

LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

STANDING ORDERS LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

CITY OF GOSNELLS

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 City of Gosnells resolved on 8 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Gosnells 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 Interpretation

(1) In this local law unless the context otherwise requires—

absolute majority has the meaning given to it in the Act;

Act means the *Local Government Act 1995*;

adjourned meeting means a meeting to deal with matters which were not completed when discussions or decision making at a prior meeting were postponed until another time;

clause means a clause of this local law;

CEO means the Chief Executive Officer of the local government;

committee means a committee of the Council established under the Act;

committee meeting means a meeting of a committee;

Council means the Council of the local government;

election day has the meaning given to it in the Act;

employee means a person employed by the local government;

local government means the City of Gosnells;

meeting means a meeting of the Council or a committee, as the context requires;

Member has the meaning given to it in 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*;

resolution means a decision of Council made by the appropriate majority;

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, the terms and expressions used in this local law have the meaning given to them in the Act and Regulations.

1.4 Repeal

The *City of Gosnells Standing Orders Local Law 2012*, published in the *Government Gazette* on 20 July 2012 is hereby repealed.

PART 2—CALLING AND CONVENING MEETINGS

2.1 Ordinary Council meetings

An ordinary meeting of the Council, held as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

2.2 Special meetings of Council

Special meetings of Council are those for considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential, the purpose of which is to be detailed in the notice convening the meeting.

2.3 Convening Council meetings

(1) Subject to subclause (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.

(2) Where, in the opinion of the Mayor 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 meeting.

PART 3—QUORUM

3. Procedure where quorum not present during a meeting

(1) If at any time during a meeting a quorum is not present, the Presiding Member upon becoming aware of the fact is to immediately suspend the proceedings of the meeting for a period of up to 15 minutes.

(2) If a quorum is not present at the expiration of the period in subclause (1), the Presiding Member may either suspend the proceedings of the meeting for a further period of up to 15 minutes or adjourn the meeting to a later time on the same day or to another date.

PART 4—BUSINESS OF A MEETING

4.1 Business to be specified

(1) With the exception of that provided for in clause 4.14, no business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda.

(2) No business is to be transacted at a special meeting of the Council other than that specified in the agenda, which reflects the purpose of the meeting as specified in the notice.

(3) Subject to subclause (4), 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.

(4) 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 Item 11 of the Order of Business on the Agenda at that ordinary meeting.

4.2 Order of business

Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

1. Declaration of Opening/Announcement of Visitors/ Disclaimer
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interests
4. Announcements by the Presiding Member (without discussion)
5. Reports of delegates (without discussion)
6. Question time for the public and the receiving of public statements
 - 6.1 Question time
 - 6.2 Public statements
7. Confirmation of minutes
8. Receiving of petitions and presentations
 - 8.1 Petitions
 - 8.2 Presentations
9. Applications for leave of absence
10. Questions by Members of which due notice has been given (without discussion)
11. Items brought forward for the convenience of those in the public gallery
12. Reports of Committee Meetings
13. Reports
14. Motions of which previous notice has been given
15. Urgent business
16. Confidential matters
17. Closure

4.3 Announcements by Presiding Member

At any meeting of the Council the Presiding Member may announce or direct attention to any matter of relevance to the business of the Council, however no discussion on the matter shall take place.

4.4 Reports of delegates

At any meeting of Council—

- (1) a Member appointed by the Council to a committee or external organisation may provide a brief verbal report on the progress of that committee or organisation; and
- (2) a Member that has attended a function on behalf of the City may provide a brief verbal report on that function;

however no discussion on the report shall take place.

4.5 Question time for the public

(1) In this clause—

- (a) a question includes part of a question (so that a question in 3 parts is to be treated as 3 questions);
- (b) in relation to a question, “vexatious” means a question asked to harass, annoy or cause detriment to any other person.

(2) A member of the public who wishes to ask a question at a meeting must—

- (a) before the commencement of the meeting, submit their question in writing, on the form provided by the local government, to the CEO or his or her representative; and
- (b) be present at the meeting when the question is asked, however the person may seek approval from the Presiding Member for their nominated representative to ask the question on their behalf.

(3) A completed question time form must include—

- (a) the name and residential or contact address of the person who wishes to ask the question; and
- (b) the question in a succinct and legible form.

(4) In cases of disability or other extenuating circumstances—

- (a) an officer of the local government, if requested to do so, may assist the person to complete a question time form;
- (b) in the absence of that assistance, the Presiding Member may permit a person to ask a question that was not included on a question time form.

(5) (a) If more than 2 questions are submitted in writing by any one person, the Presiding Member shall allow that person, in the first instance, to ask a maximum of 2 questions.

- (b) If after all other members of the public have asked their questions, and where time permits, the Presiding Member will allow members of the public who wish to ask more than 2 questions to sequentially ask one further question. This process will continue until the allotted time has expired.

- (c) Where only one person wishes to ask more questions and where time permits, the Presiding Member will invite that person to ask their additional questions.

(6) The Presiding Member may decide that a question is out of order, and is not to be recorded or responded to—

- (a) if it is not in the form of a question, having regard to its content and length, is essentially a statement of expression of opinion rather than a question, provided that the Presiding Member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
- (b) if the question uses an offensive or objectionable expression or is defamatory or vexatious.

(7) The Presiding Member or Council cannot determine that a question is vexatious if the question relates to a matter affecting the local government or to whether there has been a breach of legislation by the local government, a Councillor or a local government employee.

(8) The Presiding Member may determine that any question requiring research or investigation be answered in writing as soon as practicable.

(9) Where the necessary information is available at the time the question is posed, a response will be provided by either the CEO, relevant Member or employee nominated by the Presiding Member.

(10) If the 15 minute period set aside for question time for the public is reached, Council, by resolution, may resolve question time be extended for an additional 15 minutes to allow further questions to be asked.

(11) No more than 2, 15 minute extensions to question time for the public will be permitted.

4.6 Public statements

(1) Members of the public may, during the public statements segment of the order of business, with the consent of the Presiding Member make a public statement on any matter that appears on the agenda for that meeting provided that—

- (a) The member of the public submits to the CEO prior to the commencement of the meeting, a public statement in the form determined by the CEO which shall include the name and residential or contact address of the member of the public;

- (b) The public statement precedes discussion of any matter which requires a decision to be made at the meeting but otherwise at item (6.2) of order of business at clause 4.2;
- (c) The public statement is limited to a maximum period of 3 minutes, unless otherwise determined by the Presiding Member; and
- (d) No discussion or questions relating to the statement are permitted, unless otherwise determined by the Presiding Member.

(2) Fifteen minutes is to be allocated for the public statement time.

(3) Once all statements have been made, nothing prevents the unused part of the statement time period from being used for other matters.

(4) If the 15 minute period set aside for public statement time is reached, Council, by resolution, may resolve statement time be extended for an additional 15 minutes to allow statements to be made.

(5) No more than 2, 15 minute extensions to public statement time will be permitted.

(6) Procedures for public statement time shall be in accordance with policy adopted from time to time by the Council and, where the policy is silent on the matter, the procedures for that matter are to be determined by the Presiding Member.

4.7 Confirmation of minutes

(1) When minutes of meetings 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 is to provide the CEO with a written copy of the alternative wording to amend those minutes prior to the commencement of the meeting.

(2) At the meeting where the Minutes are to be confirmed, 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 at the meeting must not discuss items of business contained in the unconfirmed minutes, other than discussion as to their accuracy as a record of the proceedings.

4.8 Petitions

(1) A petition is to—

- (a) be addressed to the Mayor;
- (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;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
- (g) be respectful and temperate in its language and not contain language disrespectful to Council.

(2) The presentation of the petition shall be confined to the reading of the petition.

(3) In response to a petition presented to it, the Council may resolve—

- (a) that the petition be received;
- (b) that the petition be rejected;
- (c) that the petition be received and report prepared for Council; or
- (d) that the petition be received and referred to the CEO for action.

(4) Discussion is not permitted on any motion referred to in subclause (3).

(5) At the same meeting that a matter is presented to Council in a petition, Council is not to vote on the matter in the petition unless the matter is the subject of a report included in the agenda; detailing the issues raised in the petition.

4.9 Presentations

(1) In this clause, a *presentation* means the acceptance of a gift, grant 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 Presiding Member.

4.10 Leave of absence

(1) A Member seeking the Council's approval to take leave of absence shall give written notice to the CEO prior to the commencement of the meeting.

(2) The notice referred to in subclause (1) shall include the period of leave of absence required and the reasons for seeking the leave.

4.11 Questions on notice

(1) A Member who wishes to ask a question at a meeting of the Council on a matter that is not included in the agenda for that meeting is to give written notice of the specific question to the CEO at least 3 clear working days before the meeting of the Council.

(2) If the question referred to in subclause (1) relates to a matter affecting the local government, is respectful and temperate in its language, it is to be tabled at the meeting, at item 10 of the order of business at clause 4.2 and the answer is, as far as practicable, to be provided at that meeting of the Council.

(3) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion on the question or answer is permitted.

4.12 Items brought forward for the convenience of those in the public gallery

The Presiding Member may determine that any items on the agenda which are either the subject of a question or statement by members of the public, or requested by others in attendance be brought forward to Item 11 in the Order of Business and dealt with in the order in which they appear on the agenda.

4.13 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 days before the meeting at which the motion is moved.

(3) A notice of motion is to be accompanied by supporting reasons and relate to the good governance of the district.

(4) The CEO—

(a) may, with the concurrence of the Mayor, exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach 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) may, after consultation with the Member where this is practicable, 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) (i) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; and

(ii) the motion is seconded; or

(b) the Council on a motion agrees to defer consideration of the motion to a later 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.

4.14 Urgent business

A Member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—

(a) The Presiding Member has first consented to the business raised;

(b) The Presiding Member considers that either—

(i) the urgency of the business is such that the business cannot await inclusion in the agenda for the next meeting of the Council; or

(ii) the delay in referring the business to the next meeting of the Council could have adverse legal or financial implications for the local government.

(c) Other than a motion to revoke referred to in clause 13.1, the item of urgent business is presented in the form of a detailed staff report outlining the social, environmental, financial and statutory implications of the proposal, a copy of which is to be provided to Members prior to the commencement of the meeting.

4.15 Confidential matters—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 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 employee 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, 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) Once the meeting is reopened to members of the public, the Presiding Member is to ensure that, if anyone returns to the meeting, any resolution of the Council made while the meeting was closed is to be read aloud including the details of any voting recorded.

4.16 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 “Confidential matters”;
- (b) marked “Confidential” in the agenda; and
- (c) kept confidential by employees and Members until in the opinion of the CEO, the reason for confidentiality ceases to exist.

(2) A Member or an employee 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 employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not apply where a Member or employee discloses the information to a legal practitioner or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities, or where disclosure is required or permitted by law.

4.17 Order of business at special meetings

Unless otherwise decided by the Council the order of business at a Special Meeting is to be as follows—

1. Declaration of Opening/Announcement of Visitors/Disclaimer
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interests
4. Question time for the public and receiving of public statements
 - 4.1 Question time
 - 4.2 Public statements
5. Receiving of petitions and presentations
 - 5.1 Petitions
 - 5.2 Presentations
6. Reports
7. Closure

PART 5—PUBLIC PARTICIPATION

5.1 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.

5.2 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.

5.3 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 be courteous and respectful 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, pager or other audible device is not switched on or used during any meeting of the Council.

(5) A person who fails to comply with the provisions of this clause when so directed by the Presiding Member shall immediately leave the Council chamber or meeting room.

(6) A person directed to leave the Council chamber or meeting room and failing to do so may, by order of the Presiding Member, be removed from the Council chamber or meeting room.

