

# **LOCAL GOVERNMENT ACT 1995**

## *SHIRE OF MENZIES*

### **PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2022**

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF MENZIES

### PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Menzies resolved on 27 January 2022 to adopt the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Menzies Public Places and Local Government Property Local Law 2022*.

##### 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The *Shire of Menzies Activities in Thoroughfares and Public Places Local Law 2007* is repealed.

##### 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(1) An application for, or the renewal of a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local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(2) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with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 or structure which is local government property and includes any—

- (a) hall or room; and
- (b) corridor, stairway or annexe of any hall or room; and
- (c) the immediate environs of the building if the context requires, but does not include an open space, a carpark or a similar.

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

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

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

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

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

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

**determination** means a determination made under clause 2.1;

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

**entertainment** means—

- (a) the action of providing or being provided with amusement or enjoyment; or
- (b) an event, performance, or activity designed to entertain others;

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

**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 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;

**licence holder** 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 Menzies;

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

- (a) which belongs to or is leased by 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*;

**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*;

**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 or safety 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;

**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;

**restricted local government property** means local government property which by its nature or by sign erected by the local government property does not have public access, and includes—

- (a) a building used as a residence and the whole of the land on which it is situated;
- (b) a non-residential building occupied under an agreement with the local government and the whole of the land on which it is situated;

- (c) land occupied under an agreement with the local government; and
- (d) buildings or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit;

**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;

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

**townsite** means the townsites of Menzies and Kookynie, 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;

**trading** means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

**UAV** means unmanned aircraft, other than a balloon or kite;

**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; and
- (d) 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 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 (Commonwealth)*.

## 1.9 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the local government, may—

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

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

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

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

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

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

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

A person shall comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

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

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination local public notice is to be given 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) use a UAV;

- (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) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (e) 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
  - (f) 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) 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;
- (e) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (f) 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 shall not without a licence—

- (a) subject to subclause (3) hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect, on local government property a structure for public amusement or for any performance, whether for gain or otherwise;



- (d) teach, coach or train, for profit, any person in any facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted—
    - (i) with the consent of a person who holds a licence to conduct a function, and where the trading is carried on under and in accordance with the licence; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) conduct or set up a market on local government property or public place;
  - (h) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (i) conduct a function or entertainment event on local government property;
  - (j) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (k) light a fire on local government property except in a facility provided for that purpose;
  - (l) parachute, hang glide, abseil or base jump from or on to local government property;
  - (m) erect a building or a refuelling site on local government property;
  - (n) make any excavation on or erect or remove any fence on local government property;
  - (o) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (p) 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;
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
  - (s) conduct an entertainment event on local government property; or
  - (t) film or make a recording as part of or for commercial gain on local government property.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### 3.2 Licence to erect structures or camp

- (1) In this clause—

**camp** unless the context requires otherwise has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

**caravan** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*;

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

**park home** has the same meaning as given to it in section 5 of the *Caravan Parks and Camping Grounds Act 1995*; and

**structure** includes a caravan, park home, or camp.

- (2) This clause does not apply to a caravan park or camping ground operated by the local government.
- (3) A person shall 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 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.
- (4) 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*.

### 3.3 Licence required for possession and consumption of liquor

- (1) A person shall not offer for sale, consume, have in her or his possession or under her or his control on local government property, 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

### 4.1 Application

In this Part—

**local government property** includes any structure, facility or item constructed or owned by the local government which may be situated on land not under the local government's management.

### 4.2 Restricted local government property

Nothing in this local law is to be construed as—

- (a) permitting access to or activities by the public on restricted local government property without the express approval—
  - (i) in the case of a building used as a residence and the whole of the land on which it is situated, by the occupier or authorised representative of the occupier;
  - (ii) in the case of a non-residential building occupied under an agreement with the local government, the building and the whole of the land on which it is situated, by the person occupying the building;
  - (iii) in the case of land occupied under an agreement with the local government, by the person occupying the land; and
  - (iv) in the case of a building or land restricted by the local government for municipal purposes to ensure public safety, or for community interest or benefit, by the CEO or an authorised person;
- (b) limiting—
  - (i) the right of the occupier of restricted local government property to full use of that property for their private enjoyment as permitted by law or by agreement with the local government; or
  - (ii) access by emergency personnel in the course of her or his duties.

### 4.3 Behaviour which interferes with others

In or on any local government property, a person shall 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
- (b) interferes with the enjoyment of a person using the property.

### 4.4 Behaviour detrimental to property

A person shall not behave in or on local government property 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 including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, including a rock, a plant, or a seat provided for the use of any person or a building.

### 4.5 No unauthorised entry to function

(1) A person shall 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) The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

### 4.6 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 shall not take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.

### 4.7 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 unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person shall not—

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

#### **4.8 Animals**

Unless otherwise approved by the CEO, an authorised person or authorised by other written law, a person shall not on any local government property—

- (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.

#### **4.9 Waste**

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

- (a) in a place or receptacle set aside by an authorised person for that purpose; and
- (b) in accordance with any conditions that may be specified on the receptacle or a sign.

#### **4.10 Vehicles on local government property**

(1) Unless authorised by a licence or determination, a person shall 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 her or his 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 or similar, and the driver of that vehicle is a person with a disability.

(2) A person shall 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 subclause (1)(b), (c), (d) or (e), a person shall 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.

#### **4.11 UAVs**

A person shall not use a UAV on or from local government property except where a licence or determination specifies a particular local government property.

#### **4.12 Archery, pistol or rifle shooting**

A person shall 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.

#### **4.13 Playing or practising golf**

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

#### **4.14 Prohibition relating to bicycles, skateboards etc. on local government property**

Unless the local government property is clearly identified for the purpose, a person shall 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.

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

#### **5.1 No entry to fenced, closed or restricted local government property**

(1) Unless that person is authorised to do so by the CEO or an authorised person, a person shall not enter onto—

- (a) local government property which has been fenced off or closed to the public by a sign or otherwise, or
- (b) restricted local government property except in accordance with clause 4.2.

(2) Nothing in this local law is to be construed as preventing the access necessary by persons empowered to do so under a written law.

### **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 shall not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender shall 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) Subclause (1)(a) and (b) does 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 shall be used by the person only for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities shall 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 shall not—

- (a) plant, or allow to remain, in a thoroughfare a plant that is or may become an obstruction to 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 planted, 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 shall 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) conduct or carry on any trading on a thoroughfare;
  - (p) conduct, carry on or set up a market on a thoroughfare; or
  - (q) conduct or carry on 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) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

### **6.4 No driving on closed thoroughfare**

A person shall 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 the townsites of Menzies and Kookynie.

### **6.7 Permitted verge treatments**

- (1) A person shall not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts 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 does 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—

- (a) 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
- (b) an area of open space to a maximum of 1m from the edge of a street tree.

(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 6.8.

#### **6.8 Obligations of owner or occupier**

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

- (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 is 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 shall 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 the CEO or 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 licence holder shall 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) The CEO or an authorised person may give written notice to the owner or occupier of a lot requiring her or him within the period of time stated in the notice 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.

### 6.13 Crossovers in unsafe locations

(1) Where a crossover is in an unsafe location, the local government 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, the local government 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 shall 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 shall 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 shall 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.

## PART 8—TEMPORARY SIGNS

### 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) a banner or flag;
- (c) an advertising sign;
- (d) an event sign;

- (e) an election or political sign; and
- (f) a direction sign to a place or event.

## **8.2 Application**

Any sign 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 of the local government made under the *Planning and Development Act 2005*; and
- (c) any other written law regulating of signs within the district.

## **8.3 Temporary signs**

(1) On local government property or in a thoroughfare, a person shall not without a licence—

- (a) place a temporary sign; or
- (b) post any bill or paint, place or affix any advertisement.

(2) Notwithstanding subclause (1), a licence is not required for a temporary sign that is—

- (a) otherwise compliant with clauses 8.5, 8.6, 8.7, 8.8 and 8.9;
- (b) placed flat against a wall or constructed fence for the full length and height of the sign;
- (c) for the purposes of a sporting, charitable or not for profit organisation; and
- (d) does not exceed a number of signs considered reasonable at the discretion of the CEO.

## **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 within the district;
- (b) the dimensions of the sign;
- (c) whether or not the sign may create a hazard to persons using a thoroughfare;
- (d) other signs already approved or erected in the vicinity of the proposed location of the sign;
- (e) any other condition that may be imposed; and
- (f) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

## **8.5 Conditions for temporary signs**

Unless otherwise approved by the local government, 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 contain any offensive wording, symbols or images in the opinion of an authorised person;
- (g) not display only part of a message which is to be read with other separate signs in order to obtain the whole message;
- (h) be maintained in good condition;
- (i) be in compliance with any limitation of the number of signs notified in writing by the local government; and
- (j) unless flat against a wall or fence not exceed—
  - (i) 0.75 square metres in area; and
  - (ii) not exceed 750mm horizontally.

## **8.6 Prohibition on placement of temporary signs**

Unless otherwise approved by the local government a temporary sign shall not be placed—

- (a) on any natural feature, including a rock or tree, on local government property or a thoroughfare;
- (b) on any bridge or the structural approaches to a bridge.

## **8.7 Additional conditions for advertising signs**

Unless otherwise approved by the local government an advertising sign shall—

- (a) relate only to the business activity, or be 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**

Unless otherwise approved by the local government an event sign shall—

- (a) relate only to the event, function or activity advertised; and
- (b) not be placed more than 28 days prior to the event, function or activity being advertised.

### **8.9 Additional conditions for election signs**

An election sign shall not be erected until the election to which it relates has been officially announced.

### **8.10 Removal of temporary signs**

- (1) Unless otherwise specified a temporary sign is to be removed within 10 working days of the event or activity.
- (2) The local government may remove non-complying signs without notice and recover costs from the person placing the sign or named as beneficiary on the sign.

## **PART 9—SIGNS AND POWERS TO GIVE DIRECTIONS**

### **9.1 Signs installed by the local government**

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

### **9.2 Transitional provision**

Where a sign in a public place, on local government property or on a 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 9.1 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.

### **9.3 Authorised person to be obeyed**

- (1) A person on or in local government property that is given a lawful direction by the CEO or 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.

### **9.4 Refusal of entry and removal**

- (1) If the CEO or an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, the CEO or authorised person may—
  - (a) refuse to allow that person to enter local government property;
  - (b) if the person is on local government property, direct the person to leave the local government property; and
  - (c) specify a period of up to 30 calendar days within which the person is not to re-enter the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) shall immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) The CEO or an authorised person may reduce the period specified in subclause (1)(c) on application of the person who has been directed not to re-enter local government property.

### **9.5 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the CEO or an authorised person—

- (a) if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the *Local Government (Functions and General) Regulations 1996*, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;
- (b) if the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not for profit body, in any manner she or he thinks fit; or
- (c) in any other case, by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*.

## **PART 10—LICENCES**

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

#### **10.1 Application for licence**

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

#### **10.2 Decision on application for licence**

- (1) The CEO or an authorised person may—
  - (a) approve an application for a licence unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a licence.
- (2) If the CEO or an authorised person approves an application for a licence, written notice of approval is to be issued to the applicant.
- (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) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the licence holder.

#### **10.3 General restrictions on grant of licence**

- (1) The CEO or an authorised person shall not grant a licence if there are reasonable grounds for believing that the carrying on of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The CEO or an authorised person shall not grant a licence unless 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.

#### **10.4 Amendment of licence**

- (1) The CEO or an authorised person may, by written notice given to the licence holder, amend a licence—
  - (a) imposing any new condition; or
  - (b) changing or removing any existing condition.
- (2) An amendment may be made on application made by the licence holder or on the initiative of the CEO or an authorised person.
- (3) An amendment will come into effect on the day that written notice is given to the licence holder, or some other date as specified in the notice.

#### **10.5 False or misleading statement**

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

### *Division 2—Conditions of licences*

#### **10.6 Examples of conditions**

- (1) Examples of the conditions that an authorised person may impose on a licence under clause 10.2(1)(a) or 10.4(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.

#### **10.7 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 10.2(1)(a).

- (2) Under clause 10.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.
- (3) The CEO or an authorised person shall give to the licence holder 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 written notice of approval referred to in clause 10.2(2).
- (4) An application for a licence is not to be taken to have been approved subject to the conditions contained in a policy until the CEO or an authorised person gives the licence holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

#### **10.8 Compliance with conditions**

Where an application for a licence has been approved subject to conditions, the licence holder shall comply with each of those conditions, as amended.

