer** means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

**shopping trolley** means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

#### 4.6 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

#### 4.7 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

#### 4.8 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1) unless the retailer—

- (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
- (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

#### 4.9 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

#### 4.10 Impounding of abandoned trolley

Any shopping trolley that is—

- (a) left on a thoroughfare or public place that is not marked in accordance with clause 4.6; or
- (b) not removed by a retailer after having been so advised under clause 4.8(1),

may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

### PART 5—ROADSIDE CONSERVATION

#### *Division 1—Preliminary*

##### 5.1 Interpretation

In this Part—

*MRWA* means Main Roads Western Australia;

*protected flora* has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

*rare flora* has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

*Roadside Conservation Committee* means the Roadside Conservation Committee reporting to the Minister for Environment and chaired by a Department of Parks and Wildlife nominee; and

*special environmental area* means an area designated as such under clause 5.6.

#### *Division 2—Flora roads*

##### 5.2 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

##### 5.3 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the *Handbook of Environmental Practice for Road Construction and Maintenance Works* prepared by the Roadside Conservation Committee and Main Roads.

##### 5.4 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA 'flora road' sign.

##### 5.5 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

#### *Division 3—Special environmental areas*

##### 5.6 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a 'special environmental area' which—

- (a) has protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

##### 5.7 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

#### *Division 4—Planting in thoroughfares*

##### 5.8 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

### **5.9 Relevant considerations in determining application**

In determining an application for a permit for the purpose of clause 5.8, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

#### *Division 5—Clearance of vegetation*

### **5.10 Permit to clear**

A person shall not clear or maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

### **5.11 Application for permit**

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.10 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

#### *Division 6—Fire management*

### **5.12 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

### **5.13 Application for permit**

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.12 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

### **5.14 When application for permit can be approved**

The local government may approve an application for a permit for the purpose of clause 5.12 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

#### *Division 7—Firebreaks*

### **5.15 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

### **5.16 When application for permit cannot be approved**

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.16 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

#### *Division 8—Commercial wildflower harvesting on thoroughfares*

### **5.17 General prohibition on commercial wildflower harvesting**

Subject to clause 5.18, a person shall not commercially harvest native flora on a thoroughfare.

### **5.18 Permit for revegetation projects**

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
  - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
  - (b) any license or approval which may be required under any other written law is to be obtained by the applicant.

## PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

### *Division 1—Stallholders and traders*

#### Subdivision 1—Preliminary

##### 6.1 Interpretation

In this Division, unless the context otherwise requires—

**Competition Principles Agreement** means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

**public place** includes—

- (a) a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;
- (b) parklands, squares, reserves and other lands set apart for the use and enjoyment of the public; and
- (c) all lands vested in or under the care, control or management of the Shire of Capel;

but does not include premises on private property from which trading is lawfully conducted under a written law;

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

**stallholder** means a person in charge of a stall;

**stallholder's permit** means a permit issued to a stallholder;

**trader** means a person who carries on trading;

**trader's permit** means a permit issued to a trader; and

**trading** includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;
  - (iii) soliciting orders for them; or
  - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - (iii) carrying out any other transaction in relation to goods or services;

but does not include—

- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
  - (i) goods by a person who represents a manufacturer of the goods; or
  - (ii) services by a person who represents a provider of the services,

which are sold directly to consumers and not through a shop.

#### Subdivision 2—Permits

##### 6.2 Stallholder's permit

(1) A person shall not conduct a stall on a public place unless that person is—

- (a) the holder of a valid stallholder's permit; or
- (b) an assistant specified in a valid stallholder's permit.

(2) Every application for a stallholder's permit shall—

- (a) state the full name and address of the applicant;
- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

### **6.3 Trader's permit**

- (1) A person shall not carry on trading unless that person is—
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

### **6.4 No permit required to sell newspaper**

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

### **6.5 Relevant considerations in determining application for permit**

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
  - (a) any relevant policies of the local government;
  - (b) the desirability of the proposed activity;
  - (c) the location of the proposed activity;
  - (d) the principles set out in the Competition Principles Agreement; and
  - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
  - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
  - (b) that the applicant is not a desirable or suitable person to hold a permit;
  - (c) that—
    - (i) the applicant is an undischarged bankrupt or is in liquidation;
    - (ii) the applicant has entered into any composition or arrangement with creditors; or
    - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property;
  - (d) that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall; or
  - (e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

### **6.6 Conditions of permit**

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
  - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
  - (b) the days and hours during which a permit holder may conduct a stall or trade;
  - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
  - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
  - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
  - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
  - (g) whether and under what terms the permit is transferable;
  - (h) any prohibitions or restrictions concerning the—
    - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
    - (ii) the use of amplifiers, sound equipment and sound instruments;
    - (iii) the use of signs; and
    - (iv) the use of any lighting apparatus or device;
  - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
  - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
  - (l) the acquisition by the stallholder or trader of public risk insurance;
  - (m) the period for which the permit is valid;
  - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government; and
  - (o) any other conditions as the local government may apply.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

#### 6.7 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause—
- charitable organisation** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and
- commercial participant** means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.
- (2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—
- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
  - (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.
- (4) Notwithstanding any other provisions of this local law, a requirement to obtain a permit under this local law does not apply to—
- (a) a special event or trading authorised by the local government under another written law or agreement; or
  - (b) a person trading in a street market authorised by the local government.

### Subdivision 3—Conduct of stallholders and traders

#### 6.8 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall—
- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
  - (b) not display a permit unless it is a valid permit; and
  - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.
- (2) A stallholder or trader shall not—
- (a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or trader;
  - (b) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
  - (c) act in an offensive manner or create a nuisance;
  - (d) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
  - (e) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

### Division 2—Street entertainers

#### Subdivision 1—Preliminary

#### 6.9 Interpretation

In this Division, unless the context otherwise requires—

**perform** includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

*permit* means a permit issued for the purpose of clause 6.10;

*permitted area* means the area or areas, specified in a permit, in which the permit holder may perform; and

*permitted time* means the time or times, specified in a permit, during which the permit holder may perform.

#### Subdivision 2—Permits

##### 6.10 Permit required to perform

A person shall not perform in a public place without a permit.

##### 6.11 Variation of permitted area and permitted time

(1) The local government 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) The local government 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, and the permit holder must comply with this direction.

##### 6.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

##### 6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion 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 if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

##### 6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) act in an offensive manner or create a nuisance; or
- (b) 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.

#### Division 3—Outdoor eating facilities on public places

##### 6.15 Interpretation

In this Division—

*facility* means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

*permit holder* means the person to whom a permit has been issued for the purpose of clause 6.16; and

*public place* has the meaning given to it in clause 6.1.

##### 6.16 Permit required to conduct facility

A person shall not establish or conduct a facility without a permit.

##### 6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the facility is conducted in conjunction with and as an extension of a food business which abut on the facility, and whether the applicant is the person conducting such food business;
- (b) any abutting food business premises is registered in accordance with the *Food Act 2008* and whether the use of the business premises is permitted under the local planning scheme;
- (c) the facility will comply with any other local law made by the local government;
- (d) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the facility would—
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

### **6.18 Obligations of permit holder**

- (1) The permit holder for a facility shall—
  - (a) comply with the terms and conditions of the permit to establish and conduct the facility;
  - (b) ensure that the facility is conducted at all times in accordance with the provisions of this local law and any other local law made by the local government;
  - (c) ensure that the eating area is kept in a clean and tidy condition at all times;
  - (d) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
  - (e) be solely responsible for all rates and taxes levied upon the land occupied by the facility.
- (2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.
- (3) In subclause (2), 'work' includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

### **6.19 Removal of facility unlawfully conducted**

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

### **6.20 Use of facility by public**

- (1) A person shall not occupy a chair or otherwise use the equipment in a facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the facility.
- (2) A person shall leave a facility when requested to do so by the permit holder.

### **6.21 Temporary removal of facility may be requested**

- (1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

## **PART 7—PERMITS**

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

#### **7.1 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall 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 may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

#### **7.2 Decision on application for permit**

- (1) The local government 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 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 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 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 to refuse the application for a permit on other grounds under subclause (1)(b).

## *Division 2—Conditions*

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

The local government 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) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government;
- (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; and
- (j) any other matters it considers relevant.

### **7.4 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 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government 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 7.2(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.

### **7.5 Compliance with 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 may vary the conditions of a permit by written notice and the variation will be effective from the point the written notice is issued to the permit holder, and the permit holder shall comply with those conditions as varied.

## *Division 3—General*

### **7.6 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 7.10.

### **7.7 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.

### **7.8 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 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 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 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 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.

#### **7.9 Production of permit**

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

#### **7.10 Cancellation of permit**

- (1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—
- (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) if it is relevant to the activity regulated by the permit—
    - (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—
- (a) shall return the permit as soon as practicable to the local government; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

### **PART 8—OBJECTIONS AND APPEALS**

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

When the local government makes a decision—

- (a) under clause 6.2(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.

### **PART 9—MISCELLANEOUS NOTICES**

#### **9.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

#### **9.2 Hazardous plants**

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

#### **9.3 Notice to repair damage to thoroughfare**

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

#### **9.4 Notice to remove thing unlawfully placed on thoroughfare**

Where any thing is placed on, under, over or in a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

### **PART 10—ENFORCEMENT**

#### *Division 1—Notices given under this local law*

#### **10.1 Offence to fail to comply with notice**

Whenever the local government gives a notice under this local law requiring a person to do any thing, and that person fails to comply with the notice, the person commits an offence.

## 10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

### *Division 2—Offences and penalties*

#### Subdivision 1—General

### 10.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### Subdivision 2—Infringement notices and modified penalties

### 10.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of committing a prescribed offence, an authorised person should be satisfied that—
  - (a) the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

### 10.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

### *Schedule 1*

#### PRESCRIBED OFFENCES

[Clause 10.4]

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10 m of intersection	200
2.1(b)	Remove or damage lawn, garden or plant	300
2.1(c)	Plant (except grass) on thoroughfare within 1.2m of carriageway	100
2.1(d)	Take, injure or kill fauna	300
2.1(e)	Place any thing on a thoroughfare	200
2.1(f)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(g)	Play sport so as to cause danger	200
2.1(h)	Riding of skateboard or similar device on mall or veranda of shopping centre	200
2.1(i)	Create a nuisance on a thoroughfare	250
2.1(j)	Placing or draining offensive fluid on thoroughfare	300
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	300
2.2(1)(b)	Deposit or place any thing on a verge without a permit	250
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	250
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	300
2.2(1)(e)	Allow material to be blown, conveyed, deposited etc	300
2.2(1)(f)	Damage a thoroughfare without a permit	300
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	400
2.2(1)(h)	Felling tree onto thoroughfare without a permit	300

Clause	Description	Modified Penalty \$
2.2(1)(i)	Remove or damage tree or part of tree without a permit	300
2.2(1)(j)	Installing pipes or stone on thoroughfare without a permit	300
2.2(1)(k)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	300
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	250
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	300
2.3(1)	Consumption or possession of liquor on thoroughfare	200
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(1)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.9	Installation of verge treatment other than permissible verge treatment	300
2.10	Failure to comply with obligations regarding verge treatment	250
2.11	Failure to comply with notice to rectify fault	100
2.17(2)	Failure to comply with sign on public place	200
2.19	Driving or taking a vehicle on a closed thoroughfare	300
3.2 (1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	300
4.1	Animal or vehicle obstructing a public place or local government property	200
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	200
4.2(2)(b)	Animal on public place with infectious disease	200
4.2(2)(c)	Training or racing animal on thoroughfare	200
4.3	Fouling of public places in built-up area	100
4.7	Person leaving shopping trolley in public place other than trolley bay	200
4.8(2)	Failure to remove shopping trolley upon being advised of location	200
5.5	Driving a vehicle on other than the carriageway of a flora road	200
5.8	Planting in thoroughfare without a permit	200
5.10	Failure to obtain permit to clear a thoroughfare	500
5.12	Burning of thoroughfare without a permit	500
5.16	Construction of firebreak on thoroughfare without a permit	500
5.18	Commercial harvesting of native flora on thoroughfare	500
5.19(1)	Collecting seed from native flora on thoroughfare without a permit	300
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6.3(1)	Trading without a permit	350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	200
6.8(1)(b)	Stallholder or trader not displaying valid permit	200
6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	200
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6.10	Performing in a public place without a permit	200
6.11(2)	Failure of performer to move onto another area when directed	200
6.14	Failure of performer to comply with obligations	200
6.16	Establishment or conduct of outdoor eating facility without a permit	350
6.18	Failure of permit holder of outdoor eating facility to comply with obligations	200
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6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	80
6.21(1)	Failure of permit holder to temporarily remove facility	150
7.5	Failure to comply with a condition of a permit	200
7.9	Failure to produce permit on request of authorised person	200
10.1	Failure to comply with notice given under local law	300
	Any other offence not listed	150

*Schedule 2*  
ACCEPTABLE MATERIALS

[2.8(2)(c)]

1. Pavers, asphalt or concrete professionally laid non-slip with no trip points and bedded flush with surrounding infrastructure.
2. Materials that can be, and are, water bound and compacted.
3. Compacted crushed limestone, gravel or crushed aggregate with no individual stone greater than 20mm in diameter.

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Dated 22nd June 2016.

The Common Seal of the Shire of Capel was affixed by authority of a resolution of the Council in the presence of—

M. T. SCOTT, President.  
P. F. SHEEDY, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

FENCING LOCAL LAW 2016

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## LOCAL GOVERNMENT ACT 1995

### SHIRE OF CAPEL

## FENCING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Capel resolved 22nd June 2016 to make the following local law.

### PART 1—PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *Shire of Capel Fencing Local Law 2016*.

#### 1.2 Commencement

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

#### 1.3 Repeal

The *Shire of Capel Local Laws Relating to Fencing* published in the *Government Gazette* of 04 July 2001 is repealed.

#### 1.4 Application of local laws

This local law applies throughout the district.

#### 1.5 Interpretation

In this Local Law, unless the context requires otherwise—

*Act* means the *Local Government Act 1995*;

*applicant* means a person who applies for an approval;

*application* means the completed form and associated documents, if any, that is lodged by a person seeking an approval as required by this local law;

*application fee* means the fee determined by the local government under section 6.16—6.19 of the Act and payable upon lodgement of an application for an approval and which relates to the lodgement, assessment and determination of the application;

*approval* means a favourable decision in respect of an application which is in writing, may be subject to conditions and which allows a proposal to proceed;

*AS or AS/NZS* means an Australian Standard or an Australian/New Zealand Standard published by Standards Australia and available for viewing free of charge at the Shire of Capel Administration office;

*building line* means a theoretical line created by the forward most wall of the dominant building facing a street frontage;

*boundary fence* means a fence constructed on the boundary of a lot which abuts a thoroughfare;

*CEO* means the Chief Executive Officer of the local government;

*Commercial Lot* means a lot where a commercial use—

- (a) is or may be permitted under the planning scheme; and
- (b) is or will be the predominant use of the lot;

*dangerous* in relation to any fence means—

- (a) an electrified fence which does not comply with Part 6 of this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

*district* means the district of the local government;

**dividing fence** means a fence that separates the lands of different owners whether the fence is on the common boundary of adjoining lands or on a line other than the common boundary;

**electrified fence** means a fence carrying or designed to carry an electric charge;

**fence** means any structure used or functioning as a barrier, irrespective of where it is located and includes any affixed gate or screening;

**height** in relation to a fence means the vertical distance between the top of the fence at any point and—

- (a) the ground level; or
- (b) where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point; or
- (c) where the fence is erected on a retaining wall approved by the local government, from the top of the retaining wall immediately below that point;

**hours of business operations** means the hours of the day during which business is usually conducted;

**Industrial Lot** means a lot where an industrial use—

- (a) is or may be permitted under the planning scheme; and
- (b) is or will be the predominant use of the lot;

**Large Residential Lot** means a lot having a density code less than or equal to R5 in the planning scheme;

**local government** means the Shire of Capel;

**lot** has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;

**occupier** has the meaning given to it in and for the purposes of the *Local Government Act 1995*;

**owner** has the meaning given to it in and for the purposes of the *Dividing Fences Act 1961*;

**planning approval** means an approval issued by the local government under a planning scheme;

**Planning Scheme** means a town or local planning scheme made in accordance with the *Planning and Development Act 2005* and operational in the district;

**primary street setback area** means the area between the building line of a lot and the front boundary of that lot;

**public place** includes—

- (a) a street, way or place which the public are allowed to use, whether the street, way or place is or is not on private property;
- (b) parklands, squares, reserves and other lands set apart for the use and enjoyment of the public; and
- (c) all lands vested in or under the care, control or management of the local government;

**retaining wall** means any structure approved by the local government which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

**road reserve** means land reserved for the purpose of a road;

**Rural Lot** means a lot zoned 'rural' in the planning scheme;

**screening** means any perforated panels or trellises composed of solid or obscured translucent panels;

**Small Residential Lot** means a lot having a density code greater or equal to R10 in the Planning Scheme;

**Schedule** means a Schedule to this local law;

**Special Rural Lot** means a lot zoned 'special rural' or 'rural residential' in the planning scheme;

**sufficient fence** means a fence described in clause 2.1;

**uniform fence** means a fence erected by a developer or subdivider in accordance with a subdivision or development approval which divides a lot from a public place such as pedestrian access way, public open space or road reserve;

**thoroughfare** has the meaning given to it in the Act; and

**visually permeable** means the surface of a fence which has—

- (a) continuous vertical or horizontal gaps of at least 50mm width occupying not less than one third of its face in aggregate of the entire surface or where gaps are narrower than 50mm, occupying not less than one half of its face in aggregate of the entire surface, as viewed directly from the street; or
- (b) a surface offering equal or lesser obstruction to view.

## 1.6 Relationship with other laws

(1) In the event of any inconsistency between the provisions of a local planning scheme and the provisions of this local law, the provisions of the planning scheme are to prevail.

(2) Nothing in this local law effects a provision in any written law in respect of a building permit for a fence.

## PART 2—SUFFICIENT FENCE

## **2.1 Sufficient fence**

- (1) A person shall not erect a dividing fence or fence that is not a sufficient fence, unless otherwise approved or required by the local government.
- (2) A dividing fence or fence lawfully erected prior to this local law coming into operation constitutes a sufficient fence.
- (3) Subject to subclause (4) and (5), a sufficient fence—
  - (a) on a Small Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 and located behind the specified building line;
  - (b) on a Large Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2 and located behind the specified building line;
  - (c) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
  - (d) on a Rural Lot and on a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (4) Where a fence is erected on or near the boundary between a—
  - (a) Small Residential Lot or a Large Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1;
  - (b) Small Residential Lot or a Large Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
  - (c) Small Residential Lot or a Large Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 or 2 respectively;
  - (d) Small Residential Lot or a Large Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 1 or 2 respectively; and
  - (e) Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (5) Unless otherwise approved or required by the local government a sufficient fence on a boundary between lots other than those specified in subclause (4) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 3.

## **PART 3—FENCING WITHIN THE PRIMARY STREET (FRONT) SETBACK**

### **3.1 Fences within primary street (front) setback area**

- (1) On a Small Residential Lot a fence erected within the primary street setback area shall—
  - (a) with the exception of piers, be visually permeable above 0.75m;
  - (b) not exceed a height of 1.8m; and
  - (c) be constructed of aluminium tubular pool style fencing, face finished brick, render, brushwood, stone or timber palings, or a combination of the aforementioned materials, or similar, that complement the dwelling and do not detract from the streetscape.

Fibre cement sheets or sheet metal are not considered suitable.

- (2) On a Large Residential Lot a fence erected within the primary street setback area shall—
  - (a) not exceed a height of 1.2m; and
  - (b) be constructed of posts and wire.
- (3) On a Commercial Lot, no fence shall be erected forward of the building line.
- (4) On an Industrial Lot, a fence erected within the primary street setback area shall be visually permeable above 1.2m and not exceed a height of 2.4m.
- (5) All fences shall be truncated or reduced to no higher than 0.75m within 1.5m adjoining a vehicle access point where a driveway meets a public street and where 2 streets intersect.
- (6) Subclause (5) shall not apply to a visually permeable fence that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

## **PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE**

### **4.1 Fencing materials**

- (1) Subject to clause 2.1, a person shall only construct a fence from materials specified in the Schedules of this local law, unless otherwise approved or required by the local government.
- (2) Uniform fencing shall be constructed predominantly from new materials as described in the Schedules and where required by the local government, incorporate visually permeable sections above 1.2m to the satisfaction of the local government.

(3) Pre-used materials shall not be permitted in the construction of a fence, unless the pre-used materials are structurally fit for the purpose, painted, treated and/or upgraded to the satisfaction of the local government.

(4) No person shall erect a fence of impervious material in any place, position or location where it will, or is likely to, act as a barrier to or restrict the flow of a natural watercourse.

#### **4.2 Screening**

(1) Any screening affixed to a fence shall be designed to integrate with the colours, materials and specifications of that sufficient fence to the satisfaction of the local government.

(2) On a Rural Lot or Special Rural Lot, no person shall affix any screening to a fence.

(3) Screening affixed to a fence shall be installed and maintained in accordance with the manufacturers specifications and not compromise the structural integrity of a fence.

#### **4.3 Barbed wire or other material with spiked or jagged projections**

(1) A person shall not erect or affix to any fence any barbed or razor wire or other material with spiked or jagged projections except in accordance with this clause.

(2) An owner or occupier of a Commercial or Industrial Lot shall not erect or affix on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts vertically or at an angle of 45 degrees, and unless the bottom row of wire or other materials is not less than 2m from the ground level.

(3) If the posts which carry the barbed wire or other materials referred to in subclause (2) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(4) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall on that lot, whether internal or external, any broken glass or razor wire.

(5) An owner or occupier of a Rural Lot or Special Rural Lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

#### **4.4 Maintenance of fences**

(1) An owner or occupier of a lot on which a fence is erected shall maintain the fence in good condition and prevent it from becoming damaged, dangerous, dilapidated, unsightly or detrimental to the amenity of the locality.

(2) An owner or occupier of a lot on which a uniform fence is erected shall not alter the fence in any way, or enclose or screen any visually permeable sections of the fence.

#### **4.5 Gates in fences**

Any gate or door must not encroach into or over any other property.

### **PART 5—RIGHT-OF-WAYS, PUBLIC ACCESS WAYS OR ROAD RESERVES**

#### **5.1 Fences across right-of-ways, public access ways or road reserves**

A person must not, without the written consent of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or road reserve so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

### **PART 6—ELECTRIFIED FENCES**

#### **6.1 Electrified fencing**

(1) On a Rural Lot electrified fencing shall comply with *AS/NZS 3014:2003 Electrical Installations—Electric Fences* (as amended from time to time).

(2) On an Industrial Lot, an electrified fence shall—

(a) comply with *AS/NZS 3016:2002 Electrical Installations—Electric Security Fences* (as amended from time to time);

(b) comply with any requirements of Western Power;

(c) be capable of being rendered inoperable during the hours of business operations, if any, on the lot where it is erected; and

(d) be designed to integrate with the colours, materials and specification of a sufficient fence.

Australia/New Zealand Standards *AS/NZS 3014:2003 Electrical installations—Electric fences* and *AS/NZS 3016:2002 Electrical Installations—Electric Security Fences* are available for viewing free of charge at the Shire of Capel Administration office.

### **PART 7—APPLICATION REQUIREMENTS**

#### **7.1 Requirements for an approval from local government**

(1) Where approval is required from the local government under this local law and approval is not required in the form of planning approval or a building permit, then a written application to the local government to seek an approval under this local law will apply.

- (2) An owner or occupier of a lot, other than a Rural Lot or Industrial Lot, must not—
  - (a) have or use an electrified fence on that lot—
    - (i) without first obtaining a building permit or written approval of the local government and
    - (ii) except in accordance with that permit or approval; or
  - (b) construct a fence wholly or partly of barbed wire or other material with jagged or spiked projections on that lot—
    - (i) without first obtaining a building permit or written approval of the local government; and
    - (ii) except in accordance with that permit or approval.
- (3) Approval to install an electrified fence on a fence will not be given—
  - (a) if the lot abuts a Residential Lot; and
  - (b) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

### **7.2 Application for approval**

- (1) An owner of a lot may apply to the local government for any discretionary matter contained within this local law.
- (2) An application must be—
  - (a) in writing in a form approved by the local government;
  - (b) accompanied by any document or information that is required by the local government; and
  - (c) accompanied by an application fee.

### **7.3 Determination of applications**

- (1) The local government may approve the erection of a fence that does not comply with the requirements of this local law.
- (2) In determining whether to grant its consent to the erection, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse impact on—
  - (a) the safe or convenient use of any land;
  - (b) the safety or convenience of any person; or
  - (c) the visual amenity of the streetscape or neighbouring properties.
- (3) All fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.
- (4) An application submitted to the local government under this local law may be—
  - (a) approved by the local government;
  - (b) approved by the local government subject to conditions as the local government sees fit; or
  - (c) rejected by the local government.
- (5) Where the local government approves an application subject to conditions, the applicant must comply with those conditions.
- (6) Where the local government approves an application under this clause, it shall issue an approval in the form determined by the local government.
- (7) The local government may by written notice amend a condition imposed under subclause (4)(b).
- (8) An amendment under subclause (7) is effective from the date specified in the notice.

### **7.4 Transfer of an approval under this local law**

- (1) An approval which is provided by the local government under this local law is deemed to transfer to each successive owner or occupier of the lot to which the approval applies.
- (2) Where an approval is transferred under this clause, the successive owner or occupier may apply to the local government for a written confirmation of this transfer.
- (3) If the local government approves an application under this clause, it may issue a written confirmation to the applicant in the form determined by the local government.

### **7.5 Cancellation of an approval**

The local government may cancel an approval if—

- (a) the owner or occupier requests the local government to do so;
- (b) the fence to which the approval applies has been demolished and is not rebuilt for a period of 6 months;
- (c) the circumstances have changed in such a way that an approval for the fence could no longer be granted under the local law;
- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence; or
- (e) the owner or occupier fails to comply with a notice of breach issued under clause 8.1.

## 7.6 Objections and appeals

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to—

- (a) refuse an application for an approval;
- (b) impose or vary an approval condition;
- (c) cancel an approval; or
- (d) give a person a notice under clause 8.1.

## PART 8—OFFENCES AND ENFORCEMENT

### 8.1 Notice of breach

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot.

(2) A notice shall specify—

- (a) the provision of this local law that has been breached;
- (b) the particulars of the breach; and
- (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

(3) Should an owner or occupier fail to comply with a notice, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

(4) The provisions of subclause (3) are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry onto land will be in accordance with Part 3, Division 3 of that Act.

### 8.2 Offences

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) An offence against a clause specified in Schedule 5 is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.

(3) Any person who commits an offence under this local law is liable upon conviction to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 8.3 Modified penalties

Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$200.

### 8.4 Infringement notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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### Schedule 1

#### SPECIFICATIONS FOR A SUFFICIENT FENCE ON A SMALL RESIDENTIAL LOT

[Clause 2.1(3)(a)]

(1) Refer to clause 3.1 for fences within the primary street setback area.

(2) Each of the following is a sufficient fence on a Small Residential Lot—

- (a) A timber fence which satisfies the following specifications—
  - (i) an average height of 1.8m;
  - (ii) construction to be in accordance with the manufacturers specifications;
  - (iii) timber paneling to provide a solid cover to provide a solid screen except where the fence is located within the primary street setback area; and
  - (iv) susceptible timber is to be treated for protection from termite attack in accordance with *AS 3660.1-2014 Termite management—Part 1: New building work* (as amended from time to time).

*Australian Standard AS 3660.1-2014 Termite management—Part 1: New building work* is available for viewing free of charge at the Shire of Capel Administration office.

- (b) Fibre reinforced pressed cement sheeting which satisfies the following specifications—
  - (i) an average height of 1.8m; and
  - (ii) construction to be in accordance with the manufacturers specifications.
- (c) Masonry (including brick, stone or concrete), which satisfies the following specifications—
  - (i) an average height of 1.8m except where located within the primary street setback area (refer to Part 3 of this local law); and
  - (ii) construction to be in accordance with *AS3700-2014 Masonry structures* (as amended from time to time).

Australian Standard *AS3700-2014 Masonry Structures* is available for viewing free of charge at the Shire of Capel Administration office.
- (d) Metal panel (eg Colourbond) or PVC panel (eg Duralok) fencing systems that satisfy the following specifications—
  - (i) an average height of 1.8m, except where located within the primary street setback area (refer to Part 3 of this local law); and
  - (ii) construction to be in accordance with the manufacturers specifications.
- (e) A composite of the above fences such as timber posts with solid sheet metal infill and height as specified above.

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### *Schedule 2*

#### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A LARGE RESIDENTIAL LOT.**

[Clause 2.1(3)(b)]

- (1) Refer to clause 3.1 for fences within the primary street setback area.
- (2) A sufficient fence on a Large Residential Lot is a fence of posts and wire construction, the specifications for which are—
  - (a) have an average height of 1.2m;
  - (b) pine timber posts shall be impregnated with a termite and fungicidal preservative;
  - (c) wire shall be high tensile galvanised wire and not less than 2.5mm in diameter;
  - (d) a minimum of 5 wires shall be used;
  - (e) galvanised iron posts may be used; and
  - (f) construction shall be in accordance with manufacturers specifications.
- (3) No boundary fence on a Large Residential Lot shall be constructed of the following materials—
  - (a) fibro cement;
  - (b) metal sheeting; or
  - (c) wooden pickets.

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### *Schedule 3*

#### **SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND INDUSTRIAL LOT.**

[Clause 2.1(3)(c)]

- Each of the following is a sufficient fence on a Commercial Lot and an Industrial Lot—
- (1) A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications—
    - (a) generally a height of 2m with posts up to a maximum height of 2.4m with barbed wire mesh where permitted by this local law; and
    - (b) construction to be in accordance with the manufacturers specifications.
  - (2) A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 1.
  - (3) A fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1.8m but no greater than 2.4m.
  - (4) Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 1.

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*Schedule 4*  
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT AND SPECIAL  
RURAL LOT

[Clause 2.1(3)(d)]

In the case of a non-electrified fence, a sufficient fence on a Rural Lot and a Special Rural Lot is a fence of post and wire construction, the minimum specifications for the following purposes which are—

- (1) A fence to contain cattle and horses which satisfies the following specifications—
  - (a) have an average height of 1.2m;
  - (b) pine timber posts shall be impregnated with a termite and fungicidal preservative;
  - (c) wire shall be high tensile galvanised wire and not less than 2.5mm;
  - (d) a minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
  - (e) galvanised iron posts may be used;
  - (f) star pickets may be used for intermediate posts; and
  - (g) construction shall be in accordance with manufacturers specifications.
- (2) A mesh fence to contain sheep and goats shall satisfy the specifications of subclause (1) with the further requirement—
  - (a) wire shall be hinge joint or ring lock with 2 plain high tensile wires of not less than 2.5mm located above the mesh and connected to posts in all cases; and
  - (b) the mesh wire shall be clipped to the lower of the 2 plain wires at 3m centres.
- (3) Star pickets used for intermediate posts on Special Rural Lots shall have a PVC safety cap on the top of each picket.
- (4) An electrified fence having 4 wires only is a sufficient fence if constructed generally in accordance with subclause (1).

*Schedule 5*  
OFFENCES FOR WHICH MODIFIED PENALTIES APPLY

[Clause 8.2(2)]

*Shire of Capel*  
FENCING LOCAL LAW 2016

Offence No.	Clause No.	Nature of offence	Modified penalty
1	2.1	Erect a dividing fence or boundary fence on a lot that does not meet the minimum requirements for a sufficient fence	\$200
2	4.1(3)	Use pre-used materials in the construction of a fence without approval	\$200
3	4.4(1)	Failure to maintain a fence in good condition / prevent fence from becoming dangerous or dilapidated	\$200
4	4.5	Erect or maintain a gate in a fence that encroaches into or over any other property	\$200
5	5.1	Erect or maintain a fence/obstruction temporary or permanent across a right-of-way, public access way or road reserve without consent	\$200
6	7.1(2)	Construct or use an electrified fence or a fence wholly or partly of barbed wire or other material with spiked or jagged projections without a building permit or approval	\$200
7	8.3	Other offences not specified	\$200

Dated 22nd June 2016.

The Common Seal of the Shire of Capel was affixed by authority of a resolution of the Council in the presence of—

M. T. SCOTT, President.  
P. F. SHEEDY, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CAPEL**

**PARKING AND PARKING FACILITIES LOCAL LAW 2016**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

PARKING AND PARKING FACILITIES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Capel resolved on the 22nd June 2016 to make the following local law.

PART 1—DEFINITIONS AND OPERATION

1.1 Citation

This local law may be cited as the *Shire of Capel Parking and Parking Facilities Local Law 2016*.

1.2 Commencement

This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.

1.3 Repeal

The *Shire of Capel Parking and Parking Facilities Local Law 2007* published in the *Government Gazette* on 13 March 2007 is repealed.

1.4 Interpretation

In this local law unless the context otherwise requires—

*ACROD sticker* has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*

*Act* means the *Local Government Act 1995*;

*authorised person* means a person appointed by the local government under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the local government, Chief Executive Officer, authorised person or by any written law to park on a thoroughfare or parking facility;

*bicycle* has the meaning given to it by the Code;

*bicycle path* has the meaning given to it by the Code;

*bus* has the meaning given to it by the Code;

*bus embayment* has the meaning given to it by the Code;

*bus stop* has the meaning given to it by the Code;

*bus zone* has the meaning given to it by the Code;

*caravan* means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

*carriageway* means a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

*centre* in relation to a carriageway, means a line or a series of lines, marks or other indications—

- (a) for a two-way carriageway—placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications—the middle of the main, travelled portion of the carriageway;

*children's crossing* has the meaning given to it by the Code;

*Code* means the *Road Traffic Code 2000*;

*commercial vehicle* means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**detection device** means an electronic detection device placed in any position to detect the parking time of vehicles left on any road, in a parking station or any other public place and includes any instruments, display panels or transmitting apparatus associated with the device;

**Disability Parking Permit** means a current document issued by the National Disability Service (ACN 008 445 485) consisting of—

- (a) an Australian Disability Parking Permit; and
- (b) an ACROD Parking Program Card;

**district** means the district of the local government;

**driver** means any person driving or in control of a vehicle;

**edge line** for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

**emergency vehicle** has the meaning given to it by the Code;

**footpath** has the meaning given to it by the Code;

**GVM** (which stands for 'gross vehicle mass') has the meaning given to it by the *Road Traffic (Vehicles) Act 2012*;

**loading zone** means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'Loading Zone';

**local government** means the Shire of Capel;

**mail zone** has the meaning given to it by the Code;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motor vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008* and includes—

- (a) in relation to authorisation to drive, means a vehicle that is built to be propelled by a motor that forms part of the vehicle;
- (b) otherwise, means a self-propelled vehicle that is not operated on rails and—
  - (i) includes a trailer, semi trailer or caravan while attached to a vehicle; but
  - (ii) does not include a power assisted pedal cycle;

**no parking area** has the meaning given to it by the Code;

**no parking sign** means a sign with the words 'no parking' in red letters on a white background, or the letter 'P' within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it by the Code;

**no stopping sign** means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter 'S' within a red annulus and a red diagonal line across it on a white background;

**occupier** has the meaning given to it by the Act;

**owner**

- (a) where used in relation to a vehicle licensed under the *Road Traffic Act 1974*, means the person in whose name the vehicle has been registered under that *Road Traffic Act 1974*;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking facilities** includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles and signs, notices and facilities used in connection with the parking of vehicles;

**parking region** means the area described in Schedule 1;

**parking stall** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles;

**pedestrian crossing** has the meaning given to it by the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

**Road Traffic Act** means the *Road Traffic Act 1974*;

*Schedule* means a Schedule to this local law;

*shared zone* has the meaning given to it by the Code;

*sign* includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

*special purpose vehicle* has the meaning given to it by the Code;

*stop* in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;

*symbol* has the meaning given to it by the Code;

*taxi* means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;

*taxi zone* has the meaning given to it by the Code;

*thoroughfare* has the meaning given to it by the Act;

*traffic island* has the meaning given to it by the Code;

*trailer* means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

*vehicle* has the meaning given to it by the *Road Traffic (Administration) Act 2008*; and

*verge* means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

#### 1.5 Application of Particular Definitions

(1) For the purposes of the application of the definitions ‘no parking area’ and ‘parking area’ an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the *Road Traffic (Administration) Act 2008* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

#### 1.6 Application and pre-existing signs

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and

(b) relates to the parking of vehicles within the parking region;

shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(5) An inscription or symbol on a sign referred to in subclause (4) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

(6) The provisions of Parts (2), (3), (4) and (5) do not apply to a bicycle parked at a bicycle rail or bicycle rack.