(7) The direction of the Presiding Member is final and may not be challenged by moving dissent with the ruling.

PART 6—QUESTIONS BY MEMBERS

6.1 Questions during debate

- (1) At any time during the debate on a motion prior to the mover of the motion commencing the right of reply, a Member may ask a question and, with the consent of the Presiding Member, may ask one or more further questions.
- (2) Where possible, the CEO, or the CEO's nominee, is to answer each question to the best of his or her knowledge and ability but, if the information is unavailable or requires research or investigation, the CEO or the CEO's nominee may ask that—
 - (a) the question be placed on notice for the next meeting of Council; or
 - (b) the answer to the question be given within 7 days to all Members.

6.2 Restrictions on questions and answers

- (1) Questions asked by a Member, and responses given by the CEO or the CEO's nominee—
 - (a) are to be brief and concise; and
 - (b) are not to be accompanied by argument, expression of opinion or statements, except to the extent necessary to explain the question or answer.
- (2) In answering any question, the CEO or the CEO's nominee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her original answer.

PART 7—CONDUCT OF MEMBERS

7.1 Members to be in their proper places

- (1) At the first meeting held after each election day, the CEO is to allot a position at the Council table which reflects the alphabetical order of the surname of each Member, commencing from the right hand side of the Presiding Member.
- (2) The allotted positions remain unless and until the Council unanimously resolves otherwise.
- (3) Each Member is to occupy his or her allotted position at each Council meeting.

7.2 Advice of entry or departure

After the business of a Council Meeting has commenced, a Member is not to enter or leave the meeting without first informing the Presiding Member, in order to facilitate the recording in the minutes of the time of entry and departure.

7.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or Presiding Member, or a Member or employee, is to use the title of that person's office.

7.4 Crossing Council chambers

- (1) When the Presiding Member is putting any motion or amendment to the vote, a Member shall not leave or cross the Council chamber.
- (2) Whilst another Member is speaking, a Member shall not pass between the speaker and the Presiding Member.

7.5 No conversing with the public during meetings

A Member shall not converse with any member of the public in the public gallery during a Council meeting.

7.6 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.

7.7 Members to address Presiding Member

A Member moving a motion or amendment or taking any part in any discussion shall address the Presiding Member.

7.8 Members and employees to rise

At a Council meeting—

- (a) Any Member, other than the Presiding Member, asking a question or taking part in discussion or a debate; or
 - (b) Any employee, other than the CEO, answering a question
- shall stand, except when prevented from doing so by sickness or infirmity.

7.9 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, dissent or point of order.

7.10 Presiding Member may take part in debates

- (1) The Presiding Member may, without vacating the chair, take part in debate upon any matter before the Council, subject to compliance with this local law.
- (2) The Presiding Member may only speak once and this is to be done before the right of reply.

7.11 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, at any time, may—
 - (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 or decorum by a Member; and
 - (b) direct that Member to discontinue.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2).

7.12 Speaking twice

- (1) 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.
- (2) A Member who asks a question, makes a request or responds to a request under clause 9.7 has not addressed the meeting for the purpose of this clause.

7.13 Duration of speeches

- (1) 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.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

7.14 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 motion or amendment has been put to the vote.

7.15 No interruption

A Member must—

- (a) not make any noise or disturbance or converse in a loud manner whilst another Member is speaking;
- (b) not cause any interruption or speak out of turn during a meeting, other than to raise a point of order, call attention to the absence of a quorum, make a personal explanation under clause 7.16 or move a procedural motion; and
- (c) ensure that his or her mobile telephone, pager or other audible device is switched off or maintained in the silent mode and not used during any meeting of the Council.

7.16 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 and is not to seek to strengthen his or her former argument by new matter or by replying to other Members.

7.17 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.

7.18 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) A Member is not—
 - (a) to reflect adversely on the character or actions of another Member or employee; or
 - (b) to impute any motive to a Member or employee,unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

- (3) A Member is not to use offensive or objectionable expressions in reference to any Member, employee or other person.
- (4) A Member shall at all times be factual when dealing with matters before Council and not knowingly make false or misleading statements.

7.19 Withdrawal of offensive language

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which—
 - (a) in the absence of a resolution under clause 7.18—
 - (i) reflects adversely on the character or actions of another Member or employee; or
 - (ii) imputes any motive to a Member or employee; or
 - (b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.
- (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.

7.20 Consumption of alcohol during meetings

The consumption of alcoholic beverages in any Council meeting is prohibited.

7.21 Smoking prohibited

Smoking in any meeting is prohibited.

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 necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking is immediately to sit down 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 7.10, but to preserve order.

8.2 Point of order

- (1) Any Member, by way of point of order, may direct the attention of the Presiding Member to any breach of this local law.
- (2) A Member raising a point of order shall specify the grounds of the breach of order before speaking further on the matter.
- (3) A Member rising to express a difference of opinion or to contradict a speaker shall not be recognised as raising a point of order.
- (4) 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 on any other matter.

8.3 Procedures on a point of order

- (1) A person who is addressing the Presiding Member or Council is not to be interrupted except on a point of order.
- (2) A person interrupted on a point of order is to resume his or her seat until—
 - (a) the Member raising the point of order has been heard; and
 - (b) the Presiding Member has ruled on the point of order,and, if permitted, the person who has been interrupted may then proceed.

8.4 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) In the event a motion of dissent under subclause (2) fails, 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 person is out of order, the Presiding Member may require the person to make an explanation, retraction or apology.

8.5 Continued breach of order

If a person—

- (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 8.4(3)(b),

in the case of a Member, the Presiding Member may direct the Member to refrain from taking any further part in the debate of the item before the meeting, other than by voting, and the Member is to comply with that direction, and in the case of any other person, the Presiding Member may direct that person to leave the Chamber.

8.6 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 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 time determined by the Presiding Member on the same day or to another day.

PART 9—DEBATE OF SUBSTANTIVE MOTIONS

9.1 Motions to be stated and in writing

Any Member who wishes to propose a motion other than a recommendation contained within the agenda, or an amendment to a motion, but not a procedural motion, shall unless ruled otherwise by the Presiding Member submit it in writing, accompanied by comment outlining the reason for the motion or amendment, to the Presiding Member prior to a vote being taken.

9.2 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.

9.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member shall ask the meeting if any Member opposes it, wishes to speak or wishes to ask a question.
- (2) If no Member opposes the motion, or wishes to speak or ask a question, the Presiding Member may put the motion to the vote without debate.
- (3) If a Member signifies opposition to the motion or wishes to speak, it is to be dealt with in accordance with clause 9.5.
- (4) If a Member wishes to ask a question, the question is to be asked and answered.

9.4 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.

9.5 Order of call in debate

If there is opposition to a motion or a Member wishes to speak, the Presiding Member is to call speakers to a motion in the following order—

- (a) the mover to speak to the motion;
- (b) the seconder to speak to the motion;
- (c) a speaker against the motion, if any;
- (d) a speaker for the motion;
- (e) other speakers, if any against and for the motion, alternating where possible; and
- (f) the mover exercises the right of reply, which closes debate.

9.6 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.

9.7 Member may require motion to be read

A Member may require the motion or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

9.8 Amendments to motions

An amendment to a motion can be proposed once the substantive motion has been moved and seconded and the mover has had the opportunity to speak to the motion.

9.9 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.

9.10 Who can move amendment to a motion

Anyone, except the mover and seconder of the substantive motion and a Member who has spoken on the substantive motion, may propose an amendment to the motion.

9.11 Form of an amendment

Every amendment is to be—

- (a) relevant to the motion to which it is moved; and
- (b) worded to indicate precisely which words need to be deleted, added or altered.

9.12 Amendment must not negate original motion

An amendment to a substantive motion cannot have the effect of negating the original motion.

9.13 Mover of motion may speak on amendment

Any Member, including the mover of a substantive motion, may speak during debate on an amendment.

9.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion.

9.15 Withdrawal of a motion or amendment

- (1) The Council may, without debate, grant leave for a motion or amendment to be withdrawn or altered by the mover, with the consent of the seconder, provided there is no objection by any Member.
- (2) If a Member objects, discussion on either the motion or amendment shall continue and no alteration shall occur.

9.16 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 in relation to that amendment.
- (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;
 - (b) on an amendment, at the conclusion of discussion on that amendment; or
 - (c) 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 an amendment or the substantive motion has commenced the reply, no other Member is to speak on the amendment or motion, ask a question or propose a further amendment.
- (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 amendment, substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

9.17 Foreshadowing alternative motions

- (1) Should a Member wish to negate a substantive motion and have Council consider a new substantive motion on the matter with different intent, the Member must foreshadow the new substantive motion prior to the right of reply.
- (2) Should a substantive motion be lost, the Presiding Member will call upon the Member who foreshadowed the new substantive motion to move the proposed motion.
- (3) Once moved and seconded, the foreshadowed motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.
- (4) If more than one foreshadowed motion is proposed for any item before the Council, the Presiding Member shall deal with them in the order in which they were presented.

9.18 Motions supported become decisions

Where the Council adopts a motion either with or without amendment, the motion so adopted is deemed to be the decision of Council.

PART 10—PROCEDURAL MOTIONS

10.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 9), 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 on the motion be adjourned;
- (d) that the motion be now put;
- (e) that the Member be no longer heard; or
- (f) that the ruling of the Presiding Member be disagreed with.

10.2 No debate on procedural motions

- (1) The mover of a motion specified in paragraph (a), (b), (c), or (f) of clause 10.1 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 specified in paragraph (d) or (e) of clause 10.1 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.

10.3 Who may move

- (1) No Member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.
- (2) A Member is not to move or second more than one motion of adjournment during the same meeting of the Council.

10.4 Procedural motions—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 or the amendment.

10.5 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 determined by the CEO.
- (2) A motion “that the motion be deferred” must not be moved in respect of the election of the Mayor or Deputy Mayor.
- (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.

10.6 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 7.12 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 after the conclusion of the business under discussion at the time the motion was moved.
- (4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

10.7 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 7.12 apply when the debate is resumed.
- (2) A motion “that the debate be adjourned” must not be moved in respect of the election of the Mayor or Deputy Mayor.
- (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.

10.8 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.

10.9 Ruling by the Presiding Member be disagreed with—effect of motion

- (1) If a 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.
- (2) Where the Presiding Member has adjourned the meeting in accordance with clause 8.6, the motion, that the Presiding Member be disagreed with, may not be moved.

10.10 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.

PART 11—VOTING

11.1 Motion—when put

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.

11.2 Dividing motions for voting

Where a report to Council contains more than one motion, the Presiding Member may put the motions individually, in groups or as one.

11.3 Method of taking vote

The Presiding Member, in taking the vote on any motion or amendment—

- (a) may put the motion or amendment as often as may be necessary to enable him or her to determine whether the affirmative or negative has the majority of votes;
- (b) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each Member’s vote; and
- (c) subject to this clause, is to declare the result.

11.4 Recording of votes

The names of all Members voting for or against a motion shall be recorded, adjacent to the respective motion, in the minutes.

PART 12—ADJOURNMENT OF MEETING

12. Meeting may be adjourned

- (1) On a motion for the adjournment of a meeting being carried, a record shall be taken of those who have spoken on the subject under consideration at the time of adjournment.
- (2) All business not dealt with on the agenda of a meeting adjourned under clause 10.6 is to be resumed at the meeting determined under that clause at the point at which it was adjourned, immediately following Item 10 in the Order of business as listed in clause 4.2, or as determined by an absolute majority resolution of Council.
- (3) Those Members to which subclause (1) applies shall not be permitted to speak on any subsequent consideration of the same subject at the reconvened meeting in accordance with clause 7.12.
- (4) Subclause (3) does not deprive the mover of the motion of the right of reply.