#### *Division 3—Duration of licences*

#### **10.9 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.

#### **10.10 Renewal of licence**

- (1) A licence holder may apply to the local government for the renewal of a licence.
- (2) An application for renewal shall—
  - (a) be in the form determined by the local government;
  - (b) be signed by the licence holder;
  - (c) provide the information required by the form;
  - (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that the local government 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.

### **10.11 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 licence holder and the proposed transferee of the licence;
  - (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
  - (d) to be forwarded to the local government together with any set fee.
- (2) The CEO or an authorised person may—
  - (a) approve an application for the transfer of a licence;
  - (b) approve the application subject to any conditions; or
  - (c) refuse to approve the application.
- (3) Where the CEO or an authorised person approves an application for the transfer of a licence, the transfer may be effected by an endorsement on the licence signed by the CEO or the authorised person.
- (4) Where 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 licence holder.

### **10.12 Suspension of licence**

- (1) The CEO or an authorised person may, subject to clause 10.13, by written notice given to the licence holder, suspend a licence if there are reasonable grounds for believing that—
  - (a) the licence holder has contravened a term or condition of a licence;
  - (b) the licence holder 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 shall—
  - (a) state the day, or the day and time, on or at which the suspension takes effect;
  - (b) state the reasons for the CEO or authorised person'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 licence holder that the licence holder has a right to apply under the Act for a review of the decision to suspend the licence.

### **10.13 Proposed suspension**

- (1) If the CEO or an authorised person proposes to suspend a licence under clause 10.12(1)(a), the CEO or authorised person shall give written notice to the licence holder of the proposed suspension.
- (2) The notice shall—
  - (a) state that the CEO or authorised person proposes to suspend the licence;
  - (b) state the reasons for the proposed suspension; and
  - (c) inform the licence holder that the licence holder is entitled to make representation to the CEO or authorised person in respect of the proposed suspension within 7 days after the day on which the licence holder is given the notice.
- (3) In considering whether to suspend the licence, the CEO or authorised person shall have regard to any representations made by the licence holder within the period referred to in subclause (2)(c).

### **10.14 Revocation of suspension**

- (1) The CEO or an authorised person shall, by written notice given to the licence holder revoke the suspension of a licence if the CEO or authorised person is satisfied that the steps specified in the suspension notice have been taken.
- (2) The CEO or an authorised person may, by written notice given to the licence holder, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

### **10.15 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 10.14;
- (b) the licence is cancelled under clause 10.16 or expires; or
- (c) the licence is surrendered in accordance with the provisions of this local law.

### **10.16 Cancellation of licence**

A licence may be cancelled by the CEO or an authorised person if—

- (a) the licence was obtained improperly;
- (b) the licence holder 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.

#### **10.17 Surrender of licence**

A licence holder may, at any time by notice in writing to the local government, surrender the licence.

#### *Division 4—Responsibilities of licence holders and others*

#### **10.18 Production of licence**

A licence holder shall produce to an authorised person her or his licence immediately after being required to do so by that authorised person.

#### **10.19 Production of licence document for amendment**

If the CEO or an authorised person amends or renews a licence, the licence holder shall, if required by the CEO or an authorised person, produce the licence document to the CEO or authorised person for amendment within the period specified by the CEO or authorised person.

#### **10.20 Return of licence document if licence no longer in effect**

(1) The person who was the licence holder shall, as soon as practicable return the licence document to the local government if a licence—

- (a) has expired or has not been renewed;
- (b) has been suspended or cancelled; or
- (c) has been surrendered.

(2) On the cancellation of a licence under clause 10.16 the licence holder is to be taken to have forfeited any fees paid in respect of the licence.

#### **10.21 Other responsibilities of licence holder**

A licence holder shall, 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 the CEO or 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 the CEO or 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.

#### **10.22 Advertising**

A person shall 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.

### **PART 11—NOTICES**

#### **11.1 Notice to remedy non-compliance**

Where any thing is required to be done or not permitted to be done by this local law, the CEO or 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.

#### **11.2 Notice regarding damage**

A person who unlawfully removes, damages or interferes with local government property or portion of a thoroughfare commits an offence and may be given a notice in accordance with clause 11.3.

#### **11.3 Notice requirements**

(1) A notice given under this Part shall—

- (a) be in writing;
- (b) be given to the person referred to in clause 11.1 or 11.2 as the case may be;
- (c) specify the reason for giving the notice;
- (d) specify the action that is required to be undertaken; and
- (e) specify the time within which the work or action is to be undertaken.

(2) At the local government's discretion, the action that may be required to be undertaken is—

- (a) to take or cease such action as may be required for compliance with this local law;
- (b) to reinstate the property to the state it was in before the removal, damage or interference;

- (c) replace that property; or
- (d) pay for the costs of reinstatement or replacement.

#### 11.4 Offence to fail to comply with notice

A person who fails to comply with a notice given to her or him under this local law commits an offence.

#### 11.5 Local government may undertake requirements of notice

If a person fails to comply with a notice referred to in clauses 11.1 or 11.2, 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;
- (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (b) recover all costs from the person, as a debt.

### PART 12—OBJECTIONS AND REVIEW

#### 12.1 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 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) Unless the contrary is proved, it is to be presumed that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

### SCHEDULE 1—PRESCRIBED OFFENCES

			[clause.13.2]
Item	Clause	Nature of offence	Modified penalty \$
<b>Part 2—Determination in respect of local government property</b>			
1	2.4	Failure to comply with a determination	100
<b>Part 3—Activities on local government property</b>			
2	3.1	Undertaking activity on local government property without a licence	100

Item	Clause	Nature of offence	Modified penalty \$
3	3.2(3)	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
<b>Part 4—Behaviour on local government property and thoroughfares</b>			
5	4.3	Behaviour interfering with others	100
6	4.4	Behaviour detrimental to property	200
7	4.5	Unauthorised entry to function	100
8	4.6(2)	Taking or injuring fauna without authorisation	200
9	4.7(2)	Removing, damaging or depositing flora without authorisation	200
10	4.8	Animal on local government property without a licence	100
11	4.9	Improper disposal of waste on local government property	100
12	4.10(1)	Unauthorised vehicle on local government property	100
13	4.10(2)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
14	4.10(3)	Unauthorised driving of a vehicle on local government property during a function	100
15	4.11	Unauthorised use of a UAV	50
16	4.12	Unauthorised archery, pistol or rifle shooting on local government property	200
17	4.13	Unauthorised playing or practising golf on local government property	100
18	4.14	Unauthorised use of bicycle, skateboard etc. on local government property	50
<b>Part 5—Matter relating to particular local government property</b>			
19	5.1	Unauthorised entry to fenced, closed or restricted local government property	100
20	5.2(1)	Unauthorised entry to gender specific toilet block or change room	100
21	5.3	Unauthorised use of toilet block or change room	100
<b>Part 6—Activities in thoroughfares</b>			
22	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
23	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
24	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
25	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
26	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
27	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
28	6.2(1) (a), (d), (e), (f), (g), (j)	Unauthorised activity in a thoroughfare causing damage	200
29	6.2(1) (b), (c), (h), (i), (k), (l), (m), (n), (o), (p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100
30	6.4	Driving on a closed thoroughfare	100
31	6.7(1)	Unauthorised verge treatment	100
32	6.8 (a), (b), (d), (e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
33	6.8(c)	Placing an obstruction on or around a verge treatment	50
34	6.8(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100

Item	Clause	Nature of offence	Modified penalty \$
35	6.11(1)	Failure to obtain licence for a temporary crossover	200
36	6.12	Failure to remove redundant crossover or reinstate kerb, drain, footpath, verge or thoroughfare	200
37	6.13	Failure to remove crossover in unsafe location	500
<b>Part 7—Activities in public places</b>			
38	7.1(1)	Animal or vehicle obstructing public place without authorisation	100
39	7.2(2)	Animal in public place when not led, ridden or driven	100
40	7.2(3)	Horse being led, ridden or driven in a thoroughfare without authorisation	100
<b>Part 8—Temporary signs</b>			
41	8.3(1)	Placement of non-compliant temporary sign, or posting a bill or painting, or placing an advertisement without authorisation	100
<b>Part 9—Signs and powers to give directions</b>			
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43	9.3(1)	Failure to comply with direction of authorised person	100
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<b>Part 10—Licencing</b>			
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53	10.22	Advertising of commercial activity in a public space without holding a licence	200
<b>Part 11—Notices</b>			
54	11.4	Failure to comply with notice	100
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55	13.1	Offence not elsewhere specified	100

Dated 27 January 2022

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

G. DWYER, President.  
B. JOINER, Chief Executive Officer.



**LOCAL GOVERNMENT ACT 1995**  
**CAT ACT 2011**

*SHIRE OF MENZIES*

**HEALTH LOCAL LAW 2022**

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**LOCAL GOVERNMENT ACT 1995**  
**CAT ACT 2011**

*SHIRE OF MENZIES*

**HEALTH LOCAL LAW 2022**

Under the powers conferred by the *Local Government Act 1995*, the *Cat Act 2011* and under all other powers enabling it, the Shire of Menzies resolved on 27 January 2022 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Menzies Health Local Law 2022*.

**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 of the local government.

**1.4 Terms used**

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

**Act** means the *Health (Miscellaneous Provisions) Act 1911*;

**adequate** means satisfactory or fit for purpose or, if there is any doubt, at the discretion of an authorised person;

**adequate supply of water** means a flow of water of not less than five litres per minute;

**apparatus for the treatment of sewage** has the same meaning as in section 3 of the Act;

**AS or AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia, as amended from time to time, and available for viewing free of charge at the Shire of Menzies Administration Centre;

**AS 1530.2:1993** means Australian Standard for Methods for fire tests on building materials, components and structures—Test for flammability of materials;

**AS 1530.3:1999** means Australian Standard for Methods for fire tests on building materials, components and structures—Simultaneous determination of ignitability, flame propagation, heat release and smoke release;

**AS 1668.2: 2012** means Australian Standard for the use of ventilation and air conditioning in buildings—Mechanical ventilation in building;

**AS 2001.5.4:2005** means Australian Standard for Methods of test for textiles—Dimensional change—Domestic washing and drying procedures for textile testing (ISO 6330:2000, MOD);

**AS 2293.1:2018** means Australian Standard for Emergency escape lighting and exit signs for buildings—System design, installation and operation;

**AS 3786:2014** means Australian Standard for Smoke alarms using scattered light, transmitted light or ionization;

**AS/NZS ISO 717.1:2013** means Australian Standard for Acoustics—Rating of sound insulation in buildings and of building elements—Airborne sound insulation;

**authorised person** means a person appointed under—

(a) the provisions of the *Public Health Act 2016* as an authorised person; or

(b) the *Local Government Act 1995*; and

(c) includes a person appointed by the local government as an Environmental Health Officer;

**bed** means a piece of furniture on which to sleep;

**bedding** includes beds, mattresses, pillows and bed heads as well as bed linen;

**bed linen** includes sheets, blankets, pillow cases, quilts and doona covers, and mattress covers;

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

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

**Chief Health Officer** means a person appointed to this position under the provisions of the *Public Health Act 2016*;

**Council** means the Council of the local government;

**district** means the district of the local government and includes any area placed under the jurisdiction of the local government pursuant to section 22 of the Act;

**drinking water** means drinking water as defined in the Australian Drinking Water Guidelines developed by the National Health and Medical Research Council;

**dwelling house** means a place of residence, whether temporary or permanent, containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

**habitable room** means a room used for normal domestic activities; and

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

**hot water** means water at a temperature of at least 65 degrees Celsius;

**infectious disease** has the meaning given to it by—

- (a) section 3(1) of the Act; and
- (b) includes a notifiable infectious disease;

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

**licence** means a licence, permit, registration or approval issued by the local government under this local law;

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

**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*;

**morgue** means a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation;

**NCC** means the latest edition of the *National Construction Code* published from time to time by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with that Code;

**nuisance** includes the meaning given to it in section 182 of the Act;

**noise** has the meaning given to it by section 3 of the *Environmental Protection Act 1986*;

**occupier** has the meaning given to it in section 3 of the Act and includes a builder or contractor on land where the context permits;

**owner** has the meaning given to it in section 3 of the Act;

**public place** includes every place to which the public ordinarily have access, whether by payment of a fee or not;

**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;

**sanitary convenience** includes urinals, toilets, sinks, baths, wash troughs, apparatus for the treatment of sewage, or other receptacle for the deposit of faecal matter, or refuse, and all similar conveniences;

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

**set fee** means a fee—

- (a) as prescribed by legislation; or
- (b) in any other instance, as fixed by the local government from time to time under sections 6.16 to 6.19 of the *Local Government Act 1995*;

**sewage** means any kind of sewage, faecal matter or urine, and any waste composed wholly or in part of liquid;

**sewer** includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, also water channels constructed of stone, brick, concrete, or any other material, including the property of the local government;

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

**street** includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

**thoroughfare** has the meaning given to it by section 1.4 of the *Local Government Act 1995*;

**toilet** means a toilet bowl, or urinal and includes a room or cubicle in which one or more of these are located;

**townsite** means the townsites of Menzies and Kookynie, which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in section 37 of Schedule 9.3 of the *Local Government Act 1995*;

**urinal** may be—

- (a) an individual stall or wall hung urinal;
- (b) each 600 millimetres length of a continuous urinal trough; or
- (c) a toilet bowl used in place of a urinal;

**vectors of disease** means those pests as defined in clause 8.1;

**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;

**window** includes a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door, or other device which transmits natural light directly from outside a building to the room concerned when in the closed position; and

**written notice** means a notice issued in accordance with Part 14.

## PART 2—SANITATION

### Division 1—Sanitary conveniences

#### 2.1 Interpretation

In this Part, unless the context otherwise requires—

**event** includes a fair, function or festival;

**organiser** means a person—

- (a) to whom approval has been granted by an authorised person to conduct the event; or
- (b) responsible for the conduct of the event;

**public sanitary convenience** means a sanitary convenience to which the public ordinarily have access;

**receptacle for drainage** has the same meaning as in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* and includes the irrigation effluent disposal area of an aerobic treatment system; and

**temporary sanitary convenience** means a sanitary convenience, temporarily placed for use by—

- (a) patrons in conjunction with an event; or
- (b) employees at construction sites or the like.

