

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2022

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SCHEDULE 1

PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dowerin resolved on 15 February 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dowerin Activities in Thoroughfares and Public Places and Trading Local Law 2022*.

1.2 Interpretations

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

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

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

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

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

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

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

district means the district of the local government;

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

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

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

kerb includes the edge of a carriageway;

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

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

local government means the Shire of Dowerin;

local government property means anything except a thoroughfare—

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

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

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

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

permissible verge treatment means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

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

public place includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

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

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

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

townsite means all the townsites within the district which are—

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

vehicle includes—

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

but excludes—

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

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

1.3 Application

1. This local law applies throughout the district.
2. This local law is subject to any written law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

1.4 Repeal

1. The *Shire of Dowerin Activities on Thoroughfares and Trading in Thoroughfares and Public Places* as published in the *Government Gazette* on 8 January 2002 is repealed.
2. Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
3. The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

1.5 Commencement

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

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

- (a) plant any plant (except grasses or a similar plant) within 10 metres of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden 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) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit 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 as 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) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) fell any tree onto a thoroughfare;
 - (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) 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;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

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

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

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

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

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

(b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,
within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Interpretation

In this Division, unless the context otherwise requires—

acceptable material means any material which will create a hard surface or approved by the local government.

2.7 Application

This Division only applies to a townsite.

Subdivision 2—Permissible verge treatments

2.8 Permissible verge treatments

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (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;
- (c) the installation of an acceptable material; or
- (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.9 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

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

2.10 Obligations of owner or occupier

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.11 Notice to owner or occupier

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

Subdivision 3—Existing verge treatments

2.12 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

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

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

Subdivision 4—Public works

2.13 Power to carry out public works on verge

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

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

Division 4—Property numbers

Subdivision 1—Preliminary

2.14 Interpretation

In this Division, unless the context requires otherwise—

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

Subdivision 2—Assignment and marking of numbers

2.15 Assignment of numbers

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

Division 5—Fencing

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

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

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

Division 6—Signs erected by the local government

2.17 Signs

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

2.18 Transitional

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

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

Division 7—Driving on a closed thoroughfare

2.19 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless—
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause—

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

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement and includes an “election sign”;

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

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;

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

portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
- (c) on or within 3m of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

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

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

Division 3—Conditions on permit

3.4 Conditions on portable sign

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

- (a) the portable sign shall—
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

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

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

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

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

4.2 Prohibitions relating to animals

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

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

(2) An owner of an animal shall not—

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

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

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

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

4.4 Shopping trolley to be marked

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

4.5 Person not to leave trolley in public place

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

4.6 Retailer to remove abandoned trolley

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

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

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

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

MRWA means Main Roads Western Australia;

roadside conservation committee means the Roadside Conservation Committee reporting to the Minister for Environment;

special environmental area means an area designated as such under clause 5.7;

specially protected flora has the meaning given to it in section 5 of the *Biodiversity Conservation Act 2016*; and

threatened flora has the meaning given to it in section 5 of the *Biodiversity Conservation Act 2016*.

5.2 Application

This Part does not apply to the townsite.

Division 2—Flora roads

5.3 Declaration of flora road

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

5.4 Construction works on flora roads

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

5.5 Signposting of flora roads

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

5.6 Driving only on carriageway of flora roads

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

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

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

Division 3—Special environmental areas

5.7 Designation of special environmental areas

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

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

5.8 Marking of special environmental areas

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

Division 4—Planting in thoroughfares

5.9 Permit to plant

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

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

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

Division 5—Clearance of vegetation

5.11 Permit to clear

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

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

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

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

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

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

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

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

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

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

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

public place includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

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

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

stallholder means a person in charge of a stall;

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

trader means a person who carries on trading;

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

trading includes—

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

but does not include—

- (iii) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services whether or not payment for those goods or services is accepted on delivery; or
- (iv) the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
- (v) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (vi) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (vii) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and

- (viii) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,
 which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is—
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
 - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
 - (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

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

6.4 No permit required to sell newspaper

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

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought; or
 - (b) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property.

6.6 Conditions of permit

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—

- (a) the place, the part of the district, or the thoroughfare to which the permit applies;
- (b) the days and hours during which a permit holder may conduct a stall or trade;
- (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
- (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
- (e) the number of persons and the names of persons permitted to conduct a stall or trade;
- (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
- (g) whether and under what terms the permit is transferable;
- (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

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

(1) In this clause—

charitable organisation means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

commercial participant means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960 (Commonwealth)*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

- (b) act in an offensive manner;
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles.