PART 13—REVOKING OR CHANGING DECISIONS

13.1 Revoking or changing decisions at the same meeting

- (1) The Council may at the same meeting at which it is passed, revoke or change a decision if all Members who were present in the Council chamber at the time the decision was passed are also present in the Council chamber at the time the revoking or changing is proposed.
- (2) The revocation or change referred to in sub-clause (1) shall be considered under Item 15 “Urgent Business” in the order of business on the Agenda and no notice of motion is required for it to be considered by Council.

13.2 Implementing a decision

- (1) A resolution shall not be implemented by the CEO or any employee of the local government until noon on the first working day following the Council meeting at which that resolution was passed.
- (2) Where a notice of motion to revoke or change a resolution in accordance with clause 13.3 is received after the meeting at which the resolution was passed, but before noon on the first working day following that meeting, a resolution shall not be acted upon until the motion to revoke or change is—
 - (a) moved and voted upon by the Council; or
 - (b) withdrawn by the proponents of the motion to revoke or change a resolution.
- (3) Where a resolution as referred to in subclause (2) is defeated or withdrawn by the proponent, the CEO shall implement the original resolution of Council after noon on the first working day following the decision.

13.3 Method of submitting motions to revoke or change

A notice of motion to revoke or change a decision shall—

- (a) be submitted in writing to the CEO at least 7 working days prior to the scheduled meeting at which it is proposed to be moved;

- (b) be signed by at least one third of the number of offices of Members of the Council;
- (c) clearly identify the resolution to be revoked or changed; and
- (d) clearly state the reason or reasons for seeking the revocation or change.

13.4 Limitations on revocations and impact statement

The Council shall not consider a motion to revoke or change a decision of the Council if at the time the motion is moved or notice is given—

- (a) action has been taken to implement the decision; or
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where the approval or authorisation of a licence, permit or certificate has been put into effect by the local government in writing to the applicant or the applicant's agent by an employee of the local government authorised to do so,

without having considered a statement of impact prepared by or at the direction of the CEO of legal and financial consequences of the proposed revocation or change.

13.5 Absence of mover or seconder

(1) A motion to revoke or change a prior decision of the Council must be moved and seconded by the required number of offices of Members of the Council, as required by the Regulations before it can be debated.

(2) If a motion to revoke or change a decision is not supported in accordance with sub-clause (1) it—

- (a) lapses and can not be dealt with later on that agenda; and
- (b) is considered to have failed.

13.6 Repeated revocations by the same Member prohibited

If the Council, on a motion moved by any Member, resolved not to revoke or change a resolution, then the Council shall not entertain a motion by the same Member to revoke or change the same resolution at a subsequent meeting unless the notice of motion referred to in clause 13.3 is signed by an absolute majority of the Council.

PART 14—SUSPENSION OF LOCAL LAW

14.1 Suspension of provision of local law

(1) A Member may at any time move that the operation of clause 7.12 of the provisions of this local law be suspended.

(2) A Member moving a motion under subclause (1) is to state the reason for the motion but no other discussion is to take place.

(3) A motion under subclause (1) which is—

- (a) seconded; and
- (b) carried by an absolute majority,

is to suspend the operation of that clause for the duration of the specific agenda item identified by the mover.

(4) The mover of a substantive motion debated following the suspension of clause 7.12 does not close debate on the item when speaking more than once.

14.2 Where local law does not apply

(1) In situations where—

- (a) clause 7.12 of this local law has 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 is moved and carried under clause 10.9.

PART 15—COMMITTEES OF THE COUNCIL

15.1 Establishment, type and membership of Committees

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, employees and other persons to be appointed to the committee;
- (c) the names or titles of the Council Members and employees 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;
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

15.2 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the Presiding Member of a committee or any 2 members of that committee.

15.3 Order of business

(1) Unless otherwise decided by the committee, the order of business at any meeting of a committee is to be as follows—

1. Declaration of Opening
2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
3. Disclosure of interest
4. Question time for the public
5. Confirmation of minutes
6. Reports
7. Confidential matters
8. Closure

(2) Notwithstanding subclause (1), 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 under section 5.17 of the Act.

15.4 Participation at committee meetings

(1) A Member may attend any meeting of a committee established by the Council as an observer, even if the Member is not appointed to that committee.

(2) A deputy to a Member of a committee established by the Council may attend a meeting of that committee as an observer, even if the deputy is not acting in the capacity of a Member.

(3) The Member 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, make an oral submission to the committee for up to 3 minutes, 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.

15.5 Local law applies to committees

Unless otherwise specifically provided, the provisions of this local law apply generally to the proceedings of committees, except for—

- (a) clause 7.1;
- (b) clause 7.8; and
- (c) clause 7.12.

PART 16—MEETINGS OF ELECTORS

16.1 Procedure for electors' meetings

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 the Act, Regulations and this local law.

16.2 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.

PART 17—ENFORCEMENT

17. Penalty for breach

A person who breaches a provision of this local law commits an offence.

Penalty: \$1,000.00 and a daily penalty of \$100.00.

PART 18—COMMON SEAL

18.1 Custody of the common seal

The CEO is to have charge of the common seal of the local government and is responsible for its safe custody and proper use.

18.2 Register

The CEO is to maintain a register that is to record, in respect of each occasion when the common seal is affixed to a document—

- (a) the date that the common seal was affixed;
- (b) the nature of the document; and
- (c) the parties described in the document.

18.3 Use of common seal

(1) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the Mayor and either the CEO or a senior employee authorised by the Chief Executive Officer.

(2) Any person who uses the common seal of the local government or a replica without the Council's authority commits an offence.

Dated: 28 November 2016.

The Common Seal of the City of Gosnells was affixed by the authority of a resolution of the Council in the presence of—

OLWEN SEARLE, JP, Mayor.

IAN COWIE, PSM, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

FENCING LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

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 Narrogin resolved on 22 November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Narrogin 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 Application

This local law applies throughout the district.

1.4 Repeal

The *Municipality of the Town of Narrogin By Laws Relating to Fencing* as published in the *Government Gazette* on 8 January 1988, are repealed.

1.5 Definitions

In this local law unless the context otherwise requires—

applicant means a person who makes an application for approval under this local law;

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 or Australian/New Zealand Standard published by Standards Australia, and available for viewing free of charge at the Shire of Narrogin Administration Centre;

authorised person means a person appointed by the local government to perform any of the functions under this local law;

boundary fence means a fence constructed on the boundary of a lot which abuts a thoroughfare, and results in the application of section 16(1) of the *Dividing Fences Act 1961*;

Building Code has the meaning given in section 3 of the *Building Regulations 2012*;

central business lot means a lot zoned as central business under the local planning scheme;

CEO means the Chief Executive Officer of the local government;

dangerous in relation to any fence means—

- (a) an electrified fence which does not comply with clause 5.2 of this local law;
- (b) a fence containing barbed wire other than a fence constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire, metal spikes 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 has the meaning given in section 5 of the *Dividing Fences Act 1961*;

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

estate entry statement means a fence, or wall constructed of masonry or other materials to identify the entrance of an estate and may include but not be limited to a sign indicating the estate name and locality, sculptures, flagpoles and flags;

estate boundary fence means the fence constructed 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;

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

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

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

general agriculture lot means a lot zoned as general agriculture under the local planning scheme;

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 constructed on a retaining wall approved by the local government, from the top of the retaining wall;

industry lot means a lot zoned as industry under the local planning scheme;

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*;

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

notice of breach means a notice referred to in clause 8.1;

occupier has the meaning given to it in section 1.4 of the *Local Government Act 1995*;

owner has the meaning given to it in section 5 of the *Dividing Fences Act 1961*;

repair has the meaning given to it under section 5 of the *Dividing Fences Act 1961*;

residential lot means a lot zoned as residential under the local planning scheme;

retaining wall means any structure prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

rural residential lot means a lot zoned as rural residential under the local planning scheme;

rural smallholding lot means a lot zoned as rural smallholding under the local planning scheme;

rural townsite lot means a lot zoned as rural townsite under the local planning scheme;

Schedule means a Schedule to this local law;

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

service commercial lot means a lot zoned as service commercial under the local planning scheme;

set fee means a fee determined by the local government in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;

special use lot means a lot zoned as special use under the local planning scheme;

street setback area has the meaning given to it for the purposes of the *Residential Design Codes of Western Australia*;

sufficient fence means a fence described in clause 2.2 or 2.3 and includes a fence of the description and quality agreed upon by the owners of adjoining lots which does not fail to satisfy clause 2.2 or 2.3; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

1.6 Requirements of local planning scheme

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 local planning scheme are to prevail.

1.7 Requirements of *Building Act 2011*

Nothing in this local law affects a provision in any written law in respect of a building permit for a fence.

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences—requirement

A person shall not construct a dividing fence or a boundary fence that is not a sufficient fence.

2.2 Sufficient fences—generally

Subject to clause 2.3 a sufficient fence—

- (a) on a residential lot, rural townsite lot or special use lot is a dividing fence or a boundary fence constructed in accordance with Schedule 1;
- (b) on a central business lot, service commercial lot or industry lot is a dividing fence or a boundary fence constructed in accordance with Schedule 2; and

- (c) on a general agriculture lot, rural residential lot or rural smallholding lot is a dividing fence or a boundary fence constructed in accordance with Schedule 3.

2.3 Sufficient fences—between lots having different requirements

Where a fence is constructed on or near the boundary between—

- (a) a residential lot, rural townsite lot or special use lot and a lot zoned for any other purpose, a sufficient fence is a fence constructed in accordance with Schedule 1; and
- (b) a central business lot, service commercial lot or industry lot and a general agriculture lot, rural residential lot or rural smallholding lot, a sufficient fence is a fence constructed in accordance with Schedule 3.

2.4 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, an authorised person may give written consent for the construction or repair of a fence which is not a sufficient fence where all of the owners of the lots adjoin the fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local government may consider whether the construction or repair of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person;
- (c) the visual amenity of the locality; and
- (d) any other matter considered relevant.

2.5 Transitional provision

A dividing fence or fence lawfully constructed prior to this local law coming into operation constitutes a sufficient fence.

PART 3—FENCING GENERALLY

3.1 Fences within front and secondary setback areas

(1) A person shall not, without the written consent of an authorised person, construct a free-standing fence greater than 1200mm in height, within the front setback area of a residential lot, rural townsite lot or special use lot.

(2) An authorised person may approve the construction of a fence of a height greater than 1200mm in the front setback area of a residential lot, rural townsite lot or special use lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of subclause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

(4) The provision of subclause (2) shall apply to a secondary setback area where a driveway in the secondary setback area is used as the primary driveway access.

3.2 Alteration of ground levels

(1) A person shall not alter the natural ground level of land on or within 1000mm of the boundary of a lot, whether by removing soil or bringing onto the land any fill of any kind, by more than 500mm without the approval of an authorised person.

(2) A fence constructed of corrugated fibre-reinforced pressed cement shall not have more than 150mm difference in the ground levels on each side of the fence.

(3) Where land has been filled or retained to a height of more than 500mm above natural ground level at or within 1000mm of a boundary of a lot, a person shall only construct a dividing fence that is a sufficient fence on the said filled land or retaining wall if the person produces to an authorised person the written agreement of the owners of the adjoining lot.

3.3 Obstruction of watercourse

No person shall construct 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.

3.4 Gates or doors in fences

A person shall not construct a gate or door in a fence which encroaches into or over any other property.