#### 2.2 Dwelling house

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.

(2) A room in which a toilet is located shall have adequate lighting and ventilation.

#### 2.3 Premises other than a dwelling house

(1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, premises other than a dwelling house unless—

- (a) the premises have sanitary conveniences in accordance with the NCC and this Part;
- (b) the toilets required by this local law are situated within 90 metres and are easily accessible to the persons for whom they are provided; and
- (c) the premises have hand wash basins—
  - (i) in accordance with the NCC;
  - (ii) for the use of persons employed or engaged on the premises;
  - (iii) provided with an adequate supply of water supplied by taps located over each hand wash basin;
  - (iv) separate from any trough, sink or basin used in connection with any process carried out on the premises; and
  - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.

(2) The occupier of premises other than a dwelling house shall ensure that—

- (a) clean toilet paper is available at all times in each cubicle;
- (b) a sanitary napkin disposal facility is provided in each toilet provided for the use of females; and
- (c) each hand wash basin is provided with—
  - (i) an adequate supply of soap or other hand cleaning substances; and
  - (ii) hand drying facilities, situated adjacent to and visible from the hand wash basin.

#### 2.4 Events

The organiser of an outdoor event shall provide sanitary conveniences in accordance with the recommendations contained within the Department of Health's '*Guidelines for concerts, events and organised gatherings*'.

#### 2.5 Toilets

(1) Toilets on premises shall be maintained in accordance with the following requirements—

- (a) the door to a toilet, other than an internal door, shall be properly screened to a continuous height of 1.8 metres from the floor;
- (b) a toilet or its entrance, which is visible from overlooking windows, shall be properly screened;



- (c) unless otherwise approved by an authorised person, a toilet shall not be directly accessible from a kitchen or a room where food is stored, prepared, served or consumed;
  - (d) the floor of any internal toilet shall be—
    - (i) of concrete or of other approved impervious material of an approved thickness; and
    - (ii) unless otherwise approved graded to a floor waste outlet and proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and
  - (e) the floor of any external toilet shall be—
    - (i) of concrete or of other approved impervious material of an approved thickness; and
    - (ii) graded to the door or alternatively an approved outlet.
- (2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—
- (a) toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from floor to ceiling and of sufficient density to have a sound transmission class of not less than 50 as required by AS/NZS ISO 717.1:2013; and
  - (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

## **2.6 Temporary sanitary conveniences at temporary work sites**

A person who undertakes temporary work at any place shall ensure that every temporary sanitary convenience is—

- (a) installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*; and
- (b) removed within 48 hours of completion of works.

## **2.7 Maintenance of sanitary conveniences and fittings**

- (1) The occupier of premises shall—
  - (a) keep clean, in good condition and repair; and
  - (b) whenever required by an authorised person, effectively disinfect and clean; all sanitary conveniences and sanitary fittings in or on the premises.
- (2) The owner of premises shall—
  - (a) keep or cause to be kept in good repair; and
  - (b) maintain an adequate supply of water to all sanitary conveniences including sanitary fittings in or on the premises.

## **2.8 Ventilation of toilets**

- (1) A toilet in any premises shall be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the NCC.
- (2) A mechanical ventilation system provided under subclause (1) shall be maintained in good working order and condition.

## **2.9 Public sanitary conveniences**

- (1) A person shall not—
  - (a) foul;
  - (b) damage or vandalise; or
  - (c) write on or otherwise deface a public sanitary convenience or sanitary fittings on the premises in which the public sanitary convenience is located.
- (2) A person shall not live or sleep in the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

## **2.10 Lighting**

The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate lighting for persons using the convenience.

## **2.11 Installation**

Every sanitary convenience shall—

- (a) be installed in accordance with the requirements of—
  - (i) the *Country Areas Water Supply Act 1947*; and
  - (ii) the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Wastes) Regulations 1974*; and
  - (iii) the *Water Services Act 2012*; and
- (b) have an adequate supply of water.

*Division 2—Bathrooms, laundries and kitchens*

**2.12 Bathrooms**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—
- (a) is adequately lined with an impervious material and has a ceiling complying with the NCC;
  - (b) complies with the *Health Act (Laundries and Bathrooms) Regulations* and the NCC; and
  - (c) is equipped with—
    - (i) a hand wash basin; and
    - (ii) either a shower in a shower recess or a bath.
- (2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.
- (3) The floor of the bathroom shall be properly surfaced with an even fall to a floor waste unless otherwise approved, suitably trapped and discharging to—
- (a) the sewer of a licensed water service operator; or
  - (b) an apparatus for the treatment of sewage approved by an authorised person.

**2.13 Laundries**

- (1) A laundry shall comply with the requirements of the *Health Act (Laundries and Bathrooms) Regulations* and the NCC.
- (2) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored, prepared, served or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling unless otherwise approved.
- (3) Where there is an opening between a laundry and a kitchen or other room where food is stored, prepared, served or consumed, the opening shall—
- (a) not be more than 1220 millimetres wide; and
  - (b) have a door, which when closed shall completely fill the opening.
- (4) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—
- (a) is properly enclosed and roofed;
  - (b) is adequately lined with an impervious material;
  - (c) has a floor of concrete or other approved impervious material of an approved thickness;
  - (d) is properly surfaced, with an even fall to a floor waste unless otherwise approved, suitably trapped and discharging to—
    - (i) the sewer of a licensed water service operator; or
    - (ii) an on-site waste water disposal system of a type approved by an authorised person; and
  - (e) is provided with adequate ventilation.
- (5) In the case of a single occupancy dwelling house, the laundry referred to in subclause (1) shall have—
- (a) either—
    - (i) two wash troughs; or
    - (ii) a washing machine and either a wash trough or a sink; and
  - (b) a clothes drying facility comprising either—
    - (i) a mechanical clothes dryer; or
    - (ii) not less than 20 metres of clothes line erected externally.
- (6) All wash troughs, sinks and washing machines shall be—
- (a) in a laundry and connected to an adequate supply of hot and cold water; and
  - (b) installed to manufacturer's specifications, and all wash troughs shall have a capacity of at least 36 litres.
- (7) Sole or multiple occupancy units, each being a separate dwelling house, shall have—
- (a) laundry facilities for the exclusive use of the occupants of each unit; or
  - (b) a separate laundry, with communal laundry facilities for up to four sole occupancy units that do not have their own laundry facilities.

**2.14 Washing or keeping of clothes in kitchens**

A person shall not in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

**2.15 Kitchens**

(1) In this clause—

**cooking facility** includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

- (2) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen which complies with the requirements of the NCC and which is equipped with—
- (a) a cooking facility which is adequate in the opinion of an authorised person; and
  - (b) a sink which is adequate in the opinion of an authorised person and which has an adequate supply of hot and cold water.
- (3) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.
- (4) A cooking facility shall—
- (a) be installed in accordance with the requirements of—
    - (i) the Department of Mines, Industry Regulation and Safety; and
    - (ii) the manufacturer's specifications; and
  - (b) not be installed or used in any room other than a kitchen.
- (5) Mechanical ventilation that is installed in a kitchen, shall be—
- (a) carried to the outside air as directly as practicable unless adequately filtered for recirculation; and
  - (b) boxed throughout.
- (6) Mechanical ventilation shall be maintained in good working order and condition.

## **PART 3—HOUSING AND GENERAL**

### *Division 1—Maintenance of dwelling houses*

#### **3.1 Dwelling house maintenance**

The owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings, in sound condition and fit for use and, in particular, shall—

- (a) maintain all roofs, guttering and downpipes in a good state of repair, clean and free from obstructions;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with any direction in writing given by an authorised person to treat the premises for the purpose of destroying any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings, damp proof course or ant caps, which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even and level in surface and free from cracks and gaps;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10% of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewerage so that they comply in all respects with—
  - (i) the provisions of the *Water Services Act 2012*;
  - (ii) the NCC with regards to plumbing and relevant associated standards; and
  - (iii) any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of all relevant public authorities.

### *Division 2—Ventilation of dwelling houses*

#### **3.2 Exemption for short term hostels and recreational campsites**

This Division shall not apply to short term hostels and recreational campsites referred to in Division 2 of Part 10.

#### **3.3 Overcrowding**

The owner or occupier of a dwelling house shall not permit—

- (a) a room in the dwelling house that is not a habitable room to be used for sleeping purposes;
- (b) a habitable room in the dwelling house to be used for sleeping purposes unless—
  - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
  - (ii) for every person between the ages of one and ten years there is at least eight cubic metres of air space per person; or

- (c) any structure classified as Class 10(a) under the NCC, including but not limited to a garage, shed or area under a verandah or patio to be used for sleeping purposes.

### **3.4 Calculated sufficient space**

For the purpose of clause 3.5, in calculating the space required for each person—

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time;
- (b) a deduction shall be made for the space occupied by furniture, fittings and projections of the walls into a room; and
- (c) the space required includes ceilings measured up to a height of 2700 millimetres.

### **3.5 Ventilation**

- (1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless the dwelling house is properly ventilated.
- (2) For the purpose of subclause (1) a dwelling house shall be deemed to be properly ventilated if it complies with the NCC, including the provision of—
  - (a) natural ventilation; or
  - (b) a mechanical ventilation or air-conditioning system.
- (3) The owner of a dwelling house provided with a mechanical ventilation or air-conditioning system as its only or prime means of ventilation shall ensure that the system is—
  - (a) maintained in good working order and condition; and
  - (b) in use at all times the building is occupied.
- (4) If a dwelling house is not properly ventilated, the owner of the dwelling house may be required by written notice given by an authorised person to undertake remedial actions including but not limited to—
  - (a) providing a different, or additional method of ventilation; or
  - (b) ceasing to use the dwelling house until it is properly ventilated.

### **3.6 Sub-floor ventilation**

The owner or occupier of a dwelling house shall make provision for any sub-floor ventilation by ensuring that air bricks and other openings are kept clear of refuse, vegetation, building materials, dirt and the like.

## *Division 3—Water supply*

### **3.7 Water supply**

- (1) The owner of every dwelling house shall provide a continuous supply of drinking water, reticulated for use and obtained from—
  - (a) a licensed water service operator;
  - (b) an underground bore;
  - (c) a rainwater storage system; or
  - (d) an alternative supply approved by the Chief Health Officer.
- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house.
- (3) The water supply to toilets or for garden use may be from an alternative source that is not necessarily drinking water but shall comply with the requirements of relevant legislation, codes of practice or guidelines where applicable.

### **3.8 Rain water tanks**

- (1) The owner or occupier of a dwelling house for which part of the drinking water supply is drawn from a rain water tank shall—
  - (a) ensure that it is managed and maintained so as to meet the relevant standards in the *Australian Drinking Water Guidelines* developed by the National Health and Medical Research Council;
  - (b) maintain in a clean condition—
    - (i) the roof forming the catchment for the tank; and
    - (ii) the guttering and downpipes appurtenant to the roof; and
  - (c) ensure that each rain water tank is fitted with a tight fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank.
- (2) The owner or occupier of a dwelling house for which its entire water supply is drawn from a rain water tank or tanks shall ensure that the storage capacity of the tank or tanks is not less than 120,000 litres.