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

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

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

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

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

Subdivision 2—Permits

6.10 Permit required to perform

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

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time, shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

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

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

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

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

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

6.16 Permit required to conduct Facility

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

6.17 Matters to be considered in determining application

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

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

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times; and
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.20 Use of Facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

(1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.

(2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

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

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

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

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

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

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

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

7.4 Imposing conditions under a policy

- (1) In this clause—

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

- (2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

7.5 Compliance with and variation of conditions

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

Division 3—General

7.6 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

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

- (2) The provisions of—
- (a) this Part; and
 - (b) any other provision of this local law relevant to the permit which is to be renewed, shall apply to an application for the renewal of a permit with all the necessary changes as required.

7.8 Transfer of permit

- (1) An application for the transfer of a valid permit is to—
- (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

7.9 Production of permit

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

7.10 Cancellation of permit

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

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

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

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

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

9.2 Hazardous plants

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

9.3 Notice to repair damage to thoroughfare

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

9.4 Notice to remove thing unlawfully placed on thoroughfare

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

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

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

Division 2—Offences and penalties

Subdivision 1—General

10.3 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

10.4 Prescribed offences

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

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

10.5 Forms

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

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

SCHEDULE 1

PRESCRIBED OFFENCES

(Clause 10.4)

CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
2.1(d)	Placing hazardous substance on footpath	125
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	125

CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY \$
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	125
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	125
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	125
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
2.3(1)	Consumption or possession of liquor on thoroughfare	125
2.4(1)	Failure to obtain permit for temporary crossing	250
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
2.9(1)	Installation of verge treatment other than permissible verge treatment	250
2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
2.11	Failure to comply with notice to rectify a verge treatment	125
2.17(2)	Failure to comply with sign on public place	125
2.19(1)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.2(2)(b)	Animal on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
4.5	Person leaving shopping trolley in public place other than trolley bay	125
4.6(2)	Failure to remove shopping trolley upon being advised of location	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
5.9	Planting in thoroughfare without a permit	250
5.11	Failure to obtain permit to clear a thoroughfare	500
5.13	Burning of thoroughfare without a permit	500
5.17(1)	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
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6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
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6.14	Failure of performer to comply with obligations	125
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6.18	Failure of permit holder of outdoor eating facility to comply with obligations	125
6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	60
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CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY \$
7.5	Failure to comply with a condition of a permit	125
7.9	Failure to produce permit on request of authorised person	125
10.1	Failure to comply with notice given under local law	125

Dated 15th of February 2022.

The Common Seal of the Shire of Dowerin was affixed by authority of a resolution of the Council in the presence of:

ROBERT TREPP, President.
REBECCA MCCALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

FENCING LOCAL LAW 2022

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LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

FENCING LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995* and all other powers enabling it, the Shire of Dowerin resolved on 15 February 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Dowerin Fencing 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.

1.4 Repeal

The *Shire of Dowerin Fencing Local Law 2008* published in the *Government Gazette* on 30 September 2008 is repealed.

1.5 Interpretations

In this local law—

Act means the *Dividing Fences Act 1961*;

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

AS or AS/NZS means an Australian or Australian/New Zealand Standard as published by Standards Australia and as amended from time to time.

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

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

boundary fence has the meaning given to it by the Act;

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

Building Surveyor means a Building Surveyor of the local government;

CEO means the Chief Executive Officer of the local government;

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

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence has the meaning given to it by the Act;

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

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

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

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

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

height in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

Industrial Lot means a lot where an industrial use—

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

licence means an electrified fence licence or a razor wire fence licence;

local government means the Shire of Dowerin;

local government property means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*;

local planning scheme means a local planning scheme and includes any structure plan adopted or approved by the local government made under the *Planning and Development Act 2005*;

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

notice of breach means a notice referred to in clause 5.1;

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

owner has the meaning given to it in the *Local Government Act 1995*;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

Residential Lot means a lot where a residential use—

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

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

Rural Lot means a lot where a rural use—

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

Schedule means a Schedule to this local law;

Special Rural Lot means a lot where a special rural use—

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

sufficient fence means a fence described in clause 2.1; and

thoroughfare has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.6 Licence fees and charges

All licence fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 to 6.19 of the *Local Government Act 1995*.