3.5 Retaining walls

A person must not commence to construct a retaining wall which is on the boundary line unless—

- (a) an application has been lodged with the local government including—
 - (i) two copies of a plan and specifications of the proposed retaining wall; and
 - (ii) in the case of a retaining wall exceeding 500mm in height and when required by an authorised person, engineering calculations in respect of the proposed retaining wall; and
- (b) an authorised person has approved the application.

3.6 Estate fencing

(1) A person shall not construct an estate entry statement or estate boundary fence without the approval of an authorised person.

(2) Where an estate entry statement or estate boundary fence is constructed and contains an estate name, the entry statement or estate boundary fence shall also depict the locality name in at least equal prominence.

(3) An owner or occupier of a lot adjacent to an estate boundary fence shall, where that fence is damaged, dilapidated or in need of repair, cause it to be repaired or replaced with the same or similar materials with which it was first constructed, so as far as practicable the repaired or replaced section shall be the same as the original fence.

3.7 Maintenance of fences

(1) An owner or occupier of a lot on which a fence is constructed shall maintain the fence in good condition so as to prevent it from becoming damaged, dangerous, dilapidated or unsightly.

(2) Where in the opinion of an authorised person, a fence is in a state of disrepair or is dangerous or is otherwise in breach of a provision of this local law, an authorised person may give a notice of breach under clause 8.1 to the owner or occupier of the lot on which the fence is constructed.

3.8 Fences across rights-of-way, public access ways or thoroughfares

A person must not construct or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed without the approval of an authorised person.

PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE

4.1 Prohibited materials

A person must not construct a fence which is comprised, in whole or in part of spikes, broken glass, jagged materials, barbed wire, razor wire, asbestos or any other dangerous material except to the extent provided for in Part 5.

4.2 Pre-used fencing materials

(1) A person shall not construct a boundary fence, dividing fence or estate fence from pre-used materials without the approval of an authorised person.

(2) Where an authorised person approves the use of pre-used materials, the materials shall be structurally fit for the purpose, and comply with any conditions imposed by an authorised person.

(3) Conditions for use of pre-used fencing materials may include but are not limited to—

- (a) painting;
- (b) treated;
- (c) specific use or placement; and
- (d) upgrading.

4.3 Approved materials

Subject to clause 4.2, a person shall only construct a dividing fence or boundary fence from materials specified in the Schedules of this local law, unless otherwise approved or required by an authorised person.

4.4 Screening

(1) Screening may be fixed to a sufficient fence that is compliant with Schedule 1 which is consistent with the colours, materials and specification of that sufficient fence.

(2) Screening is not to be affixed to a fence so that the maximum height exceeds 2.1m.

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

PART 5—RESTRICTED FENCING

5.1 Barbed wire fencing

(1) An owner or occupier of a residential lot or special use lot shall not affix or allow to remain any barbed wire on any fence bounding that lot.

(2) An owner or occupier of a rural townsite lot, rural residential lot, rural smallholding lot or general agriculture 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.

(3) An owner or occupier of a central business lot, service commercial lot or industry lot shall not construct or affix to any fence bounding that lot any barbed wire unless—

- (a) the wire or material are attached on posts vertically or at an angle of 45 degrees; and
- (b) the bottom row of wire or other materials is not less than 2000m above the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in subclause (3) 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 onto or over adjoining land.

5.2 Electrified fencing

- (1) An owner or occupier of a lot shall not construct or use an electrified fence on that lot without first obtaining approval of an authorised person.
- (2) Notwithstanding subclause (1), approval is not required for an electrified fence—
 - (a) constructed on a general agriculture lot, rural smallholding lot, rural residential lot;
 - (b) for the purpose of animal control;
 - (c) installed in accordance with the manufacturer's specifications; and
 - (d) which is not the dividing fence with a residential lot, rural townsite lot or special use lot.
- (3) An electrified fence for the purpose of security must not be present on a lot unless it complies with *AS/NZS 3016:2002 Electrical Installations—Electric Security Fences*, as amended from time to time, and which is available for viewing free of charge at the Shire of Narrogin Administration Centre.
- (4) Approval to have and use an electrified fence for the purpose of security shall not be issued—
 - (a) in respect of a lot which is or which abuts a residential lot, rural townsite lot or special use 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 constructed.

5.3 Razor wire fencing

- (1) An owner or occupier of a lot shall not construct a fence wholly or partly of razor wire on that lot without first obtaining approval under subclause (2).
- (2) Approval to have a fence constructed wholly or partly of razor wire shall not be issued—
 - (a) in respect of a lot which is or which abuts a residential lot or special use lot;
 - (b) if the fence is within 3m of the boundary of the lot; or
 - (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

PART 6—APPROVALS

6.1 Application for approval

- (1) An owner of a lot may apply to the local government for approval of any discretionary matter contained within this local law.
- (2) An application for approval under this local law shall—
 - (a) provide all necessary documentation and information required for a decision;
 - (b) provide two copies of a plan and specifications of the proposed;
 - (c) engineering certification of structural or electrical engineering specifications, if required;
 - (d) be signed by the owner of the lot;
 - (e) be forwarded to the CEO together with any set fee; and
 - (f) be in the form determined by the local government from time to time.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) An authorised person may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

6.2 Decision on application for approval

- (1) An application submitted to the local government under this local law may be—
 - (a) approved by an authorised person;
 - (b) approved by an authorised person subject to conditions as the authorised person sees fit; or
 - (c) rejected by an authorised person.
- (2) In determining whether to grant its consent to the construction or installation, an authorised person may consider, in addition to any other matter that it is authorised to consider, whether the construction 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) An authorised person may by written notice amend a condition imposed under subclause (1)(b).
- (4) An amendment under subclause (3) is effective from the date specified in the notice.
- (5) If an authorised person approves an application for approval, it is to issue to give written notice of approval and any conditions applied, to the applicant.
- (6) If an authorised person refuses to approve an application for approval, it is to give written notice of that refusal and the reasons for the decision to the applicant.

6.3 Compliance with approval

Where an application for approval has been approved under clause 6.2, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

6.4 Cancellation of an approval

An authorised person may cancel an approval if—

- (a) the owner or occupier requests an authorised person 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.

6.5 Duration of approval

- (1) Unless otherwise stated in the form of approval, an approval granted under this local law transfers with the lot to which it relates and 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 subclause (1), the successive owner or occupier may apply to an authorised person for written confirmation of this transfer.
- (3) For the avoidance of doubt, approval granted under this local law may be relied upon by any subsequent owner or occupier of the lot, and may be enforced against them by the local government.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

Where an authorised person exercises a discretion pursuant to this local law, an affected person has a right of objection and appeal under Division 1 of Part 9 of the *Local Government Act 1995*.

PART 8—ENFORCEMENT

8.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, an authorised person may give a notice of breach in writing to the owner or occupier of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier is required to remedy the breach within the time specified in the notice.
- (3) An owner or occupier given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.
- (4) Should an owner or occupier fail to comply with a notice, an authorised person may enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of doing so from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.
- (5) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

8.2 Offences and penalties

- (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) 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

The amount appearing in the final column of Schedule 4 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.

8.4 Form of notices

For the purposes of this local law—

- (1) 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 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (2) 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*.

**SCHEDULE 1—SUFFICIENT FENCE—RESIDENTIAL, RURAL TOWNSITE
AND SPECIAL USE LOTS**

[Clause 2.2(a)]

Each of the following is a sufficient fence on residential lots, rural townsite lots and special use lots—

- (a) except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1; and
 - (b) where constructed to an average height of 1800mm.
- (1) Any type of professionally manufactured timber fence, constructed in accordance with the manufacturer's specifications.
 - (2) Any corrugated fibre reinforced pressed cement sheet fence, constructed in accordance with the manufacturer's specifications.
 - (3) Any type of masonry or brick fence that is constructed in accordance with the Building Code, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance.
 - (4) A steel sheet colorbond fence, constructed in accordance with the manufacturer's specifications.
 - (5) Dense brushwood constructed in accordance with the manufacturer's specifications.

**SCHEDULE 2—SUFFICIENT FENCE—CENTRAL BUSINESS, INDUSTRY
AND SERVICE COMMERCIAL LOTS**

[Clause 2.2(b)]

Each of the following is a sufficient fence on central business lots, industry lots and service commercial lots.

- (1) A fence constructed of galvanized or PVC coated—
 - (a) rail-less link;
 - (b) chain; or
 - (c) steel mesh.
- (2) A fence constructed in accordance with clause (1) shall be—
 - (a) to a height of 1800mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm;
 - (b) supported by steel galvanised pipe posts each—
 - (i) 2700mm in length;
 - (ii) having a nominal bore of 40mm and an outside diameter of 48mm;
 - (iii) spaced at 4000mm centres;
 - (iv) sunk 600mm into the ground and encased in concrete having a minimum diameter of 150mm; and
 - (v) the centre and bottom steel cable wire is to be 3.15mm in diameter and double twisted; and
 - (c) with terminal posts braced in the line of the fence with diagonal pipe braces having a nominal bore of 50mm and an outside diameter of 60mm.
- (3) Fences constructed in accordance with Schedule 1.

**SCHEDULE 3—SUFFICIENT FENCE—GENERAL AGRICULTURE, RURAL
RESIDENTIAL AND RURAL SMALLHOLDING LOTS**

[Clause 2.2(c)]

Each of the following is a sufficient fence on general agriculture lots, rural residential lots and rural smallholding lots.

- (1) In the case of a non-electrified fence, a fence of posts and wire construction, the minimum specifications for which are—
 - (a) wire shall be—
 - (i) high tensile wire and not less than 2.5mm; and
 - (ii) a minimum of seven 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;
 - (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative, and not less than 1650mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
 - (c) posts to be set minimum 600mm in the ground and 1200mm above the ground; and

(d) strainer posts shall be—

- (i) not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter);
- (ii) cut from indigenous timber or other suitable material; and
- (iii) placed a minimum of 1000mm in the ground.

(2) An electrified fence having five wires only is a sufficient fence if constructed generally in accordance with clause (1).

SCHEDULE 4—PRESCRIBED OFFENCES

[Clause 8.3]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1	Construction of a dividing fence or boundary fence on a lot that is not a sufficient fence without approval	200
2	3.1	Construction of a non-compliant fence within setback area without approval	200
3	3.2(1)	Alteration of ground levels without approval	500
4	3.3	Obstruction of a watercourse	200
5	3.4	Construction of a gate or fence encroaching over other property	200
6	3.5	Construction of retaining wall without approval	500
7	3.6(1)	Construction of estate fencing without approval	500
8	3.7(1)	Failure to maintain fence in good condition	200
9	3.8	Construction of a fence across right-of-way etc. without approval	500
10	4.1	Use of prohibited materials in a fence	500
11	4.2(1)	Use of pre-used fencing materials without approval	200
12	4.4	Construction of screen exceeding 2.1m in height	200
13	5.1(1)	Using or allowing to remain barbed wire on residential or special use lots	200
14	5.1(2)	Non-compliant use of barbed wire on a rural townsite, general agriculture, rural residential or rural smallholding lots	200
15	5.1(3)	Non-compliant use of barbed wire on a central business, industry or service commercial lots	500
16	5.2	Construction of an electric fence without approval	500
17	5.3	Construction of a razor wire fence without approval	500
18	6.3	Failure to comply with conditions of approval for fence	500
19	8.1(3)	Failure to comply with notice of breach in relation to Part 5—Restricted Fencing	500
20	8.1(3)	Failure to comply with notice of breach in relation to all matters other than Part 5—Restricted Fencing	200
21	8.2(1)	Other offences not specified	200

Dated this 23 November 2016.

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

L. N. BALLARD, President.
A. J. COOK, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

**PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2016**

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SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF NARROGIN

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY 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 22 November 2016 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Narrogin Public Places and Local Government Property 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 applies throughout the district.