#### 1.7 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motorcycles and bicycles;

(d) taxis; and

(e) all other vehicles.

#### 1.8 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

#### 1.9 Powers of the local government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

## PART 2—PARKING STALLS AND PARKING STATIONS

### 2.1 Determination of parking stalls and parking stations

- (1) The local government may by resolution constitute, determine and vary and also indicate by signs—
  - (a) parking stalls;
  - (b) parking stations;
  - (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
  - (d) permitted classes of vehicles which may park in parking stalls and parking stations;
  - (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
  - (f) the manner of parking in parking stalls and parking stations.
- (2) Where the local government makes a resolution under this clause, it shall erect signs to give effect to the resolution.

### 2.2 Vehicles to be within parking stall on thoroughfare

- (1) Subject to subclause (2), (3) and (4), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—
  - (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the stall; and
  - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3) where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle shall do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person shall not park a vehicle partly within and partly outside a parking area.

### 2.3 Parking prohibitions and restrictions

- (1) A person shall not—
  - (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
  - (b) except with the permission of the local government or an authorised person park a vehicle on any part of a parking station contrary to a sign referable to that part;
  - (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or
  - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle—
  - (a) in a parking stall other than in a stall marked 'M/C'; and
  - (b) in such stall other than against the kerb.
- (3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—
  - (a) the driver's vehicle displays a Disability Parking Permit; and
  - (b) a person with disabilities to which that Disability Parking Permit relates is either the driver or of a passenger in the vehicle.

## PART 3—PARKING GENERALLY

### 3.1 Restrictions on parking in particular areas

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—
  - (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) (a) This subclause applies to a driver if—
  - (i) the driver's vehicle displays a Disability Parking Permit; and

- (ii) a person with a disability to which the Disability Parking Permit relates is either the driver of the vehicle or a passenger in the vehicle.
  - (b) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign.
- (3) A person shall not park a vehicle—
- (a) in a no parking area;
  - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law; or
  - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked 'M/C'.
- (5) A person shall not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.

### 3.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall shall park it—
- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
  - (e) so that it does not obstruct any vehicle on the carriageway;

unless otherwise indicated on a parking regulation sign or markings on the roadway.

- (2) In this clause, 'continuous dividing line' means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines.

### 3.3 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

### 3.4 When angle parking applies

- (1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

### 3.5 General prohibitions on parking

- (1) (a) This clause does not apply to a vehicle parked in a parking stall nor to a bicycle in a bicycle rack.
- (b) Subclauses (2)(c), (e) and (g) do not apply to a vehicle which parks in a bus embayment.
- (2) Subject to any law relating to intersections with traffic control signals a person shall not park a vehicle so that any portion of the vehicle is—
- (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;

- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
- (e) on or within 20 metres of any portion of a carriageway bounded by a traffic island;
- (f) on any footpath or pedestrian crossing;
- (g) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
- (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (k) within 20 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

(3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of—

- (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
- (b) a children's crossing or pedestrian crossing.

(4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of—

- (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
- (b) a children's crossing or pedestrian crossing.

(5) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

### **3.6 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

### **3.7 Authorised person may mark tyres**

(1) An authorised person may in a parking area or other parking facility—

- (a) mark the tyres of a vehicle with chalk or any other non-indelible substance;
- (b) record the position of a vehicle;
- (c) take a valve stem reading of a vehicle; or
- (d) record vehicle details, vehicle registration numbers and photograph the vehicle;

for any purpose connected with or arising out of his or her duties or powers.

(2) A person shall not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

### **3.8 No movement of vehicles to avoid time limitation**

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least two hours.

### **3.9 No parking of vehicles exposed for sale and in other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic Act 1974*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

### **3.10 Parking on private land**

(1) In this clause a reference to 'land' does not include land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*;

- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act; or
  - (d) which is the subject of an agreement referred to in clause 1.6(2).
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

### **3.11 Parking on reserves**

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

### **3.12 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

## **PART 4—PARKING AND STOPPING GENERALLY**

### **4.1 No stopping and no parking signs, and yellow edge lines**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a 'no stopping' sign applies.
- (2) A driver shall not stop on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver—
- (a) is dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

*Unattended*, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

- (3) A driver shall not stop at the side of a carriageway marked with a continuous yellow edge line.

## **PART 5—STOPPING IN ZONES FOR PARTICULAR VEHICLES**

### **5.1 Stopping in a loading zone**

A person shall not stop a vehicle in a loading zone unless it is—

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
  - (b) a motor vehicle taking up or setting down passengers,
- but, in any event, shall not remain in that loading zone—
- (c) for longer than a time indicated on the 'loading zone' sign; or
  - (d) longer than 30 minutes (if no time is indicated on the sign).

### **5.2 Stopping in a taxi zone or a bus zone**

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

### **5.3 Stopping in a mail zone**

A person shall not stop a vehicle in a mail zone.

### **5.4 Other limitations in zones**

A person shall not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

## **PART 6—OTHER PLACES WHERE STOPPING IS RESTRICTED**

### **6.1 Stopping in a shared zone**

A driver shall not stop in a shared zone unless—

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;

- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

### **6.2 Double parking**

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to—
  - (a) a driver stopped in traffic; or
  - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

### **6.3 Stopping near an obstruction**

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

### **6.4 Stopping on a bridge or in a tunnel, etc.**

- (1) A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless—
  - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver shall not stop a vehicle in a tunnel or underpass unless—
  - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

### **6.5 Stopping on crests, curves, etc.**

- (1) Subject to subclause (2), a driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **6.6 Stopping near a fire hydrant etc**

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within one metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless the driver is driving a—
  - (a) public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
  - (b) a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

### **6.7 Stopping at or near a bus stop**

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, unless—
  - (a) the vehicle is a public bus stopped to take up or set down passengers; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause—
  - (a) distances are measured in the direction in which the driver is driving; and
  - (b) a trailer attached to a public bus is deemed to be a part of the public bus.

### **6.8 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **6.9 Stopping on verge**

- (1) A person shall not—
  - (a) stop a vehicle (other than a bicycle);
  - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,
 so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

#### **6.10 Obstructing access to and from a path, driveway, etc.**

(1) A driver shall not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

(2) A driver shall not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

#### **6.11 Stopping near a letter box**

A driver shall not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver—

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

#### **6.12 Stopping on a carriageway—heavy and long vehicles**

(1) A person shall not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes—

- (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or
- (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.

(2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or traffic sign relating to the parking or stopping of vehicles.

#### **6.13 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle (other than a bicycle) shall not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

#### **6.14 Stopping on a carriageway with motor cycle parking sign**

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless—

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

### **PART 7—MISCELLANEOUS**

#### **7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an authorised person.

#### **7.2 Unauthorised signs and defacing of signs**

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

#### **7.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

#### **7.4 General provisions about signs**

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

(2) The first three letters of any day of the week when used on a sign indicate that day of the week.

### 7.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

### 7.6 Vehicles not to obstruct a public place

(1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.

(2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

### 7.7 Hindrance of an authorised person

A person shall not in any way obstruct or hinder an authorised person in the execution of his or her duties.

## PART 8—PENALTIES

### 8.1 Offences and penalties

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

(4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

### 8.2 Form of notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 3;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 3;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in Schedule 3; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in Schedule 3.

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### *Schedule 1*

#### PARKING REGION

The parking region is the whole of the district, but excludes the following portions of the district—

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

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### *Schedule 2*

#### PRESCRIBED OFFENCES

#### PARKING AND PARKING FACILITIES LOCAL LAW 2016

[8.1(4)]

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.2	Failure to park wholly within parking stall	55
2	2.2(4)	Failure to park wholly within parking area	55

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
3	2.3(1)(a)	Causing obstruction in parking station	55
4	2.3(1)(b)	Parking contrary to sign in parking station	55
5	2.3(1)(c)	Parking contrary to directions of Authorised Person	100
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	55
7	3.1(1)(a)	Parking wrong class of vehicle	55
8	3.1(1)(b)	Parking by persons of a different class	55
9	3.1(1)(c)	Parking during prohibited period	60
10	3.1(3)(a)	Parking in no parking area	55
11	3.1(3)(b)	Parking contrary to signs or limitations	55
12	3.1(3)(c)	Parking vehicle in motor cycle only area	55
13	3.1(4)	Parking motor cycle in stall not marked 'M/C'	55
14	3.1(5)	Parking without permission in an area designated for 'Authorised Vehicles Only'	55
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	55
16	3.2(1)(b)	Failure to park on boundary of one-way carriageway	55
17	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	100
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	55
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	55
20	3.2(1)(e)	Causing obstruction	100
21	3.3(b)	Failure to park at approximate right angle	55
22	3.4(2)	Failure to park at an appropriate angle	55
23	3.5(2)(a) and 6.2	Double parking	100
24	3.5(2)(b)	Parking on or adjacent to a median strip	55
25	3.5(2)(c)	Denying access to private drive or right of way	55
26	3.5(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	100
27	3.5(2)(e)	Parking within 20 metres of traffic island	55
28	3.5(2)(f)	Parking on footpath/pedestrian crossing	100
29	3.5(2)(g)	Parking contrary to continuous line markings	55
30	3.5(2)(h)	Parking on intersection	55
31	3.5(2)(i)	Parking within 1 metre of fire hydrant or fire plug	55
32	3.5(2)(j)	Parking within 3 metres of public letter box	55
33	3.5(2)(k)	Parking within 20 metres of intersection	55
34	3.5(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	55
35	3.5(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	55
36	3.5(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	55
37	3.6	Parking contrary to direction of Authorised Person	100
38	3.7(2)	Removing mark of Authorised Person	55
39	3.8	Moving vehicle to avoid time limitation	55
40	3.9(a)	Parking in thoroughfare for purpose of sale	55
41	3.9(b)	Parking unlicensed vehicle in thoroughfare	55
42	3.9(c)	Parking a trailer/caravan on a thoroughfare	55
43	3.9(d)	Parking in thoroughfare for purpose of repairs	55
44	3.10(1) or (2)	Parking on land that is not a parking facility without consent	55
45	3.10(3)	Parking on land not in accordance with consent	55
46	3.11	Driving or parking on reserve	100
47	4.1(1)	Stopping contrary to a 'no stopping' sign	100

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
48	4.1(2)	Parking contrary to a 'no parking' sign	60
49	4.1(3)	Stopping within continuous yellow lines	100
50	5.1	Stopping unlawfully in a loading zone	55
51	5.2	Stopping unlawfully in a taxi zone or bus zone	55
52	5.3	Stopping unlawfully in a mail zone	55
53	5.4	Stopping in a zone contrary to a sign	55
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62	6.10	Obstructing path, a driveway etc	55
63	6.11	Stopping near letter box	55
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66	6.14	Stopping in motorcycle parking area	55
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Schedule 3

FORMS

LOCAL GOVERNMENT ACT 1995

Form 1

**PARKING AND PARKING FACILITIES LOCAL LAW 2016**  
NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

[8.2]

Date ..... / ..... / .....

To: <sup>(1)</sup> .....

of: <sup>(2)</sup> .....

It is alleged that on ..... / ..... / ..... at <sup>(3)</sup> .....

at <sup>(4)</sup> ..... your vehicle—

make: .....

model: .....

registration: .....

was involved in the commission of the following offence— .....

.....

.....

.....

contrary to clause ..... of the *Parking and Parking Facilities Local Law 2016*.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

(a) within 28 days after being served with this notice;

(i) you inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and

(ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5) .....  
(6) .....

Insert—

- (1) Name of owner or 'the owner'
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorised person
- (6) Name and title of authorised person giving notice

*Schedule 3*  
 LOCAL GOVERNMENT ACT 1995  
 Form 2  
**PARKING AND PARKING FACILITIES LOCAL LAW 2016**  
**INFRINGEMENT NOTICE**

Serial No .....  
 Date ..... / ..... / .....  
 To: (1) .....  
 of: (2) .....

It is alleged that on ..... / ..... / ..... at (3) .....  
 at (4) .....  
 in respect of vehicle—  
 make: ..... ;  
 model: ..... ;  
 registration: ..... ,  
 you committed the following offence—

.....  
 .....

contrary to clause ..... of the *Parking and Parking Facilities Local Law 2016*.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at (5) ..... within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6) .....  
 (7) .....

Insert—

- (1) Name of alleged offender or 'the owner'
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorised person
- (7) Name and title of authorised person giving notice

\_\_\_\_\_

*Schedule 3*  
LOCAL GOVERNMENT ACT 1995  
Form 3  
**PARKING AND PARKING FACILITIES LOCAL LAW 2016**  
INFRINGEMENT NOTICE

Serial No .....

Date ..... / ..... / .....

To: <sup>(1)</sup> .....

of: <sup>(2)</sup> .....

It is alleged that on ..... / ..... / ..... at <sup>(3)</sup> .....  
at <sup>(4)</sup> .....

in respect of vehicle—

make: ..... ;

model: ..... ;

registration: ..... ,

you committed the following offence—

.....  
.....

contrary to clause ..... of the *Parking and Parking Facilities Local Law 2016*.

The modified penalty for the offence is \$ .....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at <sup>(5)</sup> ..... within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

(a) you pay the modified penalty; or

(b) you—

(i) inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or

(ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

<sup>(6)</sup> .....

<sup>(7)</sup> .....

Insert—

<sup>(1)</sup> Name of owner or 'the owner'

<sup>(2)</sup> Address of owner (not required if owner not named)

<sup>(3)</sup> Time of alleged offence

<sup>(4)</sup> Location of alleged offence

<sup>(5)</sup> Place where modified penalty may be paid

<sup>(6)</sup> Signature of authorised person

<sup>(7)</sup> Name and title of authorised person giving notice

\_\_\_\_\_

*Schedule 3*  
LOCAL GOVERNMENT ACT 1995  
Form 4  
**PARKING AND PARKING FACILITIES LOCAL LAW 2016**  
WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No .....  
Date ..... / ..... / .....  
To: <sup>(1)</sup> .....  
of: <sup>(2)</sup> .....

Infringement Notice No. .... dated ..... / ..... / .....  
in respect of vehicle—  
make: ..... ;  
model: ..... ;  
registration: ..... ,  
for the alleged offence of .....  
.....  
.....

has been withdrawn.  
The modified penalty of \$ .....  
• has been paid and a refund is enclosed.  
• has not been paid and should not be paid.  
• delete as appropriate.

<sup>(3)</sup> .....  
<sup>(4)</sup> .....

Insert—  
<sup>(1)</sup> Name of alleged offender to whom infringement notice was given or 'the owner'.  
<sup>(2)</sup> Address of alleged offender.  
<sup>(3)</sup> Signature of authorised person  
<sup>(4)</sup> Name and title of authorised person giving notice

\_\_\_\_\_

Dated 22nd June 2016.  
The Common Seal of the Shire of Capel was affixed by authority of a resolution of the Council in the presence of—

M. T. SCOTT, President.  
P. F. SHEEDY, Chief Executive Officer.

\_\_\_\_\_

LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

**SIGNS REPEAL LOCAL LAW 2016**

**1 Citation**

This local law may be cited as the *Shire of Capel Signs Repeal Local Law 2016*.

**2 Commencement**

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

**3 Repeal**

The *Shire of Capel Signs Local Law 2001* published in the *Government Gazette* on 23 May 2001 is repealed.

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Dated 22nd June 2016.

The Common Seal of the Shire of Capel was affixed by authority of a resolution of the Council in the presence of—

M. T. SCOTT, President.  
P. F. SHEEDY, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CAPEL**

**STANDING ORDERS LOCAL LAW 2016**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF CAPEL

STANDING ORDERS LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Capel resolved on 22nd June 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is to be cited as the *Shire of Capel Standing Orders Local Law 2016*.

1.2 Commencement

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

1.3 Application

All meetings of the Council, Committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

1.4 Interpretation

(1) In this local law, unless the contrary otherwise requires—

*absolute majority* has the meaning given to it in the Act;

*Act* means the *Local Government Act 1995*;

*CEO* means the Chief Executive Officer of the local government;

*Committee* means a Committee of the Council established under the Act;

*Common Seal* means the Common Seal of the local government;

*Council* means the Council of the local government;

*Councillor* has the same meaning as is given to it in the Act;

*deputation* means a verbal submission at a Council or Committee meeting on an agenda item made by a person who has a direct interest in the agenda item;

*Deputy President* means the Deputy President of the local government;

*employee* means an employee of the local government;

*external body* includes—

- (a) a Regional Council;
- (b) an incorporated or unincorporated association;
- (c) a trust;
- (d) a tribunal;
- (e) a government agency, instrumentality, board or committee; and
- (f) any other external body

to which the local government is entitled, or has been invited, to provide a representative;

*implement*, in relation to a decision, includes—

- (a) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
- (b) take other action to give effect to the decision;

*local government* means the Shire of Capel;

*member*—

- (a) in relation to the Council, means the President or a Councillor; and
- (b) in relation to a Committee, means a member of the Committee;

*Minister* means the Minister responsible for administering the Act;

*officer* means an officer of the local government;

*original motion* means the motion that first introduces a proposal to be considered at a meeting;

*President* means the President of the local government;

*Presiding Member* means—

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a Committee, the person presiding under sections 5.12, 5.13 and 5.14 of the Act;

*primary motion* means an original motion or an original motion as amended, but does not include an amendment motion or a procedural motion;

*procedural motion* means a motion employed to control the conduct of a meeting;

*simple majority* means more than 50% of the members present and voting at meetings;

*Regulations* means the *Local Government (Administration) Regulations 1996*

*Rules of Conduct Regulations* means the *Local Government (Rules of Conduct) Regulations 2007*;

*revocation motion* means a motion to revoke or change a decision made at a Council or Committee meeting;

*schedule* means a schedule of this local law;

*special majority* is dealt with in the Act;

*standing orders* means the meeting procedures and/or rules on the conduct and behaviour of persons at a meeting of the Council, Committee or electors; and

*urgent business* means business dealt with in accordance with clause 4.14.

(2) Unless otherwise defined, the terms used in this local law have the meaning given to them in the Act and Regulations.

### **1.5 Repeal**

The *Shire of Capel Standing Orders Local Law 2007* published in the *Government Gazette* 30 April 2007 is repealed.

## **PART 2—CALLING AND CONVENING MEETINGS**

### **2.1 Ordinary and Special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### **2.2 Calling Council meetings**

The calling of Council meetings is dealt with in the Act.

### **2.3 Calling Committee meetings**

A meeting of a Committee is to be held—

- (a) in the case of a special meeting, if called for in a verbal or written notice to the CEO by the Presiding Member, setting out the date and purpose of the proposed meeting;
- (b) in the case of a special meeting, if called for by at least one third of the members of the Committee in a written notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in the case of an ordinary or special meeting, if so decided by the Council or the Committee.

### **2.4 Convening ordinary and special Council meetings**

The convening of ordinary and special Council meetings is dealt with in the Act.

### **2.5 Convening ordinary and special Committee meetings**

- (1) The CEO is to convene an ordinary meeting of a Committee by giving each member at least 72 hours' notice of the date, time, place and an agenda for the meeting.
- (2) The CEO is to convene a special meeting of a Committee by giving each member notice, before the meeting, of the date, time, place and an agenda for the meeting.
- (3) The CEO is to give notice of meetings referred to in subclauses (1) and (2) to every member of the Council.
- (4) In convening a special meeting of a committee, there is no minimum period of notice to be given and notice can be given by telephone, facsimile, letter, electronic mail or orally in person.

### **2.6 Failure to receive notice not to invalidate proceedings**

Failure to receive a notice of meeting shall not affect the validity of any meeting provided reasonable steps have been taken to serve such notice.

## **PART 3—PRESIDING MEMBER AND QUORUM**

### **3.1 Who presides at Council meetings**

Who presides at a Council meeting is dealt with in the Act.

### **3.2 When Deputy President can preside**

When the Deputy President can preside is dealt with in the Act.

### **3.3 Who presides if no President or Deputy President**

Who presides if the President or Deputy President are absent or unavailable is dealt with in the Act.

### **3.4 Election of Presiding Members and Deputy Presiding Members of Committees**

The election of Presiding Members and Deputy Presiding Member is dealt with in the Act.

### **3.5 Functions of Deputy Presiding Members**

The functions of Deputy Presiding Members are dealt with in the Act

### **3.6 Who acts if no Presiding Member**

Who acts if there is no Presiding Member is dealt with in the Act.

### **3.7 Quorum for meetings**

The quorum for meetings is dealt with in the Act and Regulations.

### **3.8 Quorum to be present**

The Council or a Committee is not to transact business at a meeting unless a quorum is present.

### **3.9 Procedure if quorum not present**

The procedure if a quorum is not present to begin a meeting is dealt with in the Regulations.

### **3.10 Loss of quorum during a meeting**

(1) If at any time during a meeting a quorum is not present, the Presiding Member upon becoming aware of that fact is to suspend the proceedings of the meeting for up to 15 minutes.

(2) If a quorum is not present at the expiration of the period in subclause (1), the Presiding Member may suspend the proceedings of the meeting for a further period of up to 15 minutes or adjourn the meeting to a future time and date.

(3) A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment.

### **3.11 Debate on motion to be resumed**

(1) Where the debate on any motion is interrupted at a Council or Committee meeting which is adjourned under clause 3.10, that debate is to be resumed at the next meeting at the point where it was so interrupted.

(2) Where the interruption in subclause (1) occurs at an ordinary meeting the resumption is to be at the next ordinary meeting unless a special meeting is called earlier for the purpose.

(3) Where the interruption in subclause (1) is at a special meeting, the resumption is to be at the next special meeting called to consider the same business or at the next ordinary meeting if it occurs before a special meeting can be called.

### **3.12 Names to be recorded**

At any meeting—

(a) at which there is not a quorum of members present; or

(b) which is adjourned under clause 3.10;

the names of the members then present are to be recorded in the minutes of the meeting.

## **PART 4—BUSINESS OF THE MEETING**

### **4.1 Business to be specified in agenda**

(1) No business is to be transacted at any ordinary meeting of the Council or Committee other than that specified in the agenda without the approval of the Presiding Member or a decision of the Council or Committee, except matters which the Act or this local law permits to be dealt with without notice.

(2) No business is to be transacted at a special meeting of the Council or Committee other than that specified in the agenda, and to which notice as to the purpose of the meeting has been given.

(3) No business is to be transacted at an adjourned meeting of the Council or a Committee other than that—

(a) specified in the agenda of the meeting which had been adjourned; and

(b) which remains unresolved,

except in the case of an adjournment to the next ordinary meeting of the Council or the Committee, when the business unresolved at the adjourned meeting is to be the first business to be considered at that ordinary meeting.

(4) Despite subclauses (1) to (3), the CEO may include on the agenda of a Council or Committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

### **4.2 Meeting to proceed to business**

A meeting is to proceed to business as soon after the time stated in the notice as a quorum is constituted.

#### **4.3 Order of business**

(1) Unless otherwise decided by the Council the order of business at an ordinary meeting of the Council is to be as follows—

1. Declaration of Opening/Announcement of Visitors;
2. Record of Attendance/Apologies /Leave of Absence (Previously Approved);
3. Response to previous Public Questions taken on notice;
4. Public Question Time;
5. Applications for leave of absence;
6. Declarations of interest;
7. Notice of items to be discussed behind closed doors;
8. Confirmation of Minutes;
9. Announcements by Person Presiding without discussion;
10. Petitions/Deputations/Presentations;
11. Motions of which previous notice has been given;
12. Questions by members of which due notice has been given;
13. Chief Executive Officer Reports;
14. Engineering and Development Services Reports;
15. Corporate Services Reports;
16. Community Services Reports;
17. New business of an urgent nature—
  - (a) Members,
  - (b) Employees;
18. Public Question Time—second period of public question time;
19. Motions without notice by absolute majority of the Council;
20. Notices of Motion for consideration at the next ordinary meeting of the Council;
21. Items for consideration behind closed doors; and
22. Closure.

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a Committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

(4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

#### **4.4 Leave of absence**

The grant of leave of absence is dealt with in the Act.

#### **4.5 Confirmation of minutes**

(1) Confirmation of minutes is dealt with in the Act.

(2) When minutes are being confirmed, discussion is not to be permitted other than discussion as to their accuracy as a record of the proceedings.

#### **4.6 Announcements by the President**

(1) At any meeting of the Council the President may announce or raise any matter of interest or relevance to the business of the Council.

(2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

#### **4.7 Questions by members of which due notice has been given**

(1) A member who wishes to ask a question at a meeting of the Council is to give to the CEO written notice of the text of the question at least 5 working days before the meeting of the Council, and the question is to, as far as practicable, be answered in writing at that meeting.

(2) As far as practicable, the CEO is to ensure that a written answer to a question under subclause (1) is to be given at the meeting.

(3) If the CEO considers that the question breaches or may breach this local law or any other law—

- (a) the CEO is to refer the question to the President;
- (b) the President is to exclude the question if he or she concurs with the view of the CEO; and
- (c) if the question is excluded, the CEO is to give all members, as soon as practicable but not later than the next ordinary meeting, the reasons for the exclusion.

(4) Notice of a question that is not excluded is to be included, if practicable, in the agenda, or is otherwise to be tabled at the meeting.

(5) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion is to be allowed thereon, unless with the consent of the President.

#### **4.8 Correspondence**

(1) Correspondence placed before a meeting of the Council or a Committee must relate to a matter on the agenda of the meeting.

(2) Correspondence may be placed before the Council or a Committee in the form of a summary that contains all relevant and material facts.

(3) Where correspondence contains a matter to be decided by the Council or the Committee, the CEO is, if the circumstances permit, to recommend a course of action to the Council or the Committee, or state the alternative.

(4) Correspondence placed before a meeting of the Council or a Committee is not to be the subject of discussion or questions from members.

#### **4.9 Petitions**

(1) A petition received by a member or the CEO is to be presented to the next ordinary Council meeting.

(2) A petition to the Council is—

(a) as far as practicable to be prepared in the form prescribed in the Schedule;

(b) to be addressed to the Council and forwarded to a member or the CEO;

(c) to state the name and address of the person to whom correspondence in respect of the petition may be served; and

(d) to be respectful and temperate in its language.

(3) The presentation of a petition is to be confined to the reading of the petition.

(4) The only motions in respect of a petition that are in order are that—

(a) the petition be received;

(b) a report on the petition be prepared; or

(c) that the petition be acknowledged and be dealt with by the Council in conjunction with a similar item on the same agenda paper.

#### **4.10 Matters for which the meeting may be closed**

For the convenience of members of the public, the Council or a Committee may identify by decision, early in the meeting, any matter on the agenda of the meeting the discussion of which is to be closed to members of the public, and that matter may be deferred as the last item of the meeting.

#### **4.11 Reports**

(1) The functions of the CEO, including advising the Council and Committees and implementing decisions, are dealt with in the Act.

(2) The CEO may prepare or cause to be prepared a report on an item that in the CEO's opinion requires consideration by the Council or the Committee, including any report of a late or urgent nature.

(3) Where a report has been prepared in accordance with subclause (2), the CEO is to deliver the report to members of the Council or the Committee (as the case may be) or, in the case of urgency or other special circumstances, table the report at the meeting.

(4) The CEO may, with the consent of the Presiding Member, withdraw an item or report listed in the agenda.

#### **4.12 Motions of which previous notice has been given**

(1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.

(2) A notice of motion under subclause (1) is to be signed by the member and given to the CEO at least five clear working days before the meeting at which the motion is to be moved.

(3) A notice of motion must relate to a matter for which the Council is responsible unless, in the opinion of the Presiding Member, the matter is one of significant public interest or importance.

(4) The CEO—

(a) may with the concurrence of the Presiding Member, exclude from the agenda any notice of motion that they consider to be out of order; or

(b) may after consultation with the member who gave notice of the motion, make such amendments to the form but not the substance to bring the notice of motion into due form; and

(c) must provide relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, financial and legal implications.

(5) If a notice of motion is excluded under subclause (4)(a), the CEO is to provide the reason for its exclusion to all members as soon as practicable.

(6) A notice of motion is not to be out of order merely because the proposal involved is considered to be objectionable by a member of Council.

- (7) A motion of which notice has been given is to lapse unless—
- (a) the member who gave notice, or another member authorised by him or her in writing, moves the motion when called on; or
  - (b) the Council or Committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (8) If a notice of motion is given and lapses, a notice of motion in the same terms or to the same effect may be given for consideration at a subsequent meeting of the Council or Committee, but if the motion again lapses, the Council or Committee is not to consider a motion in the same terms or to the same effect at a subsequent meeting until at least 3 months have elapsed from the date of the meeting at which the motion last lapsed.
- (9) For the purposes of clarification, where a notice of motion is moved and seconded at a meeting of the Council or Committee, it is to be treated as a primary motion.

#### **4.13 Representation on external bodies**

- (1) Correspondence inviting the Council to submit a nomination for appointment to an external body is to be referred by the CEO to the Council or an appropriate Committee.
- (2) When speaking or voting on any item or business at a meeting of an external body, a member appointed to that body is to have regard to the decisions, policies and practices of the local government.

#### **4.14 Urgent business**

- (1) A member, at an ordinary meeting of the Council, may move a motion involving business that is not included in the agenda for that meeting if the Presiding Member has first consented to the business being raised because the Presiding Member considers that either—
- (a) the nature of the business is such that the business cannot await inclusion in the agenda for the next meeting; or
  - (b) the delay in referring the business to the next meeting could have adverse legal or financial implications for the local government.
- (2) If a member objects to a motion moved under subclause (1), the motion is to be of no effect unless it is agreed to by an absolute majority.
- (3) Subclauses (1) and (2) do not apply to a revocation motion being considered as urgent business in accordance with clause 11.2.

#### **4.15 Content of Minutes**

In addition to the matters contained in the Regulations, the content of minutes of a meeting of the Council or a Committee is to include, where an application for approval is declined or the authorisation of a license, permit or certificate is otherwise withheld or cancelled, the reason for the decision.

#### **4.16 Closure**

At the conclusion of all business or when otherwise determined by the meeting, the Presiding Member is to declare the meeting closed and the closing time is to be recorded in the minutes of the meeting.

### **PART 5—PUBLIC PARTICIPATION**

#### **5.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in the Act.

#### **5.2 Procedure to close meetings to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a Committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
- (a) the Presiding Member is to direct everyone to leave the meeting except—
    - (i) the members;
    - (ii) the CEO; and
    - (iii) any officer specified by the Presiding Member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the Committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3) may, by order of the Presiding Member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice of the relevant motion.
- (6) Unless the Council or Committee resolves otherwise, once the meeting is reopened to members of the public the Presiding Member is to ensure that any resolution of the Council or Committee made while the meeting was closed is to be read out including the details of any voting recorded.

#### **5.3 Question time for the public**

Question time for the public at meetings is dealt with in the Act.

#### **5.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in the Regulations.

#### **5.5 Minimum question time for the public**

Minimum question time for the public is dealt with in the Regulations.

#### **5.6 Procedures for question time for the public**

Procedures for question time for the public is dealt with in the Regulations.

#### **5.7 Other procedures for question time for the public**

- (1) Questions asked by the public are to relate to the business of the Council and are not to be in the form of a statement or a personal opinion.
- (2) Unless determined otherwise under the Regulations, the procedure for the asking of and responding to questions raised by members of the public at a meeting shall be as follows—
  - (a) a member of the public who raises a question during question time is to state their name and address;
  - (b) it is preferred that questions be submitted in writing in which case they will be read out by the CEO but questions may be asked orally;
  - (c) questions are to be answered by the Presiding Member or employee nominated by the Presiding Member;
  - (d) questions may be taken on notice, at the determination of the Presiding Member, and the Presiding Member may determine that any complex question requiring research be answered only in writing;
  - (e) no discussion of a question or answer is to take place by Council unless the Presiding Member has given permission to do so; and
  - (f) when a question is taken on notice under subclause (d) a response is to be given to the member of the public in writing, and a copy is to be included in the agenda of the next meeting of the Council or Committee as the case requires.
- (3) The Presiding Member may reject any question that may be deemed offensive towards, or reflect adversely upon, the character of any member of the Council or employee of the local government.
- (4) Where a response to a question is given at a meeting, a summary of the question and the response is to be included in the minutes of the meeting.
- (5) There is to be no public question time in meetings of Committees other than a Committee to which the Council has delegated a power or duty, or which is open to the public.

#### **5.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council or a Committee, the Presiding Member may—

- (a) invite the person to sit beside the Presiding Member or at the meeting table;
- (b) acknowledge the presence of the distinguished visitor at an appropriate time during the meeting; and
- (c) direct that the presence of the distinguished visitor be recorded in the minutes.

#### **5.9 Deputations**

- (1) A person or person wishing to be received as a deputation by the Council or a Committee is to apply, in writing, to the CEO, not less than seven (7) working days prior to the meeting at which the deputation wishes to be received, setting out in concise terms the matter to be raised. The CEO, is to forward the written request to the President, or the presiding member as the case may be.
- (2) The President if the request is to attend a Council meeting, or the Presiding Member of the Committee, if the request is to attend a meeting of a Committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or Committee as the case may be, or may instruct the CEO to refer the request to the Council or Committee to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council or Committee meeting is not to exceed three persons, only two of which are at liberty to address the Council, for a maximum of five (5) minutes each or a collective maximum of ten (10) minutes, except in reply to questions from Councillors, and the matter shall not be further considered by the Council, until all other business of the meeting has been finalised.

Any matter which is the subject of a deputation to the Council or a Committee is not to be decided by the Council or that Committee until the deputation has completed its presentation.

#### **5.10 Presentations**

- (1) Any member of the public may during the presentations segment of the ordinary meeting, with the consent of the Presiding Member, speak on any matter on the agenda paper provided that—
  - (a) the person has requested the right to do so in writing addressed to the CEO by noon on the day of the meeting;
  - (b) the person's speaking right is to be exercised before Council debates the particular agenda paper item;

- (c) the person speaking will be limited to a maximum period of five (5) minutes; and
- (d) persons addressing Council on an agenda item are not entitled to table documents as part of the meeting proceedings.

(2) Any member of the public making a presentation shall not also be afforded a deputation during that meeting or an adjourned meeting on the same matter.

#### **5.11 Attending Committee meetings as an observer**

(1) The President or a Councillor may attend any meeting of a Committee as an observer, even if the President or Councillor is not a member of that Committee.

(2) A deputy to a member of a Committee appointed under clause 14.4 may attend a meeting of that Committee as an observer, even if the deputy is not acting in the capacity of the member.

(3) The President or Councillor in the case of subclause (1), or deputy to a member attending a Committee meeting as an observer in the case of subclause (2)—

- (a) may, with the consent of the Presiding Member, speak, but cannot vote, on any motion before the Committee; and
- (b) must sit in the area set aside for observers separated from the Committee members.

#### **5.12 Public inspection of agenda materials**

Public inspection of agenda materials is dealt with in the Regulations.

#### **5.13 Public access to unconfirmed minutes of meetings**

Public access to unconfirmed minutes of Council and Committee meetings is dealt with in the Regulations.

#### **5.14 Confidentiality of information withheld**

(1) Information withheld by the CEO from members of the public under the Regulations, is to be—

- (a) identified in the agenda of a Council or Committee meeting under the item “Matters for which the meeting may be closed”;
- (b) marked “confidential” in the agenda; and
- (c) kept confidential by members and employees until the Council or Committee resolves otherwise.

(2) A member or an employee who has—

- (a) confidential information under subclause (1); or
- (b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public,

is not to disclose any of that information to any person other than another member or an employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not prevent a member or employee from disclosing information—

- (a) at a closed meeting;
- (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
- (c) that is already in the public domain;
- (d) to an officer of the Department;
- (e) to the Minister;
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

#### **5.15 Media attendance**

Media persons are to be permitted to attend meetings of the Council or Committees that are open to the public, in such part of the Council Chamber or meeting room as may be set aside for their accommodation, but must withdraw during any period when the meeting is closed to the public.