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—
 - (a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) on a Commercial Lot or an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3; and
 - (c) on a Rural Lot or a Special Rural Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.
- (3) Where a fence is erected on or near the boundary between—
 - (a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - (c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4;
 - (d) a Residential Lot and a Special Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - (e) a Special Rural Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 4.

- (4) An application must be made to the local government for grant of consent to any variation to the specifications in Schedules 2, 3 and 4.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
- (a) it is greater than 1800 millimetres in height; or
 - (b) the Building Surveyor requires.
- (7) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1800 millimetres in height unless the approval of the local government has been obtained for such a fence.

Division 2—General

2.2 Fences within front setback areas

- (1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1200 millimetres in height, within the front set-back area of a Residential Lot within the district.
- (2) The Building Surveyor may approve the erection of a fence of a height greater than 1200 millimetres in the front setback area of a Residential Lot only if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500 millimetres along the frontage to a distance of not less than 1500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.
- (3) The provision of subclause (2) shall not apply to a fence—
- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
 - (b) that does not adjoin a footpath.

2.3 Gates in fences

A person shall not erect a gate in a fence which does not—

- (a) open into the lot; or
- (b) open by sliding parallel and on the inside of the fence, which it forms part of, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Fences on a Rural Lot

A person shall not, without the written consent of the Building Surveyor, erect a fence on a Rural Lot of a height exceeding 1500 millimetres.

2.6 Maintenance of fences

An owner of a lot on which a fence is erected shall maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.

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

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

2.8 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.
- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or retention of the fence would have an adverse effect on—
- (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Division 3—Fencing materials

2.9 Fencing design certification

Where required by the Building Surveyor, fencing designs are to be certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

2.10 Pre-used fencing materials

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of pre-used materials in the construction of a fence under subclause (1), that approval shall be conditional on the applicant painting or treating the pre-used material as directed by the Building Surveyor.

2.11 Barbed wire fences and spiked or jagged materials

- (1) This clause does not apply to a fence constructed wholly or partly of razor wire.
- (2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect, affix or allow to remain on any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the local government has been obtained.
- (3) An owner or occupier of an Industrial Lot shall not erect, affix or allow to remain on any fence bounding that lot any barbed wire or other materials with spiked or jagged projections unless the wire or other materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is setback 150mm from the face of the fence and is not nearer than 2000mm from the ground level.
- (4) If the posts which carry the barbed wire or other materials referred to in subclause (3) are angled towards the outside of the lot bounded by the fence, the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.
- (5) An owner or occupier of a lot shall not erect, affix or allow to remain as part of any fence or wall, whether internal or external on that lot, any broken glass.
- (6) An owner or occupier of a Rural Lot shall not erect, affix or allow to remain any barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the top or to the side of the fence posts furthest from the thoroughfare or other public place.

2.12 Electrified and razor wire fences

- (1) An owner or occupier of a lot shall not—
 - (a) construct or use an electrified fence on that lot without obtaining the approval of the local government in the form prescribed in Schedule 5; or
 - (b) construct a fence wholly or partly of razor wire on that lot without obtaining the approval of the local government in the form prescribed in Schedule 6.
- (2) The local government shall not approve an application for the purpose of subclause (1)(a)—
 - (a) in respect of a lot which is or which abuts a Residential Lot;
 - (b) unless the prohibited fence complies with AS/NZS 3016:2002 Electrical installations—Electric security fences; and
 - (c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.
- (3) The local government shall not approve an application for the purpose of subclause (1)(b)—
 - (a) if the fence is within 3000 millimetres of the boundary of the lot; or
 - (b) where any razor wire used in the construction of the fence is less than 2000 millimetres or more than 2400 millimetres above the ground level.
- (4) An application for approval for the purpose of subclauses (1)(a) or (1)(b) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

2.13 Prohibited fencing materials

A person shall not affix or use broken glass in the construction of any fence.

PART 3—APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

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

3.3 Compliance with approval

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

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot.