1.4 Repeal

The following local laws are repealed—

- (a) *The Municipality of the Town of Narrogin Adoption of Draft Model By-laws Relating to the Removal and Disposal of Obstructing Animals and Vehicles No. 7* published in the *Government Gazette* on 6 November 1964;
- (b) *The Municipality of the Town of Narrogin By-laws Relating to the Care, Control and Management of Roads and Ways* published in the *Government Gazette* on 2 June 1989; and
- (c) *The Municipality of the Town of Narrogin By-laws relating to Swimming Pools* published in the *Government Gazette* on 28 February 1975, and amended from time to time.

1.5 Transitional provisions

(1) 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.

(2) 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.

1.6 Definitions

(1) 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;

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

(a) hall or room; and

(b) corridor, stairway or annexe of any hall or room;

building permit means a permit granted under section 20 of the *Building Act 2011*;

built-up area has the meaning given to it by 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*;

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;

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 any of the following—

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

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

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

costs means all expenses directly associated with reinstatement or replacement, and includes administrative expenses, associated with reinstatement or replacement;

Council means the council of the local government;

crossover means an areas of the verge, constructed and used for the purpose of enabling a vehicle to access the adjacent property;

determination means a determination made under clause 2.1;

district means the district of the local government and includes any area placed under the jurisdiction of the local government under section 295 of the *Public Health Act 2016*;

drone includes a remotely piloted aircraft and means an unmanned aerial vehicle as defined in regulation 101.240 of the *Civil Aviation Safety Regulations 1998* (Commonwealth);

entertainment means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

firearm has the same meaning as in section 4 of the *Firearms Act 1973*;

food has the meaning given by the *Food Act 2008*;

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

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;

hire includes offer to hire and expose for hire;

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, permit or approval issued by the local government under this local law;

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 Shire of Narrogin;

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;

local public notice has the meaning given to it in section 1.7 of the Act;

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;

missile has the same meaning as in section 4 of the *Firearms Act 1973*;

model aircraft means an aircraft that is used for sport or recreation, and cannot carry a person, and includes a model rocket;

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;

permitted verge treatment means any one of the treatments described in clause 6.7(3), and includes any reticulation pipes and sprinklers;

person does not include the local government;

prohibited drug is given its meaning under section 3 of the *Misuse of Drugs Act 1981*;

public place means—

- (a) a thoroughfare;
- (b) any local government property; or
- (c) a place to which the public have access;

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 to 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;

set fee refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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 tree any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

thoroughfare 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;

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) where the context permits, 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;
 - (d) a shopping trolley; and

- (e) a pram, stroller or 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

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.

1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of local government property.

1.8 Types of licences

For the purposes of this local law—

- (a) a licence which authorises trading on any thoroughfare or local government property is to be referred to as a trading licence;
- (b) a licence which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market licence;
- (c) a licence which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment licence; and
- (d) a licence which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales licence.

1.9 Assistance animals

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 (Cth)*.

1.10 Overriding power to hire and agree

Despite anything to the contrary in this local law, 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.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

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.

2.2 Procedure for making a determination

(1) The local government is to give local public notice of the local government 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 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) is to apply; or
- (c) not continue with the proposed determination.

(4) If submissions are received in accordance with subclause (2)(c), the local government is to—

- (a) consider those submissions; and
- (b) 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).

(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 must comply with a determination.

2.5 Register of determinations

(1) The local government is to keep a register of determinations made under clause 2.2, 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 aircraft;

(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) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;

(g) 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; and

(h) 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.

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) 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;
 - (h) conduct a function or entertainment event 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;
 - (k) light or set off any firework or conduct a fireworks display on local government property;
 - (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) depasture any horse, sheep, cattle, goat, camel ass or mule on local government property;
 - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or

- (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound 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).

3.2 Licence to erect structures or camp

- (1) This clause does not apply to a caravan park or camping ground operated by the local government.
- (2) 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 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
 - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (3) The maximum period for which the local government may approve an application for a licence in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) Any tent, camp, hut or similar structure erected in contravention of paragraph (b) of subclause (2) and associated goods may, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded.
- (5) A vehicle parked in contravention of paragraph (c) of subclause (2) may, subject to the provisions of Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded by immobilising the vehicle by the use of a wheel clamping device.
- (6) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released upon payment of the costs of impounding by use of a wheel clamping device and the place where and hours during which the costs can be paid.
- (7) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.
- (8) Notices issued under this clause shall be in the form determined by the local government.

3.3 Licence required for possession and consumption of liquor

- (1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless—
 - (a) permitted under the Liquor Control Act; and
 - (b) a licence has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

PART 4—BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES

4.1 Behaviour which interferes with others

In or on any local government property or thoroughfare, a person must not, behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property or thoroughfare; or
- (b) interferes with the enjoyment of a person using the property or thoroughfare.

4.2 Behaviour detrimental to property

A person must not behave in or on local government property or thoroughfare in a way which is or might be detrimental to the property, including but not limited to—

- (a) removing any thing from the local government property or thoroughfare 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 or thoroughfare, including a plant, a seat provided for the use of any person or a building.

4.3 No unauthorised entry to function

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

4.4 Taking or injuring fauna

- (1) In this clause—
 - animal* means any living thing that is not a human being or plant;

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.

(2) 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 or thoroughfare, unless that person is authorised under a written law to do so.

4.5 Flora

(1) In this clause—

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

(2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not—

- (a) remove, damage or interfere with any flora; or
- (b) plant or deposit any flora.

4.6 Animals

On any local government property or thoroughfare, a person must not—

- (a) tether any animal other than a dog, to an object or tree; or
- (b) permit any animal other than a dog, to enter unless authorised by a licence.

4.7 Waste

A person must not deposit or discard waste on local government property or thoroughfare except—

- (a) in a place or receptacle set aside by an authorised person for that purpose, and in accordance with any conditions that may be specified on the receptacle or a sign; or
- (b) at the Narrogin waste disposal facility, and subject to directions issued from time to time by 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.

4.8 Glass

Unless authorised by a licence or by the local government, a person must not take a glass—

- (a) on to a children's playground; or
- (b) within any area of local government property as indicated by a sign.

4.9 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.

4.10 Prohibition on use of firearms

A person shall not discharge a firearm within or so as the missile crosses any part of local government property for any reason, except with the express permission of the local government.

4.11 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) used in accordance with the conditions set down by the local government or an authorised person; and
 - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 20 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.

4.12 Motorised model aircraft, toys or ships

A person must not use, launch or fly a motorised model aircraft, drone, toy, ship or glider 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.

4.13 Archery, pistol or rifle shooting

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.

4.14 Playing or practising golf

A person must not play or practise golf on local government property except where a licence or determination specifies a particular local government property.

4.15 Prohibition relating to bicycles, skateboards etc. on local government property

Unless the local government property is clearly identified for the purpose, a person must not, use or ride a bicycle or wheeled recreational device, skateboard or roller-blades, or sand board or similar devices on any local government property—

- (a) inside, or on the curtilage to, a building; or
- (b) in or on a lakebed or waterway.

4.16 Exemption

Notwithstanding the requirements of clauses 4.10 to 4.14 inclusive, the CEO may approve the activity on local government property in circumstances and under such conditions as is considered appropriate.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

5.1 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 an authorised person.

5.2 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.

5.3 Use of shower or bath facilities

A person may use a shower or bath facility in change rooms 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 THOROUGHFARES

Division 1—General

6.1 General prohibitions

A person must not—

- (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;

- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare 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 thoroughfare or by the local government, unless—
 - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law 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;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

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 thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) fell or damage any street tree;
 - (h) fell any tree onto a thoroughfare;
 - (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
 - (j) unless installing, or in order to maintain, a permitted 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 thoroughfare any hoist or other thing for use over the thoroughfare;
 - (l) on a thoroughfare use anything or do anything so as to create a nuisance;
 - (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
 - (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
 - (o) carry on any trading on a thoroughfare;
 - (p) conduct or set up a market on a thoroughfare; or
 - (q) conduct an entertainment event on a thoroughfare.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

6.3 Assignment of numbers

- (1) In this clause—

number means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) 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.

6.4 No driving on closed thoroughfare

A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act 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.

6.5 Fencing of public place—Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 2—Permitted verge treatments

6.6 Application

This Division only applies to within a built-up area.

6.7 Permitted verge treatments

- (1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted 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 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 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) is not of a thorny, poisonous or hazardous nature; and
 - (c) subject to subclause (4), the installation of material which do not detract from the amenity of the area, including but not limited to—
 - (i) bituminous surface or in-situ concrete, subject to reduction of area shedding of storm water or flooding;
 - (ii) use of paving bricks or concrete slabs; and
 - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
 - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require—
 - (i) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
 - (ii) an area of open space to a maximum of 1m from the edge of a street trees.
- (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 6.9.

6.8 Obligations of owner or occupier

An owner or occupier who installs or maintains a permitted verge treatment must—

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure 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 carriageway, 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.

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

6.10 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 material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 3—Vehicle crossovers

6.11 Temporary crossovers

(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 must obtain a licence for the construction of a temporary crossover to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—

- (a) a crossover does not exist; or
- (b) a crossover does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossover.

(2) The person responsible for the works in subclause (1) is to be taken to be—

- (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
- (b) the owner of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.

(3) If an authorised person 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 crossover is removed, the licensee must keep the temporary crossover in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

6.12 Removal of redundant crossover

(1) Where works on a lot will result in a crossover no longer giving access to a lot, the crossover 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 an authorised person.

(2) An authorised person 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 crossover 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 must comply with that notice.

6.13 Crossovers in unsafe locations

(1) Where a crossover is in an unsafe location, Council may give notice to the owner or occupier to—

- (a) remove the crossover; or
- (b) make the crossover safe.

(2) In determining whether the crossover is in an unsafe location, Council shall have regard to—

- (a) any guidelines or advice Main Roads Western Australia sought or published from time to time;
- (b) the usage of the thoroughfare; and
- (c) alternative treatments available to make the crossover safe.

(3) Any notice issued under subclause (1) is to give a minimum period of 28 days to remove or make the crossover safe, provided immediate measures are taken to advise users of the thoroughfare of the circumstances deemed unsafe.

PART 7—ACTIVITIES IN PUBLIC PLACES

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 this clause, *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 thoroughfare, 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, an authorised person 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.

7.7 Prohibition relating to bicycles, skateboards etc. in some public places

A person shall not ride any bicycle or wheeled recreational device, skateboard, roller-blades or similar device within a mall, arcade or veranda of a shopping centre.

PART 8—TEMPORARY SIGNS AND TRADE DISPLAYS

8.1 Definitions

In this Part, unless the context otherwise requires—

advertising sign means a temporary sign or poster which advertises a business, products or services for commercial gain;

election sign means a temporary sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

event sign means a temporary sign or poster which advertises an event, function or activity;

temporary sign means a sign used for the purpose of advertisement or notification, whether free standing or requiring to be affixed to a structure of any type, and includes—

- (a) a bill, poster and the like;
- (b) an advertising sign;
- (c) an event sign; and
- (d) an election sign; and

trade display means the display for sale or as samples, the goods and services available in, or with the permission of the adjoining premises.

8.2 Application

(1) This Part applies—

- (a) within the built-up area;

- (b) to temporary signs complying with clause 8.5; and
 - (c) to temporary trade displays complying with clause 8.10.
- (2) Any advertising sign or trade display that is to be a permanent structure or fixture is to comply with—
- (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
 - (b) any Local Planning Scheme; and
 - (c) any other written law regulating of signs within the district.