#### **5.16 Recording of meeting prohibited**

(1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or Committee unless the Presiding Member or CEO has given permission to do so.

(2) If the Presiding Member or CEO gives permission under subclause (1), he or she is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

#### **5.17 Prevention of disturbance**

(1) A reference in this clause to a “person” is to a person other than a member.

(2) A person addressing the Council or a Committee must extend due courtesy and respect to the Council or Committee and the processes under which it operates and must comply with any direction from the Presiding Member.

(3) A person must not interrupt or interfere with the proceedings of any meeting of the Council or a Committee, whether by expressing approval or dissent, by conversing or by any other means.

(4) The Presiding Member may warn a person who fails to comply with this clause.

(5) If—

- (a) after being warned, the person again acts contrary to this clause, or to the direction; or
- (b) a person refuses or fails to comply with a direction by the Presiding Member;

the Presiding Member may expel the person from the meeting by ordering him or her to leave the meeting room.

(6) A person who is ordered to leave the meeting room and fails to do so may, by order of the Presiding Member be removed from the meeting room and, if the Presiding Member orders, from the premises.

## PART 6—DISCLOSURE OF INTERESTS

### 6.1 Disclosure of members' financial and proximity interests

The disclosure of direct and indirect financial interests and proximity interests by members and employees is dealt with in the Act.

### 6.2 Meeting to be informed of financial and proximity interests

Procedures for informing the meeting of disclosures in clause 6.1 are dealt with in the Act.

### 6.3 Disclosing member not to participate

The participation at meetings of a member that has disclosed an interest in clause 6.1 is dealt with in the Act.

### 6.4 When disclosing members can participate

The procedures for allowing participation in meetings of members disclosing an interest in clause 6.1 are dealt with in the Act.

### 6.5 Invitation to return to provide information

(1) Where a member has disclosed an interest in clause 6.1, and has departed from the Council Chamber or meeting room, the meeting may invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter.

(2) A member invited to return under subclause (1) must withdraw after providing the information.

### 6.6 Substitution of deputy at Committee meetings

Where a member discloses an interest on an item under clause 6.1 and withdraws from a meeting of a Committee, the Presiding Member may invite the disclosing member's deputy, if present, to participate as a member of the Committee in place of the disclosing member during the consideration of that item only.

### 6.7 Disclosure by members who are observers at Committee meetings

The obligation to disclose an interest in clause 6.1 is to apply to all members present at Committee meetings including a member attending a Committee meeting in the capacity of an observer.

### 6.8 Disclosure of impartiality interests

The disclosure of impartiality interests at meetings by the President and Councillors is dealt with in the *Rules of Conduct Regulations*.

### 6.9 Other persons to disclose impartiality interests

(1) In this clause, a reference to—

- (a) *person* means an employee or a member of a Committee that is not either the President or a Councillor; and
- (b) *interest* means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

(2) A person who has an interest in any matter to be discussed at a meeting attended by the person must disclose the nature of the interest—

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

(3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.

(4) Subclause (2) does not apply if—

- (a) a person fails to disclose an interest because the person did not know he or she had an interest in the matter; or
- (b) a person fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.

(5) If, under subclause (2)(a), a person discloses an interest in a written notice given to the CEO before a meeting then—

- (a) before the meeting the CEO is to cause the notice to be given to the Presiding Member of the meeting; and
- (b) at the meeting the Presiding Member is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.

- (6) If—
- (a) under subclause (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
  - (b) under subclause (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting;

the nature of the interest is to be recorded in the minutes of the meeting.

#### **6.10 On-going disclosure required**

The obligation to disclose an interest under this Part applies in regard to each meeting at which the matter the subject of the interest arises.

#### **6.11 Approval by Minister to be recorded**

If the Minister approves of the participation in a meeting of a disclosing member, the conditions of the approval are to be recorded in the minutes of the meeting and the register of financial interest.

#### **6.12 Separation of Committee recommendations**

Where a member of the Council has disclosed an interest in a matter at a committee meeting under clauses 6.1 to 6.4, and the matter is contained—

- (a) in the recommendations of the committee to an ordinary meeting of Council or
- (b) to another committee meeting that will be attended by the member;

the recommendation concerned is to be separated from other recommendations of the committee on the agenda of that ordinary meeting or other committee meeting to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

### **PART 7—CONDUCT OF MEMBERS**

#### **7.1 Official titles to be used**

A speaker, when speaking or referring to the President or Deputy President, or to a Councillor or employee, must use the title of that person's office.

#### **7.2 Members to occupy own seats**

(1) At meetings of the Council each member is to occupy the place assigned to that member within the Council Chamber.

(2) At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each Councillor and the Councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of Councillors for a re-allotment of positions.

#### **7.3 Members not to interrupt**

A member must not interrupt another member while speaking unless—

- (a) to raise a point of order under clause 8.3;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.4; or
- (d) to move a procedural motion that the member be no longer heard under clause 12.1(i) and 13.9.

#### **7.4 No adverse reflection on decision**

(1) A member must not reflect adversely on a decision of the Council or a Committee except on a motion that the decision be revoked or changed.

(2) A member must not—

- (a) reflect adversely on the character or actions of another member or employee; or
- (b) impute any motive to a member or employee;

unless the Council or Committee resolves, without debate, that the motion then before the Council or Committee cannot otherwise be adequately considered.

#### **7.5 Offensive language**

(1) A member must not use offensive or objectionable expressions in reference to any member, employee, or other person.

(2) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and then to be recorded in the minutes.

#### **7.6 Direction to withdraw**

A member who, in the opinion of the Presiding Member and in the absence of a resolution under clause 7.4(2)—

- (a) reflects adversely on the character or actions of another member or employee;
- (b) imputes any motive to a member or employee; or
- (c) uses an expression that is offensive or objectionable;

must, when directed by the Presiding Member, withdraw the reflection, imputation or expression and make a satisfactory apology.

### **7.7 Members who wish to speak**

A member who wishes to speak—

- (a) is to indicate his or her intention to speak by the method determined by the Council or Committee; and
- (b) when invited by the Presiding Member to speak, must address the meeting through the Presiding Member.

### **7.8 Priority of speaking**

If two or more members of the Council or a Committee indicate, at the same time, their intention to speak, the Presiding Member is to decide which member is to be heard first.

### **7.9 The Presiding Member may take part in debates**

The Presiding Member may take part in a discussion of any matter before the Council or Committee as the case may be.

### **7.10 Relevance**

A member must restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **7.11 Limitation on members speaking**

- (1) Only the mover of a motion or an amendment may speak twice on the same motion or the same amendment, unless permitted by the meeting (on a majority vote).
- (2) The mover of a motion or an amendment—
  - (a) is to speak to that motion or amendment first, after it has been seconded; and
  - (b) has the right of reply and in exercising that right must confine the reply to previous speakers' comments and not introduce any new matters.
- (3) A member must not speak on any motion or an amendment after the mover has replied and the motion or amendment is to be immediately put to the vote by the Presiding Member.
- (4) A member may speak on a motion or an amendment, or reply, for a period of only 5 minutes, unless an extension of time is granted by the Council without debate, but a member's total speaking time must not exceed 10 minutes.

### **7.12 Questions during debate**

- (1) A member may ask a question at any time during the debate on a motion or an amendment before the mover of the motion or amendment has replied.
- (2) A member who asks one or more questions will not be taken to have spoken on the matter.

### **7.13 Re-opening discussion on decisions**

A member must not re-open discussion on any decision of the Council or Committee, except for the purpose of moving a revocation motion under clause 11.2

## **PART 8—PRESERVING ORDER**

### **8.1 Presiding Member to preserve order**

- (1) The Presiding Member is to preserve order and, whenever he or she considers it necessary, may call any member or other person to order.
- (2) When the Presiding Member, during the progress of a debate, is to raise or rule on a point of order, any member or person then speaking, or offering to speak, is to be silent so that the Presiding Member may be heard without interruption.

### **8.2 Points of order**

Without limitation, the following acts are to be taken as being out of order—

- (a) discussion of a matter not before the meeting;
- (b) the use of offensive or objectionable language; or
- (c) the violation of any written law, including this local law, provided that the member making the point of order states the written law believed to be breached.

### **8.3 Procedures on a point of order**

- (1) Upon a matter of order arising during the progress of a debate, any member may raise a point of order with the Presiding Member including interrupting the speaker.
- (2) Any member who is speaking when a point of order is raised in subclause (1) is to immediately stop speaking while the Presiding Member listens to the point of order.
- (3) A member raising a point of order is to specify one of the grounds of the breach of order before speaking further on the matter.
- (4) A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.

### **8.4 Continued breach of order**

If a member—

- (a) persists in any conduct that the Presiding Member had ruled is out of order; or

(b) fails or refuses to comply with a direction from the Presiding Member; the Presiding Member may direct the member to refrain from taking any further part in the debate of the item, other than by voting, and the member must comply with that direction.

#### **8.5 Presiding Member may adjourn meeting**

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.
- (4) If there is an adjournment under this clause, the names of the members who have spoken on the matter before the adjournment are to be recorded.

### **PART 9—MOTIONS AND AMENDMENTS**

#### **9.1 Recommendations in reports**

- (1) Where the Council or a Committee adopts a recommendation contained in a report, either with or without amendment, the recommendation so adopted is taken to be a decision of the Council or the Committee (as the case may be).
- (2) Where a motion, if carried, would be significantly different from the relevant written recommendation of an employee or Committee, the reason for the decision is to be recorded in the minutes of the meeting in accordance with the Regulations.
- (3) A Committee may make a recommendation to the Council which—
  - (a) is relevant to the purpose for which the Committee is established by the Council; and
  - (b) the Committee considers requires consideration by the Council.
- (4) Where a Committee makes a recommendation for consideration by the Council, the CEO must prepare or cause to be prepared a report to the Council with respect to the recommendation.

#### **9.2 Adoption of recommendations**

A member may move a motion to adopt by one resolution, all the recommendations or a group of recommendations from a Committee or several reports, without amendment or qualification after having first identified those recommendations, if any—

- (a) which require adoption by an absolute or special majority vote;
- (b) in which an interest has been disclosed;
- (c) that has been subject of a petition or deputation;
- (d) which any member has indicated the wish to debate; and
- (e) in which any member has indicated the wish to ask a question or to raise a point of clarification,

and, each of those recommendations referred to in paragraphs (a), (b), (c), (d) and (e) must be considered separately.

#### **9.3 Motions**

- (1) A member who wishes to move a primary motion, or an amendment to a primary motion—
  - (a) is to state the substance of the motion before speaking to it; and
  - (b) is to put the motion or amendment in writing if—
    - (i) in the opinion of the Presiding Member, the motion or amendment is significantly different to the relevant written recommendation of a Committee or an employee (including a person who, under a contract for services with the local government, provides advice or a report on the matter); or
    - (ii) the member is otherwise required to do so by the Presiding Member.
- (2) The written terms of the motion or amendment are to be given to the CEO who is to ensure that they are recorded in the minutes.
- (3) The Presiding Member may require that a complex primary motion, or a complex amendment to a primary motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

#### **9.4 Motions to be seconded**

- (1) A motion, or an amendment to a motion, is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council or Committee meeting is not open to debate unless the motion has the support required under the Regulations.
- (3) A member seconding a motion has the right to speak on the motion later in the debate.
- (4) A motion is not to be amended by the mover without the consent of the seconder.

#### **9.5 Unopposed motions**

- (1) Immediately after a motion has been moved and seconded, the Presiding Member may ask the meeting if any member opposes it.

- (2) If no member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or Committee.
- (4) If a member opposes a motion, the motion is to be dealt with under this Part.

#### **9.6 Withdrawing motions**

- (1) A motion or amendment may be withdrawn by the mover, with the consent of the seconder, and no member is to speak on it after it has been withdrawn.
- (2) If an amendment has been proposed to a primary motion, the primary motion cannot be withdrawn, except by consent of the majority of members, until the amendment proposed has been withdrawn or lost.

#### **9.7 One motion at a time**

The Council or a Committee—

- (a) is not to accept a substantive motion while another substantive motion is being debated; and
- (b) is not to consider more than one substantive motion at any time.

#### **9.8 Permissible motions on recommendation from Committee**

A recommendation made by a Committee may be—

- (a) adopted by the Council without amendment;
- (b) rejected by the Council and replaced by an alternative decision;
- (c) subject to clause 9.9(2), amended, and adopted as amended by the Council; or
- (d) referred back to the Committee for further consideration.

#### **9.9 Amendments**

- (1) A member may move an amendment to a primary motion at any time during debate on the motion, except—
  - (a) if the mover has been called by the Presiding Member to exercise the right of reply; or
  - (b) if the member has already spoken to the primary motion;
  - (c) if another amendment is being debated, or has not been withdrawn, carried or lost; or
  - (d) during debate on a procedural motion.
- (2) An amendment must be relevant to the primary motion to which it is moved and must not have the effect of negating the primary motion.
- (3) An amendment to a primary motion is to take only one of the following forms—
  - (a) that certain words be omitted;
  - (b) that certain parts be omitted and others substituted or added; or
  - (c) that certain words be added.
- (4) Only one amendment is to be debated at a time, but as often as an amendment is withdrawn, carried or lost, another amendment may be moved before the primary motion is put to the vote.
- (5) Where an amendment is carried, the primary motion as amended is, for all purposes of subsequent debate, to be treated as a primary motion.
- (6) An amendment must be read by the mover before being seconded.

#### **9.10 Foreshadowed motion**

During the course of debate as an amendment to a motion, a Member may give notice of intention to move a motion or amendment when the question before the meeting is decided.

### **PART 10—DEBATE OF MOTIONS**

#### **10.1 Order of call in debate**

The Presiding Member is to call speakers to a motion or amendment in the following order—

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) other speakers against and for the motion, alternating in view, if any; and
- (f) the mover takes right of reply which closes debate.

#### **10.2 Limit of debate**

The Presiding Member may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

#### **10.3 Member may require motion to be read**

A member may require the motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

#### **10.4 Personal explanation**

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking must indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

#### **10.5 Crossing council chambers or meeting room**

- (1) When the Presiding Member is putting any motion to the vote, a member must not leave or cross the Council Chamber or meeting room.
- (2) A member must not, while any other member is speaking, pass between the speaker and the Presiding Member.

#### **10.6 Voting**

Voting at meetings is dealt with in the Act and Regulations.

#### **10.7 Motion—when put**

Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member—

- (a) is to put the motion to the meeting; and
- (b) if requested by a member, is again to state the terms of the motion.

#### **10.8 Method of taking vote**

- (1) The Presiding Member, in taking the vote on any motion, is to—
  - (a) put the motion, first in the affirmative and then in the negative;
  - (b) determine whether the affirmative or the negative has the majority of votes; and
  - (c) declare the result of the vote.
- (2) The motion put under subclause (1) may be put as often as is necessary to enable the Presiding Member to determine whether the affirmative or the negative has the majority of votes.
- (3) The result of voting is to be determined on the count of raised hands but it may be determined on the voices unless a member calls for a show of hands.

### **PART 11—REVOCATION MOTIONS**

#### **11.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in the Regulations.

#### **11.2 Revocation motion at the same meeting—procedures**

- (1) A member who moves a revocation motion at the same meeting where the decision is made must—
  - (a) clearly identify the decision to be revoked or changed; and
  - (b) clearly state the reason for the decision to be revoked or changed.
- (2) If the CEO receives a notice of a revocation motion to revoke a decision made at a meeting before the close of that meeting, the CEO must immediately advise the Presiding Member of the substance of the revocation motion and raise it as an item of urgent business under clause 4.14.
- (3) Where the Presiding Member is advised of a revocation motion under subclause (2), he or she is to—
  - (a) advise the meeting of the notice;
  - (b) state the substance of the revocation motion;
  - (c) determine whether there is sufficient support under clause 11.1; and
  - (d) if there is sufficient support, deal with the revocation motion.

#### **11.3 Revocation motion after meeting—procedures**

- (1) A member wishing to move a revocation motion at a future meeting of the Council or a Committee must give to the CEO notice of the revocation motion, which is to—
  - (a) be in writing;
  - (b) specify the decision proposed to be revoked or changed;
  - (c) include a reason or reasons for the revocation motion;
  - (d) be supported by the number of members required under the Regulations;
  - (e) specify the date of the ordinary or special meeting of the Council or the Committee where it is to be presented, as the case may be; and
  - (f) be given to the CEO in accordance with the notice of motion provisions in clause 4.12.
- (2) Any notice of revocation motion given to the CEO must be dealt with in accordance with 4.12.

#### **11.4 Implementation of a decision**

No steps are to be taken to implement or give effect to a decision if—

- (a) there is a valid notice of revocation motion that has the support of members required by the Regulations; and
- (b) the notice of revocation motion was received before any action was taken to implement the decision.

## PART 12—PROCEDURAL MOTIONS

### 12.1 Permissible procedural motions

In addition to the right to move an amendment to a primary motion, a member may move any of the following procedural motions—

- (a) that the motion be deferred;
- (b) that the meeting now adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the motion lie on the table;
- (f) that the meeting proceed to the next item of business
- (g) that the meeting be closed to members of the public;
- (h) that the ruling of the Presiding Member be overruled;
- (i) that the member be no longer heard; or
- (j) that the item be referred back to the (appropriate) Committee.

### 12.2 No debate on procedural motions

(1) The mover of a motion stated in each of paragraphs (a), (b), (c), (e), (f), (g), (i) and (j) of clause 12.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion stated in each of paragraphs (d) and (h) of clause 12.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

### 12.3 Who may move

With the exception of subclause 12.1(h), a member who has moved, seconded, or spoken for or against the primary motion, or any amendment to the primary motion, cannot move any procedural motion which, if carried, would close the debate on the primary motion or amendment.

### 12.4 Procedural motions—right of reply on primary motion

The carrying of a procedural motion which closes debate on the primary motion or amendment and forces a decision on the primary motion or amendment does not deny the right of reply to the mover of the primary motion.

## PART 13—EFFECT OF PROCEDURAL MOTIONS

### 13.1 The motion be deferred—effect of motion

(1) If a motion “that the motion be deferred”, is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.

(2) A motion “that the motion be deferred” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(3) A member must not, at the same meeting, move or second more than one motion “that the motion be deferred” in respect of the same item.

### 13.2 The meeting now adjourn—effect of motion

(1) If a motion “that the meeting now adjourn”, is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the Presiding Member declares, or to the next ordinary meeting.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—

- (a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and
- (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
- (c) the provisions of clause 7.11 apply when the debate is resumed.

(3) If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until—

- (a) after the conclusion of the business under discussion at the time the motion was moved; or
- (b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
- (c) after the conclusion of any other business allowed precedence by the meeting.

(4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

### 13.3 The debate be adjourned—effect of motion

(1) If a motion “that the debate be adjourned”, is carried—

- (a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;
- (b) the names of members who have spoken on the matter are to be recorded in the minutes; and
- (c) the provisions of clause 7.11 apply when the debate is resumed.

(2) A motion “that the debate be adjourned” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(3) A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

#### **13.4 The motion be now put—effect of motion**

(1) If a motion “that the motion be now put”, is carried during discussion of a primary motion, the Presiding Member is to offer the right of reply and then immediately put the motion to the vote without further debate.

(2) If the motion “that the motion be now put” is carried during debate of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

(3) If the motion “that the motion be now put” is lost, debate is to continue.

#### **13.5 The motion lie on the table—effect of motion**

(1) If a motion “that the motion lie on the table”, is carried, debate on the primary motion and any amendment must cease and the meeting is to proceed to the next item of business.

(2) Debate on the motion laid on the table is to be adjourned until such time (if any) as the meeting resolves to take the motion from the table.

(3) Where debate on a motion is interrupted by laying a motion on the table under subclause (1)—

(a) the names of members who have spoken on the matter are to be recorded in the minutes; and

(b) the provisions of clause 7.11 apply when the debate is resumed.

(4) A motion “that the motion lie on the table” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(5) A member moving the taking of the motion from the table is entitled to speak first on the resumption of the debate.

#### **13.6 Meeting to proceed to the next business—effect of motion**

(1) The motion “that the meeting proceed to the next item of business”, if carried has the effect that—

(a) the debate on the substantive motion or amendment ceases immediately;

(b) no decision is made on the substantive motion;

(c) the meeting moves to the next item of business; and

(d) there is no requirement for the matter to be raised again for consideration.

(2) A motion that “the meeting proceed to the next item of business” must not be moved in respect of the election of a Presiding Member or the Deputy President.

#### **13.7 Meeting be closed to members of the public—effect of motion**

If a motion “that the meeting be closed to members of the public” is carried then the Presiding Member is to close the meeting in accordance with clause 5.2.

#### **13.8 Ruling by the Presiding Member be overruled—effect of motion**

If a motion “that the ruling of the Presiding Member be overruled” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

#### **13.9 Member be no longer heard—effect of motion**

If a motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved must not speak further on the current primary motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the primary motion.

#### **13.10 Item be referred back to Committee—effect of motion**

(1) If a motion “that the item be referred back to Committee” is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate Committee for further consideration.

(2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

## **PART 14—COMMITTEES OF THE COUNCIL**

### **14.1 Establishment, types and membership of Committees**

The establishment, types and membership of Committees is dealt with in the Act.

### **14.2 Tenure of Committee membership**

The tenure of Committee membership is dealt with in the Act.

### **14.3 Delegation of power to Committees**

Delegation of powers and duties to Committees is dealt with in the Act.

### **14.4 Appointment of deputy members**

The appointment of a deputy to a member of a Committee is dealt with in the Act.

#### **14.5 Standing orders apply to Committees**

Unless otherwise specifically provided, this local law applies generally to the proceedings of Committees, except for—

- (a) clause 7.2; and
- (b) clause 7.11(1).

#### **14.6 Communications by Committees**

A Committee must not communicate with any person or authority except through the CEO.

#### **14.7 Committee to report**

A committee—

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and
- (c) is to prepare and submit to the Council a report containing recommendations.

### **PART 15—PROCEDURAL MATTERS**

#### **15.1 Presiding Member to ensure compliance**

The Presiding Member of a meeting is to ensure compliance with this local law.

#### **15.2 Suspension of standing orders**

(1) A member may, at any time, move that the operation of one or more of the clauses in this local law be suspended.

(2) A member moving a motion under subclause (1) is to identify the clause or clauses in this local law to be suspended, and state the reasons for the motion, but no other discussion is to take place.

(3) A member moving a motion under subclause (1) is to identify the clause or clauses in this local law to be suspended, and state the reasons for the motion, but no other discussion is to take place.

(4) A motion under subclause (1) which is seconded and carried is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

#### **15.3 Cases not provided for in standing orders**

(1) In situations where—

- (a) standing orders have been suspended; or
- (b) a matter is not regulated by the Act, the Regulations or this local law,

the Presiding Member is to decide questions relating to the conduct of the meeting.

(2) The decision of the Presiding Member under subclause (1) is final, except where a motion of dissent is moved and carried under clause 12.1(h).

#### **15.4 Electors' meetings**

The requirements for elector's meetings are dealt with in the Act and Regulations.

#### **15.5 Electors' meetings—standing orders apply**

This local law applies, so far as is practicable, to any meeting of electors, but where there is any inconsistency between the provisions of this local law and the provisions of the Act, the latter prevail.

#### **15.6 Restriction on voting and speaking at electors' meetings**

The restriction on voting and speaking at electors' meetings is dealt with in the Regulations.

#### **15.7 Penalty for contravention of this local law**

A person who breaches a provision of this local law commits an offence. Penalty: \$1 000, and a daily penalty of \$500.

#### **15.8 Who can prosecute**

Who can prosecute is dealt with in the Act.

### **PART 16—COMMON SEAL**

#### **16.1 Custody of the Common Seal**

The CEO is to have charge of the Common Seal of the local government, and is responsible for the safe custody and proper use of it.

#### **16.2 Use of Common Seal**

The use of the Common Seal is dealt with in the Act.

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*Schedule 1*  
PETITION TO THE SHIRE OF CAPEL

[4.9(2)(a)]

To the President and Councillors of the Shire of Capel

We, the undersigned, do respectfully request that the Council—

*(Here set out a concise statement of facts and the action sought)*

Correspondence in respect of this petition should be addressed to—

*(Here set out the name and address of the person)*

The names and addresses of your petitioners are as follows—

DATE	FULL NAME	ADDRESS AGREE / DISAGREE / NO OPINION	SIGNATURE
------	-----------	---	-----------

Note : Petitioners may contact the CEO of the Shire of Capel if they wish to withdraw from this petition or change their comment

\_\_\_\_\_

Dated 22nd June 2016.

The Common Seal of the Shire of Capel was affixed by authority of a resolution of the Council in the presence of—

M. T. SCOTT, President.  
P. F. SHEEDY, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

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**TOWN OF CAMBRIDGE**

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**PARKING LOCAL LAW 2016**



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## LOCAL GOVERNMENT ACT 1995

## TOWN OF CAMBRIDGE

## PARKING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Cambridge resolved on 28 June 2016 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Title**

This is the *Town of Cambridge Parking Local Law 2016*.

**1.2 Commencement**

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

**1.3 Purpose and effect**

(1) The purpose of this local law is to provide for the regulation, control and management of parking within the local government.

(2) The effect of this local law is to control parking throughout the local government to ensure the safe, fair and equitable use of parking facilities under the care and control of the local government.

**1.4 Repeal**

The *Town of Cambridge Parking Local Law* published in the *Government Gazette* on 22 March 2002 and all amendments thereto are hereby repealed on the day this local law comes into operation.

**1.5 Interpretation**

In this local law unless the context otherwise requires—

**Act** means the *Local Government Act 1995*;

**Authorised Person** means a person appointed in writing by the local government under section 9.10 of the Act, to perform any of the functions of an authorized person under the Act and under this local law;

**authorised vehicle** means a vehicle authorised by the local government, the CEO or an Authorised Person under this local law or by any other written law to park on a thoroughfare or parking facility;

**bicycle** has the meaning given to it by the Code;

**bicycle lane** has the meaning given to it by the Code;

**bicycle path** has the meaning given to it by the Code;

**bus** has the meaning given to it by the Code;

**bus embayment** has the meaning given to it by the Code;

**bus stop** has the meaning given to it by the Code;

**bus zone** has the meaning given to it by the Code;

**caravan** has the meaning given to it by the *Caravan Parks and Camping Grounds Act 1995*;

**carriageway** has the meaning given to it by the Code;

**centre** has the meaning given to it by the Code;

**children's crossing** has the meaning given to it by the Code;

**CEO** means the Chief Executive Officer of the local government;

**clearway** means a length of carriageway which carries a high traffic volume that has clearway no stopping signs erected appurtenant to it, to facilitate the unhindered flow of traffic;

**Code** means the *Road Traffic Code 2000*;

**coin** means any coin which is legal tender pursuant to the *Currency Act 1965 (Commonwealth)*;

**commercial vehicle** means—

- (a) a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers; and

- (b) includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**continuous dividing line** means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines;

**crossover** means an area of the verge, constructed and used for the purpose of enabling a vehicle to access the adjacent property;

**disability parking permit** has the meaning given in the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**driver** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**driveway** means an area of land on private property which abuts a crossover and is designed primarily for vehicles to ingress and egress that property;

**eating area** means an area in which tables, chairs and other structures are provided for the purpose of the supply of food and beverages to a member of the public or the consumption of food and beverages by a member of the public;

**edge line** has the meaning given to it by the Code;

**emergency vehicle** has the meaning given to it by the Code;

**fire hydrant** has the meaning given to it by the Code;

**fee** means the prescribed amount of legal tender that the local government may impose and determine from time to time for the stopping or parking of a vehicle under and in accordance with sections 6.16 to 6.19 of the Act;

**footpath** has the meaning given to it by the Code;

**GVM** (which stands for 'gross vehicle mass') has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**heavy vehicle** has the meaning given to it by the Code;

**intersection** has the meaning given to it by the Code;

**keep clear marking** has the meaning given to it by the Code;

**kerb** means any structure, mark, marking or device to delineate or indicate the edge of a carriageway;

**length of carriageway** means the same side of the road between intersections on that side of the road;

**loading zone** has the meaning given to it by the Code;

**local government** means the Town of Cambridge;

**local government property** has the meaning given to it in the Act;

**long vehicle** means a vehicle or any combination of vehicles that, together with any projection or combination of vehicles is 7.5 metres or more in length;

**mail zone** has the meaning given to it by the Code;

**median strip** has the meaning given to it by the Code;

**money** means any legal tender under the *Currency Act 1965 (Commonwealth)*;

**motor cycle** has the meaning given to it by the Code;

**motor vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*;

**nature strip** has the meaning given to it by the Code;

**no parking area** has the meaning given to it by the Code;

**no parking sign** means a sign with the words 'no parking' in red letters on a white background, or the letter 'P' within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it by the Code;

**no stopping sign** means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter 'S' within a red annulus and a red diagonal line across it on a white background;

**obstruct** means to prevent, hinder, or impede the normal passage of any vehicle, wheelchair, perambulator or pedestrian and 'obstruction' has a corresponding meaning;

**occupier** has the meaning given to it by the Act;

**owner** means—

- (a) where used in relation to a vehicle licensed under the *Road Traffic Act 1974*, means the person in whose name the vehicle has been registered under that Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

**painted island** has the meaning given to it by the Code;

- park** has the meaning given to it by the Code;
- parking area** has the meaning given to it by the Code;
- parking bay** means a section or part of a carriageway or parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;
- parking control sign** has the meaning given to it by the Code;
- parking facilities** means land, buildings, carriageway, shelters, parking areas, parking bays and other facilities open to the public generally for the parking of vehicles and includes signs, notices and facilities used in connection with the parking of vehicles;
- parking fee payment equipment** means a parking meter, parking ticket machine or other credit/debit card terminal or other device approved by the local government for payment of the applicable parking fee;
- parking permit** means a permit issued by the local government under this local law;
- parking ticket** means a ticket which is issued from a ticket issuing machine and which authorises the parking of a vehicle and includes the date and time of which the authorisation expires, whether or not the payment of a fee is required;
- parking region** means the area described in Schedule 1;
- parking scheme** means the mapped record of the local government, which details the location of parking facilities, parking bay layout and any parking time restrictions, parking prohibitions and special uses like bus or taxi zones, that are applied to those parking facilities;
- parking station** means any land, or structure provided for the purpose of parking of multiple vehicles;
- path** has the meaning given to it by the Code;
- pay station** means a machine or device within or near a parking station, which accepts payment of the fee for the period a vehicle has been parked and issues a token, ticket or other media to activate a barrier to allow the vehicle to exit from the parking station;
- pedestrian** has the meaning given to it by the Code;
- pedestrian crossing** has the meaning given to it by the Code;
- postal vehicle** has the meaning given to it in the Code;
- Private Property Parking Enforcement Agreement** means a written agreement between the local government and a property owner or occupier that allows for the enforcement of this local law, or part thereof, upon that property;
- property line** means the boundary between the land comprising a road and the land that abuts that road;
- public place** means any place to which the public has access whether or not that place is on private property;
- reserve** means any land—
- (a) which belongs to the local government that is zoned as and used for recreational purposes;
  - (b) of which the local government is the management body under the *Land Administration Act 1997*; or
  - (c) which is an ‘otherwise unvested facility’ within the meaning of section 3.53 of the Act;
- right of way** means a portion of land that is—
- (a) shown and marked ‘Right of Way’ or ‘R.O.W’, or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
  - (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
  - (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
    - (i) a private driveway; or
    - (ii) a right of way created by easement between two parties;
- road** means a highway, lane, thoroughfare or similar place which the public are allowed to use and includes all of the land including the nature strip and paths appurtenant thereto lying between the property lines abutting the road;
- Road Traffic Act** means the *Road Traffic Act 1974*;
- Road Traffic (Administration) Act** means the *Road Traffic (Administration) Act 2008*;
- Schedule** means a Schedule to this local law;
- seniors sign** means a sign indicating a parking bay set aside for the use of the driver of a vehicle who is 60 years of age or over;
- shared zone** has the meaning given to it by the Code;

**sign** includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

**special purpose vehicle** has the meaning given to it by the Code;

**stop** has the meaning given to it by the Code;

**symbol** includes any symbol specified from time to time by the Code;

**taxi** has the meaning given to it by the Code;

**taxi zone** has the meaning given to it by the Code;

**thoroughfare** has the meaning given to it by the Act;

**ticket machine** means a machine or device which issues, as a result of money or other permitted form of payment being inserted into the machine, a ticket showing the period during which it is lawful to remain parked in the area to which the machine relates;

**ticket parking area** means a parking area or facility where a sign applies which indicates a parking fee applies by purchase of a ticket;

**traffic-control signal** has the meaning given to it by the Code;

**traffic island** has the meaning given to it by the Code;

**traffic sign** has the meaning given to it by the Code;

**trailer** has the meaning given to it by the Code;

**tour coach** means a vehicle licensed as a Tour Coach and displaying "TC" registration plates, which is hired or chartered to carry passengers for the specific purpose of sight-seeing and/or tourism;

**traffic** includes the passage of both vehicles and pedestrians;

**truck** has the meaning given to it by the Code;

**unattended** means the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle;

**unexpired parking ticket** means a parking ticket on which a date and a time is printed and the printed time has not expired;

**vehicle** has the meaning given to it by the *Road Traffic (Administration) Act 2008*; and

**verge** means the part of a thoroughfare between the carriageway and the land which abuts the thoroughfare and includes a nature strip, but does not include a footpath.

### 1.6 Application of particular definitions

(1) For the purposes of the application of the definitions 'no parking area' and 'parking area', an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(2) A reference to a parking station or ticket parking area includes a reference to a part of the parking station or ticket parking area.

(3) Unless the context otherwise requires, where a term is used but not defined in this local law, and that term is defined in the *Road Traffic Act 1974*, *Road Traffic (Administration) Act 2008* or in the *Road Traffic Code 2000*, then the term must have the meaning given to it in that Act or the Code.

### 1.7 Application and pre-existing signs

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to this local law coming into operation; and

(b) relates to the parking of vehicles within the parking region, must be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(5) An inscription or symbol on a sign referred to in subclause (4) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it must be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

(6) The provisions of parts 2, 3, 4 and 5 of this local law do not apply to a bicycle parked at a bicycle rail or bicycle rack.

### 1.8 Classes of vehicles

For the purposes of this local law, vehicles are divided into classes as follows—

(a) buses;

(b) commercial vehicles;

(c) motor cycles and bicycles;

- (d) emergency vehicles;
- (e) special purpose vehicles;
- (f) taxis; and
- (g) all other vehicles.

#### **1.9 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign must be read as applying to that part of the thoroughfare which—

- (a) lies beyond the sign;
- (b) lies between that sign and the next sign; or
- (c) is on that side of the thoroughfare nearest to the sign.

#### **1.10 Powers of the local government**

The local government may prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

### **PART 2—PARKING BAYS, PARKING STATIONS AND PARKING AREAS**

#### **2.1 Determination of parking bays, parking stations and parking areas**

- (1) The local government may by Council resolution constitute, determine and vary—
  - (a) parking bays;
  - (b) parking stations;
  - (c) parking areas;
  - (d) general *no parking* or restricted parking zones;
  - (e) permitted time and conditions of parking in parking bays, parking stations and parking areas which may vary with the locality;
  - (f) permitted classes of vehicles which may park in parking bays, parking stations and parking areas;
  - (g) permitted classes of persons who may park in specified parking bays, parking stations and parking areas; and
  - (h) the manner of parking in parking bays, parking stations and parking areas.
- (2) Where the local government makes a determination under subclause (1) it must erect signs to give effect to the determination.
- (3) Where the local government makes a determination or a resolution under subclause (1)(d) it may erect signs at entry points to the general no parking zone indicating the dates and/or days and times during which the area is a general no parking or restricted parking zone.
- (4) Where the local government makes a determination or a resolution under clause 2.1 it must record the details and effect in the parking scheme.

#### **2.2 Vehicles to be within a parking bay**

- (1) Subject to subclauses (2) and (3) a person must not park a vehicle in a parking bay in a parking area or parking station otherwise than—
  - (a) if the parking area is within a carriageway, parallel to and as close to the kerb as is practicable;
  - (b) wholly within the parking bay; and
  - (c) if the parking area is within a carriageway, headed in the direction of the movement of traffic on the side of the carriageway in which the bay is situated.
- (2) If a vehicle is too long or too wide to fit completely within a single parking bay then the person parking the vehicle must do so within the minimum number of parking bays needed to park that vehicle.
- (3) A person must not park a vehicle partly within and partly outside a parking area.