### **3.9 Bores and wells**

The owner or occupier of any premises shall not use or permit for human consumption the use of the water of any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Chief Health Officer; and

- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump; and
- (c) compliant with the requirements of the *Health Act (Underground Water Supply) Regulations 1959*.

### 3.10 Pollution

A person shall not deposit on or under any land, any sewage, offensive matter or any other thing which may pollute or render unfit for human consumption, water from a well or other underground source.

*Division 4—Second-hand furniture, bedding and clothing*

### 3.11 Prohibition on sale

A person shall not offer for sale or sell any second-hand furniture, bedding or clothing, which is filthy or infested with vectors of disease.

### 3.12 Prohibition of possession

A dealer in second-hand furniture, bedding or clothing shall not have on any premises used for the operation of the business any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

## PART 4—LIQUID REFUSE AND LIQUID WASTE

### 4.1 Interpretation

In this division, unless the context otherwise requires—

**liquid refuse** includes all washings from the commercial cleaning of vehicles, overflow, bleed off, condensate and drainage from air conditioning equipment including cooling towers and evaporative coolers and other liquid used for cooling purposes and swimming pool discharges;

**liquid waste** means—

- (a) wastewater or any other waste in liquid form from domestic, industrial or commercial activities, other than effluent;
- (b) includes bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage; and
- (c) includes waste from any process or activity, whether useful or useless, 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; and

**receptacle for drainage** has the same meaning as in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

### 4.2 Deposit of liquid refuse

(1) A person shall not deposit or cause or permit to be deposited liquid refuse—

- (a) on a street;
- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.

(2) Notwithstanding subclause (1), in the case of swimming pool back wash water, discharge is permitted—

- (a) into soak wells of adequate capacity; or
- (b) onto a road verge for the purpose of watering gardens or vegetation, without discharge onto a road or into a stormwater drain.

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

### 4.3 Disposal of liquid waste

(1) The owner or occupier of premises shall—

- (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.

(2) Liquid waste shall be disposed of by one of the following methods—

- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
- (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Chief Health Officer or an authorised person; or
- (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Chief Health Officer.

## PART 5—NUISANCES AND GENERAL

### Division 1—Nuisances

#### 5.1 Interpretation

In this division, unless the context otherwise requires—

**car park** means premises, or any part of premises, set aside for parking of 3 or more motor vehicles;

**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;

**fertiliser** includes manure; and

**liquid waste** has the same meaning as in clause 4.1.

#### 5.2 Transportation, use and storage of offal, blood or other offensive material

A person shall not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by—

- (a) steam, and properly dried; or
- (b) some other effective method approved by an authorised person.

#### 5.3 Use or storage of fertiliser

An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any—

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

#### 5.4 Storage and dispatch of artificial fertiliser

An owner or occupier of premises where artificial fertiliser is stored in bulk for sale shall—

- (a) keep all artificial fertiliser in a building—
  - (i) of which all internal surfaces are constructed of durable and non-absorbent materials; finished internally with a smooth surface;
  - (ii) that protects it from the absorption of moisture; and
  - (iii) that is adequately ventilated;
- (b) take adequate measures to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser dispatched from the premises is handled and loaded in such a manner as to prevent any nuisance arising during transit.

#### 5.5 Storage of fertiliser and compost

(1) Subject to subclause (2) fertiliser and compost is not to be stored inside a dwelling house in a habitable room, kitchen, laundry, bathroom, living area, passage way or bedroom.

(2) Fertiliser and compost may be stored—

- (a) in a non-habitable building such as a shed, garage or storage room which is fully enclosed, well ventilated and separated from the habitable areas of the dwelling house; or
- (b) in an outside area.

(3) The owner or occupier of premises where fertiliser or compost is stored or used shall—

- (a) take reasonable steps to prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for vermin; and
- (c) store only such amounts of fertiliser or compost—
  - (i) as can be readily used within a reasonable period; or
  - (ii) as may be directed by written notice given by an authorised person.

#### 5.6 Movement of commercial vehicles

(1) In this clause—

**light commercial vehicle**—

- (a) means a vehicle with a gross vehicle mass not greater than 4500 kg, constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a vehicle for the conveyance of passengers; and
- (b) includes any vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose; and

**commercial vehicle** means a vehicle, whether licenced or not, that has a gross vehicle mass of greater than 4500 kg including—

- (a) a utility, van, truck, tractor, bus or earthmoving equipment; and
- (b) a vehicle that is, or is designed to be an attachment to a vehicle referred to in paragraph (a).

(2) A person shall not park a light commercial vehicle or commercial vehicle containing animals in a townsite for a period in excess of one hour, unless—

- (a) on land zoned as farming, rural residential, rural, special rural, industrial, light industry or general industry; and
- (b) the vehicle is parked on that land more than 100 metres from any dwelling house.

(3) A person shall not park a light commercial vehicle or commercial vehicle so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle where that vehicle contains or has been used for—

- (a) the carriage of animals;
- (b) the transport of chemicals; or
- (c) collection or disposal of any waste.

(4) If a person parks a light commercial vehicle or commercial vehicle containing animals in a townsite in accordance with subclause (2) or with the approval of an authorised person, then the person does not contravene subclause (3).

(5) A person shall not start or drive a commercial vehicle on land zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of an authorised person.

#### **5.7 Footpaths etc, to be kept clean**

An owner or occupier of premises shall take reasonable steps to ensure that any footpath, pavement, area or right of way immediately adjacent to the premises is clear of any rubbish, matter or things coming from or belonging to the premises.

#### **5.8 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 with a capacity of 0.04 cubic metres or more, on any land unless—

- (a) every door and lid and every lock, catch and hinge attached to a door or lid has been removed;
- (b) rendering every door and lid incapable of being fastened; and
- (c) refrigerant gas has been removed by a qualified person.

#### **5.9 Storage of vehicles, vessels and machinery**

(1) In this clause—

**machinery** includes disused equipment;

**vehicle** means any motor vehicle, or part of a motor vehicle in a state of disrepair or in the process of being wrecked whether licensed or not;

**vessel** means any kind of vessel intended for navigation by water, or part of a vessel in a state of disrepair or in the process of being wrecked whether licensed or not; and

**wreck** includes the dismantling, breaking up, storage and disposal of vehicles.

(2) The owner or occupier of land in a townsite shall not—

- (a) store, or allow to remain, in public view on any lot more than one 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 one month;
- (c) store, or allow to remain, in public view on any lot any vehicle, vessel 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 street and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

(3) Subclause (2)(a) to (d) does not apply—

- (a) where the approval of an authorised person has been obtained; or
- (b) on land that is zoned appropriately.

#### *Division 2—Slaughter and disposal of dead animals*

#### **5.10 Slaughter of animals**

(1) Subject to subclause (2) a person, shall not slaughter any animal within the district.

(2) Subclause (1) does not apply to—

- (a) euthanasia of animals by veterinarians or other duly authorised persons;
- (b) persons who slaughter stock for their own consumption and who are exempted under Regulation 20 (2) of the *Food Regulations 2009*;
- (c) slaughter of animals for the purposes of pet meat and game meat operations in accordance with Part 5 of the *Food Regulations 2009*; and

- (d) slaughter of animals for human consumption in abattoirs, operating in accordance with clause 11.37.

#### **5.11 Disposal of dead animals**

- (1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.
- (2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal shall without delay remove the carcass for its disposal at an approved disposal site.
- (3) An owner, or a person having the care, of any animal that dies or is killed in a public or private place shall without delay remove the carcass and arrange for its disposal at an approved disposal site.
- (4) The requirements of subclauses (1), (2) and (3) shall not limit the practice by farmers, pastoralists and the like of disposing of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health.

### **PART 6—ENVIRONMENT**

#### *Division 1—Dust, smoke, fumes and odours*

#### **6.1 Interpretation**

In this division, unless the context otherwise requires—

**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; and

**liquid waste** means—

- (a) wastewater or any other liquid waste from domestic, industrial or commercial activities, other than effluent;
- (b) includes bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage; and
- (c) includes waste from any process or activity, whether useful or useless, 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.

#### **6.2 Dust management**

(1) An authorised person may require an owner or occupier of land undertaking or intending to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind, water or any other cause, to—

- (a) submit to an authorised person a Dust Management Plan in accordance with “A guideline for managing the impacts of dust and associated contaminants from land development sites, remediation and other related activities (2011)” as produced by the Department of Water and Environmental Regulation, and amended from time to time; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.

(2) An owner or occupier of land may be required by written notice to take effective measures including but not limited to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land;
- (c) ensure no dust or liquid waste is released or escapes from the land whether by means of wind, water or any other cause; and
- (d) notify the owners or occupiers of adjoining land in writing at least 48 hours prior to the commencement of any activity that has the potential to cause the release or escape from the land of dust or liquid waste giving details of—
  - (i) the nature of the activity;
  - (ii) the proposed commencement time, frequency, duration time and location of the activity; and
  - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.

(3) Where an authorised person 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 authorised person may give to the owner or occupier written notice that the activity may only be carried on subject to conditions specified in the notice.

#### **6.3 Burning of cleared vegetation on building or development site prohibited**

An owner or occupier of any building site or development site within a townsite shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorisation in writing is given by an authorised person.



#### **6.4 Burning of rubbish, refuse or other material**

(1) A person shall not on any land having an area of 4000 square metres or less within a townsite, set fire to rubbish, refuse or other materials unless—

- (a) the material does not include any plastic, rubber, food scraps, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (b) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (c) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by an authorised person under that Act and any conditions of approval as determined by an authorised person.

(2) Subclause (1) shall not apply to any barbeque, 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.

#### **6.5 Escape of dust, smoke, fumes or odours**

An owner or occupier of land or premises shall not cause or permit the escape of dust, smoke, fumes or odours from the land so as to cause or to be a nuisance to any person.

##### *Division 2—Stormwater management*

#### **6.6 Containment and disposal of stormwater**

(1) The owner or occupier of a lot shall ensure that all stormwater received by any building, house, or 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.

(3) The owner or occupier of a lot shall ensure that all stormwater drainage systems on the lot are maintained in a good state of repair and free from obstruction.

##### *Division 3—Light*

#### **6.7 Use of exterior lights**

An owner and or occupier of land on which floodlights, lighting installations or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto an adjoining lot.

#### **6.8 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 the land at a level that interferes unreasonably with normal daily activities; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to—
  - (i) the owner or occupier of any other premises; or
  - (ii) person lawfully using a street or thoroughfare.

### **PART 7—ANIMALS AND BIRDS**

#### *Division 1—Keeping of animals and birds*

#### **7.1 Cleanliness**

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

- (a) maintain the premises free from excrement, filth, food waste and all other matters which is or is likely to become offensive or injurious to health or to attract rats or other vermin;
- (b) when so directed by written notice given by an authorised person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vermin by spraying with a residual insecticide or other effective means.

#### **7.2 Nuisance caused by animals or birds**

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

- (a) is or creates a nuisance; or
- (b) emits an unreasonable or constant noise.

#### **7.3 Animal and bird enclosures**

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

(2) An authorised person may give written notice to the owner or occupier of premises where animals or birds are kept to pave, grade and drain floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.

#### 7.4 Keeping of fauna

(1) In this clause—

**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) Notwithstanding the provisions of Division 2 and Division 3 of this Part, a person may keep fauna for the period and under such conditions as may be authorised by the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*.

#### *Division 2—Keeping of animals*

#### 7.5 Interpretation

In this division, unless the context otherwise requires—

**approved animal** means a farm animal the subject of an approval by an authorised person;

**cow** includes an ox, calf or bull;

**farm animal** includes a horse, cow, pig, sheep, camel, alpaca, llama, deer, goat or other large animal; and

**horse** includes an ass, mule, donkey or pony.

#### 7.6 Cats

(1) 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) Upon payment of the set fee, 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 (3) may be required by an authorised person to—

- (a) provide for each cat kept at or on the premises, a properly constructed shelter with an enclosure complying with the following—
  - (i) each shelter must have a floor area of not less than .5 square metres for each cat over the age of 3 months kept or to be kept therein; and
  - (ii) the area of the enclosure appurtenant to each shelter shall be not less than 3 times the area of the shelter;
- (b) ensure every shelter and enclosure is situated at a distance of not less than—
  - (i) 2 metres from the boundary of any lot not owned or occupied by the person by whom the cats are kept; and
  - (ii) 10 metres from any dwelling, church, school room, hall or premises in which food is manufactured, packed or prepared for human consumption; and
- (c) keep all shelters, enclosures, yards and grounds in which cats are kept in a clean condition and free from vectors of disease at all times and clean, disinfect or otherwise as directed by an authorised person from time to time.