8.3 Temporary signs and trade displays

- (1) A person shall not on local government property or in a thoroughfare, without a licence—
- (a) place an temporary sign;
 - (b) place a trade display; or
 - (c) post any bill or paint, place or affix any advertisement.
- (2) Notwithstanding subclause (1), a licence is not required for—
- (a) the first and second advertising signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 600mm within the CBD or 300mm elsewhere;
 - (iv) is placed against the property boundary; and
 - (v) complies in all other respects with clauses 8.5, 8.6 and 8.7;
 - (b) not more than 5 free standing event signs where each—
 - (i) does not exceed an area of 1 square metre;
 - (ii) does not exceed 750mm horizontally;
 - (iii) has a minimum height of 600mm within the CBD or 300mm elsewhere; and
 - (iv) complies in all other respects with clauses 8.5, 8.6 and 8.8;
 - (c) not more than 5 event signs requiring support where each—
 - (i) does not exceed an area of 5 square metres individually or an aggregate of 15 square metres;
 - (ii) has a maximum height of 1.2m above ground level;
 - (iii) is placed flat against a wall or constructed fence for the full length and height of the sign;
 - (iv) is for the purposes of a sporting, charitable or not for profit organisation; and
 - (v) complies in all other respects with clauses 8.5, 8.6 and 8.8;
 - (d) an election sign which—
 - (i) complies with the requirements of subclause (2)(b)(i) to (iii) or (2)(c)(i) to (iii); and
 - (ii) complies in all other respects with clauses 8.5, 8.6 and 8.9; and
 - (e) a trade display which—
 - (i) does not exceed 1m in width from the property boundary;
 - (ii) is placed against the property boundary, or if no adjoining business, does not exceed 5m in length;
 - (iii) does not extend beyond the frontage of the business; and
 - (iv) complies in all other respects with clause 8.10.

8.4 Matters to be considered in determining application for licence

In determining an application for a licence for the purpose of clause 8.3(1), matters the local government is to have regard to include—

- (a) any other written law regulating the construction or placement of signs or trade displays within the district;
- (b) the dimensions of the sign or trade display;
- (c) whether or not the sign or trade display may create a hazard to persons using a thoroughfare;
- (d) other signs or trade displays already approved or erected in the vicinity of the proposed location of the sign or trade display; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

8.5 Conditions for temporary signs

Temporary signs shall—

- (a) be portable and free-standing or temporarily affixed so as there is no resulting damage to any thing;
- (b) be secured in position in accordance with any requirements of the local government;
- (c) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;

- (d) be placed so as not to obstruct lines of sight for vehicle traffic;
- (e) not be unduly distracting, in the opinion of an authorised person, if illuminated or incorporating reflective or fluorescent materials;
- (f) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
- (g) be maintained in good condition; and
- (h) be in compliance with any limitation of the number of signs notified in writing by the local government.

8.6 Prohibition on placement of temporary signs

An temporary sign shall not be placed—

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (b) on any natural feature, including a rock or tree, on a thoroughfare; or
- (c) on any bridge or the structural approaches to a bridge.

8.7 Additional conditions for advertising signs

An advertising sign shall—

- (a) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
- (b) be in place only during the hours of the business activity or the event being advertised.

8.8 Additional conditions for event signs

An event sign shall—

- (a) relate only to the event, function or activity advertised;
- (b) not be placed more than 28 days prior to the event, function or activity being advertised; and
- (c) be removed within 48 hours of the conclusion of the event, function or activity advertised.

8.9 Additional conditions for election signs

An election sign shall—

- (a) not being erected until the election to which it relates has been officially announced; and
- (b) being removed within 24 hours of the close of polls.

8.10 Conditions for trade displays

A trade display shall—

- (a) relate to the adjoining business activity;
- (b) is in place only during the hours of the business activity;
- (c) be constructed only to a such a height that it remains stable, in the opinion of an authorised person;
- (d) be secured in position in accordance with any requirements of the local government;
- (e) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
- (f) be placed so as not to obstruct lines of sight for vehicle traffic; and
- (g) be maintained in a neat and tidy manner.

PART 9—LICENCING

Division 1—Applying for a licence

9.1 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 set fee.

(3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a licence.

(4) An authorised person may require an applicant to give local public notice of the application for a licence.

(5) 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.

9.2 Decision on application for licence

- (1) 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 an authorised person approves an application for a licence, the licence is to be issued to the applicant in the form determined by the CEO.
- (3) If an authorised person refuses to approve an application for a licence, written notice of that refusal is to be given to the applicant.
- (4) 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.

9.3 General restrictions on grant of licence

- (1) 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) An authorised person must not grant a licence unless 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.

9.4 Examples of conditions

- (1) Examples of the conditions that an authorised person may impose on a licence under clause 9.2(1)(a) or 9.7(1)(a) are conditions relating to—
 - (a) the payment of a set 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 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 set 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 an authorised person to cancel a booking during the course of an annual or seasonal booking, if 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;
 - (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.

9.5 Imposing conditions under a policy

- (1) In this clause—

policy means a local government policy adopted by the Council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a licence may be approved under clause 9.2(1)(a).

- (2) Under clause 9.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) 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 9.2(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 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.

9.6 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.

9.7 Variation of licence

- (1) The CEO may, by written notice given to the licensee, vary a licence—
 - (a) imposing any new condition; or
 - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the licensee or on the CEO's initiative.
- (3) An amendment will come into effect on the day that written notice is given to the licensee, or some other date as specified in the notice.

Division 2—Duration of licences

9.8 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.

9.9 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 set fee.
- (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.

9.10 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 an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any set fee.
- (2) 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 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 an authorised person approves the transfer of a licence, the local government is not required to refund any part of any set fee paid by the former licensee.

9.11 Suspension of licence

- (1) The CEO may, subject to clause 9.12, 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, health or welfare 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.

9.12 Proposed suspension

- (1) If the CEO proposes to suspend a licence under clause 9.11(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).

9.13 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.

9.14 Period of suspension

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 9.13;
- (b) the licence is cancelled under clause 9.15 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

9.15 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.

9.16 Surrender of licence

A licensee may, at any time by notice in writing to the CEO, surrender the licence.

Division 3—Responsibilities of licensees and others

9.17 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.

9.18 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.

9.19 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.

9.20 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.

9.21 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 an instruction from an authorised person to take the action specified in the instruction 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 an authorised person; and
- (e) take all reasonable action to 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 for that purpose.

PART 10—SIGNS AND POWERS TO GIVE DIRECTIONS

10.1 Signs installed by the local government

- (1) The local government may install a sign in public places, on local government property or in thoroughfares specifying any conditions of use which apply to that property or thoroughfare.
- (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.

10.2 Pre-existing signs

Where a sign in a public place, property or thoroughfare or 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 10.1 if—

- (a) the sign specifies a condition of use relating to the thoroughfare 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.

10.3 Authorised person to be obeyed

- (1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

10.4 Refusal of entry and removal

- (1) An authorised person may refuse to allow entry, or suspend admission, to a specific venue of local government property except for the venue where local government council meetings are held, by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.
- (2) If 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 authorised person may direct the person to leave the local government property.
- (3) A person who has been refused entry or who has been directed to leave under subclause (1) or (2) must immediately leave the local government property quickly and peaceably.
- (4) If a person fails to comply with subclause (1) or (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (5) This refusal or suspension of entry can be for any period of up to 12 months as decided by that authorised person.

10.5 Disposal of lost property

An article left on any local government property, and not claimed within a period of 2 months, may be disposed of by the local government in any manner it thinks fit.

PART 11—OBJECTIONS AND REVIEW

11.1 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 12—NOTICES

12.1 Notice to remedy non-compliance

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give a notice in writing—

- (a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

12.2 Notice regarding damage to local government property

If a person unlawfully removes, damages or interferes with local government property or portion of a thoroughfare, an authorised person may give the person a notice requiring that person 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.

12.3 Notice requirements

A notice given must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken; and
- (c) the time within which the work or action is to be undertaken.

12.4 Local government may undertake requirements of notice

If a person fails to comply with a notice referred to in clauses 12.1 or 12.2, 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;
- (b) 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
- (c) recover all costs from the person, as a debt.

12.5 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.

PART 13—OFFENCES AND PENALTIES

13.1 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 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.

13.2 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 a modified penalty for a prescribed offence is the number specified adjacent to the clause in Schedule 1.

13.3 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 *Local Government (Functions and General) Regulations 1996*;
- (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 *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*.

(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.

13.4 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) If evidence of a determination is provided under subclause (1), 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.

Offences in respect of which a modified penalty applies

Item	Clause	Nature of offence	Modified penalty \$
Part 2—Determination in respect of local government property			
1	2.4	Failure to comply with a determination	100
Part 3—Activities on local government property			
2	3.1	Undertaking activity on local government property without a licence	100
3	3.2(2)	Camping on local government property or erecting an unauthorised structure	100
4	3.3(1)	Failure to obtain licence to possess, consume or sell liquor	100
Part 4—Behaviour on all local government property and thoroughfares			
5	4.1	Behaviour interfering with others	100
6	4.2	Behaviour detrimental to property	200
7	4.3	Unauthorised entry to function	100
8	4.4(2)	Taking or injuring fauna without authorisation	200
9	4.5(2)	Removing, damaging or depositing flora without authorisation	200
10	4.6	Animal on local government property or thoroughfare without a licence	100
11	4.7(a)	Improper disposal of waste on local government property	100
12	4.7(b)	Improper disposal of waste at the Narrogin waste facility	100
13	4.8	Taking glass into prohibited area	100
14	4.9	Under influence of liquor or prohibited drug on local government property	100
15	4.10	Discharge of firearm within or so as missile crosses part of local government property	500
16	4.11(1)	Unauthorised vehicle on local government property	100
17	4.11(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
18	4.11(3)	Unauthorised driving of a vehicle on local government property during a function	100
19	4.12	Unauthorised use of motorised model aircraft, drone, toy or ship	50
20	4.13	Unauthorised archery, pistol or rifle shooting on local government property	100
21	4.14	Unauthorised playing or practising golf on local government property	100
22	4.15	Unauthorised use of bicycle, skateboard etc. on local government property	50
Part 5—Matters relating to particular local government property			
23	5.1	Unauthorised entry to closed or fenced local government property	100
24	5.2	Unauthorised entry to gender specific toilet block or change room	200
25	5.3	Unauthorised use of showers or bath facilities in change room	50
Part 6—Activities in thoroughfares			
26	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
27	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
28	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
29	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
30	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
31	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
32	6.2(1) (a), (d),	Unauthorised activity in a thoroughfare causing damage	200

Item	Clause	Nature of offence	Modified penalty \$
	(e), (f), (g), (j)		
33	6.2(1) (b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100
34	6.4	Driving on a closed thoroughfare	100
35	6.7(1)	Unauthorised verge treatment	100
36	6.8(a), 6.8(d), 6.8(e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
37	6.8(c)	Placing an obstruction on or around a verge treatment	50
38	6.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
39	6.11(1)	Failure to obtain licence for a temporary crossover	200
40	6.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
41	6.13	Failure to remove crossover in unsafe location	500
Part 7—Activities in public places			
42	7.1(1)	Animal or vehicle obstructing public place without authorisation	100
43	7.2(2)	Animal in public place when not led, ridden or driven	100
44	7.2(3)	Horse being led, ridden or driven in a thoroughfare without authorisation	100
45	7.3	Failure to clearly mark name or trading name on shopping trolley	100
46	7.4	Person leaving a shopping trolley in a public place other than trolley bay	50
47	7.5	Failure to remove shopping trolley after being advised of location	100
48	7.7	Prohibited use of bicycle, skateboard etc in a public place	50
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49	8.3(1)	Placement of non-compliant temporary sign or trade display, or posting a bill or painting, or placing an advertisement without authorisation	100
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51	9.6	Failure to comply with licence condition	100
52	9.17, 9.18	Failure to produce licence for inspection or amendment when required	100
53	9.19	Advertising of commercial activity in a public space without holding a licence	200
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56	10.3(1)	Failure to comply with direction of authorised person	100
57	10.3(2)	Obstruction or hindrance of an authorised person	100
58	10.4(3)	Failure to leave a venue when instructed by an authorised person	200
59	10.4(5)	Failure to comply with period of refusal or suspension	200
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60	12.5	Failure to comply with notice	100
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61	13.1	Offence not elsewhere specified	100

Dated 23 November 2016.