#### **2.3 Parking where fees are payable**

A person must not park a vehicle, or permit a vehicle to remain parked, in a parking station or parking area where a permissive parking sign indicates that a fee is payable, unless—

- (a) the vehicle is parked in compliance with any instructions on or with the sign, or parking fee payment equipment; and
- (b) the appropriate fee is paid for each parking bay that the vehicle occupies.

#### **2.4 Parking restrictions in fee paying zones**

A person must not park a vehicle in a fee paying zone except in accordance with signs referable to the zone.

#### **2.5 Parking in a ticket parking zone or ticket parking area**

A person must not park a vehicle, except a motor cycle in a motor cycle bay, in a parking zone, parking area or parking station which is equipped with a parking ticket machine without—

- (a) purchasing or obtaining a ticket, from the ticket machine for that area, which remains valid for the period the vehicle is parked; and

- (b) displays the ticket inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle at all times while that vehicle remains parked in that ticket parking zone, ticket parking area or parking station.

### 2.6 Methods of payment

(1) The local government may introduce and apply methods of payment for parking fees which may include but not be limited to payment by—

- (a) Australian currency including coins and or bank notes;
- (b) credit or debit card;
- (c) payment by telephone; or
- (d) any other approved method of payment.

(2) The local government may introduce various paid parking processes which may include but not be limited to the following—

- (a) ticket parking;
- (b) pay by vehicle registration number; or
- (c) pay by parking bay.

### 2.7 Reserved fee paying zones

Unless authorised by the local government a person must not leave or permit a vehicle to remain stopped or parked in a fee paying space or zone if the parking meter or ticket issuing machine is hooded with a cover bearing the words *No Parking, Reserved Parking, Temporary Bus Stop, No Stopping, Tow Away Zone* or with an equivalent symbol, depicting one of these purposes or any other words or symbols that indicate parking is not permitted within the space or zone including temporary signage.

### 2.8 Use of counterfeit or altered parking tickets

A person must not—

- (a) park a vehicle in a parking facility which requires a parking ticket, if there is displayed in that vehicle so as to be visible from outside the vehicle, a parking ticket which has been counterfeited, altered, obliterated or interfered with; or
- (b) produce to an Authorised Person who accepts payment for parking, a parking ticket which has been counterfeited, altered, obliterated or interfered with.

## PART 3—PARKING GENERALLY

### 3.1 Restrictions on parking in particular areas

(1) A person must not park a vehicle in a parking station or part of a parking station or parking area—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign, but does not include a clearway.

(2) Unless a sign or road markings indicate otherwise a person must not park any portion of a vehicle in a parking station or parking area—

- (a) for more than the maximum time specified;
- (b) in a bay marked 'M/C' unless it is a motor cycle without a sidecar or a trailer;
- (c) so as to obstruct an entrance to or an exit from a parking station, or an access way within a parking station; or
- (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked.

(3) Notwithstanding the provisions of subclause (2)(a), a person may park a vehicle in a permissive parking bay or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—

- (a) the person's vehicle displays a current disability parking permit sticker; and
- (b) a disabled person to whom that disability parking permit sticker relates, is either the driver or a passenger in the vehicle.

(4) A person must not park a vehicle or permit a vehicle to remain parked in a parking facility controlled by a sign stating 'Authorised Vehicles Only', without—

- (a) a valid permit displayed inside the vehicle that must be displayed in a prominent position, in such a manner as to be clearly visible from the front of the vehicle; or
- (b) prior written permission of the local government or an Authorised Person to park within the area has been obtained and the written permission is displayed in a prominent position, in such a manner as to be clearly visible from the front of the vehicle to indicate it has authorisation to park.

### 3.2 Parking and stopping on a carriageway

(1) Subclauses (4)(b), (d), (h) and (i) do not apply to a bus which stops in a bus embayment.

- (2) A person parking a vehicle on a carriageway other than in a parking bay must park it—
- in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the carriageway on which the vehicle is parked;
  - in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic;
  - so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motor cycle without a trailer, or a bicycle parked in accordance with this local law; or
  - so that it does not obstruct any vehicle on the carriageway,

unless otherwise indicated on a parking control sign or markings on the carriageway.

- (3) A person must not stop a vehicle on a carriageway or any part of a carriageway—
- if the parking of a vehicle is prohibited at all times by a sign; or
  - during a period in which the parking of vehicles on that part is prohibited by a sign.
- (4) A person must not stop a vehicle on a carriageway so that any portion of the vehicle—
- is on or adjacent to a median strip;
  - obstructs a private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
  - is alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway if the vehicle would obstruct traffic;
  - is on or within 10 metres of any portion of a carriageway bounded by a traffic island;
  - is on any pedestrian crossing;
  - is within 10 metres of the departure side or within 20 metres of the approach side of a children's crossing or pedestrian crossing;
  - is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing;
  - is between the boundaries of a carriageway and any double longitudinal line consisting of two continuous dividing lines or a continuous dividing line and a broken or dotted line, unless there is a distance of at least 3 metres clear between the vehicle and the nearer continuous dividing line; or
  - is contrary to a clearway sign referable to that part,

unless the person stops the vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

- (5) A person must not stop a vehicle on a carriageway—
- if the parking of a vehicle is prohibited at all times by a sign; or
  - during a period in which the parking of vehicles on that part is prohibited by a sign;
  - or in an area to which a 'no stopping' sign applies;
  - marked with a continuous yellow edge line;
  - if by a sign it is set apart for the parking of vehicles of a different class; or
  - if by a sign it is set apart for the parking of vehicles by persons of a different class,

unless the person stops the vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

- (6) A person must not park a vehicle on a length of carriageway or in an area to which a 'no parking' sign applies, unless the driver—
- is dropping off, or picking up, passengers or goods;
  - does not leave the vehicle unattended; and
  - completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

### 3.3 When parallel and right-angled parking apply

(1) Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; or
- at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the center of the carriageway.

(2) Clause 3.3(1)(a) does not apply to the rider of a motor cycle if the rider positions the motor cycle so that at least one wheel is as near as practicable to the far left or far right side of the carriageway.

### 3.4 When angle parking applies

(1) This clause does not apply to—

- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over three tonnes; or
- (b) a person parking a motor cycle without a trailer.

(2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or marks on the carriageway that indicate the required angle of parking.

(3) Where a sign associated with an angle parking area is inscribed with the words 'reverse in' a person parking a vehicle in the area must reverse the vehicle into the parking bay so that the vehicle is driven forward when it is leaving the parking bay.

### 3.5 Parking of heavy and long vehicles

(1) A person must not park a heavy or long vehicle—

- (a) on a carriageway for any period exceeding one hour, unless actively engaged in the loading or unloading of goods; or
- (b) on a carriageway except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of heavy or long vehicles.

(2) Nothing in this clause mitigates the limitations or condition imposed by any other clause in this local law, any other written law or traffic sign relating to the parking or stopping of vehicles.

### 3.6 Authorised Person may order vehicle on thoroughfare to be moved

A person must not park a vehicle on any part of a thoroughfare in contravention of this local law after an Authorised Person has directed that person to move the vehicle.

### 3.7 Authorised Person

(1) An Authorised Person may—

- (a) mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers;
- (b) take a valve stem reading of the vehicle;
- (c) record vehicle registration numbers; and
- (d) place a notice or parking fact sheet upon a vehicle.

(2) A person must not remove a mark made by an Authorised Person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

(3) An Authorised Person may in the course of performing his duties, park contrary to the provisions of a parking control sign for the minimum amount of time required to complete those duties.

### 3.8 No movement of vehicles to avoid time limitation

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility, unless the vehicle has first been removed from the parking facility for at least one hour.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along a section of thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from that section of thoroughfare for at least one hour.

(3) For the purposes of this local law a section of thoroughfare ends and another begins whenever an intersecting carriageway occurs.

### 3.9 No parking of vehicles exposed for sale and in other circumstances

A person must not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale or hire;
- (b) if that vehicle is not licensed under the *Road Traffic Act 1974*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle;
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

### 3.10 Parking on private land

(1) In this clause, a reference to 'land' does not include land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act.

(2) A person must not park a vehicle on private land without the consent of the owner or occupier of the land on which the vehicle is parked.

(3) Where the owner or occupier of private land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

(4) The owner or occupier of private land must not permit a private property parking enforcement agreement sign to remain erected and visible to the public if the owner or occupier no longer has a current private property parking enforcement agreement with the local government.

### 3.11 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government may drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

### 3.12 Right of ways

A person must not stop or park a vehicle at any time in a right of way so as to cause an obstruction or so as to prevent a vehicle reasonable access to or egress from the right of way.

### 3.13 Suspension of parking limitations for urgent, essential or official duties

(1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government or an Authorised Person, may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

(2) Where permission is granted under sub-clause (1), the local government or an Authorised Person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

(3) An Authorised Person may, in the course of performing his or her duties, park a vehicle contrary to a sign or other restriction in this local law for the minimum amount of time required to complete those duties.

### 3.14 Event parking

(1) For the purposes of this clause an *event* means a planned activity or occurrence involving the gathering of people, approved by the local government which warrants the setting aside of any parking facilities for the temporary parking of vehicles between specific times and dates and where Local Public Notice of at least 14 days is provided prior to the event.

(2) The local government may by use of signs establish additional parking facilities on any reserve or local government property, for any period specified on the signs, for the parking of vehicles by persons attending an event.

(3) A fee payable for event parking may be determined and imposed by the local government.

(4) A person must not stop or park a vehicle on a reserve or local government property set aside under sub-clause (1) during the period for which it is set aside unless—

- (a) a ticket purchased from the local government with respect to the event is displayed inside the vehicle and is clearly visible to and able to be read by an Authorised Person from outside the vehicle at all times; or
- (b) such alternative method of payment for parking as may be authorised by the local government is made; or
- (c) approval is otherwise granted by the local government.

## PART 4—PARKING AND STOPPING IN ZONES FOR PARTICULAR VEHICLES

### 4.1 Stopping at intersections

(1) A person must not stop any portion of a vehicle on a thoroughfare within 20 metres from the nearest point of an intersecting carriageway at an intersection with traffic-control signals, unless the person stops at a place on a length of thoroughfare, or in an area, to which a parking control sign applies and the person is permitted to stop at the place under this local law.

(2) A person must not stop any portion of a vehicle on a thoroughfare so that any portion of the vehicle is within 10 metres of the prolongation of the nearer edge of any intersecting carriageway (without traffic-control signals) intersecting that carriageway on the side on which the vehicle is stopped, unless the person stops—

- (a) at a place on the thoroughfare, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law; or
- (b) if the intersection is a T-intersection—along the continuous side of the continuing carriageway at the intersection.

### 4.2 Stopping in a loading zone

A person must not stop a vehicle in a loading zone—

- (a) unless it is a commercial vehicle continuously engaged in the picking up or setting down of goods;
- (b) for longer than a time indicated on the loading zone sign; or
- (c) for longer than 30 minutes (if no time is indicated on the sign).

### 4.3 Stopping in a taxi zone or a bus zone

(1) A person must not stop a vehicle in a taxi zone, unless that person is driving a taxi.

(2) A person must not stop a vehicle in a bus zone unless that vehicle is a bus that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

#### 4.4 Stopping in a mail zone

A person must not stop a vehicle in a mail zone unless authorised under a written law.

#### 4.5 Construction site vehicle parking

(1) In this clause unless the context otherwise requires—

**builder** has the meaning given to it in the *Building Act 2011*;

**construction site** means any land subject to development;

**construction site vehicle** means a *commercial vehicle, truck heavy or long vehicle*;

**daily fee** means the applicable daily fee as determined in accordance with section 6.16 of the Act;

**development** means the demolition, erection, construction, alteration of or addition to any building or structure on land or the carrying out on land of any excavation or other works;

**eligible person** means an owner or occupier of a construction site or any builder carrying out work on a construction site;

**establishment fee** means the applicable establishment fee as determined in accordance with section 6.16 of the Act;

**work zone** means any carriageway or part of a carriageway, whether or not marked as a metered space, parking bay or ticket machine zone, which is set aside by the local government by a sign, for a period specified on the sign, for the stopping or parking of construction site vehicles.

(2) An eligible person seeking to establish a work zone adjacent to a construction site may apply in writing to the local government, which may approve or refuse the application.

(3) Where the local government approves an application, it is to give the applicant written notice specifying—

- (a) the number and location of work zones the applicant may use;
- (b) the times during which the stopping or parking of construction site vehicles is permitted in the work zone;
- (c) the period for which the approval is valid;
- (d) any conditions to which the approval of the local government is subject; and
- (e) the amount of the establishment fee and daily fee applicable.

(4) The local government is to set aside a work zone in accordance with the notice referred to in subclause (3) within 14 days from the date of payment of the establishment fee.

(5) An eligible person must, in addition to the establishment fee, pay to the local government a daily fee for each day that a work zone is set aside.

(6) The daily fee is payable monthly in advance.

(7) Where the local government has approved an application to establish a work zone adjacent to a construction site, the local government may cancel its approval by written notice to the applicant in the event that, the applicant or any person authorised by the applicant to use the work zone stops or parks a vehicle other than in accordance with—

- (a) any condition stipulated in the notice issued to the applicant pursuant to sub-clause (3);
- (b) any sign applicable to the work zone;
- (c) the applicant fails to pay the daily fee as required pursuant to sub-clause (5); or
- (d) if the local government or a person authorised by the local government requires access to or near the place where the work zone is situated, for the purposes of carrying out works in or near the vicinity of that place.

(8) A person must not stop or park a vehicle in a work zone unless the person is driving a vehicle that is—

- (a) engaged in construction work in or near the zone; or
- (b) permitted to stop in the work zone in accordance with this local law.

#### 4.6 Other limitations in zones

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

### PART 5—OTHER PLACES WHERE STOPPING IS RESTRICTED

#### 5.1 Stopping in a shared zone

A person must not stop a vehicle in a shared zone unless—

- (a) the person stops a vehicle at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law;
- (b) the person stops a vehicle in a parking bay and the person is permitted to stop in the parking bay under this local law; or

- (c) the person is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

### 5.2 Double parking

(1) A person must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to—

- (a) a vehicle stopped in traffic; or
- (b) a vehicle angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

### 5.3 Stopping near an obstruction

A person must not stop a vehicle on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

### 5.4 Stopping in a bus lane, transit lane or truck lane

A driver must not stop in—

- (a) a bus lane;
- (b) a transit lane;
- (c) a truck lane; or
- (d) a bicycle lane,

unless the driver is driving a public bus or taxi, and is dropping off, or picking up, passengers.

### 5.5 Stopping on a bridge, causeway, ramp or in a tunnel

(1) A person must not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a sign does not prohibit stopping or parking; or
- (b) the person stops a vehicle at a place on a length of carriageway, or in an area to which a parking control sign applies and the person is permitted to stop at that place under this local law.

(2) A person must not stop a vehicle in a tunnel or underpass unless—

- (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a sign does not prohibit stopping or parking; or
- (b) the vehicle is a bus stopped at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

### 5.6 Stopping on crests and curves

(1) Subject to subclause (2), a person must not stop a vehicle on, or partly on, a carriageway within the parking region, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres.

(2) A person may stop a vehicle on a crest or curve on a carriageway within the parking region if the vehicle stops at a place on the carriageway, or in an area, to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

### 5.7 Stopping near a fire hydrant

A person must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the person is driving a public bus, and stops in a bus zone or at a bus stop and does not leave the bus unattended; or
- (b) the person is driving a taxi and stops in a taxi zone and does not leave the taxi unattended.

### 5.8 Stopping near a bus stop

(1) A person must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop or within 10 metres of the departure side of a bus stop, unless—

- (a) the vehicle is a public bus stopped to take up or set down passengers; or
- (b) the person stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the person is permitted to stop at that place under this local law.

(2) In this clause a trailer attached to a public bus is deemed to be a part of the public bus.

### 5.9 Stopping on a traffic island

A person must not stop a vehicle (other than a bicycle) so that any portion of the vehicle is on a traffic island, unless the vehicle stops in an area to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

### 5.10 Stopping on a verge

(1) A person must not stop—

- (a) a vehicle (other than a bicycle);
- (b) a commercial vehicle, a bus, a trailer, a boat, a caravan, a truck or any other vehicle with a GMV in excess of 2.5 tonnes or 7.5 metres in length; or

- (c) a vehicle during any period when stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the driver if he or she is the owner or occupier of a premises that abuts the verge or is a person authorised by the owner or occupier of those premises to park the vehicle so that any portion of it is on the verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods or materials collected from or delivered to the premises that abuts the verge on which the commercial vehicle is parked, (but in any event not for any period exceeding 3 consecutive hours between the hours of 7am and 6pm Western Australian Standard Time and not at any other time), provided no obstruction is caused to the passage of any other vehicle or person using a carriageway or path.

(4) Notwithstanding subclause (2) and (3), clause 4.1 applies.

#### **5.11 Driving over a residential verge**

A person must not drive a vehicle over or across a residential verge adjacent to a length of carriageway to access a private driveway or an adjacent verge.

#### **5.12 Obstructing access to a footpath, path or crossover**

(1) A person must not stop a vehicle so that any portion of the vehicle is on or across a footpath, path or in a position that it obstructs access or egress by pedestrians using that footpath or path or other vehicles to that path, unless—

- (a) the driver is dropping off or picking up passengers and must not remain for longer than 2 minutes; or
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

(2) A person must not stop a vehicle on or across a crossover or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the vehicle is dropping off, or picking up, passengers and must not remain for longer than 2 minutes;
- (b) the vehicle stops in a parking bay and the vehicle is permitted to stop in the parking bay under this local law; or
- (c) the driver is the owner or occupier of the premises that abuts the crossover or is a person permitted by the owner or occupier of the premises.

(3) A person must not park a vehicle on a crossover if any portion of the vehicle obstructs a footpath or prolongation thereof.

#### **5.13 Stopping near a public letter box**

A person must not stop a vehicle other than a postal vehicle, so that any portion of the vehicle is within 3 metres of a public letter box, unless the vehicle stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

#### **5.14 Stopping on a carriageway with a bicycle parking sign**

A person must not stop a vehicle (other than a bicycle) on a length of carriageway to which a 'bicycle parking' sign applies, unless the vehicle is dropping off or picking up passengers.

#### **5.15 Stopping on a carriageway with motor cycle parking sign**

A person must not stop a vehicle on a length of carriageway, or in a parking bay to which a 'motor cycle parking' sign applies, or an area marked 'M/C', unless the vehicle is a motor cycle.

#### **5.16 Stopping on a median strip**

A person must not stop a vehicle (other than a bicycle) so that any portion of the vehicle is on a median strip, unless the vehicle stops in an area to which a parking control sign applies and the vehicle is permitted to stop at that place under this local law.

#### **5.17 Eating Areas in parking bays**

A person must not stop a vehicle in a parking bay which has been authorised in writing by the local government, to be set up or conducted as an eating area and which is designated by signs as such at that time.

### **PART 6—PARKING PERMITS**

#### **6.1 Interpretation**

In this part of this Local Law, unless the context requires otherwise—

**Commercial Parking Permit** means a permit issued by the local government pursuant to clause 6.2(3).

**dwelling unit** means premises lawfully used for self-contained living quarters.

**eligible person** means the owner of a vehicle registered under the Road Traffic Act at the address shown on the application for the parking permit, where used—

- (a) in relation to an application for a residential parking permit means a single house occupier, a unit occupier, a unit owner;

- (b) in relation to an application for a visitor's parking permit means—
  - (i) a single house occupier;
  - (ii) a strata company; or
  - (iii) a unit owner of a residential unit which is not a strata lot;
- (c) in relation to an application for a commercial parking permit means the proprietor of a commercial business.

**Residential Parking Permit** means a permit issued by the local government pursuant to Clause 6.2(1).

**Residential Unit** means a dwelling unit which is part of a building adjacent to a part of a road on which road the stopping or parking of vehicles is prohibited for more than a specified period and which building contains—

- (a) 2 or more dwelling units with or without any non-residential units; or
- (b) 1 dwelling unit with one or more non-residential units.

**single house** means a dwelling unit constructed on its own lot and used for self-contained living quarters and which is adjacent to a part of a road on which the stopping or parking of vehicles is prohibited for more than a specified period.

**single house occupier** means an occupier of a single house.

**strata company** means a body corporate constituted under section 32 of the *Strata Titles Act 1985*.

**unit occupier** means an occupier of a residential unit but does not include a unit owner.

**unit owner** means a person who is the owner of a residential unit.

**Visitors Parking Permit** means a permit issued by the local government pursuant to Clause 6.2(2).

### 6.2 Issue of a parking permit

- (1) The local government may upon a written application of an eligible person issue a residential parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (2) The local government may upon a written application of an eligible person issue a visitor's parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (3) The local government may upon a written application of an eligible person issue a commercial parking permit in the prescribed form approved by the local government and for the prescribed fee.
- (4) The local government's power to issue, replace and revoke permits under this Part may be exercised by an Authorised Person.

### 6.3 Validity of a parking permit

Every parking permit as the case may be, must cease to be valid upon—

- (a) On 31 December of the year of expiry of a period of either 1 or 3 years (depending upon the permit issued) from and including the date on which it is issued;
- (b) the holder of the permit ceasing to be an eligible person;
- (c) the revocation of the permit by the local government pursuant to clause 6.4;
- (d) the replacement of any permit by a new permit issued by the local government pursuant to clause 6.2.

### 6.4 Revoking a parking permit

- (1) The local government may revoke a parking permit if the permit holder breaches any of the conditions for its use or the prerequisites for the issue of the permit no longer apply.
- (2) The local government may at any time give an eligible person to whom a permit was issued pursuant to the provisions of this local law a notice of intention in the prescribed form approved by the local government requiring that person to notify the local government of any reason why that permit should not be revoked.
- (3) The local government must give notice referred to in subclause (2) by serving a notice of intention on the eligible person to whom the permit was issued.
- (4) If within 7 days after the date of receipt of the notice of intention referred to in subclause (2) the eligible person to whom the permit was issued—
  - (i) fails to give the local government notice in writing of any reason why the permit should not be revoked;
  - (ii) gives the local government notice in writing of any reasons why the permit should not be revoked;

then the local government may in its absolute discretion revoke that permit.

(5) For the purpose of subclause (2) the date of receipt of the notice must be the date the notice was served.

(6) The local government must give notice in the prescribed form of the revocation by serving a notice of revocation on the eligible person to whom the permit was issued.

### 6.5 Where a parking permit applies

- (1) Where the parking of a vehicle on any part of a carriageway within the parking region is prohibited for more than a specified time, or in a ticket parking zone without an unexpired parking

ticket being displayed within the vehicle, or in a parking fee zone requiring the fee to be paid, the holder of a permit issued under this clause is exempt from such prohibition, provided that such exemption must only apply—

- (a) to the part of the carriageway specified in the permit;
- (b) if the permit is displayed inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle;
- (c) if the permit was validly issued and has not expired; and
- (d) if the permit holder occupies the premises in respect of which the permit is issued.

(2) A person must not stop or park a vehicle in an area set aside for persons or vehicles of a particular class during any permitted period unless a permit is displayed inside the vehicle in a prominent position, in such a manner as to be clearly visible from the front of the vehicle and able to be read by an Authorised Person at all times while the vehicle remains stopped or parked in the zone.

#### **6.6 Return of a parking permit to the local government**

A parking permit holder who ceases to occupy the premises or own a vehicle for which a parking permit was issued, must remove any permit displayed in or affixed to the windscreen of any vehicle and return the permit(s) to the local government.

#### **6.7 Counterfeit or altered parking permit**

A person must not use or display in a vehicle, a parking permit that has in any way been counterfeited, altered, obliterated or interfered with.

#### **6.8 Replacement of a parking permit**

The local government may issue a replacement residential, visitors or commercial parking permit when a written application is made and the appropriate fee is paid.

#### **6.9 Discretionary Authority**

Notwithstanding any other provisions in this local law or a policy adopted by the local government which restricts the number of parking permits that may be issued, the local government may approve the issue of additional parking permits to any eligible person on such terms and conditions as the local government sees fit.

#### **6.10 Fees payable**

Fees payable for the issue of a permit must be determined in accordance with section 6.16 of the Act.

### **PART 7—MISCELLANEOUS**

#### **7.1 Impersonating an Authorised Person**

A person who is not an Authorised Person of the local government must not impersonate or assume the duties of an Authorised Person.

#### **7.2 Removal of notices from a vehicle**

A person, other than the owner or driver of the vehicle or a person acting under the direction of the owner or driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an Authorised Person.

#### **7.3 Unauthorised signs and defacing signs**

A person must not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

#### **7.4 Contravention of signs**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

#### **7.5 General provisions about signs**

A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

#### **7.6 Damage to parking areas and associated infrastructure**

(1) A person must not, nor attempt to, remove, damage, deface, misuse or interfere with any part of a parking station, parking facility, parking area or any infrastructure appurtenant to those areas.

(2) A person must not operate or attempt to operate a ticket issuing machine or pay station except in accordance with the operating instructions appearing on those devices.

#### **7.7 Special purpose and emergency vehicles**

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle may, only in the course of performing his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place, at any time;

- (b) an emergency vehicle may, in the course of performing his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place, at any time.

#### 7.8 Vehicles not to obstruct a public place

- (1) A person must not park or leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.
- (2) A vehicle which is parked in any portion of a public place where vehicles may be lawfully parked, is deemed to cause an obstruction and may be impounded where—
- the vehicle is parked for any period exceeding 24 hours;
  - the vehicle is so parked during any period in which the parking of vehicles is prohibited or restricted by a sign; or
  - the vehicle is abandoned, unregistered or disused.

### PART 8—ENFORCEMENT

#### 8.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything, which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law must be liable, upon conviction, to a penalty not less than \$500 and not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

#### 8.2 Form of notices

For the purposes of this local law—

- the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

### SCHEDULE 1—PARKING REGION

[Clause 1.7(1)]

The parking region is the whole of the district of the local government but excludes the following portions of the district—

- the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
- prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- any thoroughfare which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that thoroughfare has been delegated by the Commissioner of Main Roads to the local government; and
- the Mitchell Freeway and Graham Farmer Freeway, save that Subdivision 4 of Division 3 of Part 3 of the Act continues to apply to these portions and these portions are included in the parking region for that purpose.

### SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 8.1(4)]

Item No.	Clause No.	Nature of offence	Modified Penalty \$
1.	2.2(1)(b)	Failure to park wholly within a parking bay	80
2.	2.2(1)(c)	Parking against the flow of traffic	80
3.	2.2(3)	Failure to park wholly within a parking area	80
4.	2.3(a)	Parking in fee paying area contrary to instructions	80

Item No.	Clause No.	Nature of offence	Modified Penalty \$
5.	2.3(b)	Failure to pay the required fees	80
6.	2.4	Parking contrary to signage where fees are payable	80
7.	2.5(a)	Parking with an expired parking ticket	80
8.	2.5(b)	Failing to clearly display parking ticket	80
9.	2.7	Stopping a vehicle when stopping is not permitted within a fee paying zone	80
10.	2.8	Use counterfeit or altered parking ticket	250
11.	3.1(1)(a)	Parking wrong class of vehicle	80
12.	3.1(1)(b)	Parking by persons of a different class	80
13.	3.1(1)(c)	Parking during prohibited period, excluding clearways	80
14.	3.1(2)(a)	Parking in excess of maximum time	80
15.	3.1(2)(b)	Parking vehicle in a motor cycle only area	80
16.	3.1(2)(c)	Causing obstruction in a parking station	80
17.	3.1(2)(d)	Parking or attempting to park a vehicle in a parking bay occupied by another vehicle	80
18.	3.1(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	100
19.	3.2(2)(a)	Failure to park as near as practicable to the left side of the carriageway	80
20.	3.2(2)(b)	Failure to park as near as practicable to the side of the carriageway along a one way carriageway	80
21.	3.2(2)(c)	Parking within 3 metres of the farther carriageway boundary, median strip or a vehicle parked on the farther carriageway boundary	80
22.	3.2(2)(d)	Parking closer than 1 metre from another vehicle	80
23.	3.2(2)(e)	Causing obstruction to another vehicle on a carriageway	100
24.	3.2(3)(a)	Parking on a carriageway when prohibited at all times by a sign	90
25.	3.2(3)(b)	Parking on a carriageway when prohibited during a period by a sign	90
26.	3.2(4)(a)	Parking on or adjacent to a median strip	100
27.	3.2(4)(b)	Obstructs a private drive or carriageway or denies reasonable access to a private drive or right of way or carriageway	150
28.	3.2(4)(c)	Stopping beside excavation or obstruction so as to obstruct traffic	100
29.	3.2(4)(d)	Stopping within 10 metres of traffic island	80
30.	3.2(4)(e)	Stopping on pedestrian crossing	100
31.	3.2(4)(f)	Stopping a vehicle within 10 metres of departure side or 20 metres approach side of a children's or pedestrian crossing	100
32.	3.2(4)(g)	Stopping a vehicle within 20 metres of approach side or departure side of railway level crossing	80
33.	3.2(4)(h)	Stopping within 3 metres of a continuous dividing line markings	80
34.	3.2(4)(i)	Stopping in a clearway	150
35.	3.2(5)(a)	Stopping on a carriageway when prohibited by a sign	90
36.	3.2(5)(b)	Stopping on a carriageway when prohibited during a period by a sign	90
37.	3.2(5)(c)	Stopping contrary to a 'no stopping' sign	100
38.	3.2(5)(d)	Stopping within continuous yellow line	100
39.	3.2(5)(e)	Stopping in an area set aside for vehicles of a different class	100
40.	3.2(5)(f)	Stopping in an area set aside for persons of a different class	100
41.	3.2(6)	Parked in a 'no parking' area	100
42.	3.3(1)(a)	Failure to park as near as practicable or parallel with the boundary	80
43.	3.3(1)(b)	Failure to park at approximate right angle	80
44.	3.4(2)	Failure to park at an appropriate angle	80
45.	3.4(3)	Vehicle not reversed in to a parking bay in accordance with signage	80
46.	3.5(1)(a)	Parking a heavy or long vehicle on a carriageway in excess of 1 hour when not actively engaged in loading or unloading	80

Item No.	Clause No.	Nature of offence	Modified Penalty \$
47.	3.5(1)(b)	Parking a heavy or long vehicle not on the shoulder of a carriageway or other specified area	80
48.	3.6	Parking contrary to directions of an Authorised Person	250
49.	3.7(2)	Removing a mark made by an Authorised Person	250
50.	3.9(a)	Parking in thoroughfare for purpose of sale	80
51.	3.9(b)	Parking unlicensed vehicle in thoroughfare	80
52.	3.9(c)	Parking a trailer or caravan on a thoroughfare unattached to a motor vehicle	80
53.	3.9(d)	Parking in thoroughfare in order to effect repairs	80
54.	3.10(2)	Parking on private land without consent	100
55.	3.10(3)	Parking on land not in accordance with consent	100
56.	3.10(4)	Displaying a Private Property Parking Enforcement Agreement sign without a current Private Property Parking Enforcement Agreement	250
57.	3.11	Driving or parking on a reserve	150
58.	3.12	Vehicle stopped or parked in a right of way causing an obstruction	150
59.	3.13(2)	Parking without authorisation	100
60.	4.1(1)	Parking on thoroughfare within 20 metres of a signalled intersection	100
61.	4.1(2)	Parking on thoroughfare within 10 metres of an intersection	100
62.	4.2(a)	Not engaged in loading or unloading whilst stopped in a loading zone	80
63.	4.2(b),(c)	Stopping in a loading zone in excess of maximum time allowed	80
64.	4.3	Stopping unlawfully in a taxi zone or bus zone	80
65.	4.4	Stopping unlawfully in a mail zone	80
66.	4.5(8)	Unauthorised stopping in a construction site work zone	100
67.	5.1	Stopping unlawfully in a shared zone	80
68.	5.2(1)	Double parking	100
69.	5.3	Stopping near an obstruction	80
70.	5.4(a)	Stopping in a bus lane	80
71.	5.4(b)	Stopping in a transit lane	80
72.	5.4(c)	Stopping in a truck lane	80
73.	5.4(d)	Stopping in a bicycle lane	80
74.	5.5(1)	Stopping on a bridge, causeway or ramp	100
75.	5.5(2)	Stopping in a tunnel or underpass	100
76.	5.6(1)	Stopping on a crest or curve	100
77.	5.7	Stopping within 1 metre of a fire hydrant or fire plug	100
78.	5.8(1)	Stopping near a bus stop	100
79.	5.9	Stopping on a traffic island	100
80.	5.10(1)(a)	Stopping on a verge without consent of adjacent owner or occupier	100
81.	5.10(1)(b)	Stopping a commercial vehicle, bus, trailer, boat, caravan or truck on a verge	100
82.	5.10(1)(c)	Stopping on a verge contrary to a sign	100
83.	5.11	Driving over a residential verge	100
84.	5.12(1)	Causing an obstruction to a footpath or path	100
85.	5.12(2)	Stopped on or across a crossover to deny access to the adjacent premises or land	150
86.	5.12(3)	Stopped on or across a crossover obstructing a footpath	150
87.	5.13	Stopping within 3 metres of a public letter box	80
88.	5.14	Stopping in a bicycle parking area	80
89.	5.15	Stopping in a motor cycle parking area	80
90.	5.16	Stopping on a median strip	100
91.	5.17	Stopping in an eating area	100

Item No.	Clause No.	Nature of offence	Modified Penalty \$
92.	6.5(2)	Failure to display a valid Permit	80
93.	6.7	Use of a counterfeit or altered parking permit	500
94.	7.1	Impersonating an Authorised Person	500
95.	7.2	Removing a notice from a vehicle without authority	100
96.	7.3(a)	Unauthorised exhibition of a parking control sign	150
97.	7.3(b)	Misuse or deface a sign exhibited by the local government	150
98.	7.3(c)	Affix anything to a sign exhibited by the local government	150
99.	7.6(1)	Cause or attempting to cause damage to a parking area or associated infrastructure	500
100.	7.6(2)	Operating a ticket machine or pay station not in accordance with instructions	100
101.	7.8(1)	Leaving a vehicle so as to obstruct a public place	150
102.		All other offences not specified	100

Dated this 30th day of June 2016.

The Common Seal of the Town of Cambridge was affixed by authority of a resolution of the Council in the presence of—

KERI SHANNON, Mayor.  
JASON BUCKLEY, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

TOWN OF EAST FREMANTLE

PARKING LOCAL LAW 2016

Under the powers conferred on it by the *Local Government Act 1995* and under all other relevant powers, the Council of the Town of East Fremantle resolved on 17 May 2016 to make this local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of East Fremantle Parking Local Law 2016*.

1.2 Commencement

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

1.3 Repeal

The *Town of East Fremantle Local Law Relating to Parking and Parking Facilities 1999* published in the *Government Gazette* on 8 November 1999 is repealed.