(6) Notwithstanding subclause (1), 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.

#### 7.7 Requirements for keeping approved animals

(1) An owner or occupier of premises within a townsite shall not keep a farm animal without approval of an authorised person.

(2) An owner or occupier of premises who has an approved animal shall ensure the premises has an area of not less than 2000 square metres for the exclusive use of the approved animal.

(3) A person who keeps an approved animal or permits an approved animal to be kept shall ensure that—

- (a) all approved animals are to be kept in a properly constructed and securely fastened structure or enclosure; and
- (b) no approved animal is able to encroach within 15 metres of a dwelling house, public building, or premises where people are employed or premises where food is stored, prepared, manufactured or sold.

(4) Subclauses (1) and (2) do not apply to premises used—

- (a) for veterinary purposes;
- (b) as a pet shop; or
- (c) in accordance with clause 7.4(2).

#### **7.8 Limitation on numbers of other animals**

(1) The number of cats or dogs permitted to be kept are as determined by—

- (a) clause 7.6; and
- (b) *Shire of Menzies Dogs Local Law 2021* as amended from time to time.

(2) Without the approval of an authorised person, an owner or occupier of land in a townsite shall not keep more than 20 animals, including dogs and cats.

(3) Notwithstanding subclause (2) an authorised person may require a reduction of the approved number of animals on premises within a townsite, or alternatively prohibit the keeping of animals on particular premises, if unreasonable noise or a nuisance is being caused.

(4) Subclauses (2) and (3) do not apply to premises used—

- (a) for veterinary purposes;
- (b) as a pet shop; or
- (c) in accordance with clause 7.4(2).

#### *Division 3—Keeping of birds*

#### **7.9 Interpretation**

In this division, unless the context otherwise requires—

**poultry** includes fowls, peafowls, guinea fowls, turkeys, geese, ducks, chickens, bantams and other domestic fowls;

**pigeons** are birds that are classified within the family Columbidae and includes doves; and

**miscellaneous birds** means birds other than poultry and pigeons.

#### **7.10 Commercial poultry establishments**

Commercial poultry establishments are to manage operations in accordance with the *Environmental Code of Practice for Poultry Farms in Western Australia 2004* produced by the Western Australian Broilers Growers Association and Poultry Farmers Association of Western Australia.

#### **7.11 Limitation on numbers of pigeons, poultry and miscellaneous birds**

(1) Without the approval of an authorised person, an owner or occupier of land in a townsite shall not keep a combined total of more than 20 poultry, pigeons and miscellaneous birds.

(2) Notwithstanding subclause (1) an authorised person may require a reduction of the approved number of poultry, pigeons, or miscellaneous birds on premises within the district, or alternatively prohibit the keeping of poultry, pigeons, or miscellaneous birds on particular premises, if unreasonable noise or a nuisance is being caused.

(3) Subclauses (1) and (2) do not apply to premises used—

- (a) for veterinary purposes;
- (b) as a pet shop; or
- (c) in accordance with clause 7.4(2).

#### **7.12 Requirements for keeping poultry**

(1) A person who keeps poultry or permits poultry to be kept on land within a townsite shall ensure that—

- (a) all poultry is kept in a properly constructed and securely fastened structure or enclosure;
- (b) the structure or enclosure is in a yard having an otherwise unobstructed area of at least 15 square metres; and
- (c) no poultry is able to approach within 15 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, an authorised person has approved a lesser distance.

(2) A person who keeps poultry or permits poultry to be kept shall ensure no poultry is able to encroach—

- (i) within 5 metres of any dwelling house on the land; or
- (ii) within 15 metres of a neighbouring dwelling house, public building, or premises where people are employed or premises where food is stored, prepared, manufactured or sold.

#### **7.13 Roosters, geese, turkeys, peafowl, emu and ostrich**

Without the approval of an authorised person, an owner or occupier of premises in a townsite shall not keep on those premises—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey;
- (d) a peacock or peahen;

- (e) guinea fowl;
- (f) an emu; or
- (g) an ostrich.

## PART 8—PEST CONTROL

### 8.1 Interpretation

In this Part, unless the context otherwise requires—

**Argentine ant** means an ant belonging to the species *Linepithema humile* (formerly *Iridomyrmex humilis*);

**arthropod vectors of disease** includes—

- (a) fleas (*Siphonaptera*);
- (b) bedbugs (*Cimex lectularius*);
- (c) crab lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus var. corporis*); and
- (e) head lice (*Pediculus humanus var. capitis*);

**cockroach** means any of the various orthopterous insects commonly known as cockroaches;

**European wasp** means a wasp *Vespula germanica*;

**flies** means any of the two-winged insects constituting the order *Diptera* commonly known as flies;

**mosquitoes** means any of the two-winged insects constituting the family *Diptera Culicidae* commonly known as mosquitoes; and

**rodents** means those animals belonging to the order *Rodentia* and includes rats and mice but does not include native rodents, laboratory bred rats and mice or animals (other than rats) kept as pets in an enclosure designed for the purpose of keeping as pets animals of that kind.

### 8.2 Measures to be taken for control of flies

Owners and occupiers of any land within the district that is breeding flies, or that is likely to breed flies, are to comply with the requirements of the *Fly Eradication Regulations*.

### 8.3 Measures to be taken to prevent breeding of mosquitoes

(1) An owner or occupier of premises shall take effective measures to ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) take all reasonable steps to—
  - (i) control the prevalence of mosquitoes;
  - (ii) eradicate mosquitos; and
  - (iii) effectively prevent the breeding of mosquitoes; and
- (b) assist an authorised person to locate any possible mosquito breeding sites that may be present in or about the premises.

(2) An owner or occupier of premises shall—

- (a) where water is kept in a horse trough, poultry drinking container or other receptacle—
  - (i) frequently change the water; and
  - (ii) keep the water clean and free from vegetable matter and slime;
- (b) where a septic tank is installed shall ensure the fixture is in sound condition at all times, and mesh having openings not larger than 1.2 millimetres covers any vent to the tank;
- (c) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (d) where any activity is undertaken on any land which creates an excavation likely to hold water and cause mosquito breeding shall as soon as practicable following the completion of the activity, and taking into consideration the purpose of the excavation, ensure that—
  - (i) the excavation is filled in with clean material and made level with the surrounding surface; or
  - (ii) alternatively treated with an approved pesticide to control mosquito breeding.

(3) Where it appears to an authorised person that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the owner or occupier of the premises may be required by direction in writing given by an authorised person to cut down and remove within a specified time the undergrowth or vegetation.

### 8.4 Measures to be taken to eradicate rodents

(1) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.

(2) An owner or occupier of premises who keeps rodents shall—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
- (b) if a rodent escapes, ensure that all reasonable steps are taken to destroy or recapture the rodent.

(3) A person shall not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment.

#### **8.5 Measures to be taken to eradicate cockroaches**

An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.

#### **8.6 Measures to be taken to keep premises free from Argentine ants**

An owner or occupier of premises shall take effective measures to eradicate any Argentine ants in or on the premises.

#### **8.7 Measures to be taken to keep premises free from European wasp nests**

An owner or occupier of premises shall—

- (a) ensure that the premises are kept free from European wasp nests;
- (b) without delay notify the local government of any wasp nest in, on or about the premises that is suspected to be a European wasp nest;
- (c) assist an authorised person, or his or her representative, to trace any nest that may be present in, on or about the premises.

#### **8.8 Measures to be taken to keep premises free from arthropod vectors of disease**

The owner or occupier of premises shall keep the premises and any person residing in or on the premises free from any arthropod vectors of disease.

### **PART 9—INFECTIOUS DISEASES**

#### **9.1 Requirements for an owner or occupier to clean, disinfect and disinfest**

An authorised person may, by written notice, require an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice.

#### **9.2 Authorised person may disinfect or disinfest premises**

(1) Where an authorised person is satisfied that any case of infectious disease has occurred on any premises, the authorised person may give written notice to disinfect or disinfest premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises shall permit, and provide access to enable, an authorised person or other person to carry out the written notice given under subclause (1).

#### **9.3 Insanitary dwelling houses, premises and things**

(1) An owner or occupier of any dwelling house or premises shall maintain the dwelling house or premises free from any insanitary condition or thing.

(2) Where the Council resolves that a dwelling house is insanitary, an authorised person may give written notice to an owner of the dwelling house to destroy or amend the dwelling house.

(3) Where an authorised person considers that a dwelling house or premises is not being maintained in a sanitary condition or any thing is insanitary, direction in writing may be given requiring—

- (a) the owner or occupier of the dwelling house or premises to amend any insanitary condition; or
- (b) the owner or occupier of the insanitary thing to destroy or amend it.

#### **9.4 Persons in contact with an infectious disease sufferer**

If a person in any dwelling house is, or is suspected of, suffering from an infectious disease, any occupant of the dwelling house or any person who enters or leaves the dwelling house may by direction in writing—

- (a) be removed to isolation in an appropriate place to prevent or minimise the risk of the infection spreading; and
- (b) if so removed, shall remain in that place until the authorised person otherwise directs in writing.

#### **9.5 Declaration of infected dwelling house or premises**

(1) To prevent or check the spread of infectious disease, an authorised person may from time to time declare any dwelling house or premises to be infected.

(2) A person shall not enter or leave any dwelling house or premises declared to be infected without the written consent of an authorised person.

#### **9.6 Destruction of infected animals**

An authorised person, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by written notice require—

- (a) that the animal be examined by a registered veterinary officer; and
- (b) all steps taken to enable the condition to be controlled or eradicated; or
- (c) the animal be destroyed and disposed of.

### 9.7 Disposal of a body

(1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by written notice given by an authorised person.

(2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

### 9.8 Disposal of used condoms

(1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by written notice given by an authorised person.

(2) A person shall not dispose of a used condom in a public place except in accordance with subclause (1).

### 9.9 Disposal of used needles

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container deposited in a refuse receptacle.

## PART 10—LODGING HOUSES

### *Division 1—Registration*

### 10.1 Interpretation

(1) In this Part, unless the context otherwise requires—

**accommodation** means one or more buildings used for boarding purposes referred to in this Part;

**bed and breakfast** means a dwelling house used by a resident of the dwelling house to provide short-term accommodation on a commercial basis for not more than four adults or one family, and contains not more than two guest bedrooms;

**bunk** means a sleeping berth comprising one of two arranged vertically;

**dormitory** means a building or room utilised for sleeping purposes at a short term hostel or recreational campsite;

**Food Standards Code** means the Australia New Zealand Food Standards Code as defined in the Commonwealth *Food Standards Australia New Zealand Act 1991*;

**holiday accommodation** excludes buildings on a caravan park, excludes a lodging house, and means a building where the period of occupancy of any lodger is not more than 14 consecutive days and includes a bed and breakfast, chalet, cottage or holiday house;

**keeper** means a person whose name appears on the register of keepers, in respect of accommodation, as the keeper of that accommodation;

**lodger** means a person who obtains, for hire or reward, board or lodging in accommodation;

**lodging house** includes a recreational campsite, a serviced apartment and a short term hostel and has the same meaning as defined in Section 3 of the Act;

**manager** means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of accommodation;

**manufacturer's specifications** means a data sheet describing the technical characteristics of a product which is published by a manufacturer to help consumers use the product;

**recreational campsite** means a lodging house, including youth camps, youth education camps, church camps and riding schools but excluding a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*—

(a) situated on a campsite principally used for—

- (i) recreational, sporting, religious, ethnic or educational pursuits; or
- (ii) conferences or conventions; and

(b) where the period of occupancy of any lodger is not more than 14 consecutive days;

**register of lodgers** means the register kept in accordance with section 157 of the Act and this Part;

**register of keepers** means a register by the local government in which is registered the names and residences of the keepers of all accommodation within its district and the situation of every such accommodation and the number of persons authorised to be resident therein;

**resident** means a person, other than a lodger, who resides in accommodation;

**serviced apartment** means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;

**short term hostel** means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and shall include youth hostels and backpacker hostels; and

**sleeping apartment** means a room for lodgers to sleep in.

(2) In this Part, where an act is required to be done or forbidden to be done in relation to any lodging house, unless the contrary intention appears, the keeper of the lodging house has, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

### **10.2 Accommodation not to be kept unless registered**

A person shall not keep, cause or permit to be kept accommodation unless—

- (a) the accommodation is constructed in accordance with the requirements of this Part;
- (b) the accommodation is registered by the local government under clause 10.4(1);
- (c) the names of the persons keeping or proposing to keep, and managing the accommodation is entered in the register of keepers in accordance with section 147 of the Act; and
- (d) in the case of holiday accommodation, when required by an authorised person, a management plan is approved by an authorised person that includes—
  - (i) a code of conduct detailing the expected behaviour and obligations of lodgers, which is also to be displayed within the premises;
  - (ii) details of lodger check-in and check-out procedures;
  - (iii) details of waste management procedures;
  - (iv) an emergency management plan; and
  - (v) the keeper and manager's mobile telephone numbers.