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

L. N. BALLARD, President.
A. J. COOK, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

Shire of Narembeen

REPEAL 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 Narembeen resolved on 16th November 2016 to adopt the following local law.

1. Citation

This local law is cited as the *Shire of Narembeen Repeal Local Law 2016*.

2. Commencement

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

3. Repeal

The following Local Laws are repealed—

1. *Churchill Street Building Line By-law* as published in the *Government Gazette, W.A.* on 18 January 1952.
2. *Adoption of Draft Model By-laws Relating to Regulating the Construction, Establishment, Operation and Maintenance of Motels* as published in the *Government Gazette, W.A.* on 19 June 1963.
3. *By-law Relating to Numbering Houses and Buildings* as published in the *Government Gazette, W.A.* on 7 November 1963.
4. *By-laws Relating to Street Verandahs No. 16* as published in the *Government Gazette, W.A.* on 14 April 1965.
5. *Adoption of Draft Model By-laws Relating to Prevention of Damage to Streets (No. 15) No. 18* as published in the *Government Gazette, W.A.* on 10 June 1965.
6. *Adoption of Draft Model By-laws Relating to Removal and Disposal of Obstructing Animals or Vehicles, No. 7* as published in the *Government Gazette, W.A.* on 28 September 1979.
7. *Adoption of Draft Model By-laws Relating to Petrol Pumps, No. 10* as published in the *Government Gazette, W.A.* on 28th September 1979.
8. *Adoption of Draft Model By-laws Relating to Vehicle Wrecking, No. 17* as published in the *Government Gazette, W.A.* on 28 September 1979.
9. *Adoption of Draft Model By-laws Relating to Street Lawns and Gardens No. 11* as published in the *Government Gazette, W.A.* on 28 September 1979.
10. *Adoption of Draft Model By-law Relating to Old Refrigerators and Cabinets No. 8* as published in the *Government Gazette, W.A.* on 28 September 1979.
11. *Adoption of Draft Model By-Law relating to Deposit of Refuse and Litter No. 16* as published in the *Government Gazette, W.A.* on 28 September 1979.
12. *Adoption of Draft Model By-Laws relating to Control of Hawkers No. 6* as published in the *Government Gazette, W.A.* on 12 October 1979.
13. *Adoption of Draft Model By-Laws relating to Signs, Hoardings and Billposting No. 13* as published in the *Government Gazette, W.A.* on 12 October 1979.
14. *By-laws Relating to Management of the Narembeen Memorial Swimming Pool* as published in the *Government Gazette, W.A.* on 14 October 1983.

Dated this 5th day of December 2016.

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

R. COLE, Shire President.
C. JACKSON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986

SHIRE OF LAKE GRACE

CEMETERIES AMENDMENT LOCAL LAW 2016

Under the powers conferred by the *Cemeteries Act 1986*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Lake Grace resolved on 28 September 2016 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Lake Grace Cemeteries Amendment Local Law 2016*.

2. Commencement

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

3. Principal local law

In this local law the *Shire of Lake Grace Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries* published in the *Government Gazette* on 20 October 2000 and as amended on 15 December 2015.

4. Clause 1.2 amended

In clause 1.2, delete subclause (3).

5. Clause 6.1 amended

In clause 6.1, delete subclause (1) and replace with—

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is less than 750 mm.

Dated 18 October 2016.

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

Cr. JEANETTE De LANDGRAFFT, President.

DENISE GOBBART, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995
HEALTH ACT 1911
CAT ACT 2011

SHIRE OF LAKE GRACE

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995
HEALTH ACT 1911
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SHIRE OF LAKE GRACE

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995*, *Health Act 1911*, *Cat Act 2011* and under all other powers enabling it, the Council of the Shire of Lake Grace resolved on 28 September 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Lake Grace Animals, Environment and Nuisance 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 Interpretation

(1) In this local law, unless the context specifies otherwise—

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

amusement means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

AS/NZS 3500 means the standard published by Standards Australia as AS/NZS 3500 called Plumbing and Drainage, as amended from time to time;

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

aviary bird means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;

beekeeper has the meaning given to it in Regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*;

birds includes poultry;

builder means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

building permit has the meaning given to it by the *Building Act 2011*;

building site means any lot for which a building permit is current;

Code of Practice—Pigeon Keeping means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* as amended from time to time;

cow includes an ox, calf or bull;

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

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is currently a development or subdivision approval, and any lot or lots upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place;

district means the district of the local government;

disused means, in relation to any thing whatsoever, that the thing—

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left stationary on land in the district for more than 1 month;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

dwelling has the meaning given to it in the Residential Design Codes of Western Australia as amended from time to time;

EHO means an Environmental Health Officer appointed by the local government under the *Health Act 1911* and includes any acting or Assistant Environmental Health Officer so appointed;

farm animal includes a sheep, cow, goat, horse (excluding a miniature horse), deer, alpaca or pig (excluding a miniature pig);

food premises includes the meaning of “food” as given under section 9 of the *Food Act 2008* and the meaning of “food business”, as given under section 10 of the *Food Act 2008*;

horse means a stallion, mare, gelding, shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

land includes any building or structure on the land;

liquid waste means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock means any horse, cow, sheep, goat, swine, buffalo, deer, camel, llama or alpaca;

livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;

local government means the Shire of Lake Grace;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

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

miniature horse means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

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 of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

pigeon includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Parks and Wildlife;

pound means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the *Dog Act 1976*;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

residential building has the meaning given to it in the Residential Design Codes of Western Australia as amended from time to time;

residential zone includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

rural zone means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material including dust and gravel;

stormwater means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

thoroughfare means any highway or thoroughfare which the public is entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

townsite includes the townsites within the district which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

truck means a motor vehicle having a tare weight in excess of 3,000 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*; and

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where, in this local law, a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where, under this local law, the local government is authorised to carry out actions, or cause to be undertaken works, as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, subdivision 3 of the Act.

PART 2—KEEPING OF ANIMALS

Division 1—Animals

2.1 Interpretation

In this Division, unless the context otherwise requires—

animal includes cats, dogs, rabbits and ferrets or the like;

catteries are premises registered for the breeding or caring of cats;

member of a cat organisation means a person referred to in the *Cat Regulations 2012* regulation 23(c); and

vectors of disease means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

2.2 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal is kept shall—

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or to attract rats or other vectors of disease;
- (b) when so directed by an EHO, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means.

2.3 Animal enclosures

(1) A person shall not keep or cause, or permit to be kept, any animals on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The owner or occupier of premises where animals are kept shall, when directed by an EHO, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals.

2.4 Cats

(1) Subject to subclauses (6) and (7), a person shall not, without an exemption in writing from the local government, keep more than 3 cats over the age of 6 months on premises on any land within the district.

(2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).

(3) The local government shall not grant an exemption under subclause (2) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.

(4) An exemption granted under this clause shall specify—

- (a) the owner or occupier to whom the exemption applies;
- (b) the premises to which the exemption applies; and
- (c) the maximum number of cats which may be kept on the premises.

(5) A person who is granted an exemption under subclause (2) may be required by the local government to house or keep cats in such manner as directed by an EHO.

(6) Subject to regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013* a person may keep more than 3 cats, over the age of 6 months, on premises used for veterinary purposes or as a pet shop, or if the person is a member of a cat organisation.

- (7) The occupier of any premises shall not keep a cattery on those premises, unless the cattery is registered with the local government and the occupier has complied with the following conditions—
- (a) the occupier shall obtain approval from the local government to establish a cattery;
 - (b) upon receiving approval to establish a cattery, the occupier shall apply for registration of the cattery in the form approved by the local government from time to time;
 - (c) the occupier shall have paid, to the local government, the annual registration fee as determined from time to time by the local government under sections 6.16 to 6.19 of the Act;
 - (d) the occupier shall provide, for every cat, a properly constructed shelter with an enclosure, which shall comply with the following conditions—
 - (i) every shelter shall have a floor area of not less than 0.50 square metres for every cat over the age of 3 months old that may be kept therein; and
 - (ii) the area of the enclosure appurtenant to any shelter or group of shelters forming a cattery shall not be less than 3 times the area of the shelter or group of shelters to which it is appurtenant;
 - (e) every shelter or enclosure shall be at least 10 metres from the boundary of any land not in the same ownership or possession, or at least 10 metres from any dwelling, church, schoolroom, hall, factory, dairy or premises wherein food is manufactured, packed or prepared for human consumption; and
 - (f) all enclosures, yards, runs and shelters within which cats are kept shall be maintained at all times in a clean condition and free from vectors of disease and shall at any time be cleaned, disinfected or otherwise dealt with as an EHO may direct.
- (8) A certificate of registration of a cattery issued by the local government shall—
- (a) be in the form approved by local government from time to time; and
 - (b) expire on 30 June next after the date of its issue.

Division 2—Keeping of birds

2.5 Keeping of poultry and pigeons in a residential zone

An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises—

- (a) more than 12 poultry unless with the approval of the local government in which case the maximum number of poultry shall be 20; or
- (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.

2.6 Conditions for keeping of poultry

- (1) A person who keeps poultry or permits poultry to be kept shall ensure that—
- (a) no poultry shall be kept less than 9 metres from any residential building;
 - (b) no poultry is able to approach within 15 metres of a public thoroughfare, public building, commercial premises or food premises;
 - (c) all poultry is kept in a properly constructed and securely fastened structure;
 - (d) the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
 - (e) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition; and
 - (f) all poultry is kept continually confined.
- (2) An owner or occupier of a premises who keeps poultry or permits poultry to be kept may apply in writing to the local government to vary the requirements of subclause 1 (d) and (f).

2.7 Roosters, geese, turkeys and peafowl

Except on land with an area of 1 hectare or more or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—

- (a) roosters;
- (b) geese;
- (c) turkeys; or
- (d) peafowls.

2.8 Conditions for keeping of pigeons

- (1) An owner or occupier of a premises who keeps pigeons, or permits pigeons to be kept, shall ensure that—
- (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
 - (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
 - (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building; and
 - (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.

(2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

2.9 Restrictions on pigeon nesting and perching

The local government may order an owner or occupier of a house on or in which pigeons are, or are in the habit of nesting or perching, to take adequate steps to prevent them from continuing to do so.

2.10 Conditions of keeping aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that the aviary or cage is kept in clean condition and good repair at all times.

2.11 Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

Division 3—Keeping of farm animals

2.12 Keeping of farm animals

Subject to clause 2.13, an owner or occupier of land shall not keep, or allow to be kept, unless with the approval of the local government, any farm animal unless in a rural zone.

2.13 Conditions for keeping farm animals

(1) An owner or occupier of premises upon which a farm animal or farm animals are kept, shall maintain the place or places where the animals are kept in clean condition and good repair at all times.

(2) An owner or occupier of premises in a rural zone shall not keep more than 1 pig, except with the express written approval of the local government.

2.14 Keeping a miniature horse

(1) An owner or occupier of a premises may keep only a sterilised miniature horse on land of not less than 1 000 square metres in area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.