1.4 Application

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the Town, unless the Town and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

1.5 Definitions

In this local law—

*Act* means the *Local Government Act 1995*;

*authorised person* means a person appointed by the Town under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the Town, the CEO or an authorised person, or by any written law, to park on a thoroughfare or parking facility;

*bay* includes ‘stall’ and ‘space’;

*bicycle* has the meaning given to it in the Code;

*bus* has the meaning given to it in the Code;

*bus embayment* has the meaning given to it in the Code;

*bus stop* has the meaning given to it in the Code;

*bus zone* has the meaning given to it in the Code;

*caravan* has the meaning given to it in the *Caravan Parks and Camping Grounds Act 1995*;

*carriageway* has the meaning given to it in the Code;

*centre*, in relation to a carriageway, means a line or a series of lines, marks or other indications—

(a) for a two-way carriageway—placed so as to delineate vehicular traffic travelling in different directions; or

(b) in the absence of any such lines, marks or other indications—the middle of the main, travelled portion of the carriageway;

*children’s crossing* has the meaning given to it in the Code;

*Town* means the Town of East Fremantle;

*CEO* means the Chief Executive Officer of the Town;

*Code* means the *Road Traffic Code 2000*;

**commercial vehicle—**

- (a) means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers; and
- (b) includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**disability parking permit** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*

**district** means the district of the Town;

**driver** means any person driving or in control of a vehicle;

**edge line** has the meaning given to it in the Code;

**emergency vehicle** has the meaning given to it in the Code;

**footpath** has the meaning given to it in the Code;

**GVM** (which stands for 'gross vehicle mass') has the meaning given to it in the Code;

**loading zone** means a parking bay which is set aside for use by commercial vehicles if there is a sign referable to that bay marked 'loading zone';

**mail zone** has the meaning given to it in the Code;

**median strip** has the meaning given to it in the Code;

**metered bay** means a section or part of a metered zone that is in the vicinity of a parking meter and that is marked or defined by painted lines or by metallic studs or similar devices for the purpose of indicating where a vehicle may be parked on payment of a fee or charge;

**metered zone** means any thoroughfare or reserve, or part of any thoroughfare or reserve, in which parking meters regulate the parking of vehicles;

**motorcycle** has the meaning given to it in the Code;

**motor vehicle—**

- (a) means a self-propelled vehicle that is not operated on rails; and
- (b) includes a trailer, semi-trailer or caravan while attached to the motor vehicle, but does not include a power assisted pedal cycle;

**nature strip** has the meaning given to it in the Code;

**no parking area** has the meaning given to it in the Code;

**no parking sign** means a sign with—

- (a) the words 'no parking' in red letters on a white background; or
- (b) the letter 'P' within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it in the Code;

**no stopping sign** means a sign with—

- (a) the words 'no stopping' or 'no standing' in red letters on a white background; or
- (b) the letter 'S' within a red annulus and a red diagonal line across it on a white background;

**occupier** has the meaning given to it in the Act;

**owner—**

- (a) where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under that Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it in the Act;

**park** has the meaning given to it in the Code;

**parking area** has the meaning given to it in the Code;

**parking bay** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked, but does not include a metered bay;

**parking facilities** includes—

- (a) land, buildings, shelters, parking stations, metered zones, metered bays, parking bays and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) signs, notices and facilities used in connection with the parking of vehicles;

**parking meter** means a meter, including the stand on which the meter is erected, regulating the parking of vehicles in a metered zone, into which a fee may be inserted under clause 2.2;

**parking region** means the whole of the district except—

- (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;

- (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
- (c) any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the Town;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles with or without charge, but does not include a metered zone or metered bay;

**path** has the meaning given to it in the Code;

**Pay and Display parking station** means a parking station where parking of a vehicle is permitted only—

- (a) if the vehicle displays a ticket, for which the applicable fee has been paid; and
- (b) during the period, or before the expiry time, marked on the ticket;

**Pay as you Leave parking station** means a parking station where parking of a vehicle is permitted only on condition that, before the vehicle leaves the parking station, the fee that applies to the period during which the vehicle is in the parking station is paid;

**pedestrian crossing** has the meaning given to it in the Code;

**penalty unit** means the amount prescribed by the Town, in the *Town of East Fremantle Penalty Units Local Law 2016*, as a standard penalty unit;

**public bus** has the meaning given to it in the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land—

- (a) which belongs to the Town;
- (b) of which the Town is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

**right of way** means a portion of land that is—

- (a) shown and marked 'Right of Way' or 'R.O.W', or coloured or marked in any other way to signify that the portion of land is a right of way, on any plan or diagram deposited with the Registrar of Titles that is subject to the provisions of section 167A of the *Transfer of Land Act 1893*;
- (b) shown on a diagram or plan of survey relating to a subdivision that is created as a right of way and vested in the Crown under section 152 of the *Planning and Development Act 2005*; or
- (c) shown and marked as a right of way on a map or plan deposited with the Registrar of Titles and transferred to the Crown under the *Transfer of Land Act 1893*, but does not include—
  - (i) a private driveway; or
  - (ii) a right of way created by easement between two parties;

**Road Traffic Act** means the *Road Traffic Act 1974*;

**Schedule** means a Schedule to this local law;

**shared zone** has the meaning given to it in the Code;

**sign** includes a traffic sign, inscription, road marking, mark, structure or device on which may be shown words, numbers, expressions or symbols, that is—

- (a) approved by the Town; and
- (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

**special purpose vehicle** has the meaning given to it in the Code;

**stop** has the meaning given to it in the Code;

**symbol** includes any symbol specified by the Code; and any reference to the wording of any sign in this local law includes a reference to the corresponding symbol;

**taxi** means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;

**taxi zone** has the meaning given to it in the Code;

**thoroughfare** has the meaning given to it in the Act;

**ticket issuing machine**, in relation to a parking station, means a machine that issues a ticket, whether or not for payment of a fee, showing the period of time during which, or the expiry time before which, a vehicle may lawfully be parked in the parking station;

**traffic island** has the meaning given to it in the Code;

**trailer** has the meaning given to it in the Code;

**vehicle** has the meaning given to it in the *Road Traffic Act* and 'classes of vehicles' are those set out in clause 1.8; and

**verge** has the same meaning as *nature strip*.

### **1.6 Application of particular definitions**

(1) For the purposes of the application of the definitions of 'no parking area' and 'parking area' an arrow inscribed on a sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the sign was turned at an angle of less than 90 degrees until parallel with the boundary.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term is to have the meaning given to it in that Act or the Code.

### **1.7 Pre-existing signs**

(1) A sign that—

- (a) was erected by the Town or the Commissioner of Main Roads before the commencement of this local law; and
- (b) relates to the parking of vehicles within the parking region,

is to be deemed to have been erected by the Town under this local law.

(2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor.

(3) Where an inscription, word, number, expression or symbol on a sign referred to in subclause (1) relates to the stopping of vehicles, it is to be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

### **1.8 Classes of vehicles**

For the purpose of this local law, vehicles are divided into classes as follows—

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

### **1.9 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign is to be read as applying to that part of the thoroughfare which—

- (a) is beyond the sign;
- (b) is between that sign and the next sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### **1.10 Powers of the Town**

The Town may prohibit or regulate by signs, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

## **PART 2—METERED ZONES**

### **2.1 Determination of metered zones**

(1) The Town may constitute, determine and indicate by signs, metered bays and metered zones.

(2) In respect of metered bays and metered zones the Town may determine, and may indicate by signs—

- (a) permitted times and conditions of parking depending on and varying with the locality;
- (b) classes of vehicles which are permitted to park;
- (c) the amount payable for parking; and
- (d) the manner of parking.

(3) Where the Town makes a determination under subclauses (1) and (2) it shall erect signs to give effect to the determination.

### **2.2 Parking fee to be paid**

A person must not park a vehicle in a metered bay unless the appropriate fee as indicated by a sign on the parking meter referable to the bay is inserted into the parking meter or is otherwise paid under clause 2.10.

### **2.3 Limitation on parking in metered bay**

The payment of the fee under clause 2.2 entitles a person to park the vehicle in a metered bay for the period shown on the parking meter, but does not authorise the parking of the vehicle during any time when parking in that bay is prohibited under this local law.

### **2.4 No parking when meter is expired**

A person must not, during the hours when a fee is payable to park the vehicle in a metered bay—

- (a) leave the vehicle in the metered bay; or
- (b) permit the vehicle to remain parked in the metered bay,

when the parking meter referable to that metered bay exhibits the sign 'Expired' or a negative time.

### **2.5 Vehicles to be within metered bay**

(1) Subject to subclause (2), a person must not park a vehicle in a metered bay in a thoroughfare otherwise than—

- (a) wholly within the metered bay; and
- (b) where the metered bay is set out parallel to the kerb—parallel to and as close to the kerb as practicable.

(2) If a vehicle is too long or too wide to fit completely within a single metered bay then the person parking the vehicle must do so within the minimum number of metered bays needed to park that vehicle.

(3) A person must not park a vehicle partly within and partly outside a metered zone.

### **2.6 Permitted insertions in parking meters**

(1) A person must not insert into a parking meter anything other than the designations of coins or banknotes or such other permitted form of payment indicated by a sign on the parking meter.

(2) The insertion of a coin or banknote into any parking meter, or the making of payment in such other form as may be permitted, must be effected only in accordance with the instructions printed on that particular meter.

### **2.7 Parking ticket to be clearly visible**

A driver of a vehicle left parked in a metered zone which is regulated by a ticket issuing machine must, on purchasing a ticket from the machine for a period of parking, place the ticket inside the vehicle in a position where—

- (a) the ticket is clearly visible to; and
- (b) the expiry time or time for which the ticket remains valid is able to be read by,

an authorised person examining the ticket from outside the vehicle.

### **2.8 One vehicle per metered bay**

A person must not park or attempt to park a vehicle in a metered bay in which another vehicle is parking or has parked.

### **2.9 No parking when hood on meter**

Despite any other provision of this local law and despite any other sign or notice, a person must not park a vehicle in a metered bay if the parking meter referable to the metered bay has a hood marked 'No Parking', 'Reserved Parking' or 'Temporary Bus Stand' or equivalent symbols depicting these purposes except with the permission of the Town or an authorised person.

### **2.10 Alternative methods of payment for parking**

(1) The Town may allow a person to pay for parking in advance or in arrears by issuing a permit, invoice, ticket or pass (referred to in this clause as an 'Alternative Method of Payment').

(2) A person who has been permitted by the Town to make an Alternative Method of Payment for parking is exempt from paying fees at the relevant parking facility providing that he or she complies with the terms of the Alternative Method of Payment.

(3) An Alternative Method of Payment may not be used by any person other than the person who received authorisation by the Town.

## **PART 3—PARKING BAYS AND PARKING STATIONS**

### **3.1 Determination of parking bays and parking stations**

(1) The Town may constitute, determine and indicate by signs—

- (a) parking bays;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking bays and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking bays and parking stations;
- (e) permitted classes of persons who may park in specified parking bays or parking stations; and
- (f) the manner of parking in parking bays and parking stations.

(2) Where the Town makes a determination under subclause (1) it shall erect signs to give effect to the determination.

### **3.2 Vehicles to be within parking bay on thoroughfare or parking station**

(1) Subject to subclause (2), a person must not park a vehicle in a parking bay in a thoroughfare or parking station otherwise than—

- (a) where the parking bay is set out parallel to the kerb—parallel to and as close to the kerb as is practicable;
- (b) wholly within the bay; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare or parking station in which the bay is situated.

(2) If a vehicle is too long or too wide to fit completely within a single parking bay then the person parking the vehicle must do so within the minimum number of parking bays needed to park that vehicle.

(3) A person must not park a vehicle partly within and partly outside a parking area.

### **3.3 Payment of fee to park in parking station**

A person must not park a vehicle, or permit a vehicle to remain parked, in a parking station during any period for which a fee is payable unless—

- (a) in the case of a parking station having an authorised person on duty, the appropriate fee is paid when demanded;
- (b) in the case of a Pay as you Leave parking station, the applicable fee is paid before the vehicle leaves the parking station; and
- (c) in the case of a Pay and Display parking station, within a reasonable time of parking the vehicle—
  - (i) the applicable fee is inserted in, or otherwise paid at, a ticket issuing machine for that parking station; and
  - (ii) the ticket from the ticket issuing machine is placed on the drivers side of the vehicle dashboard for the duration of the vehicles stay in the parking station, in such a position that all of it is clearly visible to, and the expiry time or time for which the ticket remains valid is able to be read by, an authorised person examining the ticket from the outside of the vehicle.

### **3.4 Vehicle not to be removed until fee paid**

A person must not remove a vehicle which has been parked in a parking station until the appropriate fee has been paid for the period for which the vehicle has been parked.

### **3.5 Entitlement to receipt**

A person paying a fee at a parking station is entitled to receive a receipt on demand showing the period of parking covered by the payment.

### **3.6 Parking prohibitions and restrictions**

(1) A person must not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
- (b) except with the permission of the Town or an authorised person park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of the vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a bay marked 'M/C', if the bicycle is parked in accordance with subclause (2).

(2) A person must not park a bicycle—

- (a) in a parking bay other than in a bay marked 'M/C'; and
- (b) in such bay other than against the kerb.

(3) Despite subclause (1)(b), a driver may park a vehicle in a bay that is in a parking area (except where it is in a parking area for people with a disability) for twice the length of time allowed if—

- (a) the driver's vehicle displays a disability parking permit; and
- (b) a person with a disability to whom that relates is either the driver of, or a passenger in, the vehicle.

## **PART 4—PARKING GENERALLY**

### **4.1 Restrictions on parking in particular areas**

(1) Subject to subclause (3), a person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—

- (a) if by a sign it is set apart for the parking of vehicles of a different class;
- (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
- (c) during any period when the parking of vehicles is prohibited by a sign.

(2) Subclause (3) applies to a driver if—

- (a) the driver's vehicle displays a disability parking permit; and
- (b) the person to whom the disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.

(3) A driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates, for twice the period indicated on the sign.

(4) A person must not park a vehicle—

- (a) in a no parking area;

- (b) in a parking area, except in accordance both with the signs relating to the parking area and with this local law;
- (c) in a bay marked 'M/C', unless the vehicle is a bicycle or a motorcycle without a sidecar or a trailer;
- (d) at any time in a right of way; or
- (e) unless clauses 3.6(3) and 4.1(3) apply, for more than the maximum time specified by a sign.

(5) A person must not, without the prior permission of the Town, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.

#### **4.2 Parking with a permit**

(1) A sign may indicate that all or part of a parking station or thoroughfare is set aside, during the period indicated on the sign, for the parking of vehicles with a permit.

(2) The Town may issue to a person a permit in respect of all or part of a parking station or a thoroughfare referred to in subclause (1).

(3) A person must not park or stop a vehicle, or permit a vehicle to remain parked, in a parking station or thoroughfare that is set aside under subclause (1) unless the permit issued under subclause (2) is displayed inside the vehicle so that it is clearly visible to an authorised person examining the permit from outside the vehicle.

(4) The Town may, at any time, revoke a permit issued under subclause (2).

#### **4.3 Event parking**

(1) The Town may determine that all or part of a parking station, thoroughfare or public place is set aside for a specified period indicated by a sign, for the parking of vehicles by persons attending a particular event.

(2) The Town may issue to a person a permit in respect of all or part of a parking station, thoroughfare or public place for an event referred to in subclause (1);

(3) A person must not park or stop a vehicle, or permit a vehicle to remain parked, in any area that is set aside under subclause (1) unless the permit issued under subclause (2) for the relevant event is displayed inside the vehicle so that it is clearly visible to an authorised person examining the ticket from outside the vehicle.

#### **4.4 Parking vehicle on a carriageway**

(1) Unless otherwise permitted by a sign, a person parking a vehicle on a carriageway other than in a parking bay must park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between—
  - (i) the vehicle and the farther boundary of the carriageway, or any continuous dividing line or median strip; or
  - (ii) the vehicle and any part of a vehicle parked on the farther side of the carriageway;
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
- (e) so that it does not obstruct any vehicle on the carriageway.

(2) In this clause, 'continuous dividing line' means—

- (a) a single continuous dividing line only;
- (b) a single continuous dividing line to the left or right of a broken dividing line; or
- (c) 2 parallel continuous dividing lines.

#### **4.5 When parallel and right-angled parking apply**

Where a sign relating to a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose) then, unless a sign relating to the parking area indicates that vehicles have to park in a different position—

- (a) where the parking area is adjacent to the boundary of a carriageway a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) where the parking area is at or near the centre of the carriageway—a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

#### **4.6 When angle parking applies**

(1) This clause does not apply to—

- (a) a passenger vehicle of over 3 tonnes;

- (b) a commercial vehicle with a mass including any load, of over 3 tonnes; or
  - (c) a person parking either a motorcycle without a trailer or a bicycle.
- (2) Where a sign relating to a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the parking area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway, unless otherwise indicated by the sign or by marks on the carriageway.

#### **4.7 General prohibitions on parking**

- (1) This clause does not apply to a vehicle parked in a parking bay or to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle parked in a bus embayment.
- (3) Unless a sign indicates otherwise, a person must not park a vehicle so that any portion of the vehicle is—
  - (a) between any other stationary vehicle and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
  - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
  - (e) on or over any footpath or pedestrian crossing;
  - (f) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines;
  - (g) between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
  - (j) within 3 metres of a public letter box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box;
  - (k) within 10 metres of the prolongation of the nearer edge of any intersecting carriageway (without traffic-control signals) intersecting that carriageway on the side on which the vehicle is parked on the carriageway or verge; or
  - (l) on a carriageway or verge within 20 metres from the nearest point of an intersecting carriageway at an intersection with traffic-control signals.
- (4) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side, or within 10 metres of the departure side, of—
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side, or the departure side, of the nearest rail of a railway level crossing.

#### **4.8 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle must not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

#### **4.9 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of making the mark is defeated or likely to be defeated.

#### **4.10 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

#### **4.11 No parking of vehicles exposed for sale and in other circumstances**

A person must not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or

- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than the thoroughfare.

#### **4.12 Parking on private land**

(1) In this clause a reference to 'land' does not include land—

- (a) which belongs to the Town;
- (b) of which the Town is the management body under the *Land Administration Act 1997*;
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act; or
- (d) which is the subject of an agreement referred to in clause 1.4(2).

(2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

(3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

#### **4.13 Parking on reserves**

Other than an employee of the Town in the course of his or her duties or a person authorised by the Town, a person must not drive, stop or park a vehicle on or over any portion of a reserve other than upon an area specifically set aside for that purpose.

#### **4.14 Parking on a carriageway—heavy and long vehicles**

(1) Unless engaged in the picking up or setting down of goods, a person must not park on a carriageway for any period exceeding one hour, a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 3 tonnes.

(2) Nothing in this clause affects the operation of any other clause in this local law, or any other written law relating to the parking or stopping of vehicles.

#### **4.15 Suspension of parking limitations for urgent, essential or official duties**

(1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the Town, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order for the person to carry out urgent, essential or official duties.

(2) Where permission is granted under subclause (1), the Town, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

(3) An authorised person may, in the course of performing his or her duties, park a vehicle contrary to a sign or other restriction in this local law for the minimum amount of time required to complete those duties.

### **PART 5—STOPPING GENERALLY**

#### **5.1 No stopping**

(1) A driver must not stop a vehicle on a length of carriageway, or in an area, to which a 'no stopping' sign applies.

(2) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

#### **5.2 No parking**

A driver must not park a vehicle on a length of carriageway or in an area to which a 'no parking' sign applies.

### **PART 6—STOPPING IN ZONES FOR PARTICULAR VEHICLES**

#### **6.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is—

- (a) a commercial vehicle engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,

and, in any event, the vehicle must not remain in that loading zone—

- (c) for longer than a time indicated on the 'loading zone' sign; or
- (d) for longer than 30 minutes (if no time is indicated on the 'loading zone' sign).

#### **6.2 Stopping in a taxi zone or a bus zone**

(1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.

(2) A driver must not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

#### **6.3 Stopping in a mail zone**

A person must not stop a vehicle in a mail zone.

#### 6.4 Other limitations in zones

A person must not stop a vehicle in a zone to which a sign applies if stopping the vehicle would be contrary to any limitation with respect to the class of persons or vehicles, or the specific activity allowed, as indicated by additional words on the sign.

### PART 7—OTHER PLACES WHERE STOPPING IS RESTRICTED

#### 7.1 Stopping in a shared zone

A driver must not stop a vehicle in a shared zone unless—

- (a) the driver stops the vehicle at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop the vehicle at that place under this local law;
- (b) the driver stops the vehicle in a parking bay and the driver is permitted to stop the vehicle in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste.

#### 7.2 Double parking

(1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to—

- (a) a driver stopped in traffic; or
- (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

#### 7.3 Stopping near an obstruction

A driver must not stop a vehicle on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

#### 7.4 Stopping on a bridge or in a tunnel, etc.

(1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a sign does not prohibit stopping; or
- (b) the driver stops the vehicle at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop the vehicle at that place under this local law.

(2) A driver must not stop a vehicle in a tunnel or underpass unless—

- (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a sign does not prohibit stopping; or
- (b) the vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

#### 7.5 Stopping on crests, curves, etc.

(1) A driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle from a distance of 50 metres.

(2) A driver may stop on a crest or curve on a carriageway if the driver stops at a place on the carriageway to which a parking control sign applies and the driver is permitted to stop at that place under this local law

#### 7.6 Stopping near a fire hydrant etc.

(1) A driver must not stop a vehicle so that any portion of the vehicle is within one metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.

(2) For the purposes of subclause (1) 'unattended', in relation to a vehicle, means that the driver has left the vehicle and is more than 3 metres from the closest point of the vehicle.

#### 7.7 Stopping at or near a bus stop

(1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, unless—

- (a) the vehicle is a public bus stopped to take up or set down passengers; or
- (b) the driver stops at a place on a length of carriageway, or in an area, where the driver is permitted to stop at that place under this local law, whether by a sign or otherwise.

(2) In this clause, distances are measured in the direction in which the driver is driving.

#### 7.8 Stopping on a path, median strip or traffic island

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in a place where the driver is permitted to stop at that place under this local law, whether by a sign or otherwise.

### **7.9 Stopping on a verge**

(1) A person must not—

- (a) stop a vehicle (other than a bicycle);
- (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
- (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the person if he or she is—

- (a) the owner or occupier of the premises immediately adjacent to that verge; or
- (b) is authorised by the occupier of those premises to stop the vehicle so that any portion of it is on that verge.

(3) Subclause (1)(b) does not apply to a commercial vehicle if—

- (a) it is being loaded or unloaded with reasonable expedition with goods or merchandise collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked; and
- (b) no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

### **7.10 Obstructing access to and from a path, driveway, etc.**

(1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

(2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless—

- (a) the driver is dropping off, or picking up, passengers; or
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

### **7.11 Stopping near a public letter box**

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver—

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

### **7.12 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

### **7.13 Stopping on a carriageway with motorcycle parking sign**

The driver of a vehicle must not stop on a length of carriageway, or in an area, to which a 'motorcycle parking' sign applies, or an area marked 'M/C' unless—

- (a) the vehicle is a motorcycle; or
- (b) the driver is dropping off, or picking up, passengers.

## **PART 8—MISCELLANEOUS**

### **8.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

### **8.2 Unauthorised signs and defacing of signs, tickets or permits**

A person must not without the authority of the Town—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the Town under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the Town under this local law or attempt to do any such act;
- (c) deface, alter or misuse a permit or ticket issued by the Town; or
- (d) affix a board, sign, placard, notice or other thing to or paint or write on any part of a sign set up or exhibited by the Town under this local law.

### **8.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

#### 8.4 General provisions about signs

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first three letters of any day of the week when used on a sign indicate that day of the week.

#### 8.5 Special purpose and emergency vehicles

Despite anything to the contrary in this local law, the driver of—

- (1) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place and at any time; and
- (2) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place and at any time.

#### 8.6 Vehicles not to obstruct a public place

- (1) Without the permission of the Town or unless authorised under any written law a person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place.
- (2) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

### PART 9—ENFORCEMENT

#### 9.1 Legal proceedings

Evidentiary provisions relating to offences involving vehicles are contained in Division 2 of Part 9 of the Act.

#### 9.2 Offences and penalties

- (1) A person who breaches a provision of this local law commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not less than \$1000 and not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.
- (5) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units as specified in the *Town of East Fremantle Penalty Units Local Law 2016*.

#### 9.3 Form of notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

### SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 9.2(4)]

Item No.	Clause No.	Nature of offence	Penalty Unit
1	2.2	Failure to pay fee for metered bay	10
2	2.3	Parking in excess of period shown on metered bay	10
3	2.4	Parking when meter has expired	10
4	2.5(1)	Failure to park wholly within metered bay	10
5	2.5(3)	Parking outside metered zone	10
6	2.6	Non-permitted insertion in parking meter	10
7	2.7	Failure to display ticket clearly in metered zone	10
8	2.8	Parking or attempting to park a vehicle in a metered bay occupied by another vehicle	10
9	2.9	Parking contrary to a meter hood	10
10	3.2(1)	Failure to park wholly within parking bay	10

Item No.	Clause No.	Nature of offence	Penalty Unit
11	3.2(3)	Failure to park wholly within parking area	10
12	3.3	Failure to pay parking station fee	10
13	3.3(c)	Failure to display ticket clearly in parking station	10
14	3.4	Leaving without paying parking station fee	10
15	3.6(1)(a)	Causing obstruction in parking station	15
16	3.6(1)(b)	Parking contrary to sign in parking station	10
17	3.6(1)(c)	Parking contrary to directions of authorised person	20
18	3.6(1)(d)	Parking or attempting to park a vehicle in a parking bay occupied by another vehicle	10
19	4.1(1)(a)	Parking wrong class of vehicle	10
20	4.1(1)(b)	Parking by persons of a different class	10
21	4.1(1)(c)	Parking during prohibited period	10
22	4.1(4)(a)	Parking in no parking area	10
23	4.1(4)(b)	Parking contrary to signs or limitations	10
24	4.1(4)(c)	Parking vehicle in motorcycle only area	10
25	4.1(4)(d)	Parking vehicle in a right of way	20
26	4.1(4)(e)	Parking vehicle in excess of maximum time	10
27	4.1(5)	Parking without permission in an area designated for 'Authorised Vehicles Only'	20
28	4.2(3)	Failure to display parking permit	10
29	4.3(3)	Failure to display event parking permit	10
30	4.4(1)(a)	Failure to park on the left of two-way carriageway	10
31	4.4(1)(b)	Failure to park on boundary of one-way carriageway	10
32	4.4(1)(a) or 4.4(1)(b)	Parking against the flow of traffic	10
33	4.4(1)(c)	Parking when distance from farther boundary less than 3 metres	10
34	4.4(1)(d)	Parking closer than 1 metre from another vehicle	10
35	4.4(1)(e)	Causing obstruction	20
36	4.5(a) or 4.5(b)	Failure to park at approximate right angle or parallel to carriageway	10
37	4.6(2)	Failure to park at an appropriate angle	10
38	4.7(3)(a) and 7.2	Double parking	20
39	4.7(3)(b)	Parking on or adjacent to a median strip	20
40	4.7(3)(c)	Denying access to private drive or right of way	10
41	4.7(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	10
42	4.7(3)(e)	Parking on or over footpath/pedestrian crossing	20
43	4.7(3)(f) and (g)	Parking contrary to continuous line markings	10
44	4.7(3)(h)	Parking on intersection	10
45	4.7(3)(i)	Parking within 1 metre of fire hydrant or fire plug	20
46	4.7(3)(j)	Parking within 3 metres of public letter box	10
47	4.7(3)(k)	Parking within 10 metres of intersection	10
48	4.7(3)(l)	Parking within 20 metres of a traffic signal controlled intersection	10
49	4.7(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	10
50	4.7(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	10
51	4.7(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	10
52	4.8	Parking contrary to direction of authorised person	20
53	4.9(2)	Removing mark of authorised person	20
54	4.10	Moving vehicle to avoid time limitation	10
55	4.11(a)	Parking in thoroughfare for purpose of sale	10
56	4.11(b)	Parking unlicensed vehicle in thoroughfare	10

Item No.	Clause No.	Nature of offence	Penalty Unit
57	4.11(c)	Parking a trailer/caravan on a thoroughfare	10
58	4.11(d)	Parking in thoroughfare for purpose of repairs	10
59	4.12(2)	Parking on land that is not a parking facility without consent	10
60	4.12(3)	Parking on land not in accordance with consent	10
61	4.13	Driving or parking on reserve	20
62	4.14	Stopping heavy or long vehicles on carriageway	10
63	5.1(1)	Stopping contrary to a 'no stopping' sign	15
64	5.1(2)	Stopping within continuous yellow lines	10
65	5.2	Parking contrary to a 'no parking' sign	10
66	6.1	Stopping unlawfully in a loading zone	10
67	6.2	Stopping unlawfully in a taxi zone or bus zone	10
68	6.3	Stopping unlawfully in a mail zone	10
69	6.4	Stopping in a zone contrary to a sign	10
70	7.1	Stopping in a shared zone	10
71	7.3	Stopping near an obstruction	20
72	7.4	Stopping on a bridge or tunnel	20
73	7.5	Stopping on crests/curves etc	20
74	7.6	Stopping near fire hydrant	20
75	7.7	Stopping near bus stop	10
76	7.8	Stopping on path, median strip or traffic island	20
77	7.9	Stopping on verge	10
78	7.10	Obstructing path, a driveway etc	20
79	7.11	Stopping near letter box	10
80	7.12	Stopping in bicycle parking area	10
81	7.13	Stopping in motorcycle parking area	10
82	8.6	Leaving vehicle so as to obstruct a public place	20
83	9.2	All other offences not specified	10

Dated 17 June 2016.

The Common Seal of the Town of East Fremantle was affixed by authority of a resolution of the Council in the presence of—

JAMES O'NEILL, Mayor.  
GARY TUFFIN, Chief Executive Officer.

## LOCAL GOVERNMENT ACT 1995

### TOWN OF EAST FREMANTLE

## PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

Under the powers conferred on it by the *Local Government Act 1995* and under all other enabling powers, the Council of the Town of East Fremantle resolved on 21 June 2016 to make this local law.

### PART 1—PRELIMINARY

#### 1.1 Title

This is the *Town of East Fremantle Public Places and Local Government Property Local Law 2016*.

#### 1.2 Commencement

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

#### 1.3 Application

This local law applies throughout the district.

#### 1.4 Repeal and transitional provisions

(1) The following local laws are repealed—

- (a) *By-Laws Relating to Safety, Decency, Convenience and Comfort of Persons in Respect Of Bathing*, published in the *Government Gazette* on 20 January 1978 and amended in the *Government Gazette* on 2 April 1993 and 25 August 2004;
- (b) *Local Government Model By-laws (Street Lawns and Gardens) No 11*, published in the *Government Gazette* on 4 March 1977;
- (c) *By-Laws Relating to Public Reserves*, published in the *Government Gazette* on 4 March 1977, and amended in the *Government Gazette* on 6 January 1978;
- (d) *By-Laws Relating to Prevention of Damage to Obstruction of and Misuse of Council Property and of Property on a Public Reserve*, published in the *Government Gazette* on 20 January 1978;
- (e) *By-Laws Relating to Prevention of Damage to Footpaths*, published in the *Government Gazette* on 20 January 1978;
- (f) *Local Government Property Local Law*, published in the *Government Gazette* on 16 October 2002; and
- (g) *Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law*, published in the *Government Gazette* on 16 October 2002 and amended in the *Government Gazette* on 25 August 2004.

(2) An application for, or the renewal of, a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(3) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

#### 1.5 Definitions

In this local law—

*Act* means the *Local Government Act 1995*;

*applicant* means a person who applies for a licence;

*application* means an application for a licence;

*authorised person* means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

*boat* means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

**building** means any building which is local government property and includes any—

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

**bulk rubbish container** means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

**CEO** means the chief executive officer of the local government;

**children's playground** means an area set aside for use by children and noted by the presence of dedicated children's playground equipment, sand or some other form of soft fall surface;

**commencement day** means the day on which this local law comes into operation;

**Council** means the council of the local government;

**decency** means wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

**determination** means a determination made under clause 2.1;

**entertain** means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

**food** has the meaning given by the *Food Act 2008*;

**function** means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

**garden** means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

**Health Act** means the *Health Act 1911*;

**hire** includes offer to hire and expose for hire;

**indecent exposure** means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

**intersection** has the meaning given to it in the *Road Traffic Code 2000*;

**kerb** includes the edge of a carriageway;

**lawn** means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

**licence** means a licence under this local law;

**licence fee** means the fee payable on the issue of a licence;

**licence document** means a licence document issued under this local law;

**licensed premises** has the same meaning as is given to it in section 3 of the Liquor Control Act;

**licensee** means a person who holds a licence;

**liquor** has the meaning given to it in section 3 of the Liquor Control Act;

**Liquor Control Act** means the *Liquor Control Act 1988*;

**local government** means the Town of East Fremantle;

**local government property** means anything except a street—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act;

**local public notice** has the same meaning as given in section 1.7 of the *Local Government Act 1995*;

**lot** has the meaning given to it in the *Planning and Development Act 2005*;

**manager** means the person for the time being employed or engaged by the local government to control and manage a facility which is local government property, and includes the person's assistant or deputy;

**market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

**nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which—

- (a) is injurious or dangerous to the health of another person of normal susceptibility; or
- (b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person;

**owner or occupier**, in relation to land, does not include the local government;

**penalty unit** has the meaning given to it in the *Town of East Fremantle Penalty Units Local Law 2016*;

**permissible verge treatment** means any one of the treatments described in clause 6.4(2), and includes any reticulation pipes and sprinklers;

**person** does not include the local government;

**prohibited drug** has the same meaning as given in section 3 of the *Misuse of Drugs Act 1981*;

**public place** means—

- (a) a street;
- (b) any local government property; or
- (c) a place to which the public have access;

**Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**repealed local law** means a local law repealed under clause 1.4;

**retailer** means the owner or occupier of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

**Schedule** means a Schedule in this local law;

**sell** includes—

- (a) offer or attempt to sell;
- (b) display for sale;
- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply—
  - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
  - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

**shopping trolley** means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods;

**sign** includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

**street** means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

**street tree** means any tree planted or self sown in the street, of an appropriate species and in an appropriate location, for the purposes of contributing to the streetscape;

**trading** means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
  - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheelchair or any device designed for use, by a physically impaired person on a footpath; and
  - (d) a pram, stroller, shopping trolley or similar device.

**verge** means that part of a street between the carriageway and the land which abuts the street, but does not include any footpath; and

**waste** includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

## 1.6 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

## 1.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the local government, may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

### **1.8 Assistance animals**

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

## **PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY**

### **2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 1—
  - (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

### **2.2 Procedure for making a determination**

- (1) The CEO or an authorised person is to give local public notice of the local government's intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the local government is to decide—
  - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) to amend the proposed determination, in which case subclause (5) is to apply; or
  - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the local government—
  - (a) is to consider those submissions; and
  - (b) is to decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) whether or not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

### **2.3 Discretion to erect sign**

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

### **2.4 Determination to be complied with**

A person must comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### **2.6 Amendment or revocation of a determination**

- (1) The local government may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the local government revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

### **2.7 Activities which may be pursued on specified local government property**

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) take, ride or drive a vehicle, or a particular class of vehicle;
- (b) fly or use a motorised model aeroplane;
- (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (d) launch, beach or leave a boat;
- (e) take or use a boat, or a particular class of boat;
- (f) play or practise—
  - (i) golf or archery;
  - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
  - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; or
- (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

### **2.8 Activities which may be prohibited on specified local government property**

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (d) taking or using a boat, or a particular class of boat;
- (e) the playing or practice of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.

(3) In this clause—

**premises** means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

## 2.9 Sign under repealed local law taken to be determination

- (1) Where a sign erected on local government property has been erected under a repealed local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

## PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

### 3.1 Activities requiring a licence

- (1) A person must not without a licence—
  - (a) subject to subclause (3) hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;
  - (d) teach, coach or train, for profit, any person in any facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted—
    - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) conduct or set up a market on local government property;
  - (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (i) conduct a function on local government property;
  - (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (k) light a fire on local government property except in a facility provided for that purpose;
  - (l) parachute, hang glide, abseil or base jump from or on to local government property;
  - (m) erect a building or a refuelling site on local government property;
  - (n) make any excavation on or erect or remove any fence on local government property;
  - (o) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
  - (q) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property; or
  - (r) conduct an entertainment event on local government property.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### 3.2 Erecting structures or camping

- (1) In this clause—

*facility* has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person must not without a licence—
  - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
  - (b) erect, on local government property, any tent, camp, hut or similar structure; or
  - (c) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless—
    - (i) it is erected for protection from the sun or other elements;
    - (ii) it has an area of no more than 6 square metres;
    - (iii) it has a height of no less than 2.5 metres;
    - (iv) it is removed by that person—
      - (I) immediately on leaving that local government property; and
      - (II) during daylight on the same day on which it was erected;
  - (v) it is for a private use.

(4) The maximum period for which the CEO or an authorised person may approve an application for a licence in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### 3.3 Licence required for possession and consumption of liquor

(1) A person, on local government property, must not consume any liquor or have in her or his possession or under her or his control any liquor, unless—

(a) that is permitted under the *Liquor Control Act*; and

(b) a licence has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

## PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

### *Division 1—Prohibited behaviour*

#### 4.1 Behaviour which interferes with others

A person must not, in or on any local government property, behave in a manner which—

(a) is likely to interfere with the enjoyment of a person who might use the property or who might otherwise lawfully be on the property; or

(b) interferes with the enjoyment of a person using, or otherwise lawfully on, the property.