### **10.3 Application for registration**

In addition to clause 12.1 an application for registration of accommodation shall contain the following details—

- (a) if the applicant is a body corporate, the name and position of the person having principal responsibility for the premises to be registered;
- (b) contact details of the applicant including—
  - (i) business, residential and email addresses; and
  - (ii) business, residential and mobile telephone numbers;
- (c) if the keeper is not to be resident at the lodging house, proposed arrangements for manager;
- (d) proposed classification as—
  - (i) a lodging house;
  - (ii) a short term hostel;
  - (iii) serviced apartments;
  - (iv) recreational campsite; or
  - (v) other classification;
- (e) type and number of rooms and facilities for private use;
- (f) type, number and area of rooms and facilities for use by lodger;
- (g) type, number and area of sanitary conveniences and facilities for each of male and female lodgers;
- (h) number, areas and details of equipment for laundry facilities;
  - (i) if meals are to be provided by the manager; and
- (j) be accompanied by detailed plans and specifications of the lodging house.

### **10.4 Determination of application**

(1) An authorised person may approve, with or without conditions, an application under clause 10.3 by issuing to the applicant a certificate of registration of a lodging house in the form determined by the local government from time to time.

(2) The certificate of registration is to include—

- (a) classification as per clause 10.3(d);
- (b) name of resident manager;
- (c) name of owner if not resident;
- (d) number of rooms for lodgers, and the number of lodgers permitted to in each sleeping apartment;
- (e) number / type of rooms for lodger's use;
- (f) conditions imposed, if any; and
- (g) approved number of rooms and approved number of lodgers per room listed according to room.

(3) The certificate of registration is to be displayed in the reception area accessible by lodgers.

(4) The licence for a lodging house shall expire on 30 June following the date of its issue.

### **10.5 Suspension or revocation of registration of a lodging house**

In accordance with Part 13, an authorised person may suspend or revoke a registration, including but not limited to the following grounds—

- (a) that the lodging house has not, to the satisfaction of an authorised person, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;

- (b) that the keeper has—
  - (i) been convicted of an offence against this local law in respect of the accommodation;
  - (ii) not complied with a requirement of this Part; or
  - (iii) not complied with a condition of registration;
- (c) that the local government, having regard to a report from the Police, is satisfied that the keeper or manager is not a fit and proper person; and
- (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the accommodation is such as to render it, in the opinion of an authorised person, unfit to remain registered.

*Division 2—Construction and use requirements*

**10.6 General construction requirements**

The general construction requirements of accommodation shall comply with the NCC.

**10.7 Insect screening**

The keeper shall provide and maintain in good working order and condition on the premises windows and external doors that are screened with mesh having openings no larger than 1.2 millimetres.

**10.8 Sanitary conveniences**

(1) A keeper of accommodation shall maintain in good working order and condition and in convenient positions on the premises—

- (a) toilets; and
- (b) bathrooms, each fitted with shower or a bath (or both) and hand wash basin and in accordance with the requirements of the NCC.

(2) A bathroom or toilet, which is used as a private bathroom or toilet to the exclusion of other lodgers or residents, shall not be counted for the purposes of subclause (1).

(3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.

(4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.

(5) Each toilet and bathroom shall—

- (a) be situated, separated and screened as to ensure privacy;
- (b) be apportioned as to each sex;
- (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
- (d) be provided with adequate lighting.

(6) Subclauses (5)(b) and (c) do not apply to a serviced apartment.

**10.9 Laundry unit**

(1) A laundry unit shall consist of—

- (a) a washing machine with a capacity of not less than four kilograms of dry clothing;
- (b) either an electric drying cabinet or not less than 30 metres of clothes line;
- (c) one wash trough of not less than 45 litres capacity, connected to both hot and cold water; and
- (d) A hot water system that—
  - (i) is capable of delivering an adequate supply of water at a temperature of at least 65 degrees Celsius for each washing machine and wash trough provided with the communal facilities; and
  - (ii) has a delivery rate of not less than five litres per minute for each washing machine or a higher delivery rate according to the manufacturer's specifications.

(2) A keeper of a lodging house shall, subject to the satisfaction of an authorised person—

- (a) provide on the premises a laundry unit for each 15 lodgers;
- (b) at all times maintain each laundry unit in a proper sanitary condition and in good repair;
- (c) provide an adequate supply of hot and cold water to each wash trough, sink and washing machine; and
- (d) ensure that the floor area of each laundry unit is properly surfaced with an even fall to a floor waste.

(3) An authorised person may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

**10.10 Kitchen**

The keeper of a lodging house shall provide in that lodging house a kitchen which complies with the relevant requirements of—

- (a) the *Food Act 2008*;
- (b) the *Food Regulations 2009*; and
- (c) *Standards 3.1.1, 3.2.2, and 3.2.3* of the *Food Standards Code* as determined by an authorised person.



### 10.11 Cooking facilities

The keeper of accommodation where meals are prepared shall provide a kitchen with cooking appliances of a number and type approved by an authorised person.

### 10.12 Dining room

The keeper of a lodging house shall provide in that lodging house a dining room which—

- (a) is located in close proximity to, or combined with, the kitchen;
- (b) has a floor area of which shall not be less than the greater of—
  - (i) 0.5 square metres per person; or
  - (ii) 10 square metres;
- (c) is adequately furnished to accommodate, at any one time, half of the number of lodgers; and
- (d) has a suitable floor covering.

### 10.13 Lounge room

The keeper of a lodging house shall provide in that lodging house a lounge room which—

- (a) has a floor area with a minimum of 13 square metres, and—
  - (i) where the lounge room is not combined with a dining room, is not less than 0.6 square metres per person; or
  - (ii) where the lounge room is combined with a dining room, is not less 1.2 metres per person;
- (b) is adequately furnished to accommodate at any one time, half of the number of lodgers; and
- (c) has a suitable floor covering.

### 10.14 Fire prevention and control

(1) A keeper shall—

- (a) ensure smoke alarms complying with *AS 3786:2014* are installed on or near the ceiling in every bedroom and in every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building as required by the NCC;
- (b) ensure that there is installed in each passage or corridor in the lodging house a smoke alarm incorporating evacuation lighting which is activated by the smoke alarm as required by the NCC;
- (c) provide evacuation lighting if required by the NCC to be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (d) provide an approved fire blanket positioned within two metres of the cooking area in each kitchen;
- (e) if required by the NCC, ensure that illuminated exit signs are installed above exit doorways which comply with *AS 2293.1:2018* and which are maintained in good working order at all times; and
- (f) provide firefighting equipment in accordance with the requirements of the NCC and ensure that the equipment is clearly visible, accessible and maintained in good working order at all times.

(2) No person shall smoke in any dormitory, kitchen or dining room or other enclosed public place within a lodging house.

(3) A keeper shall ensure that any items which are likely to cause a fire hazard are not located within bedrooms or dormitories of a lodging house.

(4) The keeper of a lodging house which is a recreational campsite or short term hostel, but not a serviced apartment, shall ensure that—

- (a) materials used in bedrooms and dormitory area comply with *AS 1530.2:1993* and *AS 1530.3:1999* as follows—
  - (i) drapes, curtains and blinds—a maximum flammability index of 6;
  - (ii) flammable furniture, upholstery and beds—
    - (A) a maximum spread of flame index of 6; and
    - (B) a maximum smoke developed index of 5; and
  - (iii) floor coverings—
    - (A) a maximum spread of flame index of 7; and
    - (B) a maximum smoke developed index of 5; and
- (b) fire retardant coatings used to make a material comply with these indices shall be—
  - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
  - (ii) certified by the manufacturer to retain its fire retardancy effect after a minimum of five commercial dry cleaning or laundering operations carried out in accordance with *AS 2001.5.4:2005*; and
  - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specifications.

#### **10.15 Obstruction of passages and stairways**

A keeper of a lodging house shall not place or permit to be placed furniture, fittings or other things in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house, either temporarily or permanently, in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use.

#### **10.16 Fitting of locks**

A person shall not fit, cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

#### **10.17 Restriction on use of rooms for sleeping**

(1) Subject to subclause (3) and clause 10.31, a keeper of a lodging house shall not use or permit to be used as a sleeping apartment a room in a lodging house—

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room, lounge room or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short term hostel or a recreational campsite, contains less than five square metres of clear space for each lodger occupying the room;
- (f) which is not naturally illuminated in accordance with the requirements of the NCC;
- (g) which is not ventilated in accordance with the requirements of the NCC;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an authorised person.

(2) For the purposes of this clause, two children under the age of 10 years shall be counted as one lodger.

(3) Subclauses (1)(a), (b) and (c) shall not apply to a serviced apartment.

#### **10.18 Sleeping accommodation, short term hostels and recreational campsites**

(1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than—

- (a) 4 square metres per person in each dormitory utilising beds; or
- (b) 2.5 square metres per person in dormitories utilising bunks.

(2) The calculation of floor space in subclause (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.

(3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be—

- (a) 2.4 metres in any dormitory utilising beds; or
- (b) 2.7 metres in any dormitory utilising bunks.

(4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the NCC.

(5) The keeper of any short term hostel or recreational campsite shall provide—

- (a) fixed outlet ventilation at a ratio of 0.15 square metre to each 10 square metres of floor area of the dormitories;
- (b) each dormitory with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable; or
- (c) mechanical ventilation in lieu of fixed ventilation.

(6) The keeper of any short term hostel or recreational campsite shall provide—

- (a) beds with a minimum size of—
  - (i) in short term hostels—800 millimetres x 1.9 metres; or
  - (ii) in recreational campsites—750 millimetres x 1.85 metres; and
- (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.

(7) The keeper of any short term hostel or recreational campsite shall—

- (a) ensure at all times there is a distance of 750 millimetres between beds and a distance of 900 millimetres between bunks;
- (b) ensure that where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least two metres between each row of bunks and the passageway is kept clear of obstruction at all times;

- (c) ensure all light fittings and other ceiling and wall projections (including ceiling and wall fans) are provided with safety guards or positioned so as not to be a danger to any occupants to the satisfaction of an authorised person; and
- (d) ensure all doors, windows and ventilators are kept free from obstruction.

#### **10.19 Furnishing etc. of sleeping apartments**

A keeper of a lodging house shall, unless otherwise approved by an authorised person—

- (a) furnish each sleeping apartment with a sufficient number of beds and sufficient bed linen of good quality;
- (b) ensure that each bed—
  - (i) has a mattress and pillow;
  - (ii) is provided with a pillow case, two sheets, a blanket or rug and, in cold weather, not less than one additional blanket or rug; and
  - (iii) has a mattress and pillow protectors fitted;
- (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room; and
- (d) not cause or permit any tiered beds or bunks to be used in a sleeping apartment other than in a lodging house used exclusively as a short term hostel or recreational campsite.

#### **10.20 Ventilation**

If, in the opinion of an authorised person, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, the authorised person may give written notice to the keeper to provide a different or additional method of ventilation.

#### **10.21 Room identification**

- (1) A keeper shall number each room available to a lodger in a lodging house or provide an alternative means of identification approved by an authorised person.
- (2) The numbering system or alternative means of room identification is to be—
  - (a) legible and easily identified; and
  - (b) placed on or adjacent to each door to a habitable room.

*Division 3—Management and care*

#### **10.22 Duties of keeper**

Whenever there are one or more lodgers in a lodging house, a keeper or manager shall—

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless arrangements for a reputable person to have the care and management of the lodging house have been made.

#### **10.23 Register of lodgers**

- (1) A register of lodgers shall be kept in accordance with section 157 of the Act and this clause.
- (2) A keeper shall keep a register of lodgers recording the following details—
  - (a) date of arrival;
  - (b) name;
  - (c) details sufficient to trace and contact each lodger should the need arise;
  - (d) room number; and
  - (e) date of departure.
- (3) The register of lodgers shall be—
  - (a) kept in the lodging house; and
  - (b) open to inspection at any time on demand by a police officer or by an authorised person.
- (4) The register shall be kept for a minimum of 3 years.

#### **10.24 Keeper report**

A keeper shall, whenever required by a police officer or an authorised person, provide a report containing the details of clause 10.23(2).