PART 4—MISCELLANEOUS

4.1 False or misleading statement

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

PART 5—NOTICES OF BREACH

5.1 Notices of breach

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

PART 6—OFFENCES

6.1 Offences and penalties

- (1) A person who fails to comply with a notice of breach commits an offence and is liable upon conviction to a penalty of not less than \$250 and not exceeding \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.
- (2) A person who fails to comply with or who contravenes any provision of this local law commits an offence and is liable on conviction to a penalty of not less than \$250 and not exceeding \$5000 and, if the offence is a continuing offence, to a maximum daily penalty of \$500.

6.2 Modified penalties

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount appearing in the final column of Schedule 1, directly opposite a prescribed offence in that Schedule, is the modified penalty for that prescribed offence.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

6.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

When the local government makes a decision under clause 3.2, the provisions of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

SCHEDULE 1 OFFENCES AND MODIFIED PENALTIES [clause 6.2(2)]

Item No	Clause No.	Nature of offence	Modified penalties \$
1	2.1(1)	Erect a fence which is not a sufficient fence	250
2	2.2	Erect a fence greater than 1 200mm in height within a front setback area of a residential lot without the written consent of the Building Surveyor	250
3	2.3(a)	Erect a gate in a fence not opening into the lot	200
4	2.3(b)	Erect a gate in a fence not sliding parallel and inside a fence	200
5	2.6	Failure to maintain a fence in good condition to prevent the fence becoming dangerous, dilapidated or unsightly	250
6	2.7	Erect or maintain a fence or obstruction of temporary or permanent nature across a right-of way, public access way or thoroughfare without approval	250
7	2.10(1)	Construct a fence on a Residential, Commercial or Industrial Lot from pre-used materials without written approval	250
8	2.11(2)	Erect a fence using barbed wire or material with spiked or jagged projections in the fence construction without approval	250
9	2.12(1)	Construct, erect or use razor wire in a fence or electrify a fence without approval	250
10	2.13	Affix, or use, any broken glass in a fence	250
11	3.3	Failure to comply with terms or conditions of approval	250
12	6.1	Failure to comply with notice of breach	250

SCHEDULE 2 SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT [clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a Residential Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

Timber fence

- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;

- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) a site classification is to be provided by a professional engineer in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Composite fence

A composite fence which satisfies the following specifications for the brick construction—

- (1) (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;
- or
- (2) (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

SCHEDULE 3

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT OR AN INDUSTRIAL LOT

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a Commercial Lot or an Industrial Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 2;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800mm but no greater than 2400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 2.

SCHEDULE 4

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RURAL LOT OR SPECIAL RURAL LOT

[clause 2.1(2)(c)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated is a sufficient fence on a Rural Lot or a Special Rural Lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions—General principles.

Non-electrified fence

- (a) wire shall be high tensile wire and not less than 2.5mm. A minimum of 5 wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases.
- (b) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
- (c) posts shall be cut not less than 1800mm long x 50mm diameter at small end if round or 125mm x 60mm if split or sawn timber.
- (d) posts to be set minimum 600mm in the ground and 1 200mm above the ground; and
- (e) strainer posts shall be not less than 2250mm long and 150mm diameter at the small end (tubular steel to be 50mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1000mm in the ground.

Electrified fence

An electrified fence having 4 wires is a sufficient fence if constructed generally in accordance with a non-electrified fence.

SCHEDULE 5
LICENCE FOR APPROVED ELECTRIFIED FENCE
[clause 2.11(1)(a)]

This is to certify that

(1) _____
of (2) _____

is licensed, subject to the conditions set out below, to have and use an electrified fence on

(address)

from _____ 20 _____ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of Dowerin

Conditions of Licence—

The holder of the licence must—

- (a) display the licence in a prominent position on the land or premises on which the electrified fence has been erected;
- (b) upon the request of a Building Surveyor produce to him or her the licence;
- (c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes;
- (d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the electrified fence; and
- (e) comply with AS/NZS 3016:2002 Electrical installations—Electric security fences.

Transfer by Endorsement

This licence is transferred to (3)

of (4) _____

from and including the date of this endorsement.

Dated this _____ day of _____ 20 _____

Chief Executive Officer,
Shire of Dowerin

- _____
- (1) Name
 - (2) Address
 - (3) Name
 - (4) Address

SCHEDULE 6
LICENCE FOR APPROVED RAZOR WIRE FENCE
[clause 2.11(1)(b)]

This is to certify that (1) _____

of (2) _____

is licensed, subject to the conditions set out below, to have a fence constructed wholly or partially of razor wire at _____

(address) _____

From _____ 20__ and until this licence is transferred or cancelled.