#### 4.2 Behaviour detrimental to property

(1) A person must not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In subclause (1)—

*detrimental to the property* includes—

(a) removing any thing from the local government property including a rock, a plant or a seat provided for the use of any person; and

(b) destroying, defacing or damaging any thing on the local government property, including a plant, a seat provided for the use of any person or a building.

#### 4.3 Taking or injuring fauna

(1) A person must not take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.

(2) In this clause—

*animal* means any living thing that is not a human being, fly or plant; and

*fauna* means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal—

(a) any class of animal or individual member;

(b) the eggs or larvae; or

(c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.

#### 4.4 Flora

(1) Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not—

(a) remove, damage or interfere with any flora that is on or above any local government property; or

(b) plant or deposit any flora on local government property.

(2) In this clause—

*flora* means all vascular plants, seeds and other flora, whether living or dead.

#### 4.5 Animals

(1) A person must not—

(a) tether any animal to a tree, shrub, tree guard, wall or fence; or

(b) permit any animal to enter upon or into any local government property,

unless authorised by a licence.

(2) In this clause, 'animal' does not include a cat or dog.

#### 4.6 Waste

A person must not deposit or discard waste on local government property except—

(a) in a place or receptacle set aside by the CEO or an authorised person for that purpose and subject to any conditions that may be specified on the receptacle or a sign, such as a condition in relation to the type of waste that may be deposited; or

(b) at an authorised waste transfer station, and subject to directions issued from time to time by the CEO or an authorised person for the orderly and proper use of those waste facilities in relation to—

(i) hours of business;

- (ii) separation of waste into designated receptacles;
- (iii) prohibition of the deposit of certain types of refuse or waste; and
- (iv) conduct of persons, including persons in charge of vehicles, while on the site.

#### **4.7 Intoxicated persons not to enter local government property**

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.

#### **4.8 Decency of dress**

Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to secure decency, or a person is indecently exposed the authorised person may direct that person to put on adequate clothing and that person is to comply with the direction immediately.

### *Division 2—Signs and powers to give directions*

#### **4.9 Signs**

- (1) The local government may erect a sign on local government property—
  - (a) specifying any conditions of use which apply to that property; and
  - (b) for any other purpose relevant to this local law, including giving notice of a breach of clause 4.4 and substituting a sign for flora that has been removed, damaged or interfered with contrary to clause 4.4.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is—
  - (a) not to be inconsistent with any provision of this local law or any determination; and
  - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

#### **4.10 Authorised person to be obeyed**

A person on local government property must obey any lawful direction of the CEO or an authorised person and must not in any way obstruct or hinder the CEO or an authorised person in the execution of her or his duties.

#### **4.11 Refusal of entry and removal**

- (1) If the CEO or an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the CEO or authorised person may—
  - (a) refuse to allow that person to enter local government property; and
  - (b) if the person is on local government property, direct the person to leave the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.

#### **4.12 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the CEO or an authorised person—

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the Regulations, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not for profit body, in any manner he or she thinks fit; or
- (c) in any other case, by donation to a not for profit body incorporated under the *Associations Incorporations Act 1987*.

## **PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**

### *Division 1—Functions and closed property*

#### **5.1 No unauthorised entry to function**

- (1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—
  - (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

#### **5.2 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the CEO or an authorised person.

## *Division 2—Beaches*

### **5.3 Powers of authorised persons or surf life saving club members**

(1) An authorised person employed by the local government may perform all or any of the following functions in relation to a beach—

- (a) patrol any beach;
- (b) carry out any activity on any beach;
- (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
- (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
- (e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.

(2) Subject to subclause (3), the local government may authorise, under section 9.10 of the Act, the members of a surf life saving club to perform all or any of the functions listed in subclause (1).

(3) Members authorised by the local government under subclause (2) must have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.

(4) Under subclause (2), the local government may authorise members generally, or in relation to particular times, days or months.

### **5.4 Authority of local government employee to prevail**

If the local government has authorised a person under clause 5.3(1) and member of a surf life saving club under clause 5.3(2) in relation to the same beach, where they could perform a function referred to in clause 5.3(1) contemporaneously, the authority of an authorised person employed by the local government under clause 5.3(1) is to prevail.

### **5.5 Persons to comply with signs and directions**

A person must—

- (a) not act in contravention of a sign erected on a beach under clause 5.3(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained permission to enter from the club;
- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e); and
- (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.

## *Division 3—Jetties and bridges*

### **5.6 Interpretation**

(1) In this Division—

*jetty* means any jetty, pier, wharf or landing place which is local government property.

(2) This Division applies only to bridges and jetties which are local government property.

### **5.7 When use of jetty is prohibited**

A person must not, without a licence or without first obtaining the consent of the local government, land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed.

### **5.8 Method of mooring boat**

A person in control of a boat must not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

### **5.9 When boat may remain moored**

A person in control of a boat must not moor or make fast the boat to a jetty unless—

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 15 minutes without a licence; or
- (c) where the boat is used at that time for commercial purposes, the person has a licence to do so.

### **5.10 Order for removal of boat**

Despite anything to the contrary in this Division, a person in control of a boat moored or fastened to or alongside a jetty must remove it immediately after being directed to do so by the CEO or an authorised person.

### **5.11 Restrictions on launching**

A person must not, without a licence, launch a boat from or over any jetty (other than a boat ramp).

## 5.12 Limitations on fishing

A person must not—

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

### *Division 4—Toilet blocks and change rooms*

## 5.13 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender must not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender must not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

## 5.14 Use of shower or bath facilities

A person may use a shower or bath facility in changerooms only on conditions that—

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purpose of laundering of clothing or washing of other articles.

## PART 6—ACTIVITIES IN STREETS

### *Division 1—General*

## 6.1 General prohibitions

A person must not—

- (a) plant, or allow to remain, in a street a plant that is or may become an obstruction to a reasonable sight line hazard for a driver of any vehicle negotiating or using the street;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a street unless—
  - (i) the person is the owner or the occupier of the lot abutting that portion of the street and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the street or by the local government, unless—
  - (i) the damage to, or removal of, the street tree is authorised by the CEO or an authorised person in writing; or
  - (ii) the person is acting under authority of written law;
- (d) place, or allow to be placed or remain, on a street any thing (except water) that—
  - (i) obstructs the street; or
  - (ii) results in a hazard for any person using the street;
- (e) unless at the direction of the CEO or an authorised person, damage, remove or interfere with any part of a street, or any structure erected on a street, by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a street; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, roller-blades or similar device.

## 6.2 Activities allowed with a licence

(1) A person must not, without a licence—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;

- (c) cause any obstruction to a vehicle or a person using a street as a street;
  - (d) cause any obstruction to a water channel or a water course in a street;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a street;
  - (f) damage a street;
  - (g) fell or damage any street tree;
  - (h) fell any tree onto a street;
  - (i) light any fire or burn any thing on a street other than in a stove or fireplace provided for that purpose;
  - (j) unless installing, or in order to maintain, a permissible verge treatment—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install, on any part of a thoroughfare, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (k) provide, erect, install or use in or on any building, structure or land abutting on a street any hoist or other thing for use over the street;
  - (l) on a street use anything or do anything so as to create a nuisance;
  - (m) place or cause to be placed on a street a bulk rubbish container;
  - (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a street;
  - (o) carry on any trading on a street;
  - (p) conduct or set up a market on a street; or
  - (q) conduct an entertainment event on a street.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

### 6.3 Notice to owner or occupier

The CEO or an authorised person may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Part.

## *Division 2—Permissible verge treatments*

### 6.4 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may, on that part of the verge directly in front of her or his land, install a permissible verge treatment.
- (2) A permissible verge treatment is—
- (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that—
    - (i) clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
    - (iii) it does not include a wall or built structure; and
    - (iv) it is not of a thorny, poisonous or hazardous nature; and
  - (c) the installation of an acceptable material.
- (3) In this clause *acceptable material* means any material which would create a hard surface, and which has been approved by the local government.
- (4) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.5.

### 6.5 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment must—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a thoroughfare, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;

- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
  - (i) do not protrude above the level of the lawn or verge treatment when not in use;
  - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
  - (iii) do not otherwise present a hazard to pedestrians or other persons.

### 6.6 Transitional provision

(1) In this clause—

*former provisions* means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

### 6.7 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

### *Division 3—Vehicle crossings*

#### 6.8 Temporary crossings

(1) Where it is likely that works on a lot will involve vehicles leaving a street and entering the lot, the person responsible for the works must obtain a licence for the construction of a temporary crossing to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—

- (a) a crossing does not exist; or
- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

(2) The *person responsible for the works* in subclause (1) is to be taken to be—

- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
- (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the CEO approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossing is removed, the licensee must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the street.

#### 6.9 Removal of redundant crossing

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the CEO.

(2) The CEO may give written notice to the owner or occupier of a lot requiring her or him to—

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the street, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

### *Division 4—Property numbers*

#### 6.10 Assignment of numbers

(1) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

(2) In this clause, *number* means a number of a lot with or without an alphabetical suffix indicating the address of a lot by reference to a thoroughfare.

*Division 5—Fencing*

**6.11 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act**

Each of the following places is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

*Division 6—Signs erected by the local government*

**6.12 Signs**

- (1) The local government may erect a sign in a street specifying any conditions of use which apply to that street.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

**6.13 Transitional**

Where a sign erected in a street has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 6.12 if—

- (a) the sign specifies a condition of use relating to the street which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 7—Driving on a closed street*

**6.14 No driving on closed street**

- (1) A person must not drive or take a vehicle on a closed street unless—
  - (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
  - (b) the person has first obtained a licence.
- (2) In this clause—

*closed street* means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

*Division 8—Notices*

**6.15 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a street, the CEO or an authorised person may give a written notice to the owner or the occupier of the land abutting the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

**6.16 Notice to remove hazardous plants**

- (1) Where a plant in a garden creates or may create a hazard for any person using a street, the CEO or an authorised person may give a written notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

**6.17 Notice to remove any thing unlawfully placed on street**

Where any thing is placed on a street in contravention of this local law, the CEO or an authorised person may give a written notice—

- (a) to the owner or the occupier of the property which abuts that portion of the street where the thing has been placed; or
  - (b) to any other person who may be responsible for the thing being so placed,
- requiring the person to remove the thing.

**PART 7—ACTIVITIES IN PUBLIC PLACES**

*Division 1—General provisions*

**7.1 Leaving animal or vehicle in public place**

- (1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

## **7.2 Prohibitions relating to animals**

- (1) In subclause (2), *owner* in relation to an animal includes—
  - (a) an owner of it;
  - (b) a person in possession of it;
  - (c) a person who has control of it; and
  - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal must not—
  - (a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
  - (c) train or race the animal in a public place.
- (3) An owner of a horse must not lead, ride or drive a horse on a street, unless that person does so under a licence or under the authority of a written law.

## **7.3 Shopping trolley to be marked**

A retailer must clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

## **7.4 Person not to leave trolley in public place**

A person must not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

## **7.5 Retailer to remove abandoned trolley**

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the CEO or an authorised officer may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer—
  - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
  - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

## **7.6 Retailer taken to own trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

# **PART 8—LICENSING**

## *Division 1—Applying for a licence*

### **8.1 Application for licence**

- (1) Where a person is required to obtain a licence under this local law, that person must apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law must—
  - (a) be in the form determined by the CEO;
  - (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 by the Council under sections 6.16 to 6.19 of the Act.
- (3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.
- (4) The CEO or an authorised person may require an applicant to give local public notice of the application for a licence.
- (5) The CEO or an authorised person may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

### **8.2 Decision on application for licence**

- (1) The CEO or an authorised person may—
  - (a) approve an application for a licence unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a licence.
- (2) If the CEO or an authorised person approves an application for a licence, he or she is to issue to the applicant a licence in the form determined by the CEO.
- (3) If the CEO or an authorised person refuses to approve an application for a licence, he or she is to give written notice of that refusal to the applicant.

(4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licensee.

### 8.3 General restrictions on grant of licence

(1) The CEO or an authorised person must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.

(2) The CEO or an authorised person must not grant a licence unless the CEO or an authorised person is satisfied that—

- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
- (b) the public place at which the activity is to be provided is suitable for that purpose;
- (c) a licence or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
- (d) the applicant is a fit and proper person to carry on the activity.

(3) The CEO or an authorised person must not grant a licence to an applicant if the applicant has been found guilty of an offence under this local law unless the CEO or an authorised person is satisfied that there are exceptional reasons for doing so.

### 8.4 Amendment of licence

(1) In this clause—

*amend* includes—

- (a) to impose any new condition; and
- (b) to change or remove any existing condition.

(2) The CEO may, by written notice given to the licensee, amend a licence.

(3) An amendment may be made on application made by the licensee or on the CEO's initiative.

## *Division 2—Conditions*

### 8.5 Examples of conditions

(1) Examples of the conditions that the CEO or an authorised person may impose on a licence under clause 8.2(1)(a) or 8.4(2) are conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy adopted by the local government;
- (c) the duration and commencement of the licence;
- (d) the commencement of the licence being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a licence which may be required by the local government under any written law;
- (g) the area of the district to which the licence applies;
- (h) where a licence is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the CEO or an authorised person.

(2) Examples of the type and content of the conditions on which a licence to hire local government property may be issued include—

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the CEO or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the CEO or an authorised person sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, 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 hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, 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 hire of the local government property by the hirer.

## 8.6 Imposing conditions under a policy

(1) In this clause—

*policy* means a local government policy adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a licence may be approved under clause 8.2.

(2) Under clause 8.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.

(3) The CEO or an authorised person must give to the licensee a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clause 8.2(2).

(4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the CEO or an authorised person gives the licensee 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 apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

## 8.7 Compliance with conditions

Where an application for a licence has been approved subject to conditions, the licensee must comply with each of those conditions, as amended.

### *Division 3—Duration of licences*

## 8.8 Duration of licence

A licence 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 licence; or
- (b) suspended or cancelled under this Division.

## 8.9 Renewal of licence

(1) A licensee may apply to the CEO for the renewal of a licence.

(2) An application for renewal must—

- (a) be in the form determined by the CEO;
- (b) be signed by the licensee;
- (c) provide the information required by the form;
- (d) be forwarded to the CEO no later than 28 days before the expiry of the licence, or within a shorter period that the CEO in a particular case permits; and
- (e) be accompanied by any fee imposed by the Council under sections 6.16-6.19 of the Act.

(3) The provisions of this Part that apply to an application for a licence also apply to an application for the renewal of a licence as though it were an application for a licence.

## 8.10 Transfer of licence

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

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

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

(3) Where the CEO or an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the CEO or the authorised person.

(4) Where the CEO or an authorised person approves the transfer of a licence, the local government is not required to refund any part of any fee paid by the former licensee.

## 8.11 Suspension of licence

(1) The CEO may, subject to clause 8.12, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—

- (a) the licensee has contravened a term or condition of a licence;
- (b) the licensee has contravened a provision of this local law; or
- (c) the continued provision of the activity authorised by the licence constitutes or will constitute an unacceptable risk to the safety of the public.

(2) The suspension notice must—

- (a) state the day, or the day and time, on or at which the suspension takes effect;
- (b) state the reasons for the CEO's decision to suspend the licence; and
- (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and

- (d) inform the licensee that the licensee has a right to apply under the Act for a review of the CEO's decision to suspend the licence.

#### **8.12 Proposed suspension**

(1) If the CEO proposes to suspend a licence for the reason mentioned in clause 8.11(1)(a), the CEO must give written notice to the licensee of the proposed suspension.

(2) The notice must—

- (a) state that the CEO proposes to suspend the licence;
- (b) state the reasons for the proposed suspension; and
- (c) inform the licensee that the licensee is entitled to make representation to the CEO in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.

(3) In considering whether to suspend the licence, the CEO must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

#### **8.13 Revocation of suspension**

(1) The CEO must, by written notice given to the licensee revoke the suspension of a licence if the CEO is satisfied that the steps specified in the suspension notice have been taken.

(2) The CEO may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

#### **8.14 Period of suspension**

(1) The suspension of a licence has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—

- (a) the suspension is revoked under clause 8.13;
- (b) the licence is cancelled under clause 8.15 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

#### **8.15 Cancellation of licence**

A licence may be cancelled by the CEO if—

- (a) the licence was obtained improperly;
- (b) the licensee has persistently or frequently contravened a term or condition of the licence, or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the licence has been suspended on the grounds of that risk.

#### **8.16 Surrender of licence**

A licensee may, at any time by notice in writing to the CEO, surrender the licence.

### *Division 4—Responsibilities of licensees and others*

#### **8.17 Production of licence**

A licensee must produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

#### **8.18 Other responsibilities of licensee**

A licensee must, in respect of local government property to which the licence relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to the CEO or an authorised person; and
- (e) prevent the consumption of any liquor on the local government property unless the licence allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

#### **8.19 Production of licence document for amendment**

If the CEO amends or renews a licence, the licensee must, if required by the CEO, produce the licence document to the CEO for amendment within the period specified by the CEO.

#### **8.20 Return of licence document if licence no longer in effect**

If a licence—

- (a) has expired or has not been renewed; or
- (b) has been suspended or cancelled; or
- (c) has been surrendered,

the person who was the licensee must, as soon as practicable after the expiry, suspension, cancellation or surrender, return the licence document to the CEO.

### **8.21 Advertising**

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

### **8.22 False or misleading statement**

A person must not make a false or misleading statement in connection with an application in respect of a licence under this local law.

## **PART 9—OBJECTIONS AND REVIEW**

### **9.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a licence or consent.

## **PART 10—ENFORCEMENT**

### *Division 1—Notices*

#### **10.1 Definition**

In this Division—

*costs* of the local government include its administrative costs.

#### **10.2 Damage to local government property**

If a person unlawfully removes, damages or interferes with local government property or portion of a street, the CEO or an authorised person may give the person a notice requiring that person, within the time specified in the notice, to do any one or more of the following (at the local government's option)—

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or
- (c) pay for the costs of reinstatement or replacement.

#### **10.3 Breach of a licence**

If a licence holder breaches a condition of the licence, or fails to comply with a direction under this local law, the CEO or an authorised person may give the person a notice.

#### **10.4 Notice requirements**

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 10.2 or 10.3, as the case may be.

#### **10.5 Local government may undertake requirements of notice**

- (1) If a person fails to comply with a notice referred to in clause 10.2, the local government may—
  - (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference; and
  - (b) recover from the person, as a debt, the costs of doing so.
- (2) If a person fails to comply with a notice referred to in clause 10.3, the local government may—
  - (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
  - (b) recover from the person, as a debt, the costs of doing so.

#### **10.6 Offence to fail to comply with notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

### *Division 2—Offences and penalties*

#### **10.7 Offences and general penalty**

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### **10.8 Prescribed offences**

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The number of modified penalty units for a prescribed offence is the number specified adjacent to the clause in Schedule 2.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, the local government should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

#### **10.9 Form of notices**

(1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

#### **10.10 Evidence of a determination**

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

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## **SCHEDULE 1—DETERMINATIONS**

[Clause 2.1]

The following determinations are to be taken to have been made by the local government under clause 2.1.

### **PART 1—PRELIMINARY**

#### **1.1 Definition**

In these determinations—

*local law* means the *Public Places and Local Government Property Local Law 2016* made by the local government.

#### **1.2 Interpretation**

Where a term is used but not defined in a determination and that term is defined in this local law then the term is to have the meaning given to it in this local law.

### **PART 2—APPLICATION**

#### **2.1 Vehicles on local government property**

(1) Unless authorised by a licence or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
  - (i) providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle in the course of his or her duties;
- (d) the vehicle is—
  - (i) driven on local government property that has been designated as a golf course;
  - (ii) used in accordance with the conditions set down by the local government or an authorised person; and
  - (iii) of a type allowed to be taken onto the golf course by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

(3) Other than in accordance with paragraphs (b), (c), (d) or (e) of subclause (1), a person must not drive a vehicle on local government property or part of it that is being used for a function for which a licence has been obtained unless permitted to do so by the licence holder or an authorised person.

## 2.2 Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a licence or determination specifies a particular local government property.

## 2.3 Children's playgrounds

(1) The local government may set aside a public reserve or any portion of a public reserve as a children's playground.

(2) The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.

(3) A person over the age specified on that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

## 2.4 Launching and retrieval of boats

A person must not take onto, launch from, or retrieve a boat on local government property except where a licence or a determination specifies a particular local government property unless—

- (a) the person is a local government employee, authorised person; or
  - (i) a contractor engaged by the local government and who is engaged in providing a service or making a delivery in connection with the local government property; or
  - (ii) is maintaining the local government property;
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency; or
- (c) the local government property is a boat ramp that is delineated by a sign to that effect.

## 2.5 Activities prohibited on local government property

(1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or licence.

(2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board—

- (a) inside, or on the curtilage to, a building; or
- (b) in or on a lakebed or waterway.

(3) A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device unless provided by a determination or licence.

## SCHEDULE 2—PRESCRIBED OFFENCES AND MODIFIED PENALTIES

[Clause 10.7]

Item	Clause	Description	Penalty Unit
1	2.4	Failure to comply with a determination	20
2	3.1	Undertaking activity on local government property without a licence	20
3	3.2	Camping on local government property or erecting an unauthorised structure	20
4	3.3	Failure to obtain licence for liquor	20
5	4.1	Behaviour interfering with others	20
6	4.2	Behaviour detrimental to local government property	20
7	4.3	Taking or injuring fauna without authorisation	20
8	4.4	Removing, damaging or depositing flora without authorisation	20
9	4.5	Animal on local government property without a licence	20
10	4.6	Failure to comply with directions regarding deposit or discarding of waste on local government property	30
11	4.7	Under influence of liquor or prohibited drug on local government property	20
12	4.8	Failure to comply with direction of authorised person to put on adequate clothing	20
13	4.9	Failure to comply with sign	20
14	4.10	Failure to comply with direction of authorised person	20
15	5.1, 5.2	Unauthorised entry to event, closed or fenced local government property	20
16	5.5	Failure to comply with sign or direction	20
17	5.7-5.12	Unauthorised or improper use of jetty	20

Item	Clause	Description	Penalty Unit
18	6.1(a), 6.4(b)	Planting or allowing plant or verge treatment in street to become a sightline hazard	20
19	6.1(b)	Damaging a street lawn or garden	20
20	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	30
21	6.1(d)	Obstruction of street	30
22	6.1(e)	Damaging, removing or interfering with street, part of street, sign or structure in a street without authorisation	20
23	6.1(f)	Playing games in street so as to impede vehicles or persons	10
24	6.1(g)	Riding of skateboard or similar device on mall, arcade or veranda of shopping centre	10
25	6.2	Carry on or undertake prohibited activity in street or damage local government property in a street without authorisation	20
26	6.4(4)	Install verge treatment that is not a permissible treatment	20
27	6.5(a), 6.5(d) 6.5(e)	Failure to keep permissible verge treatment in good and tidy condition, obstruct a street, footpath, drain, or driveway	10
28	6.5(c)	Placing an obstruction on or around a verge treatment	10
29	6.5(f)	Failure to ensure sprinklers or reticulation pipes do not protrude above level of verge treatment when not in use, not used at such times as to cause inconvenience to pedestrians, or otherwise present a hazard	10
30	6.8	Failure to obtain licence for a temporary crossing	10
31	6.9	Failure to remove redundant crossing or reinstate kerb, drain, footpath, verge or street	20
32	6.12	Failure to comply with condition of use of a street indicated by a sign	20
33	7.1(1)	Animal or vehicle obstructing public place without authorisation	20
34	7.2(2)	Animal in public place when not led, ridden or driven	20
35	7.3	Failure to clearly mark name or trading name on shopping trolley	10
36	7.4	Person leaving a shopping trolley in a public place other than trolley bay	10
37	7.5	Failure to remove shopping trolley after being advised of location	10
38	8.7	Failure to comply with licence condition	20
39	8.18	Failure to comply with licence condition in relation to local government property	20
40	8.17, 8.19, 8.20	Failure to produce licence for inspection, amendment or to return licence when no longer in effect	20
41	10.6	Failure to comply with notice	30

*Note: Penalty Units are prescribed in the Town of East Fremantle Local Law Relating to Penalty Units. At 31 May 2016 one penalty unit is \$10.00.*

Dated 28 June 2016.

The Common Seal of the Town of East Fremantle was affixed by authority of a resolution of the Council in the presence of—

JAMES O'NEILL, Mayor.  
GARY TUFFIN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995  
DIVIDING FENCES ACT 1961

CITY OF WANNEROO

FENCING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and the *Dividing Fences Act 1961* and under all other enabling powers, the Council of the City of Wanneroo resolved on 28 June 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Title

This is the *City of Wanneroo Fencing Local Law 2016*.

1.2 Commencement

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

1.3 Repeal

The following provisions of the *City of Wanneroo Private Property Local Law 2001*, published in the *Government Gazette* on 30 April 2002, are repealed—

- (a) in clause 1.6, the definitions of “boundary fence”, “dangerous”, “dividing fence”, “estate entry statement”, “estate boundary fence”, “front fence”, “front setback area”, “gradient”, “height”, “industrial lot”, “number”, “open fence”, “retaining wall”, “sacrificial graffiti protection”, “sufficient fence” and “swimming pool”;
- (b) Parts 3 to 9 inclusive;
- (c) Part 11;
- (d) clause 13.1;
- (e) the First, Second, Third and Fourth Schedules; and
- (f) in the Fifth Schedule, all items under the headings of Part 3—Fencing General, Part 5—Estate Fences, Part 6—Tennis Court Fencing, Part 7—Security and Flood Lighting, Part 8—Electrified, Barbed and Razor Wire Fences, Part 9—Street Numbering, Part 11—Private Swimming Pools, and the items under Part 13 relating to clause 13.1(1) and 13.1(2).

1.4 Application of local law

This local law applies throughout the district.

1.5 Terms used

In this local law unless the context requires otherwise—

*Act* means the *Local Government Act 1995*;

*AS/NZS* means an Australian Standard published by the Standards Association of Australia and as amended from time to time;

*authorised person* means a person authorised by the local government under section 9.10 of the Act to carry out functions with respect to this local law;

*commercial lot* means a lot where a commercial use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

*dangerous*, in relation to any fence, means—

- (a) an electrified fence, or one containing barbed or razor wire, other than a fence—
  - (i) in respect of which a permit has been issued and is current; or
  - (ii) that is constructed and maintained in accordance with this local law;
- (b) a fence containing exposed broken glass, or any other potentially harmful projection or material; or
- (c) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

**district** means the district of the local government;

**dividing fence** has the meaning given to it in the *Dividing Fences Act 1961*;

**electrified fence** means a fence carrying or designed to carry an electric charge;

**estate boundary fence** means a fence around the external boundary of a subdivision of land to indicate the extent of that subdivision and includes any special works or construction that identifies the entrance to that land;

**estate entry statement** means a fence or wall that identifies the entrance of an estate, and includes any sign (indicating the estate name and locality), sculpture, flagpole or flag;

**estate fence** means an estate entry statement or an estate boundary fence;

**fence** means any structure that is used or functions as a barrier, irrespective of where it is located, and includes a gate that separates the road reserve and a lot adjacent to the road reserve;

**front boundary** means the boundary that separates a thoroughfare and the front of a lot;

**front fence** means a fence in the front setback area of a lot;

**front setback** means the horizontal distance between the front boundary and a wall of a building, measured at a right angle to the front boundary;

**height**, in relation to a fence, means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level immediately below that point;

**industrial lot** means a lot where an industrial use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

**land** includes a house, building, work or structure, in or on the land;

**local government** means the City of Wanneroo;

**local planning scheme** means a local planning scheme of the local government;

**lot** means a defined portion of land for which a separate certificate of title has been issued and includes a strata lot;

**natural ground level**, in relation to a development, means—

- (a) the level approved, for the purposes of the development, by the local government, under a local planning scheme; or
- (b) in any other case, the level which existed immediately before the commencement of the development (including any site works);

**open fence** means a fence—

- (a) that has continuous vertical gaps with a minimum gap width of 50 mm with the area of gaps being not less than one third of the area of the fence face; and
- (b) the lower portion of which may be closed up to a height of 1.0 m above the natural ground level immediately in front of the fence but, where the natural ground level slopes, the height of the closed portion is to be no more than 1.0 m from the base of the fence;

**penalty unit** has the meaning given to it in clause 4 of the *City of Wanneroo Penalty Units Local Law 2015*;

**permit** means a permit under Part 6;

**person** has the meaning given to it in the *Interpretation Act 1984*;

**planning permit** means a permit given under a local planning scheme;

**public place** means a place to which the public has access;

**reserve** means land (including a parkland or foreshore) in or adjoining the district that is—

- (a) set apart for the use and enjoyment of the public; or
- (b) acquired for public purposes and vested in or under the care, control and management of the local government;

**residential lot** means a lot where a residential use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

**rural lot** means a lot where a rural use—

- (a) is or may be permitted under a local planning scheme; and
- (b) is or will be the predominant use of the lot;

**secondary frontage**, in the case of a lot that has a frontage and access to more than one road, means the longer or longest of the boundaries that separates the lot from a road reserve;

**special residential lot** means a lot within a special residential zone under a local planning scheme;

**special rural lot** means a lot within a special rural zone under a local planning scheme; and

**sufficient fence** means a fence described in clause 2.2.

## **1.6 Interpretation**

Nothing in this local law affects a provision in any other written law in respect of a building licence, or other approval or authorisation that might be required for a fence.

## **PART 2—FENCING—GENERAL**

### **2.1 Dividing fences**

- (1) Unless by agreement between the owners of adjoining properties, a person—
- (a) must not construct or alter a dividing fence on a lot that does not satisfy the requirements of a sufficient fence;
  - (b) must maintain a dividing fence in a condition which satisfies the requirements of a sufficient fence; or
  - (c) must not alter the level of the ground adjoining the boundary so as to change the height of a dividing fence unless the dividing fence is altered, reconstructed or relocated so as to satisfy the requirements of a sufficient fence.
- (2) An agreement in respect of a dangerous fence is taken not to be an agreement between owners of adjoining properties for the purposes of clause 2.1(1).

### **2.2 Sufficient fence**

- (1) Subject to subclauses (2) and (3), a sufficient fence—
- (a) on a residential lot or a special residential lot is a dividing fence constructed and maintained in accordance with the requirements of Schedule 1.
  - (b) on a commercial lot or an industrial lot is a dividing fence constructed and maintained in accordance with the requirements of Schedule 2; and
  - (c) on a rural lot or a special rural lot is a dividing fence constructed and maintained in accordance with the requirements of Schedule 3.
- (2) Where a fence is constructed on or near the boundary between the residential lot, or a special residential lot, and any of the following—
- (a) an industrial lot;
  - (b) a commercial lot;
  - (c) a rural lot; or
  - (d) a special rural lot,

a sufficient fence is a dividing fence constructed and maintained in accordance with the requirements of Schedule 1.

- (3) Where—

- (a) the zoning of a lot is changed from Rural to Residential under a local planning scheme; and
- (b) immediately before that zoning change a dividing fence on that lot is a sufficient fence,

the requirements of Schedule 1 are not to apply to that dividing fence until a residential use becomes the predominant use for that lot.

### **2.3 Fences within front setback—permit requirement**

A person must not, without a permit, construct a fence greater than one metre in height on or near a boundary within the front setback area of a residential lot unless—

- (a) the fence is an open fence that is constructed and maintained in accordance with the requirements of Schedule 1; or
- (b) the fence is a side boundary fence which uniformly slopes down from no more than 1.8m to no more than 1.0 m in height over a maximum distance of 1.5m from the start of the front setback area from the building to the front of the lot.

### **2.4 Fences on secondary frontages**

Subject to clauses 2.3 and 2.5, a person must not, without a permit, construct a fence on any secondary frontage of a residential lot unless the fence is a sufficient fence.

### **2.5 Sightlines at vehicle access point**

- (1) A fence adjacent to a vehicle access point must be truncated with the minimum dimension of the truncation being 1.5m or the fence reduced in height to no more than 0.75m.
- (2) Subclause (1) does not apply—
- (a) to a fence which is an open fence that does not obscure the lines of vision of the driver of a vehicle using the access point; or
  - (b) where there is a distance of 3.5m or more between the fence and a thoroughfare, at their closest point.

### **2.6 Maintenance of fences**

- (1) This clause applies to a fence that is—
- (a) a front fence; or
  - (b) a dividing fence that separates a lot and a thoroughfare.

(2) An owner or occupier of a lot on which a fence is constructed must maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, unsightly, or prejudicial to the amenity of the locality.

### **2.7 Prohibited fencing materials**

- (1) A person must not use broken glass in the construction of a fence.
- (2) Except in accordance with a permit, a person must not use razor wire or other material with spiked or jagged projections in the construction of a fence unless the fence is a sufficient fence.

### **2.8 Gates in fences**

A person must not construct or maintain on a lot a gate—

- (a) in a dividing fence that abuts a thoroughfare, road reserve, pedestrian access way, right of way, reserve, local government property or public property—without a permit or unless the local government has otherwise approved the access; or
- (b) in any other dividing fence—unless the gate opens into the lot or unless it slides parallel to, and on the inside of, the dividing fence.

## **PART 3—ESTATE FENCES**

### **3.1 Estate fence**

- (1) A person must not construct an estate fence without a permit.
- (2) Where an estate fence is constructed and contains an estate name, the estate fence must also depict the suburb name in equal prominence.

### **3.2 Repairs to estate boundary fences**

An owner or occupier of a lot adjacent to an estate boundary fence must, where that fence is damaged, dilapidated or in need of repair, ensure that—

- (a) it is repaired or replaced with the same or similar materials with which it was first constructed; and
- (b) so as far as practicable the repaired or replaced section is the same as the original fence.

## **PART 4—TENNIS COURT FENCING**

### **4.1 Tennis court fencing**

- (1) This clause does not apply to a rural lot.
- (2) A person shall not erect a fence around or partly around a tennis court on a lot unless—
  - (a) the fence is less than 3.6m in height;
  - (b) the whole of the fence is at least 900mm from the boundary between the lot on which the tennis court is located and the adjoining lot or if it is less than 900mm, the owner of the adjoining lot has first been given the opportunity to make submissions to the local government on the location of the fence; and
  - (c) the fence is constructed of chain link fabric mesh and is 50mm x 2.5mm poly-vinyl chloride coated or galvanised, and is erected in accordance with the manufacturer's specification.

## **PART 5—ELECTRIFIED, BARBED AND RAZOR WIRE FENCES**

### **5.1 Requirement for a permit**

- (1) An owner or occupier of a lot must not—
  - (a) have or use an electrified fence on that lot—
    - (i) without first obtaining a permit; and
    - (ii) except in accordance with that permit; or
  - (b) have a fence constructed wholly or partly of barbed or razor wire on that lot (unless it is a sufficient fence)—
    - (i) without first obtaining a permit; and
    - (ii) except in accordance with that permit.
- (2) Clause 5.1(1) does not apply to a fence on a rural lot or a special rural lot where the keeping of stock is permitted and the fence is necessary for stock control.
- (3) A permit to have and use an electrified fence on a lot cannot be issued—
  - (a) if the lot is, or abuts, a residential lot;
  - (b) unless the fence will comply with AS/NZS 3014:2003 as amended from time to time; and
  - (c) unless the fence is rendered inoperable during the hours of business operations, if any, on the lot.
- (4) A permit to have on a lot a fence constructed wholly or partly of barbed or razor wire cannot be issued unless—
  - (a) the fence is proposed to be within 3m of the boundary of the lot; or
  - (b) the barbed or razor wire used in the construction of the fence is to be higher than 2m but not more than 2.4m above the natural ground level.

## PART 6—PERMITS

### 6.1 Application for a permit

- (1) An owner or occupier of land may apply to the local government for a permit under this Part.
- (2) An application for a permit must—
  - (a) be in the form (if any) determined by the local government;
  - (b) include—
    - (i) a written consent signed by the owner of the land on which the proposed fence is to be located—unless the applicant is the owner of that land; and
    - (ii) any further information that may be required by the local government; and
  - (c) be accompanied by any fee imposed by the local government under sections 6.16 to 6.19 of the Act.

### 6.2 Determining an application

- (1) The local government may refuse to consider an application that does not comply with clause 6.1.
- (2) The local government may—
  - (a) approve an application, subject to any conditions that it considers to be appropriate; or
  - (b) refuse an application.
- (3) If the local government approves an application, it is to issue its permit in writing to the applicant.
- (4) The local government may vary a condition to which a permit is subject by giving written notice to the applicant and the varied condition takes effect 7 days after that notice is given.