#### **10.25 Certificate in respect of sleeping accommodation**

- (1) An authorised person may issue to a keeper a certificate of sleeping accommodation, in respect of each room, which shall be in the form determined by the local government from time to time.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) The certificate of registration shall be displayed in the reception area accessible by those visiting the premises.
- (4) When required by an authorised person, a keeper shall exhibit the certificate issued under this clause in a conspicuous place in the room to which it refers.
- (5) A person shall not permit or allow to be permitted a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

#### **10.26 Duplicate keys and inspection**

A keeper and manager of accommodation shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an authorised person, open the door of any room for the purposes of inspection by the authorised person.

#### **10.27 Room occupancy**

(1) A keeper shall not—

- (a) permit or allow to be permitted more than the maximum number of persons permitted by the certificate of registration of a lodging house issued under clause 10.4(1) to be lodged at any one time in the accommodation;
- (b) place or permit to be placed or kept in any sleeping apartments—
  - (i) a larger number of beds; or
  - (ii) a larger quantity of bedding,

than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and

- (c) use or permit to be used for sleeping purposes a room that—
  - (i) has not been certified for that purpose; or
  - (ii) an authorised person has forbidden to be used as a sleeping apartment.

(2) For the purpose of this clause, two children under 10 years of age shall be counted as one lodger.

#### **10.28 Maintenance of a room by a lodger or resident**

(1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.

(2) Where permission is given or a contract entered into under subclause (1), the keeper of a lodging house shall—

- (a) inspect each room the subject of the permission or agreement at least once a week; and
- (b) ensure that each room is being maintained in a clean and sanitary condition.

(3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean and sanitary condition.

#### **10.29 Cleaning and maintenance requirements**

A keeper shall—

- (a) maintain in a clean, sound and undamaged condition—
  - (i) the floor, walls, ceilings, woodwork and painted surfaces;
  - (ii) the floor coverings and window treatments; and
  - (iii) the toilets, including toilet seats, cisterns and associated plumbing;
- (b) maintain in a clean condition and in good working order—
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth, impervious washable surface;
- (d) ensure that all floors are kept clean at all times;
- (e) ensure that—
  - (i) all bed linen, towels and house linen in use is washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
  - (iii) a person does not occupy a bed, which has been used by another person, unless the bed has been provided with clean bed linen;
  - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
  - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, effective action is taken to eradicate the vectors of disease without delay; and
  - (vi) a room, which is not free from vectors of disease, is not used as a sleeping apartment;
- (f) when so directed by written notice given by an authorised person, ensure that—
  - (i) a room, together with its contents and any other part of the lodging house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times; and
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting.

### 10.30 Responsibilities of lodgers and residents

A lodger or resident shall not—

- (a) use any room available to lodgers—
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware or culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
  - (i) wash or permit the washing of clothing or bedding; or
  - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 10.31—
  - (i) keep, store, prepare or cook food in any sleeping apartment; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding or furniture that is infested with vectors of disease;
- (j) store or keep items other than personal effects—
  - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
  - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

### 10.31 Approval for storage and consumption of food

(1) An authorised person may—

- (a) upon written application from a keeper of a lodging house, approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
- (b) withdraw the approval if a nuisance, vector of disease, vermin or infestation is found to exist in the lodging house.

(2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

### 10.32 Infectious disease

A keeper shall without delay after becoming aware that a lodger or resident is suffering from a notifiable infectious disease notify an authorised person.

## PART 11—OFFENSIVE TRADES

### *Division 1—General*

#### 11.1 Interpretation

In this Part, unless the context otherwise requires—

***offensive trade*** means any trades as defined by section 186 of the Act, and includes—

- (a) establishments carrying out gut scraping or preparation of sausage skins;
- (b) knackeries;
- (c) laundromats and dry cleaning premises;
- (d) livestock saleyards;
- (e) establishments for caged poultry farming or poultry processing;
- (f) establishments for caged rabbit farming; and
- (g) establishments for shellfish and crustacean processing, excluding retail fish shop; and

***premises*** means those premises in or upon which an offensive trade is carried on.

#### 11.2 Application to establish an offensive trade

(1) A person seeking the consent of the local government under section 187 of the Act to establish an offensive trade shall—

- (a) advertise notice of his or her intention to apply for consent in accordance with clause 11.3; and
- (b) lodge an application with the local government.

(2) In addition to clause 12.1 an application for registration to establish an offensive trade shall include but is not limited to the addition following details—

- (a) description of proposed offensive trade;
- (b) details of operations—
  - (i) days and times of operation;
  - (ii) quantities of materials—received and dispatched;
  - (iii) quantities of waste materials or products;
  - (iv) arrangements for disposal of waste materials or products;
- (c) plans and specifications of the buildings proposed to be erected or used in connection with the proposed offensive trade are attached;
- (d) details of advertising, notification to adjoining properties; and
- (e) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976* as amended from time to time.

### **11.3 Notice of application**

A notice required under subclause 11.2(1)(a) shall—

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;
- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) appear in a local newspaper at least two weeks but not more than one month before the application under clause 11.2(1)(b) is lodged with the local government.

### **11.4 Registration of premises**

Registration of premises for an offensive trade is to be in accordance with section 191 of the Act.

### **11.5 Certificate of registration of premises for offensive trade**

(1) In addition to clause 12.2(3) a certificate of registration of premises for an offensive trade is to include the—

- (a) name of business;
- (b) address of approved offensive trade premises;
- (c) type of offensive trade;
- (d) name of owner;
- (e) name of manager if the manager is not the owner;
- (f) period of licence;
- (g) conditions imposed, if any; and
- (h) approved times of operation.

(2) The certificate of registration shall be displayed in the reception area accessible by those visiting the premises.

### **11.6 Transfer of business premises**

(1) Transfer of an offensive trade to alternative premises is subject to clauses 11.2 and 11.4.

(2) For avoidance of doubt, registration of premises is specific to the premises registered, and is non-transferable.

### **11.7 Alterations to premises**

While any premises remain registered under this Division, a person shall not, without the written permission of an authorised person, make or permit any change or alteration to the premises, other than minor repairs, installations or interior refurbishment.

#### *Division 2—General duties of an occupier*

### **11.8 Interpretation**

In this Division, unless the context otherwise requires—

**premises** means those premises in or upon which an offensive trade is carried on; and

**vectors of disease** has the meaning given to it in clause 8.1.

### **11.9 Cleanliness of premises etc.**

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, equipment, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, containers and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;

- (d) maintain in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

#### **11.10 Sanitary conveniences and hand wash basins**

The occupier shall provide on the premises in an approved position sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water for use by employees and by all other persons lawfully upon the premises.

#### **11.11 Painting of walls etc.**

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings in and on the premises to be cleaned and painted when directed by written notice given by an authorised person.

#### **11.12 Effluvia, odours, gases or dust**

The occupier shall—

- (a) provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying or of rendering harmless all offensive effluvia, odours, dust or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored upon the premises; and
- (b) manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person.

#### **11.13 Receptacles for disposal of offensive material**

The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep airtight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed in the receptacles without delay;
- (d) cause the contents of the receptacles to be removed from the premises at least once per week or as directed by written notice given by an authorised person; and
- (e) cause all receptacles after being emptied to be cleaned with an efficient disinfectant without delay.

#### **11.14 Storage of materials**

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by inhalation or otherwise and so as to prevent the creation of a nuisance.

#### **11.15 Sleeping on premises**

A person shall not use or permit any room in premises used for an offensive trade to be used for sleeping purposes.

#### **11.16 Written notice**

An authorised person may give to the occupier written notice to prevent or diminish the offensiveness of a trade or to safeguard the public health.

### *Division 3—Fat rendering establishments*

#### **11.17 Interpretation**

In this Division, unless the context otherwise requires—

***fat rendering establishments*** means premises where edible fats including suet, dripping or premier jus are rendered down by any heat processing method.

#### **11.18 Ventilation**

The occupier shall provide and maintain—

- (a) a hood which shall—
  - (i) be of an approved design and construction;
  - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
  - (iii) extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system—
  - (i) the point of discharge of which shall be at least one metre above the ridge of a pitched roof or three metres above a flat roof and shall not be located within six metres of an adjoining property or any fresh air intake; and
  - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

#### **11.19 Covering of apparatus**

External parts of the fat rendering apparatus shall be constructed or covered with smooth, noncorrosive and impervious material, devoid of holes, cracks and crevices.

### 11.20 Walls to be impervious

The occupier shall cause walls and ceiling within three metres of the rendering apparatus or equipment to be a smooth, impervious surface to ceiling height, devoid of holes, cracks and crevices.

#### *Division 4—Fish premises*

### 11.21 Interpretation

In this Division, unless the context otherwise requires—

**appliance** includes a utensil, an instrument, a cover, a container or apparatus;

**fish** means fresh fish, frozen fish, chilled fish and cooked fish, whether cleaned, uncleaned or part cleaned and includes crustaceans and molluscs but does not include—

- (a) fish which has been cured, preserved, hermetically canned or treated to prevent putrefaction; or
- (b) cleaned fish supplied in cartons or packets by a packer and sold in such cartons or packets if they are at all times kept in a deep freeze refrigeration unit at a temperature not exceeding minus 15 degrees Celsius;

**fish premises** includes fish processing establishments, fish curing establishments and shellfish and crustacean processing establishments but does not include retail fish shops in which no significant fish processing occurs;

**fish transport vehicle** includes—

- (a) an appliance attached to, carried in or used in connection with a vehicle; and
- (b) a trailer and a portable box, used or designed to be used for the transport or storage of fish; and

**portable box** means a box for the transport or storage of fish and includes a fish transport vehicle.

### 11.22 Fish preparation room

(1) The occupier of a fish premises which requires a fish processing or preparation room shall ensure that this room complies with the following requirements—

- (a) the walls shall be a smooth, impervious surface to ceiling height, devoid of holes, cracks and crevices;
- (b) the floor shall be a smooth, impervious and durable surface;
- (c) the minimum floor area shall be nine square metres;
- (d) the room shall be furnished with a hand wash basin connected to a piped supply of hot and cold water; and
- (e) the room shall be fly-proofed and provided with adequate light and ventilation.

(2) The occupier shall ensure that all fish are prepared in the fish processing or preparation room and that room shall be used solely for that purpose.

(3) The occupier of a fish premises shall provide, in or easily accessible from each fish preparation room, cleaning facilities consisting of a double bowl stainless steel wash trough of adequate size to accommodate the equipment and utensils used on the premises, connected to a piped supply of hot and cold water.

### 11.23 Bench

The occupier of a fish premises shall provide and maintain on the premises a separate stainless steel bench for the handling of fish.

### 11.24 Disposal of waste

The occupier of a fish premises shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in clause 11.13 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

### 11.25 Fish containers

The occupier of a fish premises shall not allow any box, basket or other container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

### 11.26 Cooking of fish

Where cooking of fish is carried out in a fish premises, the occupier shall provide and maintain—

- (a) a hood, which shall be of an approved design and construction in accordance with the requirements of *AS 1668.2:2012* and so situated as to capture and remove all effluvia, odours and smoke from the process of cooking; and
- (b) an exhaust ventilation system—
  - (i) the point of discharge of which shall be at least one metre above the ridge of a pitched roof or three metres above a flat roof and shall not be located within six metres of an adjoining property or any fresh air intakes; and
  - (ii) which shall discharge in such manner and in such a position that no nuisance is created.



### 11.27 Use of an approved portable box

An authorised person may permit an approved portable box to be used for the transport or storage of fish.

### 11.28 Fish transport vehicle

A person shall not use a fish transport vehicle for the transport or storage of fish unless it is so constructed, equipped and maintained that—

- (a) the frame is made of metal or other approved material;
- (b) all internal surfaces—
  - (i) are made of metal or approved impervious plastic substance, which may include stainless steel, aluminium, galvanised iron, fibreglass, or other material of similar strength and impermeable qualities;
  - (ii) are smoothly finished;
  - (iii) are rigidly secured with a solid backing; and
  - (iv) have floor and vertical angles coved with not less than a 9.5 millimetre radius, but, if all necessary floor joints are effectively sealed, the surface of the floor, or part of it, may be of an approved tread type track material;
- (c) internal horizontal joints made between metal sheeting are lapped from top to bottom and either—
  - (i) continuously welded; or
  - (ii) lapped with a minimum of 40 millimetres cover secured with blind rivets and sealed with a durable, non-absorbent sealing material;
- (d) the vehicle is effectively insulated with a stable insulating material;
- (e) the vehicle has, at the rear or side, doors that are made in the manner provided by paragraphs (a), (b), (c) and (d) of this clause, are close fitting, and have a suitable locking device fitted;
- (f) the vehicle is fitted with shelves and grids, made of impervious material, in such a manner that the shelves and grids may be easily removed;
- (g) any containers used in the vehicle for fish are made of stainless steel, fibreglass or approved impervious plastic; and
- (h) the vehicle is in good repair and condition and is thoroughly clean.