(2) An owner or occupier of premises shall—

- (a) not keep more than 1 miniature horse on land zoned residential or special rural without the written approval of the local government or an authorised person; and
- (b) not permit a miniature horse to come within 9 metres of any house.

(3) The local government or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

2.15 Keeping a miniature pig

(1) The keeping of pigs in the district, other than the keeping of a miniature pig, is forbidden except on premises, in a rural zone or registered by the local government as an abattoir.

(2) The local government or an authorised person may prohibit the keeping of a miniature pig on any land, or state the conditions under which the miniature pig may be kept.

(3) A person may keep 1 miniature pig in any residential or rural or special rural zone provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.

(4) An owner or occupier of premises where a miniature pig is kept shall—

- (a) not permit a miniature pig to come within 9 metres of any house;
- (b) ensure the animal is sterilised and retain written proof of its sterilisation;
- (c) confine the animal on the property at all times;
- (d) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust, or odour; and
- (e) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

Division 4—Livestock

2.16 Livestock not to stray

The owner or person in charge of livestock shall not permit that livestock to stray or to be at large in a thoroughfare, public place or upon private property without the consent of the property owner.

2.17 Impounding of livestock

(1) An authorised person or a member of the Police Service may impound livestock found straying in contravention of clause 2.16.

(2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

2.18 Property to be fenced

- (1) The owner or occupier of property on which livestock is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock, to that portion where the livestock is kept.
- (2) The minimum fencing requirements to confine livestock in a rural or special rural area shall be a fence of post and wire construction.

Division 5—Keeping of bees

2.19 Permit required to keep bees

- (1) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.
- (2) Subclause (1) does not apply where—
 - (a) the land is outside the townsite; and
 - (b) the bees are kept—
 - (i) at least 500 metres from a thoroughfare; or
 - (ii) less than 500 metres from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.
- (3) Subclause (1) does not apply where an occupier of land keeps bees on the land—
 - (a) for a continuous period not exceeding 8 weeks; and
 - (b) for the purpose of pollinating a crop on the land.
- (4) An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.
- (5) Subclause (1) does not apply where a person keeps bees on Crown land.

2.20 Application for a permit

An applicant for a permit shall—

- (a) be a person registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;
- (b) provide such details as may be required by the local government;
- (c) apply in the form approved by the local government from time to time; and
- (d) pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.

2.21 Determination of application

- (1) The local government may—
 - (a) refuse to determine an application for a permit which does not comply with clause 2.20;
 - (b) approve an application for a permit subject to the conditions referred to in clause 2.22(1) and to such other conditions as it considers appropriate; or
 - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government from time to time.
- (4) A permit is valid from the date of issue unless, and until, it is cancelled under this local law.

2.22 Conditions of approval

- (1) Without limiting the generality of clause 2.21(1)(b) an application for a permit may be approved by the local government subject to the following conditions—
 - (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
 - (b) each bee hive shall be—
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
 - (iii) no more than 2 bee hives are to be kept on land of less than 2 000 square metres in area; and
 - (iv) no more than 15 bee hives are to be kept on land between 2 000 square metres and 20 000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

2.23 Variation or cancellation of permit and conditions

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 2.27, a permit shall be cancelled on—
 - (a) the permit holder ceasing to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
 - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.

2.24 Permit holder to notify cessation of registration or keeping of bees

- (1) In this clause a *permit holder* includes the holder of a permit cancelled by clause 2.23(3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
 - (a) the permit holder ceases to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
 - (b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.
- (3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—
 - (a) written proof of her or his registration as a beekeeper under Regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;
 - (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
 - (c) both.

2.25 Permit not transferable

A permit is personal to the permit holder, is not transferable and applies only to the land described in the permit.

2.26 Nuisance

A person shall not keep, or allow to be kept, bees or bee hives, or both, on land so as to create a nuisance.

2.27 Notice to remove bees

- (1) Whenever, in the opinion of the local government, a person has contravened any provision of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder, in relation to that land, or if there is no valid permit in relation to that land, an owner or occupier of the land, a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.
- (3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both, in such manner as it sees fit and recover the costs of so doing from the permit holder, or an owner or occupier, as the case may be, as a debt due to it.

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles

The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

- (1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall take all reasonable steps to—
 - (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
 - (b) keep the site as free as is reasonably practicable from any refuse;

- (c) keep the thoroughfare verge, and any other reserve, immediately adjacent to the site, free of refuse generated or originating from the building or development site; and
 - (d) ensure the refuse receptacle is emptied when full.
- (2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site—
- (a) the site and the thoroughfare verge immediately adjacent to it, is cleared of all refuse generated or originating from the building or development site; and
 - (b) that all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials

- (1) All construction materials must be located on the building site or development site under construction, unless written approval has been given by the local government to store materials on another property (including a road reserve).
- (2) Written approval must be obtained from the local government prior to any proposal to store construction material on any thoroughfare verge.

Division 2—Prevention of dust and liquid waste

3.4 Prohibited activities

- (1) An owner and/or occupier of land or premises shall take all reasonable steps to—
- (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land; and
 - (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.
- (2) Where the local government forms the opinion that an owner or occupier has not complied with subclause (1), the local government may serve on the owner and/or occupier of the land a notice requiring the owner and/or occupier to do one or more of the following—
- (a) comply with subclause (1)(a) or (1)(b);
 - (b) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste; or
 - (d) take effective measures to stop any further release or escape of dust or liquid waste.
- (3) Where a notice is issued under subclause (2), the requirements set out in the notice must be complied with in the period as is specified in the notice.
- (4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and/or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

Division 3—Smoke

3.5 Burning of cleared vegetation prohibited

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorisation in writing is given by the local government.

Division 4—Unsightly land and disused materials

3.6 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain in public view on any lot, any vehicle parts, vessel parts or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the thoroughfare and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

3.7 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid or otherwise rendering every door and lid incapable of being fastened; and
- (b) removing any refrigerants as per requirements of the *Environmental Protection (Ozone Protection) Policy 2000*.

Division 5—Hazardous materials

3.8 Hazardous trees

(1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.

(2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).

(3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used, shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as an authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances be undertaken.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

(1) A person shall not on any land of an area 2000 square metres or less, set fire to rubbish, refuse or other materials on rural residential zoned property unless—

- (a) written approval has first been obtained from the local government;
- (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
- (c) the material does not include any plastic, rubber, food scraps or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(2) Subclause (1) shall not apply to any barbecue, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

(3) Subclause (1) is subject to any fire danger rating as determined by the Bureau of Meteorology.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall take all reasonable steps to not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

Division 3—Trucks

4.6 Livestock vehicles

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite in accordance with subclause (1), then the person does not contravene subclause (2).

4.7 Truck noise from residential land

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10.30pm and 6.30am on the following day without first obtaining the written consent of the local government.

Division 4—Swimming pool backwash management

4.8 Containment and disposal of swimming pool and other wastewater

(1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of swimming pool backwash from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

Division 5—Stormwater management

4.9 Containment of stormwater

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road.

4.10 Guttering and Downpipes

(1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

4.11 Stormwater disposal systems

(1) The owner or occupier of a lot shall ensure that all stormwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks, is discharged into a stormwater drainage system, or discharged by other methods approved by the local government, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all stormwater from paved areas or other surfaced areas including any vehicle access ways of the lot is discharged into a stormwater drainage system of adequate capacity in accordance with AS/NZS 3500.

Division 6—Amusement activities

4.12 Nuisance

A person shall not, without written authorisation from the local government, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

4.13 Abatement by authorised person

Subject to subdivision 3 of Division 3 of Part 3 of the Act, an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.12.

Division 7—Advertising, bill posting and junk mail

4.14 Placement of advertisement, bill posting or junk mail

- (1) A person shall not, without written authorisation from the local government, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.
- (2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.

4.15 Exemptions

Clause 4.14 does not apply to—

- (a) delivery of articles by Australia Post;
- (b) documents issued under or for the purposes of an Act of Parliament;
- (c) an authorised person or member of the Police Service acting in the course of their duties;
- (d) electoral materials; or
- (e) legal process.

Division 8—Bird nuisance

4.16 Restrictions on feeding of birds

- (1) A person shall not feed a bird—
 - (a) so as to cause a nuisance, or
 - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

PART 5—OBJECTIONS AND REVIEW

5.1 Objections and review

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

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

PART 6—ENFORCEMENT

Division 1—Notice of breach

6.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such a breach.
- (2) A notice issued pursuant to subclause (1) shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Form of notices

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving adequate details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake work required by notice

- (1) This clause applies only in respect of a notice issued under clauses 3.8(1) and 4.3(1) of this local law.
- (2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

(3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law;
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing,
- commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

Subdivision 2—Infringement notices and modified penalties

6.5 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$150.
- (3) An authorised person should be satisfied that—
- (a) commission of the 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,
- before giving an infringement notice to a person in respect of the commission of an offence.

6.6 Form of infringement 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 given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

This Local Law was made by the Shire of Lake Grace at an Ordinary Meeting held on the 28th day of September, 2016.

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

Cr. JEANETTE De LANDGRAFFT, President.
DENISE GOBBART, Chief Executive Officer.

Consented to—

TARUN WEERAMANTHRI, Executive Director, Public Health.

Dated this 9th day of November, 2016.

LOCAL GOVERNMENT ACT 1995
Shire of Woodanilling
REPEAL LOCAL LAW 2016

Preamble

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Woodanilling resolved on 20 December 2016 to make the following local law.

PART 1—INTRODUCING MATTERS

1.1 Title

This Local Law may be cited as the *Shire of Woodanilling Repeal Local Law 2016*.

1.2 Content and Intent

(1) This Local Law—

- a. Provides for the repeal of obsolete Local Laws;
- b. Identifies the obsolete Local Laws by giving their names, date they were first published in the *Government Gazette* and any date of subsequent amendments.

(2) This Local Law is intended to result in—

- a. More efficient and effective Local Government, by removing obsolete Local Laws.

PART 2—SUBSTANCE OF THIS LAW

2.1 Repeal

The following Local Laws are hereby repealed—

- *Woodanilling District Road Board—Special By-Laws re preparation of Special Roll and other matters for taking Vote of Owners in connection with Loans*—as published in the *Government Gazette* on 4 March 1921;
- *Woodanilling Road Board—To provide Restrictions as to Hawkers*—as published in the *Government Gazette* on 4 November 1921
- *Woodanilling Road Board—By-laws Governing Long Service Leave to be granted to Employees of the Woodanilling Road Board*—as published in the *Government Gazette* on 8 February 1952
- *Woodanilling Road Board—General By-laws—Straying Stock*—as published in the *Government Gazette* on 4 November 1955
- *The Municipality of the Shire of Woodanilling—Adoption of Draft Model By-law Relating to Removal and Disposal of Obstructing Animals and Vehicles*—as published in the *Government Gazette* on 8 January 1964
- *The Municipality of the Shire of Woodanilling—Adoption of Draft Model By-Law Relating to Prevention of Damage to Streets*—as published in the *Government Gazette* on 10 June 1965
- *The Municipality of the Shire of Woodanilling—By-Laws Relating to the Control and Management of Halls, Equipment and Property under the Control of Council*—as published in the *Government Gazette* on 27 August 1968
- *Shire of Woodanilling—Bylaw Relating to the Speed of Vehicles Driven on Land which is vested in or under the Control, Care or Management of the Council of the Shire of Woodanilling*—as published in the *Government Gazette* on 28 September 1979
- *Shire of Woodanilling—By-laws Relating to Pest Plants*—as published in the *Government Gazette* on 3 August 1984

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

Cr H. RUSSEL THOMSON, Shire President.
Ms BELINDA KNIGHT, Chief Executive Officer.

Dated: 20 December 2016.