### 6.3 Revocation of a permit

The local government may revoke a permit if—

- (a) the owner (or the occupier with the owner's written consent) requests the local government to do so;
- (b) the fence to which the permit relates is being, or has been, demolished and is not proposed to be, or has not been, rebuilt for a period of at least 6 months;
- (c) the circumstances are such that the permit could not be issued under this local law; or
- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence that is the subject of the permit.

## PART 7—OBJECTIONS AND REVIEW

### 7.1 Objection and review rights

Division 1 of Part 9 of the Act applies to a decision under this local law to—

- (a) to refuse an application for a permit;
- (b) to impose or vary a condition of a permit; or
- (c) to revoke a permit.

## PART 8—ENFORCEMENT

### 8.1 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 8.2 Prescribed offences

- (1) An offence against a clause specified in Schedule 4 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 4.
- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

### 8.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.17 of the Act is Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

*Schedule 1*

(Clause 2.2(1)(a))

**A SUFFICIENT FENCE ON A RESIDENTIAL OR SPECIAL RESIDENTIAL LOT**

1. This Schedule does not apply to an estate fence.
2. On a residential or special residential lot, a sufficient fence is a dividing fence that—
  - (a) is constructed of—
    - (i) corrugated fibre-reinforced pressed cement sheeting;
    - (ii) timber pickets;
    - (iii) brick, stone or concrete;
    - (iv) factory coloured sheet metal post and panelled fence; or
    - (v) any combination of the materials described in paragraphs (i)-(iv); and
  - (b) in the case of a front fence—
    - (i) is 1.0m or less in height; or
    - (ii) is between 1.0m and 1.8m in height; and is an open fence; and
    - (iii) if the fence is a side boundary fence that uniformly slopes down from no more than 1.8m to no more than 1.0 m in height over a maximum distance of 1.5m from the start of the front set back area from the building to the front of the lot.
  - (c) in the case of any other dividing fence—is between 1.75m and 1.85m in height.

*Schedule 2*

(Clause 2.2(1)(b))

**A SUFFICIENT FENCE ON A COMMERCIAL OR INDUSTRIAL LOT**

1. This Schedule does not apply to an estate fence or a front fence.
2. On a commercial or industrial lot, a sufficient fence is a dividing fence that—
  - (a) is constructed of—
    - (i) link mesh, chain mesh or steel mesh—and is no higher than 2.0m unless it is topped with up to 3 strands of barbed wire to a total height of no more than 2.4m;
    - (ii) fibre reinforced cement sheets;
    - (iii) painted or galvanized steel or aluminium sheeting; or
    - (iv) timber, brick, stone or concrete; and
  - (b) is no more than 2.4m in height.

*Schedule 3*

(Clause 2.2(1)(c))

**A SUFFICIENT FENCE ON A RURAL OR SPECIAL RURAL LOT**

1. This Schedule does not apply to an estate fence.
2. On a rural or special rural lot, a sufficient fence is—
  - (a) a front fence that—
    - (i) is less than 1.0m in height; or
    - (ii) is constructed and maintained as an open fence and does not exceed 1.8m in height; and
  - (b) any other dividing fence that—
    - (i) is no more than 1.2m in height; and
    - (ii) is constructed of posts and wire.

*Schedule 4*

(Clause 8.2)

**PRESCRIBED OFFENCES AND MODIFIED PENALTIES**

Item No	Clause No	Nature of Offence	Penalty Unit
<b>Part 2—Fencing—general</b>			
1	2.1(1)(a)	Constructing or altering a dividing fence which is not a sufficient fence	25
2	2.1(1)(b)	Failing to maintain a fence in a condition to satisfy requirements of a sufficient fence	25

Item No	Clause No	Nature of Offence	Penalty Unit
3	2.1(1)(c)	Altering ground level of a fence without satisfying the requirements of a sufficient fence	25
4	2.3	Constructing without a permit a fence higher than 1 m within the front setback which is not an open fence	25
5	2.4	Constructing without permit a fence which is not a sufficient fence on a secondary frontage	25
6	2.5	Constructing a fence adjacent to an access point without a truncation	25
7	2.6(2)	Failure to maintain a fence in good condition to prevent fence becoming dangerous, dilapidated, unsightly	25
8	2.7(1)	Using broken glass in construction of a fence	25
9	2.7(2)	Using barbed or razor wire, spiked or jagged projections in fence construction without permit	25
10	2.8(a)	Constructing or maintaining a gate in a fence opening on to local government property or a thoroughfare without approval or permit	25
11	2.8(b)	Constructing or maintaining a gate in a fence not opening into the lot or by sliding parallel and on inside of fence	25
<b>Part 3—Estate fences</b>			
12	3.1(1)	Constructing an estate fence without a permit	25
13	3.2(a)	Failure to repair or replace a damaged estate boundary fence with same or similar materials as original fence	25
<b>Part 4—Tennis court fencing</b>			
14	4.1(2)	Constructing tennis court fencing in contravention of local law	25
<b>Part 5—Electrified, barbed and razor wire fences</b>			
15	5.1(1)(a)	Having or using an electrified fence without a permit	25
16	5.1(1)(b)	Having a barbed or razor wire fence without a permit	25
17		Other offences not specified	25

*Note:* Penalty Units are prescribed in the City of Wanneroo Penalty Units Local Law 2015. At 14 November 2015 when the local law came into effect one penalty unit was \$10.00.

The Common Seal of the City of Wanneroo was affixed by authority of a resolution of the Council in the presence of—

T. ROBERTS, Mayor.  
D. SIMMS, Chief Executive Officer.

Date: 11 July 2016.

## LOCAL GOVERNMENT ACT 1995

### CITY OF WANNEROO

## SITE EROSION AND SAND DRIFT PREVENTION LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the City of Wanneroo resolved on 28 June 2016 to make the following local law.

### PART 1—PRELIMINARY

#### 1.1 Title

This is the *City of Wanneroo Site Erosion and Sand Drift Prevention Local Law 2016*.

#### 1.2 Commencement

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

#### 1.3 Purpose

The purpose of this local law is to provide for the regulation, control and management of site erosion, sand and dust on land within the district.

#### 1.4 Repeal

Clause 12.1 and Part 12 of Schedule 5 of the *City of Wanneroo Private Property Local Law 2001* as published in the *Government Gazette* on 30 April 2002 is repealed.

#### 1.5 Application

This local law applies throughout the district.

#### 1.6 Terms used

In this local law, unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*authorised person* means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

*CEO* means the chief executive officer of the local government;

*district* means the district of the local government;

*dust and sand* means granules or particles of rock, earth, clay, loam, silt and any other granular, or airborne particle or like material, and includes gravel;

*land* includes any building or structures on the land;

*local government* means the City of Wanneroo;

*occupier* means any person who, at the time a notice is served, is in control of any place or part of any place or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place to perform any work in relation to any place and includes a builder or contractor;

*penalty unit* has the meaning given to it in the *City of Wanneroo Penalty Units Local Law 2015* and

*Regulations* means the *Local Government (Functions and General) Regulations 1996*.

#### 1.7 Interpretation

(1) A term used in this local law that is not defined in clause 1.5 is to have the meaning given to it in the Act.

(2) Where, under this local law a duty, obligation or liability is imposed on an 'owner or occupier', the duty is taken to be imposed jointly and severally on each owner and occupier.

(3) Where under this local law an act is required to be done or forbidden to be done in relation to any land, an owner or occupier of the land has the duty of causing to be done the act so required to be done, or preventing from being done the act forbidden to be done.

(4) Where this local law refers to the giving of a notice, other than the giving of an infringement notice, no particular form is prescribed and it is sufficient if the notice is in writing giving sufficient details to enable the owner or occupier to know the offence (if any) committed and the measures required to be taken or conditions to be complied with, as the case may be.

## PART 2—SITE EROSION AND DUST

### 2.1 Prevention of erosion and the escape of sand and dust

An owner or occupier of land must take reasonable measures to—

- (a) stabilise sand on the land; and
- (b) ensure no sand or dust is released from or escapes from the land, whether by means of wind, water or any other cause.

### 2.2 Notice may require specified action to prevent

(1) Where the local government or an authorised person is satisfied that—

- (a) an owner or occupier of land has not complied with clause 2.1; or
- (b) sand or dust is escaping, being released or being carried, or is likely to escape, be released or be carried, from any land,

the local government or an authorised person may, by notice in writing, direct the owner or occupier, within a time specified in the notice—

- (c) to comply with clause 2.1;
- (d) clean up and make good any damage resulting from the release or escape of dust or sand from the land; or
- (e) take such other actions or comply with such other conditions as the local government or authorised person considers necessary to prevent or stop the escape, release or carriage of sand or dust from the land, as stipulated in the notice.

(2) An owner or occupier of land to whom a notice is issued under subclause (1) must comply with the requirements of the notice within the time specified in the notice.

## PART 3—OBJECTIONS AND REVIEW

### 3.1 Objections and review

If the local government or an authorised person gives a person notice under clause 2.2(1), Division 1 of Part 9 of the Act and regulation 33 of the Regulations are to apply.

## PART 4—OFFENCES AND PENALTIES

### 4.1 Offences

(1) Any person who—

- (a) fails to comply with a notice under clause 2.2(2);
- (b) fails to do anything required or directed to be done under this local law; or
- (c) does anything which under this local law that person is prohibited from doing,

commits an offence.

(2) Any person who commits an offence under this local law is liable, on conviction, to a penalty not less than \$500 and not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 4.2 Prescribed offences

(1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The number of modified penalty units for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

### 4.3 Form of notices

(1) The form of the infringement notice give under section 9.16 of the Act is Form 2 in Schedule 1 of the Regulations.

(2) The form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

*Schedule 1*  
PRESCRIBED OFFENCES

[clause 4.2]

Item No	Clause	Description	Penalty Unit
1	4.1(1)(a)	Failure to comply with a notice	20
2	4.1(1)(b)	Failure to comply with a direction given	20
3	4.1(1)(c)	Prohibited action under local law	20

*Note:* Penalty Units are prescribed in the City of Wanneroo Penalty Units Local Law. As at 30 October 2015 one penalty unit was \$10.00.

\_\_\_\_\_

The Common Seal of the City of Wanneroo was affixed by authority of a resolution of the Council in the presence of—

T. ROBERTS, Mayor.  
D. SIMMS, Chief Executive Officer.

Date: 11 July 2016.

\_\_\_\_\_

LG301\*

LOCAL GOVERNMENT ACT 1995

*Shire of Bridgetown-Greenbushes*

EXTRACTIVE INDUSTRIES REPEAL LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Bridgetown-Greenbushes resolved on 30 June 2016 to make the following local law.

**1. Citation**

*This local law may be cited as the Shire of Bridgetown-Greenbushes Extractive Industries Repeal Local Law 2016.*

**2. Commencement**

This local law will come into operation 14 days after publication in the *Government Gazette*.

**3. Repeal**

The Shire of Bridgetown-Greenbushes Extractive Industries Local Law as published in the *Government Gazette* on 14 August 2001 and as amended in the *Government Gazette* on 15 February 2002 is repealed.

The local law to repeal the above item was resolved by the Council on 30 June 2016.

\_\_\_\_\_

Dated this Thirtieth day of June 2016.

The Common Seal of the Shire of Bridgetown-Greenbushes was affixed by authority of a resolution of the Council in the presence of—

Cr. JOHN NICHOLAS, President.  
TIMOTHY CLYNCH, Chief Executive Officer.

\_\_\_\_\_

LG302\*

LOCAL GOVERNMENT ACT 1995

HEALTH ACT 1911

*Shire of Mukinbudin*

HEALTH AMENDMENT LOCAL LAW 2016

Under the provisions conferred by Clause 342 of the *Health Act 1911* and in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and all other powers the Council of the Shire of Mukinbudin resolved on 17 February 2016 to make the following local law.

**1. Citation**

This local law may be cited as the *Shire of Mukinbudin Health Amendment Local Law 2016*.

**2. Principal local law**

In this local law, the *Shire of Mukinbudin Health Local Laws 2014*, published in the *Government Gazette* on 10 April 2015 is referred to as the principal local law. The principal local law is amended as follows.

**3. Clause 2.1.6 amended**

In clause 2.1.6 delete “very” and insert “every”.

**4. Clause 2.2.4(4) amended**

In clause 2.2.4(4) delete “Energy Safety WA” and insert “*EnergySafety*”.

**5. Clause 3.2.4 is amended**

Clause 3.2.4 is amended as follows—

(a) In subclause (2)(b) delete reference to “AS1668.2; 1991” and replace with AS1668.2-2012.

(b) In sub clause (3)(a) delete reference to “AS/NZS 3666.2:1995” and replace with “AS/NZS 3666.2:2011”.

**6. Clauses 3.5.1(2)(b), 3.5.1(3)(a), 8.1.3(a), 8.1.4, 8.1.6, 8.3.2(1), 8.3.3, 8.3.4(1), 9.1.2, 9.1.4(a) and 9.1.5 amended**

In clauses 3.5.1(2)(b), 3.5.1(3)(a), 8.1.3(a), 8.1.4, 8.1.6, 8.3.2(1), 8.3.3, 8.3.4(1), 9.1.2, 9.1.4(a) and 9.1.5 delete reference to “Part 12” and replace with “Part 11”

**7. Clause 5.1.2 amended**

In clause 5.1.2 delete “maintain” and insert “keep”.

**8. Clause 5.1.9 amended**

In clause 5.1.9 delete “owner of occupier” and insert “owner or occupier”.

**9. Clause 5.1.10 amended**

In clause 5.1.10 delete “No” and insert “Unless transporting a pet animal or bird, no”.

**10. Clause 7.1.3(3) amended**

In clause 7.1.3(3) move the words “the officer may, by notice in writing, direct as the case may be.” to a new line aligned with the first word of subclause (3) and align the words “within the time and in the manner specified in the notice” with paragraphs (i) and (ii).

**11. Part 11 Schedule 14 amended**

In Part 11 Schedule 14—column B replace “300m” with “1000m” in first five rows.

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Dated: 18th February 2016.

This Local Law was made by the Shire of Mukinbudin at an Ordinary Meeting held on 17 February 2016.

The Common Seal of the Shire of Mukinbudin was hereunto affixed by authority of Council in the presence of—

GARY JOHN SHADBOLT, Shire President.  
STUART DAVID BILLINGHAM, Chief Executive Officer.

Consented to—

T. WEERAMANTHRI, Executive Director, Public Health.

Dated this 21st day of July, 2016.

**LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976**

**SHIRE OF NARROGIN**

**DOGS LOCAL LAW 2016**

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LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976

SHIRE OF NARROGIN

DOGS LOCAL LAW 2016

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on 12 July 2016 to make the following local law.

PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Narrogin Dogs Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

(1) The *By-laws Relating to Dogs* made by the Town of Narrogin and published in the *Government Gazette* on 16 October 1987, are repealed.

(2) The *Shire of Narrogin Dogs Local Law 2005* published in the *Government Gazette* on 7 June 2005, is repealed.

**1.5 Definitions**

In this local law unless the context otherwise requires—

*Act* means the *Dog Act 1976*;

*adjoining* includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

*authorised person* means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

*CEO* means the Chief Executive Officer of the local government;

*dangerous dog* has the meaning given to it by section 3(1) of the Act;

*district* means the district of the Shire of Narrogin;

*dog management facility* has the meaning given to it in section 3(1) of the Act, and includes a kennel establishment;

*infringement notice* means the notice referred to in clause 7.4;

*kennel establishment* means any premises where more than the number of dogs under clause 3.3 over the age of 3 months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

*licence* means a licence to keep an approved kennel establishment on premises granted under clause 4.4;

*licensee* means the holder of a licence granted under clause 4.4;

*local government* means the Shire of Narrogin;

*local planning scheme* means a planning scheme of the local government made under the *Planning and Development Act 2005*;

*notice of withdrawal* means the notice referred to in clause 7.7(1);

*nuisance* means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

- (b) an unreasonable interference with the use and enjoyment of a person's ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**owner**, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

**person liable for the control of the dog** has the same meaning as in section 3(1) of the Act;

**premises** in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

**public place** has the meaning given to it by section 3(1) of the Act;

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule to this local law;

**set fee** means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.9;

**thoroughfare** has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

**transferee** means a person who applies for the transfer of a licence to her or him under clause 4.13.

## PART 2—IMPOUNDING OF DOGS

### 2.1 Fees and charges

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional set fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

### 2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO.

### 2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person or if absent, to the CEO.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
  - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
  - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

### 2.4 Unauthorised release

Unauthorised release of dogs is dealt with by section 43 of the Act.

## PART 3—KEEPING OF DOGS

### 3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

### 3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
  - (a) licensed under Part 4 of this local law as an approved kennel establishment; or

- (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
  - (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are zoned other than for the purposes of general agriculture under a local planning scheme; or
  - (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are zoned for the purposes of general agriculture under a local planning scheme .

### **3.3 Application to keep additional dog or dogs**

Subject to clause 3.5, the local government may consider—

- (1) an application to keep 1 additional dog on premises that are zoned other than for the purposes of general agriculture under a local planning scheme which shall—
  - (a) provide sufficient detail regarding the reason for keeping more than 2 dogs;
  - (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
  - (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (2) an application to keep more than 4 dogs on premises zoned for the purposes of general agriculture under a local planning scheme which shall—
  - (a) provide sufficient detail regarding the reason for keeping more than 4 dogs; and
  - (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.
- (3) applications to keep an additional dog or dogs where—
  - (a) the property is deemed suitable by an authorised person—
    - (i) having sufficient space capable of confining all dogs;
    - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
    - (iii) the care and welfare of the dogs is considered adequate.
  - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and
  - (c) sufficient reason has been provided, including—
    - (i) to replace an elderly or sick dog not expected to live;
    - (ii) a family emergency resulting in the dog being inherited;
    - (iii) merging of 2 households;
    - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
    - (v) on premises zoned for the purposes of general agriculture under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

### **3.4 Determination of application**

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

### **3.5 Where application cannot be approved**

The local government will not approve an application to keep an additional dog or dogs where—

- (a) more than 3 dogs are proposed to be kept on premises zoned other than for the purposes of general agriculture under a local planning scheme;
- (b) more than 6 dogs are proposed to be kept on premises zoned for the purposes of general agriculture under a local planning scheme; or
- (c) where any dog already kept on the premises is a dangerous dog.

### **3.6 Conditions of approval**

- (1) The local government may approve an application for a licence subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.

### **3.7 Revocation of licence to keep additional dogs**

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the licence to keep an additional dog or dogs.

## PART 4—APPROVED KENNEL ESTABLISHMENTS

### 4.1 Application for licence for approved kennel establishment

An application for a licence must be made in the form of Schedule 1, and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.2;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the set fee for the application for a licence referred to in clause 4.9(1).

### 4.2 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application, plans and specifications may be inspected at the offices of the local government.

(3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where—

- (a) a notice given under subclause (1) does not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises.

### 4.3 Exemption from notice requirements

The requirements of clauses 4.1(b), 4.2 and 4.4(a) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements.

### 4.4 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.2(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

### 4.5 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.6;
- (b) any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

### 4.6 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

#### **4.7 Conditions of approval**

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

#### **4.8 Compliance with conditions of approval**

A licensee who does not comply with the conditions of a licence commits an offence.

#### **4.9 Fees**

- (1) On lodging an application for a licence, the applicant is to pay a set fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a set fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a set fee to the local government.
- (4) The set fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

#### **4.10 Form of licence**

The licence is to be in the form determined by the local government from time to time and is to be issued to the licensee.

#### **4.11 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the set fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

#### **4.12 Variation or cancellation of licence**

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
  - (a) on the request of the licensee;
  - (b) following a breach of the Act, the Regulations or this local law; or
  - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
  - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
  - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

#### **4.13 Transfer**

- (1) An written application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made by the transferee;
  - (b) made with the written consent of the licensee; and
  - (c) lodged with the local government together with—
    - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
    - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.9(3); and
    - (iii) any other relevant information required.
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

#### **4.14 Notification**

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;

- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

#### **4.15 Objections and appeals**

(1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—

- (a) grant an application for a licence;
- (b) vary or cancel a licence; or
- (c) impose or amend a condition to which a licence is subject.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

#### **4.16 Inspection of kennel**

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

### **PART 5—DOGS IN PUBLIC PLACES**

#### **5.1 Places where dogs are prohibited absolutely**

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

#### **5.2 Places which are dog exercise areas**

Designation of places which are dog exercise areas is dealt with in the Act.

### **PART 6—MISCELLANEOUS**

#### **6.1 Fees and charges**

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

#### **6.2 Offence to excrete**

- (1) A dog must not excrete on—
  - (a) any thoroughfare or other public place; or
  - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

### **PART 7—ENFORCEMENT**

#### **7.1 Offences**

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

#### **7.2 General penalty**

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

#### **7.3 Modified penalties**

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

#### **7.4 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

### 7.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

### 7.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

### 7.7 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

### 7.8 Service of notices

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

## Schedule 1—Application for a licence for an approved kennel establishment

[cl. 4.1]

### Shire of Narrogin

I / We (full name/s)—	
Postal address—	
Telephone number—	
Mobile number—	
Fax number—	
E-mail address—	
	Apply for a licence for an approved kennel establishment.
Address of proposed premises—	
For number of dogs—	
Breed of dogs—	
<b>EITHER</b>	Person residing on the premises.
Name	
As from	
<b>OR</b>	Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare.
Name—	
Address—	
As from—	
	Attached are—
(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;	
(b) plans and specifications of the proposed kennel establishment;	
(c) copy of notice of proposed use to appear in newspaper;	
(d) copy of notice of proposed use to be given to adjoining premises;	
(e) written evidence that a person will reside— <ul style="list-style-type: none"><li>• at the premises; or</li><li>• sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and</li></ul>	
(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.	
Signature of applicant/s—	
Date—	

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NOTE—a licence will have effect for a period of 12 months if issued—*Dog Act 1976 section 27(5)*

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OFFICE USE ONLY

Application fee paid on—  
Receipt No—

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**Schedule 2—Conditions of a licence for an approved kennel establishment**

[cl. 4.7]

**Shire of Narrogin**

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
  - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
  - (ii) 10m from any dwelling; and
  - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
  - (i) at least 100mm above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;
  - (ix) free from cracks, crevices and other defects; and
  - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
  - (i) 2m; or
  - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;

- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
  - (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

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**Schedule 3—Prescribed offences**

[cl. 7.3]

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
3	6.2	Dog excreting in prohibited place	100	100

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Dated 12 July 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of—

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

PARKING LOCAL LAW 2016

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## LOCAL GOVERNMENT ACT 1995

### SHIRE OF NARROGIN

## PARKING LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on 12 July 2016 to make the following local law.

### PART 1—PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *Shire of Narrogin Parking Local Law 2016*.

#### 1.2 Commencement

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

#### 1.3 Application

This local law applies throughout the district.

#### 1.4 Repeal

The *Town of Narrogin Parking Facilities By-Laws No. 19* published in the *Government Gazette* on 11 May 1979, and amended from time to time is repealed.

#### 1.5 Definitions

(1) In this local law unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*authorised person* means a person appointed by the local government to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the local government, CEO, authorised person or by any written law to stop or park on a thoroughfare or on a parking facility;

*bicycle* has the meaning given to it by the Code;

*bicycle path* has the meaning given to it by the Code;

*built-up area* has the meaning given to it by the Code;

*bus stop* has the meaning given to it by the Code;

*bus zone* has the meaning given to it by the Code;

*caravan* has the meaning given to it by section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

*carriageway* has the meaning given to it by the Code;

*CBD* means the area of Narrogin townsite bounded by, and including both sides of the thoroughfares—

(a) Clayton Road;

(b) Earl Street;

(c) Park Street; and

(d) the western boundary of Great Southern railway;

*centre* in relation to a carriageway, has the meaning given to it by the Code;

*CEO* means the Chief Executive Officer of the local government;

*children's crossing* has the meaning given to it by the Code;

*Code* means the *Road Traffic Code 2000*;

*commercial vehicle*—

(a) means a vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a vehicle for the conveyance of passengers; and

- (b) includes any vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**disability parking permit** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**dividing line** has the meaning given to it in the Code;

**driver** means any person driving or in control of a vehicle;

**edge line** has the meaning given to it by the Code;

**emergency vehicle** has the meaning given to it by the Code;

**footpath** has the meaning given to it by the Code;

**GVM** or “gross vehicle mass” has the meaning given to it by the *Road Traffic (Vehicles) Act 2012*;

**heavy vehicle** has the meaning given to it by the Code;

**infringement notice** means the notice referred to in clause 7.5;

**keep clear marking** has the meaning given to it by the Code;

**kerb** means the constructed border or edge of the portion of a road paved for the use of vehicular traffic where any constructed border exists at the edge of the paved road and whether any footpath has been constructed or not;

**level crossing** has the meaning given to it by the Code;

**loading zone** has the meaning given to it by the Code;

**local government** means the Shire of Narrogin;

**local planning scheme** means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;

**median strip** has the meaning given to it by the Code;

**motorcycle** has the meaning given to it by the Code;

**motorised scooter** has the meaning given to it by the Code, and includes a motorised wheelchair that is designed so as to be not capable of a speed exceeding 10 kilometres per hour;

**nature strip** has the meaning given to it in the Code;

**no parking area** has the meaning given to it in the Code;

**no parking sign** means—

- (a) a sign with the words “no parking” in red letters on a white background, or
- (b) the letter “P” within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given to it in the Code;

**no stopping sign** means a sign with—

- (a) the words “no stopping” or “no standing” in red letters on a white background;
- (b) the words “no stopping” or “no standing” in white letters on a red background; or
- (c) the letter “S” within a red annulus and a red diagonal line across it on a white background;

**notice of withdrawal** means the notice referred to in clause 7.6(1);

**occupier** has the meaning given to it in section 1.4 of the Act;

**owner** where used in relation to—

- (a) a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under the *Road Traffic (Vehicles) Act 2012*;
- (b) any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) land, has the meaning given to it in section 1.4 of the Act;

**park** has the meaning given to it by the Code;

**parking area** has the meaning given to it by the Code;

**parking bay** and **parking lane** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking control sign** has the meaning given to it by the Code;

**parking facilities** includes—

- (a) land, buildings, shelters, places, parking bays, parking lanes and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) signs, notices and facilities used in connection with the parking of vehicles;

**path** has the meaning given to it in the Code;

**pedestrian crossing** has the meaning given to it by the Code;

**permit parking area** has the meaning given to it by the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**public bus** has the meaning given to it by the Code, and includes a school bus in the performance of its duties;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the *Land Administration Act 1997*;

**right of way** means a thoroughfare separating 2 portions of land by a public reserve, road, laneway, pedestrian access way, and includes the access leg of a battle-axe lot or the equivalent not more than 6m in width;

**Schedule** means a Schedule to this local law;

**school bus** means a vehicle that is used solely or principally for the carriage of children to and from school, and is equipped to seat 8 or more persons, including the driver;

**shared zone** has the meaning given to it by the Code;

**sign** includes a parking control sign or other sign, inscription, road marking, painted line, mark, structure or other device or method approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking facilities or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the stopping and parking of vehicles;

**special purpose vehicle** has the meaning given to it by the Code;

**stop** in relation to a vehicle, has the meaning given to it by the Code;

**symbol** has the meaning given to it by the Code;

**taxi** has the meaning given to it by the Code;

**taxi zone** has the meaning given to it by the Code;

**thoroughfare** has the meaning given to it in section 1.4 of the Act;

**traffic island** has the meaning given to it by the Code;

**trailer** has the meaning given to it by the Code;

**vehicle** has the meaning given to it in the *Road Traffic (Administration) Act 2008*, but does not include a motorised scooter; and

**verge** has the same meaning as *nature strip*.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the *Road Traffic Act 1974*, the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Vehicles) Act 2012* or in the Code, then the term shall have the meaning given to it in that Act or the Code.

## PART 2—ADMINISTRATION

### 2.1 Powers of the local government

- (1) The local government may, by resolution, prohibit or regulate, including but not limited to—
  - (a) the stopping or parking of any vehicle or any class of vehicle;
  - (b) parking bays;
  - (c) parking facilities;
  - (d) permitted time and conditions of parking in parking bays and parking facilities which may vary with the locality;
  - (e) permitted classes of vehicle which may park in parking bays and parking facilities;
  - (f) permitted classes of persons who may park in specified parking bays or parking facilities; and
  - (g) the manner of parking in parking bays and parking facilities.
- (2) Where the local government makes a resolution under subclause (1), it must erect signs to give effect to the resolution.

### 2.2 Thoroughfares under control of Commissioner of Main Roads

- (1) Subject to subclause 2, this local law does not apply to—
  - (a) the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
  - (b) prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
  - (c) any road which comes under the control of the Commissioner of Main Roads.
- (2) Upon request of the local government, the control of parking and parking facilities on a thoroughfare under the control of the Commissioner of Main Roads may be delegated by the Commissioner of Main Roads to the local government.

### **2.3 Parking not under the control of the local government**

(1) This local law does not apply to a parking bay, parking lane or parking facility that is not occupied, managed or controlled by the local government, unless the local government and the owner or occupier of that land or facility have agreed in writing that this local law will apply to that land or facility.

(2) The agreement referred to in subclause (1) may be made on such terms and conditions as the parties may agree.

### **2.4 Classes of vehicle**

For the purpose of this local law, vehicles are divided into the following classes—

- (a) public buses and school buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

## **PART 3—PARKING THROUGHOUT THE DISTRICT**

### *Division 1—District generally*

#### **3.1 Application of Part 3**

This Part applies to the whole of the district.

#### **3.2 Parking for people with disabilities**

For avoidance of doubt, and notwithstanding clause 2.3(1), the provisions of the *Local Government (Parking for People with Disabilities) Regulations 2014*, apply throughout the district to all parking bays, parking lanes or parking facilities, whether under the control of the local government or not, which are a public place.

#### **3.3 Parking vehicles on a carriageway**

A person parking a vehicle on a carriageway other than in a parking bay shall park it—

- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
- (c) so that at least 3 metres of the width of the carriageway lies between—
  - (i) the vehicle and the farther boundary of the carriageway, any dividing line or median strip, or
  - (ii) the vehicle and a vehicle parked on the farther side of the carriageway;
- (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
- (e) so that it does not obstruct any vehicle on the carriageway.

#### **3.4 Parking near a railway level crossing**

A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

#### **3.5 Parking on reserves**

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

#### **3.6 General prohibitions on parking**

(1) This clause does not apply to a vehicle parked in a parking bay nor to a bicycle in a bicycle rack.

(2) Subclauses (3)(c), (e) and (g) do not apply to a public bus or school bus which parks in a bus zone.

(3) Subject to any applicable law, unless a sign or markings on the carriageway indicate otherwise, a person shall not park a vehicle so that any portion of the vehicle is—

- (a) between any other stationary vehicles and the centre of the carriageway, except where—
  - (i) a driver stopped in traffic; or
  - (ii) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law;
- (b) on or adjacent to a median strip;
- (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;

- (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath, children's crossing or pedestrian crossing;
  - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 dividing lines or between a double longitudinal line consisting of a dividing line and a broken or dotted line and the boundary of a carriageway nearer to the dividing line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
  - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
  - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug; or
  - (j) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side or within 10 metres of the departure side of—
- (a) a sign inscribed with the words "Bus Stop" or "Hail Bus Here" (or with equivalent symbols depicting these purposes) unless the vehicle is a public bus or school bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.

### **3.7 Restrictions on parking in particular areas**

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare, part of a thoroughfare, or part of a parking facility—
- (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking facility, except in a thoroughfare or a part of a thoroughfare or part of a parking facility to which a disabled parking sign relates for twice the period indicated on the sign, if—
- (a) the driver's vehicle displays a valid disability parking permit sticker; and
  - (b) a person with a disability to which the valid disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) A person shall not park a vehicle in a parking bay marked "M/C" unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating "Authorised Vehicles Only".

### **3.8 Vehicles not to obstruct a thoroughfare or public place**

A person shall not leave a vehicle, or any part of a vehicle, in a thoroughfare or public place including a right of way, so that it obstructs the use of any part of that thoroughfare or public place without the permission of the local government or unless authorised under any written law.

### **3.9 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

### **3.10 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

## *Division 2—No Parking and No Stopping*

### **3.11 No parking**

A driver shall not park on a length of carriageway or in an area to which a "no parking" sign applies, unless the driver is—

- (a) is dropping off, or picking up, passengers or goods;
- (b) remains within 3 metres of the vehicle at all times; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

### **3.12 No stopping**

- (1) A driver shall not stop on a length of carriageway, or in an area, to which a "no stopping" sign applies or in an area with keep clear markings.
- (2) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

### **3.13 Application of particular definitions**

For the purposes of the application of clause 3.11 and clause 3.12 an arrow inscribed on a sign erected at an angle to the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the carriageway.

#### *Division 3—Stopping in particular circumstances*

### **3.14 Stopping near an obstruction**

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

### **3.15 Stopping on a bridge, etc.**

A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless—

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a parking control sign does not prohibit stopping or parking; or
- (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **3.16 Stopping on crests, curves, etc.**

(1) A driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.

(2) A driver may stop on a crest or curve on a carriageway if the driver stops at a place on the carriageway to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

### **3.17 Stopping near a fire hydrant, etc.**

A driver shall not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—

- (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and remains within 3 metres of the vehicle at all times; or
- (b) the driver is driving a taxi, and the driver stops in a taxi zone and remains within 3 metres of the vehicle at all times.

### **3.18 Obstructing access to and from a path, driveway, etc.**

A driver shall not stop a vehicle so that any portion of the vehicle is in front—

- (a) of a path, in a position that obstructs access by vehicles or pedestrians to or from that path;
- (b) on or across a driveway or other way of access for vehicles travelling to or from adjacent land;

unless—

- (c) the driver is dropping off, or picking up, passengers; or
- (d) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law.

#### *Division 4—Signs*

### **3.19 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### **3.20 Pre-existing signs**

(1) A sign is deemed for the purposes of this local law to have been erected by the local government under the authority of this local law where that sign—

- (a) was erected by the local government or the Commissioner of Main Roads prior to the commencement of this local law; and
- (b) relates to the parking of vehicles within the district.

(2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor, and where the inscription, word, number, expression or symbol relates to the stopping of vehicles, it is to be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

### **3.21 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

### **3.22 Unauthorised signs and defacing of signs**

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;

- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

### **3.23 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

### *Division 5—Zones for particular vehicles*

#### **3.24 Stopping in a loading zone**

A person shall not stop a vehicle in a loading zone unless it is—

- (a) a vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a vehicle that completes the dropping off or picking up of passengers within 2 minutes of stopping and then drives on,

but, in any event, shall not remain in that loading zone—

- (c) for longer than a time indicated on the “loading zone” sign; or
- (d) longer than 30 minutes, if no time is indicated on the sign.

#### **3.25 Stopping in a taxi zone or a bus zone**

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus or a school bus.

#### **3.26 Stopping in a shared zone**

A driver shall not stop in a shared zone unless—

- (1) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (2) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (3) the driver is dropping off, or picking up, passengers or goods; or
- (4) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

#### **3.27 Other limitations in zones**

A person shall not stop a vehicle in a zone to which a sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a parking control sign that applies to the zone.

## **PART 4—PARKING IN BUILT-UP AREAS**

### *Division 1—Built-up areas generally*

#### **4.1 Application of Part 4**

This Part applies to built up areas of the district.

#### **4.2 No parking of vehicles exposed for sale and other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

#### **4.3 Parking on a carriageway with heavy and long vehicles**

- (1) Unless engaged in the picking up or setting down of goods, a person shall not park on any part of a carriageway for any period exceeding 1 hour, a vehicle or any combination of vehicles, that together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes.
- (2) Nothing in this clause affects the operation of any other clause in this local law or any other written law relating to the parking or stopping of vehicles.

#### **4.4 Event parking**

- (1) The local government may determine that all or part of a parking facility, thoroughfare or public place is set aside, during the period indicated in a sign, for the parking of vehicles by persons attending a particular event.

(2) The local government may issue to a person a permit in respect of all or part of a parking facility, thoroughfare or public place for an event referred to in subclause (1).