*Division 5—Laundries, dry cleaning establishments and dye works*

### 11.29 Interpretation

In this Division, unless the context otherwise requires—

**dry cleaning establishment**—

- (a) means premises where clothes or other articles are cleaned by use of solvents without using water; but
- (b) does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a fully enclosed machine operating on a full cycle;

**dye works** means a place where articles are commercially dyed; but does not include dye works in which provision is made for the discharge of all liquid waste there from, into a public sewer;

**exempt laundromat** means premises in which—

- (a) laundering is carried out by members of the public using machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste therefrom into a public sewer;

**laundromat** means a public place with coin operated washing machines, spin dryers or dry cleaning machines;

**laundry** means any place where articles are laundered for the purpose of trade but does not include an exempt laundromat; and

**liquid waste** has the same meaning as in clause 4.1.

### 11.30 Receiving depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of an authorised person who may at any time withdraw such permission in writing.

### 11.31 Reception room

(1) The occupier of a laundry, dry cleaning establishment or dye works shall—

- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
- (b) cause such articles as may be directed by written notice given by an authorised person to be thoroughly disinfected.

(2) A person shall not bring or permit food to be brought into the reception room referred to in this clause.

#### **11.32 Walls and floors**

The occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls shall be a smooth, impervious surface to ceiling height;
- (b) the floor to be impervious, constructed of concrete or other material approved by an authorised person and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

#### **11.33 Laundry floor**

The occupier of a laundry shall provide in front of each washing machine a non-corrosive grating, at least 910 millimetres in width, so constructed as to prevent any person from standing in water on the floor.

#### **11.34 Escape of dust**

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

#### **11.35 Precautions against combustion**

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with any written notice given by an authorised person for that purpose.

#### **11.36 Trolleys**

The occupier of a dry cleaning establishment shall—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
  - (i) clearly designated to indicate the use for which it is intended;
  - (ii) lined internally with a smooth impervious non-absorbent material that is easily cleaned; and
  - (iii) thoroughly cleaned and disinfected on a regular basis.

### *Division 6—Abattoirs*

#### **11.37 Construction of abattoirs**

An abattoir shall conform to relevant standards as adopted under the *Food Act 2008* section 144(6) and the requirements of the *Food Regulations 2009*.

## **PART 12—LICENCING**

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

#### **12.1 Application for licence**

(1) Where a person is required to obtain a licence under this local law, that person shall apply for the licence in accordance with subclause (2).

(2) An application for a licence under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form;
- (d) include full name, contact details and residential address of owner;
- (e) include where appropriate, if owner is not to be the manager, proposed arrangements for manager;
- (f) include where appropriate, the address of premises to be registered; and
- (g) be forwarded to the local government 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.

#### **12.2 Decision on application for licence**

(1) An application not complying with the local planning scheme will not be approved.

(2) 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.

(3) 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 local government.

(4) If an authorised person refuses to approve an application for a licence, written advice of that refusal is to be given to the applicant.

(5) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written advice of it is given to the licensee.

### **12.3 General restrictions on grant of licence**

(1) An authorised person shall not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute a nuisance or unacceptable risk to the health or safety of the public.

(2) An authorised person shall 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) a licence or similar authority granted or issued to the applicant has not been revoked in the period of 5 years before the application is made; and
- (c) the applicant is a fit and proper person to carry on the activity.

### **12.4 Examples of conditions**

Examples of conditions that an authorised person may impose on a licence under clause 12.2(2)(a) or 13.7(1)(a) include but are not limited to—

- (a) the payment of a set fee;
- (b) compliance with a standard or a policy adopted by the local government;
- (c) restrictions on the erection or use of materials, external signs or decorations;
- (d) the duration and commencement of the licence;
- (e) the commencement of the licence being contingent on the occurrence of an event;
- (f) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (g) the approval of another application for a licence which may be required by the local government under any written law;
- (h) the area of the district to which the licence applies; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.

### **12.5 Imposing conditions under a policy**

(1) In this clause—

**policy** means a policy made under section 2.7(2)(b) of the *Local Government Act 1995* containing conditions subject to which an application for a licence may be approved or varied under clauses 12.2(2)(a) or 12.7(1)(a).

(2) Under clauses 12.2(2)(a) or 12.7(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.

(3) An authorised person is to give to the licensee a copy of the policy or the part of the policy which is relevant to the application for a licence, with the form of licence referred to in clauses 12.2(3) or 12.7(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.

### **12.6 Compliance with conditions**

Where an application for a licence has been approved or varied subject to conditions, the licensee shall comply with each of those conditions, as amended.

### **12.7 Variation of licence**

(1) An authorised person may, by written advice given to the licensee, vary a licence by—

- (a) imposing a new condition; or
- (b) changing or removing any existing condition.

(2) An amendment may be made on application made by the licensee or at the initiative of an authorised person.

(3) An amendment will come into effect on the day that written advice is given to the licensee, or other date as specified in the notice.

## *Division 2—Duration of licences*

### **12.8 Duration of licence**

(1) 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 revoked under this Division.

(2) Where a licence requires annual approval, a licensee shall pay to the local government the set fee for the annual licence on or before 30 June in each year.

#### **12.9 Renewal of licence**

(1) A licensee may apply to an authorised person for the renewal of a licence.

(2) An application for renewal shall—

- (a) be in the form determined by the local government;
- (b) be signed by the licensee;
- (c) provide the information required by the form;
- (d) be forwarded to the local government no later than 28 days before the expiry of the licence, or within a shorter period that an authorised person 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.

#### **12.10 Transfer of licence**

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

- (a) be made in writing;
- (b) be signed by the licensee and the proposed transferee of the licence;
- (c) include such information as an authorised person may require to enable the application to be determined;
- (d) be forwarded to the local government no later than 28 days before the intended transfer of the licence, or within a shorter period that an authorised person in a particular case permits; and
- (e) be forwarded to the local government 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 an 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.

#### **12.11 Surrender of licence**

A licensee may surrender the licence at any time by written advice to an authorised person.

#### *Division 3—Responsibilities of licensees and others*

#### **12.12 Production of licence**

A licensee shall produce to an authorised person his or her licence when required to do so by that authorised person without delay.

#### **12.13 Production of licence document for amendment**

If an authorised person amends or renews a licence, the licensee shall, if required by the authorised person, produce the licence document to the authorised person for amendment within the period specified by the authorised person.

#### **12.14 False or misleading statement**

A person shall not make a false or misleading statement in connection with an application in respect of a licence under this local law.

### **PART 13—GIVING OF NOTICE**

#### **13.1 Notice to remedy non-compliance**

(1) Where a breach of any provision of this local law has occurred, an authorised person may give written notice to the person alleged to be responsible for such 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;
- (c) specify the manner in which the recipient is required to remedy the breach to the satisfaction of the authorised person; and
- (d) specify the time period within which the work or action is to be undertaken.

#### **13.2 Notice of proposed suspension of licence**

(1) If an authorised person proposes to suspend a licence under clause 13.3(1), the authorised person is to give written notice to the licensee of the proposed suspension.

(2) The notice shall—

- (a) state that the authorised person 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 authorised person 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 authorised person is to have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

### **13.3 Notice of suspension of licence**

(1) Subject to clause 13.2 an authorised person may by written notice 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—
  - (i) a nuisance; or
  - (ii) an unacceptable risk to the safety, health or welfare of the public.

(2) The suspension notice is to—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach;
- (c) specify the day, or the day and time, on or at which the suspension takes effect;
- (d) specify the manner in which the recipient is required to remedy the breach to the satisfaction of an authorised person;
- (e) specify the time period within which the work or action is to be undertaken; and
- (f) inform the licensee that the licensee has a right to object or appeal the decision to suspend the licence.

(3) 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 licence expires;
- (b) the suspension is cancelled under clause 13.4;
- (c) the licence is revoked under clause 13.6; or
- (d) the licence is surrendered in accordance with the provisions of this local law.

(4) Notwithstanding clause 13.2(2)(c) a suspension of a licence under subclause (1)(c) may have immediate effect.

### **13.4 Notice of cancellation of suspension of licence**

The authorised person is to by written notice given to the licensee cancel the suspension of a licence if the authorised person is satisfied that—

- (a) the steps specified in the suspension notice have been taken; or
- (b) it is appropriate to do so in the circumstances of a particular case.

### **13.5 Notice of proposed revocation of licence**

(1) If an authorised person proposes to revoke a licence under clause 13.6(1), the authorised person is to give written notice to the licensee of the proposed revocation.

(2) The notice shall—

- (a) state that the authorised person proposes to revoke the licence;
- (b) state the reasons for the proposed revocation; and
- (c) inform the licensee that the licensee is entitled to make representation to the authorised person in respect of the proposed revocation within 7 days after the day on which the licensee is given the notice.

(3) In considering whether to suspend the licence, the authorised person is to have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

### **13.6 Notice of revocation of licence**

(1) Subject to clause 13.5 an authorised person may by written notice to the licensee, revoke a licence if there are reasonable grounds for believing that—

- (a) the licence was obtained improperly;
- (b) the licensee has persistently or frequently contravened, whether or not the licence is or has been suspended on the grounds of a contravention of—
  - (i) a term or condition of the licence; or
  - (ii) a provision of this local law; or
- (c) the continued provision of the activity authorised by the licence constitutes or will constitute—
  - (i) a nuisance; or
  - (ii) an unacceptable risk to the safety, health or welfare of the public.

(2) The notice of revocation shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach;

- (c) specify the day, or the day and time, on or at which the revocation takes effect; and
  - (d) inform the licensee that the licensee has a right to object or appeal the decision to suspend the licence.
- (3) Notwithstanding clause 13.5(2)(c) revocation of a licence under subclause (1)(c) may have immediate effect.

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

- (1) If a person fails to comply with a written notice referred to in clauses 13.1 or 13.3(2)(d) or (e) the local government may—
- (a) do or cause to be done, the thing specified in the written notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
  - (b) execute the work required by the written notice; and
  - (c) recover all costs from the person, as a debt, in addition to any penalty for which that person may be liable under this local law.
- (2) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.
- (3) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 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, Subdivision 3 of the Act.

## **PART 14—OBJECTIONS AND APPEALS**

### **14.1 Objections and appeals**

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, renew, vary, transfer, suspend or revoke a licence.

## **PART 15—ENFORCEMENT**

### **15.1 Offences**

A person commits an offence who—

- (a) fails to do anything required or directed by written notice given by an authorised person to be done under this local law; or
- (b) fails to comply with a direction in writing given under this local law by an authorised person; or
- (c) fails to comply with the requirements of a written notice issued under this local law by an authorised person; or
- (d) does anything which under this local law that person is prohibited from doing.

### **15.2 General penalty**

- (1) A person who commits an offence under clause 15.1 is liable to a penalty which is not more than \$5000 and not less than \$1000.
- (2) If the offence is a continuing offence, an additional penalty not more than \$500 and not less than \$250 for each day or part of a day during which the offence has continued.

### **15.3 Modified penalties**

- (1) An offence against a clause specified in the Schedule is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in the Schedule.

### **15.4 Form of infringement notices**

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (2) The form of the infringement notice referred to in section 9.16 of the *Local Government Act 1995* is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (3) The form of the infringement withdrawal given under section 9.20 of the *Local Government Act 1995* is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.
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## SCHEDULE—MODIFIED PENALTIES

[cl.15.3]

Item	Clause No.	Nature of offence	Modified penalty \$
1	2.4	Failure to provide sanitary conveniences in accordance with the relevant Code	500
2	4.3(2)	Unauthorised disposal of liquid waste	500
3	6.2(1)	Failure to provide a dust management plan when required	500
4	7.1(b)	Failure to keep premises clean and disinfected when directed by an authorised person	500
5	7.4(2)	Keeping of fauna without approval of the relevant department	500
6	7.10	Failure to keep a commercial poultry establishment in accordance with the relevant Code	500
7	12.14	Providing false or misleading information	500
8	13.1(1)	Failure to comply with requirements of written notice	500
9	13.3(1)	Failure to comply with requirements of notice of suspension of licence	500
10	13.6(1)	Failure to comply with requirements of notice of revocation of licence	500
11	15.1(a), (b) (c) or (d)	All other offences not specified	200

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Dated 27 January 2022

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

G. DWYER, President.  
B. JOINER, Chief Executive Officer.

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