Dated this _____ day of _____ 20_____

Chief Executive Officer,

[insert name of local government]

Conditions of licence—

(a) display the licence in a prominent position on the land or premises on which the fence has been erected;

(b) upon the request of a Building Surveyor produce to him or her the licence;

(c) within 14 days of a change in the ownership or occupation of the land or premises in respect of which the licence has been granted, notify the Chief Executive Officer in writing of the details of that change or those changes; and

(d) obtain the written consent of the local government prior to the commencement of any alteration, addition or other work relating to or affecting the fence.

Transfer by Endorsement

This licence is transferred to (3) _____

of (4) _____

from and including the date of this endorsement.

Dated this _____ day of _____ 20_____

Chief Executive Officer,
Shire of Dowerin

(1) Name

(2) Address

(3) Name

(4) Address

Dated 15th of February 2022.

The Common Seal of the Shire of Dowerin was affixed by authority of a resolution of the Council in the presence of:

ROBERT TREPP, President.
REBECCA MCCALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

MEETING PROCEDURES 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 Dowerin resolved on 15 February 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dowerin Meetings Procedures 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

All meetings are to be conducted in accordance with the Act, the Regulations and this local law.

1.4 Interpretation

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

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

Act means the *Local Government Act 1995*;

CEO means the chief executive officer of the local government;

committee means a committee of the council established under section 5.8 of the Act;

committee meeting means a meeting of a committee;

council means the council of the local government;

district means the district of the local government;

local government means the Shire of Dowerin;

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

member has the meaning given to it in the Act;

president means the president of the local government or other presiding member at a council meeting under section 5.6 of the Act;

presiding member means—

(a) in respect of the council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

Regulations means the *Local Government (Administration) Regulations 1996*;

simple majority means more than 50% of the members present and voting; and

substantive motion means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined in this local law, the terms and expressions used in this local law is to have the meaning given to them in the Act and Regulations.

1.5 Repeal

The *Shire of Dowerin Standing Orders Local Law 2001* published in the *Government Gazette* on 8 January 2002 is repealed.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

(1) The establishment of committees is dealt with in the Act.

(2) A council resolution to establish a committee under section 5.8 of the Act is to include—

(a) the terms of reference of the committee;

(b) the number of council members, employees and other persons to be appointed to the committee;

(c) the names or titles of the council members and employees to be appointed to the committee;

(d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and

(e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

(3) This local law is to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

The resignation of committee members is dealt with in the Regulations.

2.8 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

2.9 Committees to report

A committee—

- (a) is answerable to the council; and
- (b) is to report on its activities when, and to the extent, required by the council.

PART 3—CALLING AND CONVENING MEETINGS

3.1 Ordinary and special council meetings

- (1) Ordinary and special council meetings are dealt with in the Act.
- (2) An ordinary meeting of the council, held on a monthly basis or otherwise as determined by the council, is for the purpose of considering and dealing with the ordinary business of the council.
- (3) A special meeting of the council is held for the purpose of considering and dealing with council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling council meetings

The calling of council meetings is dealt with in the Act.

3.3 Convening council meetings

- (1) The convening of a council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5, in convening a special meeting of the council.
- (3) Where, in the opinion of the president or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special council meeting.

3.4 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the president, the presiding member of a committee or any two members of that committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM

4.1 Who presides

Who presides at a council meeting is dealt with in the Act.

4.2 When the deputy president can act

When the deputy president can act is dealt with in the Act.

4.3 Who acts if no president

Who acts if there is no president is dealt with in the Act.

4.4 Election of presiding member of a committee

The election of a presiding member of a committee is dealt with in the Act.

4.5 Election of deputy presiding member of a committee

The election of deputy presiding member of a committee is dealt with in the Act.

4.6 Functions of deputy presiding member

The functions of deputy presiding member are dealt with in the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

PART 5—BUSINESS OF A MEETING

5.1 Business to be specified

(1) No business is to be transacted at any ordinary meeting of the council other than that specified in the agenda, without the approval of the presiding member or the council.

(2) No business is to be transacted at a special meeting of the council other than that given in the notice as the purpose of the meeting.

(3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the council other than that—

- (a) specified in the notice of the meeting which had been adjourned; and
- (b) which remains unresolved.