(3) A person must not park or stop a vehicle, or permit a vehicle to remain parked, in any area that is set aside under subclause (1) unless the permit issued under subclause (2) for the relevant event is displayed inside the vehicle so that it is clearly visible to an authorised person examining the ticket from outside the vehicle.

#### *Division 2—Parking bays, parking lanes, and parking facilities*

##### **4.5 Vehicles to be within parking bays or parking lanes on thoroughfare**

(1) Subject to subclause (2) and (3), a person shall not park a vehicle in a parking bay in a thoroughfare otherwise than—

- (a) parallel to and as close to the kerb as is practicable;
- (b) wholly within the parking bay or parking lane; and
- (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the parking bay is situated.

(2) If a vehicle is too long or too wide to fit completely within a single parking bay then the person parking the vehicle shall do so within the minimum number of parking bays needed to park that vehicle.

(3) A person shall not park a vehicle partly within and partly outside a parking area.

##### **4.6 Parking prohibitions and restrictions**

(1) A person shall not—

- (a) park a vehicle so as to obstruct an entrance to, or an exit from parking facilities, or an access way within parking facilities;
- (b) except with the permission of the local government or an authorised person, park a vehicle on any part of a parking facility contrary to a sign referring to that part;
- (c) permit a vehicle to park in any part of parking facilities, if an authorised person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking bay in which another vehicle is parked, unless—
  - (i) parking of a motorcycle and a bicycle together in a parking bay marked “M/C”, and
  - (ii) the bicycle is parked in accordance with subclause (2).

(2) A person must not park a bicycle—

- (a) in a parking bay other than in a parking bay marked for motorcycles only; and
- (b) other than against the kerb.

(3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a parking bay or facility (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—

- (a) the driver’s vehicle displays a valid disability parking permit; and
- (b) a person with a disability to which a valid disability parking permit relates is either the driver of or a passenger in the vehicle.

##### **4.7 Angle parking**

(1) This clause does not apply to—

- (a) a vehicle with a mass including any load, of over 4.5 tonnes; or
- (b) a person parking either a motorcycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking”, or with an equivalent symbol depicting this purpose, a person stopping or parking a vehicle shall stop or park the vehicle at an angle and in the position indicated by the inscription on the parking sign or by marks on the carriageway.

#### *Division 3—Stopping in particular circumstances*

##### **4.8 Stopping at or near a bus stop**

A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, measured in the direction of traffic movement on that portion of the thoroughfare, unless—

- (a) the vehicle is a public bus or school bus stopped to take up or set down passengers; or
- (b) the driver stops at a place on a length of carriageway, or in an area permitted by a parking control sign.

##### **4.9 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless permitted by a parking control sign.

#### **4.10 Stopping on verge**

- (1) A person shall not stop so that any portion of the following is on or projects over a verge—
- (a) a vehicle (other than a bicycle);
  - (b) a commercial vehicle or any combination of vehicles that exceeds 4.5 tonnes GVM, a public bus, a trailer or caravan unattached to a vehicle; or
  - (c) any vehicle (other than a bicycle) during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the land adjacent to that verge, or is a person authorised by the occupier of that land to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle or any vehicle with a GVM that exceeds 4.5 tonnes when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the land adjacent to the portion of the verge on which the vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

#### **4.11 Stopping on a carriageway with motorcycle parking sign**

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a “motorcycle parking” sign applies, or an area marked “M/C” unless—

- (a) the vehicle is a motorcycle; or
- (b) the driver is dropping off, or picking up, passengers.

#### **4.12 Stopping on a carriageway with a bicycle sign**

Unless dropping off or picking up passengers, the driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which any of the following apply—

- (a) a “bicycle path” sign;
- (b) a “bicycle parking” sign; or
- (c) a “dual use path” or other sign indicating bicycles are permitted to use the path.

### **PART 5—PARKING IN THE CBD**

#### **5.1 Application of Part 5**

This Part applies to the thoroughfares and parking facilities within the CBD.

#### **5.2 Timed parking**

- (1) Where indicated by a sign, timed parking applies to CBD thoroughfares from 8.00 am to 6.00 pm Monday to Friday and 8.00 am to 12.30 pm Saturday, except public holidays.
- (2) The period for which parking is permitted is that indicated on the sign.

#### **5.3 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an authorised person so that the purpose of the making the mark is defeated or likely to be defeated.

#### **5.4 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a thoroughfare or parking facility is permitted for a limited time, a person shall not move a vehicle within the thoroughfare or parking facility so that the total time of parking exceeds the maximum time allowed for parking in the thoroughfare or parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle to another parking bay within 50 metres so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the vicinity for at least 30 minutes.

### **PART 6—MISCELLANEOUS**

#### **6.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an authorised person.

#### **6.2 Emergency and special purpose vehicles**

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) an emergency vehicle may, in the course of their duties and when it is expedient and safe to do so or where they believe that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time; and
- (b) a special purpose vehicle may, only in the course of his or her duties and when it is necessary and safe to do so, stop, or park the vehicle in any place, at any time.

### 6.3 Removal and impounding of vehicles

- (1) The impounding of vehicles and other goods shall be carried out in accordance with Part 3 Division 3 Subdivision 4 of the Act and regulation 29 of the *Local Government (Functions and General) Regulations 1996*.
- (2) An employee authorised specifically for the purposes of section 3.39 of the Act and this clause may remove and impound any vehicle that is involved in a contravention that can lead to impounding.
- (3) A person authorised to impound a vehicle in accordance with subclause (2) may use reasonable force to exercise the power given by that clause.
- (4) The form of the notice referred to in section 3.42 of the Act is set out in Schedule 1.

### 6.4 Notice to owner of vehicle involved in offence

The owner of a vehicle may be required to identify the driver or person in charge of a vehicle at the time when an offence is alleged to have been committed by sending a notice in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

## PART 7—ENFORCEMENT

### 7.1 Legal proceedings

Evidentiary provisions relating to offences involving vehicles are contained in Division 3 of Part 9 of the Act.

### 7.2 Offences

A person who breaches a provision of this local law commits an offence.

### 7.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of the day during which the offence has continued.

### 7.4 Modified penalties

- (1) The offences contained in the Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the final column of Schedule 3 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

### 7.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of either—

- (a) Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; or
- (b) Schedule 2 of this local law, in accordance with section 9.18 of the Act.

### 7.6 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
- (2) A person authorised to issue an infringement notice under clause 7.5 cannot sign or send a notice of withdrawal.

## Schedule 1—Notification of impoundment of vehicle

[cl. 6.3]

### Shire of Narrogin

To (full name/s)—	
Of (address)—	
	Department of Transport records indicate that you are the registered owner of the vehicle detailed below and notice is hereby given that the vehicle has been impounded in accordance with the provisions of the <i>Local Government Act 1995</i> .
Make—	
Model—	
Registration—	
Impounded from—	
Positioned at/near—	
Date impounded—	
Time impounded—	
	The vehicle has been taken to a secure facility.

Facility address—	
	<b>IT IS A REQUIREMENT THAT ALL PAYMENTS ARE RECEIVED PRIOR TO THE RELEASE OF THE VEHICLE.</b>
Documentation required—	The following must be produced before payment can be accepted and release of the vehicle is permitted— <ul style="list-style-type: none"> <li>• Current vehicle registration document.</li> <li>• Drivers licence or other legal form of identification.</li> <li>• Payment receipt (required for vehicle release at secure facility).</li> </ul>
Payment in person only—	Chief Executive Officer Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312 Between—8.30am and 4.30pm Monday to Friday (except public holidays) Payments by cash, cheque or EFTPOS.
	The vehicle will then be available for release, by contacting the Shire to make the necessary arrangements.
Vehicle impound fee—	
Additional days storage fee or part thereof—	

(1) Subject to clause 2 below, if your vehicle is not collected within 2 months after the date of this notice the Shire may either—

- (a) under section 3.46 of the *Local Government Act 1995* refuse to allow the vehicle to be collected until the Shire's costs of removing and keeping the vehicle have been paid to the Shire; or
- (b) under section 3.47 of the *Local Government Act 1995* sell or otherwise dispose of the vehicle and credit the money received from that sale or disposal to the Shire's Trust Fund except to the extent required to meet the cost and expenses incurred by the Shire in removing, impounding and selling of the vehicle.

(2) If the Local Government has made a declaration that in accordance with 3.40A(4) of the *Local Government Act 1995* the vehicle is an abandoned wreck then the vehicle may be disposed of within 7 days of that declaration being made.

If you are convicted of an offence against this Local Law, section 3.48 of the *Local Government Act 1995* allows the Shire to recover from you its outstanding expenses incurred in the removing, impounding and selling of the vehicle.

Take note—	Unless all fees are paid for and the vehicle collected within 2 months from the date of impounding, the Shire may sell the subject vehicle.
Authorised person—	
Name	
Signature	
Title	
Date issued—	

**Schedule 2—Infringement notice and notice requiring owner of vehicle to identify vehicle**

[cl. 7.5(b)]

**Shire of Narrogin**

<b>INFRINGEMENT NUMBER—</b>	
To (full name/s)—	
Of (address)—	
	It is alleged that—
On (day)—	
At (time)—	
	Your vehicle—
Make—	
Model—	
Registration—	
As from—	
	Was involved in the commission of the following offence—
Details of offence—	
	Contrary to—

<i>Local Government (Parking for People with Disabilities) Regulations 2014—</i>	
<i>Shire of Narrogin Parking Local Law 2016, clause—</i>	
The modified penalty item number is—	
The modified penalty for the offence is—	\$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice—

- (a) you pay the modified penalty; or
- (b) you—
  - (i) inform the Chief Executive Officer or another authorised person at the Shire of Narrogin as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
  - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed, you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

In person or by mail to—	Chief Executive Officer Shire of Narrogin, 89 Earl Street, (PO Box 188), NARROGIN 6312 Between—8.30am and 4.30pm Monday to Friday (except public holidays) Payments by cash, cheque or EFTPOS.
Electronic payment or correspondence—	Refer website at <a href="http://www.narrogin.wa.gov.au">www.narrogin.wa.gov.au</a> Quoting infringement number <a href="mailto:enquiries@narrogin.wa.gov.au">enquiries@narrogin.wa.gov.au</a>
Authorised person—	
Name	
Signature	
Title	
Date issued—	

### Schedule 3—Prescribed offences

[cl. 7.4]

Item	Clause	Nature of offence	Modified penalty \$
1	3.3(a)	Failure to park on the left of a two-way carriage way	50
2	3.3(b)	Failure to park on the left of a one-way carriageway	50
3	3.3(c)	Parking when the distance from farther boundary is less than 3 metres	50
4	3.3(d)	Parking closer than 1 metre from any other vehicle	50
5	3.3(e)	Causing obstruction	50
6	3.4	Parking within 20 metres of a railway level crossing	100
7	3.5	Driving or parking on a reserve	50
8	3.6(3)(a)	Double parking	50
9	3.6(3)(b)	Parking on or adjacent to a median strip	50
10	3.6(3)(c)	Obstructing a private driveway or right of way	50
11	3.6(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	50
12	3.6(3)(e)	Parking within 10 metres of traffic island	50

Item	Clause	Nature of offence	Modified penalty \$
13	3.6(3)(f)	Parking on footpath, children's crossing or pedestrian crossing	50
14	3.6(3)(g)	Parking contrary to continuous line markings	50
15	3.6(3)(h),	Parking on an intersection	50
16	3.6(3)(i)	Parking within 1 metre of a fire hydrant	50
17	3.6(3)(j),	Parking within 10 metres of an intersection	50
18	3.6(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	50
19	3.6(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	50
20	3.7(1)	Parking contrary to signs on thoroughfare or parking facility	50
21	3.7(2)	Parking contrary to limitations on thoroughfare or parking facility	50
22	3.7(3)	Parking vehicle in a parking bay marked "M/C" that is not a motorcycle or bicycle	50
23	3.7(4)	Parking without permission in an area designated for "Authorised Vehicles Only"	50
24	3.8	Vehicle obstructing a thoroughfare or public place	100
25	3.9	Failure to comply with instruction of authorised person	100
26	3.10(1)	Failure to obtain permission to park a vehicle other than as provided by this local law	50
27	3.10(2)	Failure to comply with conditions of suspension of parking requirements	100
28	3.11	Failure to comply with "no parking" sign	50
29	3.12	Failure to comply with "no stopping" sign	50
30	3.14	Stopping near an obstruction	50
31	3.15	Stopping on a bridge, etc.	100
32	3.16	Stopping on crests, curves, etc.	100
33	3.17	Stopping near fire hydrant	50
34	3.18	Obstructing path, a driveway etc	50
35	3.21	Failure to comply with sign	50
36	3.22	Unauthorised placement, misuse or obstruction of a sign	100
37	3.24	Stopping unlawfully in a loading zone	50
38	3.25	Stopping unlawfully in a taxi or bus zone	50
39	3.26	Stopping in a shared zone	50
40	3.27	Stopping in a zone contrary to a sign	50
41	4.2(a)	Parking in thoroughfare for purpose of sale	50
42	4.2(b)	Parking unlicensed vehicle in thoroughfare	50
43	4.2(c)	Parking a trailer or caravan on thoroughfare	50
44	4.2(d)	Parking in thoroughfare for purpose of repairs	50
45	4.3	Failure to comply with limitations on heavy and long vehicles	100
46	4.4(1)	Failure to comply with event parking sign	50
47	4.54(3)	Failure to display required event permit information	50
48	4.5	Failure to wholly within parking bay or lane	50
49	4.6(1)(a)	Causing obstruction at parking facilities	50
50	4.6(1)(b)	Parking contrary to a sign at a parking facility	50
51	4.6(1)(c)	Failure to comply with directions of an authorised person in a parking facility	50
52	4.6(1)(d)	Parking or attempting to park a vehicle in a bay occupied by another vehicle	50
53	4.6(2)	Incorrect parking of a bicycle in a parking facility	50
54	4.6(3)	Unauthorised extended parking in a facility	50
55	4.7	Failure to comply with angle parking	50
56	4.8	Stopping at or near bus stop	50
57	4.9	Stopping on path, median strip or traffic island	50
58	4.10	Stopping on verge	50

Item	Clause	Nature of offence	Modified penalty \$
59	4.11	Stopping in a motorcycle parking area	50
60	4.12	Stopping in a bicycle area	50
61	5.2	Parking vehicle in excess of maximum time	50
62	5.3(2)	Removing mark of authorised person	100
63	5.4	Moving vehicle to avoid time limitations	50
64	6.1	Removing notice from vehicle	100
65	6.2(b)	Unauthorised parking of special purpose vehicle	50
66	7.2	All other offences not specified	50

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Dated 12 July 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of—

R. S. YURYEVIKH, Chairman of Commissioners.  
A. J. COOK, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF NARROGIN**

**MEETING PROCEDURES LOCAL LAW 2016**

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF NARROGIN

### MEETING PROCEDURES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Narrogin resolved on 12 July 2016 to adopt the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Narrogin Meeting Procedures Local Law 2016*.

##### 1.2 Commencement

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

##### 1.3 Application

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

##### 1.4 Repeal

The *Town of Narrogin Standing Orders Local Law* published in the *Government Gazette* on 14 August 1998 is repealed.

##### 1.5 Definitions

(1) In this local law unless the context otherwise requires—

*absolute majority* has the meaning given to it in section 1.4 of the Act;

*Act* means the *Local Government Act 1995*;

*CEO* means the Chief Executive Officer of the local government;

*committee* means a committee of the Council established under section 5.8 of the Act;

*committee meeting* means a meeting of a committee;

*Council* means the Council of the local government;

*local government* means the Shire of Narrogin;

*meeting* means a meeting of the Council or a committee, as the context requires;

*member* has the meaning given to it in section 1.4 of the Act;

*Minister* means the Minister for Local Government;

*officer* means an officer of the local government;

*President* means the President of the local government or other presiding member at a Council meeting under section 5.6 of the Act;

*presiding member* means—

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

*Regulations* means the *Local Government (Administration) Regulations 1996*;

*simple majority* means more than 50% of the members present and voting; and

*substantive motion* means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

#### PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

##### 2.1 Establishment of committees

- (1) The establishment of committees is dealt with in section 5.8 of the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
  - (a) the terms of reference of the committee;
  - (b) the number of Council members, officers and other persons to be appointed to the committee;
  - (c) the names or titles of the Council members and officers to be appointed to the committee;
  - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
  - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.

## **2.2 Types of committees**

The types of committees are dealt with in section 5.9 of the Act.

## **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in section 5.16 of the Act.

## **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in section 5.17 of the Act.

## **2.5 Appointment of committee members**

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

## **2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in section 5.11 of the Act.

## **2.7 Resignation of committee members**

The resignation of committee members is dealt with in regulation 4 of the Regulations.

## **2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in section 5.18 of the Act.

## **2.9 Committees to report**

A committee—

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

# **PART 3—CALLING AND CONVENING MEETINGS**

## **3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a twice monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

## **3.2 Calling Council meetings**

The calling of Council meetings is dealt with in section 5.4 of the Act.

## **3.3 Convening Council meetings**

- (1) The convening of a Council meeting is dealt with in section 5.5 of the Act.
- (2) The CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council, subject to subclause (3).
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

## **3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the presiding member of a committee or any two members of that committee.

## **3.5 Public notice of meetings**

Public notice of meetings is dealt with in regulation 12 of the Regulations.

# **PART 4—PRESIDING MEMBER AND QUORUM**

## **4.1 Who presides**

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

## **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in section 5.34 of the Act.

#### **4.3 Who acts if no President**

Who acts if there is no President is dealt with in section 5.35 of the Act.

#### **4.4 Election of presiding members of committees**

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

#### **4.5 Election of deputy presiding members of committees**

The election of deputy presiding members of committees is dealt with in section 5.12(2) the Act.

#### **4.6 Functions of deputy presiding members**

The functions of deputy presiding members are dealt with in section 5.13 of the Act.

#### **4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in section 5.14 of the Act.

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in section 5.19 of the Act.

#### **4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in section 5.7 of the Act.

#### **4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in section 5.15 the Act.

#### **4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in regulation 8 of the Regulations.

#### **4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 30 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

#### **4.13 Names to be recorded**

The names of the members then present are to be recorded in the minutes at any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum.

### **PART 5—BUSINESS OF A MEETING**

#### **5.1 Business to be specified**

(1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the presiding member or the Council.

(2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.

(3) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports under Item 8 of clause 5.2(1) at that ordinary meeting.

(4) Subject to subclause (3), no business is to be transacted at an adjourned meeting of the Council other than that—

- (a) specified in the notice of the meeting which had been adjourned; and
- (b) which remains unresolved.

#### **5.2 Order of business**

(1) The order of business of an ordinary meeting of the Council shall be determined by the local government from time to time, and shall include—

1. Declaration of Opening
  - 1.1 Opening
  - 1.2 Announcements by presiding member
  - 1.3 Announcement of visitors and presentations
2. Record of attendance—
  - 2.1 Members present
  - 2.2 Staff attending
  - 2.3 Apologies

- 2.4 Approved leave of absence
- 3. Applications for leave of absence
- 4. Declaration of interest—
  - 4.1 Financial
  - 4.2 Proximity
  - 4.3 Impartiality
- 5. Public Question Time—
  - 5.1 Response to previous public questions taken on notice
  - 5.2 Public questions without notice
- 6. Confirmation of minutes—
  - 6.1 Council meetings—ordinary and special meetings
  - 6.2 Committees—all Committees established by Council
- 7. Submissions—
  - 7.1 Petitions
  - 7.2 Presentations
  - 7.3 Deputations
- 8. Reports—
  - 8.1 Member reports requiring decision
  - 8.2 Reports of committees requiring decision
  - 8.3 Reports of officers
- 9. Member motions of which previous notice has been given
- 10. New business of an urgent nature introduced by decision of the meeting
- 11. Meeting closed to public—
  - 11.1 Matters for which the meeting may be closed
  - 11.2 Public reading of resolutions made during a closed meeting
- 12. Closure of meeting

(2) Unless otherwise decided by the Council, the order of business at any ordinary or special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.

(3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

### **5.3 Motions of which previous notice has been given**

(1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good governance of the district.

(4) The CEO—

- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
- (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
- (c) after consultation with the member where this is practicable, may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
- (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

### **5.4 New business of an urgent nature**

(1) In cases of urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.

(2) In subclause (1), “cases of urgency or other special circumstances” means matters that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the Council before the next meeting.

### **5.5 Adoption by exception resolution**

- (1) In this clause “adoption by exception resolution” means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
  - (a) in which an interest has been disclosed;
  - (b) that has been the subject of a petition or deputation;
  - (c) that is a matter on which a member wishes to make a statement; or
  - (d) that is a matter on which a member wishes to move a motion that is different to the recommendation.

## **PART 6—PUBLIC PARTICIPATION**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in section 5.23(1) of the Act.

### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in section 5.23(2) of the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
  - (a) the presiding member is to direct everyone to leave the meeting except—
    - (i) the members; unless a relevant interest is declared; and
    - (ii) any officer specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice.
- (6) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

### **6.3 Question time for the public**

Question time for the public is dealt with in section 5.24 of the Act.

### **6.4 Question time for the public at certain meetings**

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

### **6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

### **6.6 Procedures for question time for the public**

Procedures for question time for the public are dealt with in regulation 7 of the Regulations.

### **6.7 Other procedures for question time for the public**

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (8) The presiding member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;

- (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

#### **6.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

#### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
- (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
- (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting—
- (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from members;
  - (b) is not to address the Council for a period exceeding 10 minutes without the prior agreement of the presiding member under subclause (1) or resolution of Council; and
  - (c) additional members of the deputation may be allowed to speak with the permission of the presiding member if providing additional information.
- (4) A person addressing the Council is to cease that address immediately after being directed to do so by the presiding member in order to preserve order, the time permitted has expired or the presentation has diverged from the purpose of the deputation.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

#### **6.10 Petitions**

- (1) A petition to the local government is to—
- (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) state the request on each page of the petition;
  - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
  - (e) contain a summary of the reasons for the request; and
  - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
- (a) the matter is the subject of a report included in the agenda; and
  - (b) the Council has considered the issues raised in the petition.

#### **6.11 Presentations**

- (1) In this clause, a “presentation” means the acceptance of a gift or an award by the Council on behalf of the local government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President or CEO.

#### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who—
- (a) is entitled to attend a committee meeting;

- (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) A person is not to address the committee for a period exceeding 3 minutes without the agreement of the presiding member.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

#### **6.13 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member shall—
- (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The Council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall with prior approval of the presiding member be limited to 10 minutes in making an oral submission at the time of discussion of the item, but this period may be extended at the discretion of the presiding member.
- (7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

#### **6.14 Public inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the office of the local government.

#### **6.15 Confidentiality of information withheld**

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
  - (b) marked "*Confidential*" in the agenda; and
  - (c) kept confidential by officers and members until the Council resolves or the CEO determines otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

#### **6.16 Recording of proceedings**

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

### **6.17 Prevention of disturbance**

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not audible or used during any meeting of the Council.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if—
  - (a) after being warned, the person again acts contrary to this clause, or to this local law; or
  - (b) a person refuses or fails to comply with a direction of the presiding member.
- (6) A person who is ordered to leave the meeting room and fails to do so may by order of the presiding member, be removed from the meeting room, and if the presiding member orders, from the premises.
- (7) A person in breach of this clause is subject to the penalties specified in clause 19.1.

## **PART 7—QUESTIONS BY MEMBERS**

### **7.1 Questions by members**

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A member requesting general information from an officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that officer or another officer present at the meeting.
- (3) Where possible the officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the officer may ask that—
  - (a) the question be placed on notice for the next meeting of Council; and
  - (b) the answer to the question be given to the member who asked it within 14 days.
- (4) Every question and answer—
  - (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

## **PART 8—CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, Council will, by consensus, determine a position at the Council table for each member.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

### **8.2 Official titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or officer, is to use the title of that person's office.

### **8.3 Entering or leaving a meeting**

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

### **8.4 Members to indicate their intention to speak**

A member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

### **8.5 Priority of speaking**

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member is to cease speaking immediately after being asked to do so by the presiding member.

### **8.6 Presiding member may take part in debates**

The presiding member may take part in a discussion of any matter before the Council, subject to compliance with this local law.

### **8.7 Relevance**

- (1) A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The presiding member may at any time—
  - (a) call the attention of the meeting to—
    - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
    - (ii) any breach of order by a member; and
  - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

### **8.8 Speaking twice**

Without the consent of the presiding member, a member is not to address the Council more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

### **8.9 Duration of speeches**

A member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.

### **8.10 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

### **8.11 No interruption**

A member is not to interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.12; or
- (d) to move a procedural motion that the member be no longer heard under clause 11.1.

### **8.12 Personal explanations**

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

### **8.13 No reopening of discussion**

A member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

### **8.14 Adverse reflection**

- (1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.
- (2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, a member is not—
  - (a) to reflect adversely on the character or actions of another member or officer; or
  - (b) to impute any motive to a member or officer.
- (3) A member is not to use offensive or objectionable expressions in reference to any member, officer or other person.
- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—
  - (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
  - (b) the Council may, by resolution, decide to record those words in the minutes.

### **8.15 Withdrawal of offensive language**

- (1) A member must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member—
  - (a) in the absence of a resolution under subclause 8.14(2)—
    - (i) reflects adversely on the character or actions of another member or officer; or
    - (ii) imputes any motive to a member or officer; or
  - (b) is offensive or insulting.
- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

## **PART 9—PRESERVING ORDER**

### **9.1 Presiding member to preserve order**

- (1) The presiding member is to preserve order, and, whenever considered necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, and every member present is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.6, but to preserve order.

### **9.2 Point of order**

- (1) A member may object, by way of a point of order, only to a breach of—
  - (a) this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order—
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order shall not continue until permitted, but is to remain silent until—
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order.

### **9.4 Calling attention to breach**

A member may, at any time, draw the attention of the presiding member to any breach of this local law.

### **9.5 Ruling by the presiding member**

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
  - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
  - (b) a statement made or act done by a member is out of order, the presiding member may require the member to make an explanation, retraction or apology.

### **9.6 Continued breach of order**

The presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction, if a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3).

### **9.7 Right of presiding member to adjourn**

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

## PART 10—DEBATE OF SUBSTANTIVE MOTIONS

### 10.1 Motions to be stated and in writing

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the presiding member, is to put the motion or amendment in writing.

### 10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

### 10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) This clause does not apply—
  - (a) if a member opposes a motion; or
  - (b) to a motion to revoke or change a decision which has been made at a Council meeting.

### 10.4 Only one substantive motion at a time

- (1) When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted.
- (2) The Council is not to consider more than one substantive motion at any time.

### 10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

### 10.6 Order of call in debate

The presiding member—

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before Council, and
- (b) may call speakers to a substantive motion or amendment in the following order—
  - (i) the mover to state the motion;
  - (ii) a seconder to the motion;
  - (iii) the mover to speak to the motion;
  - (iv) the seconder to speak to the motion;
  - (v) a speaker against the motion;
  - (vi) a speaker for the motion;
  - (vii) other speakers against and for the motion, alternating where possible; and
  - (viii) mover takes right of reply which closes debate.

### 10.7 Limit of debate

The presiding member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

### 10.8 Member may require motion to be read

A member may require the motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

### 10.9 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

### 10.10 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

### 10.11 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

#### **10.12 Amendment must not negate original motion**

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

#### **10.13 Relevance of amendments**

Each amendment is to be relevant to the motion in respect of which it is moved.

#### **10.14 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

#### **10.15 Effect of an amendment**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

#### **10.16 Withdrawal of motion or amendment**

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

#### **10.17 Right of reply**

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

(a) where no amendment is moved to the substantive motion, at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion, at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

(a) no other member is to speak on the motion;

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

### **PART 11—PROCEDURAL MOTIONS**

#### **11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the question be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with; or

(g) that the meeting be closed to the public.

#### **11.2 No debate**

(1) The mover of a motion specified in clause 11.1(a), (b), (c), (f) or (g) may speak to the motion for not more than two minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in clause 11.1 (d) or (e) may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

#### **11.3 Procedural motion—right of reply on substantive motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

#### **11.4 Meeting to proceed to the next business**

(1) The motion that the meeting proceed to the next item of business, if carried, has the effect that—

(a) the debate on the substantive motion or amendment ceases immediately;

(b) no decision is made on the substantive motion;

(c) the Council moves to the next item of business; and

- (d) there is no requirement for the matter to be raised again for consideration.
- (2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

#### **11.5 Debate to be adjourned**

A motion that the debate be adjourned—

- (a) is to state the time and date or circumstances to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

#### **11.6 Meeting now adjourn**

(1) A member is not to move or second more than one motion of adjournment during the same sitting of the Council.

(2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution under clause 5.5.

(3) A motion that the meeting now adjourn—

- (a) is to state the time and date or circumstances to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date or circumstances specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the Council determines otherwise.

#### **11.7 Question to be put**

(1) If the motion “that the question be now put” is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

(3) The motion “that the question be now put”, if lost, causes debate to continue.

(4) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion “that the question be now put”.

#### **11.8 Member to be no longer heard**

If the motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

#### **11.9 Ruling of the presiding member to be disagreed with**

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

### **PART 12—DISCLOSURE OF INTERESTS**

#### **12.1 Disclosure of interests**

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

### **PART 13—VOTING**

#### **13.1 Motion—when put**

(1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the motion to the Council; and
- (b) if requested by any member, is to again state the terms of the motion.

(2) A member is not to leave the meeting when the presiding member is putting any motion.

#### **13.2 Voting**

Voting is dealt with in the Act and the Regulations.

#### **13.3 Majorities required for decisions**

The majorities required for decisions of the Council and committees are dealt with in the Act.

#### **13.4 Method of taking vote**

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the motion, first in the affirmative, and then in the negative;
- (b) may put the motion in this way as often as may be necessary to enable determination whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and,
- (d) subject to this clause, is to declare the result.

(2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

(3) If a member of council or a committee specifically requests that the details of the vote on a matter voted on at a meeting of the council or committee be recorded, the person presiding is to cause the vote or votes as the case may be, be recorded in the minutes of—

- (a) his or her vote; or,
- (b) the vote of all members present.

### **13.5 Recording of votes**

Recording of votes is dealt with in section 5.21(4) of the Act.

## **PART 14—MINUTES OF MEETINGS**

### **14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

### **14.2 Content of minutes**

(1) The content of minutes is dealt with in regulation 11 of the Regulations.

(2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

### **14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in regulation 13 of the Regulations.

### **14.4 Confirmation of minutes**

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.

(2) At the next ordinary meeting of the Council, the member who provided the alternative wording shall, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## **PART 15—ADJOURNMENT OF MEETING**

### **15.1 Meeting may be adjourned**

The Council may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

### **15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law, debate is to be resumed at the next meeting at the point where it was interrupted.

## **PART 16—REVOKING OR CHANGING DECISIONS**

### **16.1 Requirements to revoke or change decisions**

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

### **16.2 Limitations on powers to revoke or change decisions**

(1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—

- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

(2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### **16.3 Implementing a decision**

(1) In this clause—

*authorisation* means a licence, permit, approval or other means of authorising a person to do anything;

*implement*, in relation to a decision, includes—

- (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
  - (ii) take any other action to give effect to the decision; and
- valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Local Laws and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person—
- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
  - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice at the commencement of both agenda and minutes of the meeting, that a decision to grant an authorisation—
- (a) is to take effect only in accordance with this clause; and
  - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

## PART 17—SUSPENSION OF LOCAL LAW

### 17.1 Suspension of local law

- (1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) Unless the meeting resolves otherwise, a resolution to suspend the operation of the clause or clauses to which the motion relates is for the duration of the meeting.

### 17.2 Where local law does not apply

- (1) The presiding member is to decide any question relating to the conduct of the meeting in situations where—
- (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or this local law.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.
- (3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).
- (4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

## PART 18—MEETINGS OF ELECTORS

### 18.1 Electors' general meetings

Electors' general meetings are dealt with in section 5.27 of the Act.

### 18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

### 18.3 Electors' special meetings

Electors' special meetings are dealt with in section 5.28 of the Act.

### 18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

### 18.5 Convening electors' meetings

Convening electors' meetings is dealt with in section 5.29 of the Act.

### 18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

### 18.7 Procedure for electors' meetings

(1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

#### **18.8 Participation of non-electors**

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

#### **18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in regulation 17 of the Regulations.

#### **18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

#### **18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

### **PART 19—ENFORCEMENT**

#### **19.1 Penalty for breach**

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$500 in respect of each day during which the offence has continued.

#### **19.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

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Dated 12 July 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of—

R. S. YURYEVICH, Chairman of Commissioners.  
A. J. COOK, Chief Executive officer.

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CE301\*

LOCAL GOVERNMENT ACT 1995

CEMETERIES ACT 1986

*City of Busselton*

CEMETERIES AMENDMENT LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995*, the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the City of Busselton resolved on 27 July 2016 to make the following local law.

**1. Title**

This is the *City of Busselton Cemeteries Amendment Local Law 2016*.

**2. Commencement**

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

**3. Principal Local Law**

This local law amends the *City of Busselton Cemeteries Local Law 2015* as published in the *Government Gazette* of 10 December 2015.

**4. Clause 9.1 amended**

Clause 9.1 is amended by deleting "\$50.00" and replacing it with "\$20.00".

Dated: 27 July 2016.

The Common Seal of the City of Busselton was affixed by authority of a resolution of the Council in the presence of—

GRANT DOUGLAS HENLEY, Mayor.  
MICHAEL STEPHEN LEE ARCHER, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

*City of Stirling*

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Stirling resolved on 2 August 2016 to make the following local law.

**1. Citation**

This local law may be cited as the *City of Stirling Local Government Property Amendment Local Law 2016*.

**2. Commencement**

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

**3. Principal local law**

This local law amends the *City of Stirling Local Government Property Local Law 2009* as published in the *Government Gazette* on 5 June 2009 and as amended and published in the *Government Gazette* on 15 April 2011 and 30 September 2011.

**4. Clause 1.5 amended**

Clause 1.5 is amended by inserting the following definitions in alphabetical order—

“**drone**” means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

“**slacklining**” means the pursuit of walking a small, nylon rope, or webbing between 2 anchor points;

**5. Clause 2.7 amended**

Clause 2.7(1) is amended as follows—

(a) delete subclause (c) and insert—

(c) use a motorised model airplane, helicopter, boat, drone or other similar remotely piloted device;

(b) in subclause (h)(iii) after “projectile”, insert “including a javelin, hammer or discus”;

(c) in subclause (i) after “;”, delete “or”;

(d) in subclause (j) after “clothing”, delete “.” and insert “; or”; and

(e) insert subclause (k)—

(k) use ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.

**6. Clause 2.8 amended**

Clause 2.8(1) is amended as follows—

(a) in subclause (f)(ii) after “projectile”, insert “including a javelin, hammer or discus”;

(b) in subclause (g) after “;”, delete “and”;

(c) in subclause (h) after “purpose”, delete “.” and insert “;”;

(d) insert subclauses (i) and (j)—

(i) use a motorised model aeroplane, helicopter, boat, drone or other similar remotely piloted device; and

(j) use of ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.

**7. Clause 3.4 amended**

Clause 3.4(2) is amended as follows—

(a) in subclause (j) after “;”, delete “and”;

(b) in subclause (k) after “by the hirer”, delete “.” and insert “; and”; and

(c) insert subclause (l)—

(l) restrictions on the type of sport/recreation activities to be undertaken on a reserve, and the area within that reserve where such activities can be undertaken.

**8. Clause 3.13 amended**

Clause 3.13(1) is amended as follows—

(a) in subclause (d) after “beach, ”, insert “reserve, ”

(b) in subclause (q) after “;”, delete “or”;

(c) in subclause (r) after “property”, delete “.” and insert “;”; and

- (d) insert subclauses (s), (t) and (u)—
    - (s) conduct sport/recreation training and matchplay, or undertake any other related sport/recreation activity on a reserve which is local government property;
    - (t) use a motorised model aeroplane, helicopter, boat, drone or other similar remotely piloted device on local government property; or
    - (u) erect, on local government property, ropes or other similar equipment with anchor points for the purposes of engaging in slacklining or similar activities.
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Dated: 4 August 2016.

The Common Seal of the City of Stirling was affixed by authority of a resolution of the Council in the presence of—

GIOVANNI ITALIANO JP, Mayor.  
STUART JARDINE, Chief Executive Officer.

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