(4) Where a meeting is adjourned to the next ordinary meeting of the council then, unless the council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering employee reports (Clause 5.2(1), Item 10) at that ordinary meeting.

5.2 Order of business

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

1. Official Opening/Obituaries
2. Record of Attendance/Apologies/Leave of Absence
3. Public Question Time
4. Disclosure of Interest
5. Applications for Leave of Absence
6. Petitions and Presentations
7. Confirmation of Minutes of the Previous Meetings
8. Minutes of Committee Meetings to be Received
9. Recommendations from Committee Meetings for Council Consideration
10. Announcements without Discussion
11. Reports—Corporate and Community Services
12. Reports—Governance and Compliance
13. Reports—Works and Assets
14. Urgent Business Approved by the Person Presiding or by Decision
15. Elected Members' Motions
16. Matters Behind Closed Doors
17. Closure

(2) Unless otherwise decided by the council, the order of business at any special meeting of the council is to be the order in which that business stands in the agenda of the meeting.

(3) In determining the order of business for any meeting of the council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

5.3 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or this local laws otherwise provides, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 7 working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO—
 - (a) with the concurrence of the president or presiding member, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of these meeting procedures or any other written law;
 - (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (d) may provide to the council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
 - (b) the council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.4 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the council before the next meeting.

5.5 Adoption by exception resolution

- (1) In this clause 'adoption by exception resolution' means a resolution of the council that has the effect of adopting, for a number of specifically identified reports, the employee recommendation as the council resolution.
- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) that requires an absolute majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the presiding member is to direct everyone to leave the meeting except—
 - (i) the members;
 - (ii) the CEO; and
 - (iii) any employee or person specified by the presiding member; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the council or the committee, by resolution, decides otherwise.

(6) A resolution under this clause may be made without notice.

(7) Once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Regulations.

6.7 Other procedures for question time for the public

(1) A member of the public who raises a question during question time, is to state his or her name and address.

(2) A question may be taken on notice by the council for later response.

(3) When a question is taken on notice the CEO is to ensure that—

(a) a response is given to the member of the public in writing; and

(b) a summary of the response is included in the agenda of the next meeting of the council.

(4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—

(a) declare that he or she has an interest in the matter; and

(b) allow another person to respond to the question.

(5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.

(6) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.

(7) The presiding member may decide that a public question shall not be responded to where—

(a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;

(b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or

(c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.

(8) A member of the public shall have two minutes to submit a question.

(9) The council, by resolution, may agree to extend public question time.

(10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the council, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

6.9 Deputations

(1) Any person or group wishing to be received as a deputation by the council is to either—

(a) apply, before the meeting, to the CEO for approval; or

(b) with the approval of the presiding member, at the meeting, address the council.

(2) The CEO may either—

(a) approve the request and invite the deputation to attend a meeting of the council; or

(b) refer the request to the council to decide by simple majority whether or not to receive the deputation.

(3) Unless the council resolves otherwise, a deputation invited to attend a council meeting—

(a) is not to exceed 5 persons, only 2 of whom may address the council, although others may respond to specific questions from members;

(b) is not to address the council for a period exceeding 10 minutes without the agreement of the council; and

(c) additional members of the deputation may be allowed to speak with the leave of the presiding member.

(4) Any matter which is the subject of a deputation to the council is not to be decided by the council until the deputation has completed its presentation.

6.10 Petitions

(1) A petition is to—

- (a) be addressed to the president;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request; and
- (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.

(2) Upon receiving a petition, the local government is to submit the petition to the CEO to be included in his or her deliberations and report on the matter that is the subject of the petition.

(3) At any meeting, the council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—

- (a) the matter is the subject of a report included in the agenda; and
- (b) the council has considered the issues raised in the petition.

6.11 Presentations

(1) In this clause, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the local government or the community.

(2) A presentation may be made to the council at a meeting only with the prior approval of the CEO.

6.12 Participation at committee meetings

(1) In this clause a reference to a person is to a person who—

- (a) is entitled to attend a committee meeting;
- (b) attends a committee meeting; and
- (c) is not a member of that committee.

A member of the public is entitled to attend a committee meeting only where a local government power or duty has been delegated to that committee: see section 5.23(1)(b) of the Act.

(2) Without the consent of the presiding member, no person is to address a committee meeting.

(3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.

(4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.

(5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee room.

(6) The council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

6.13 Council may meet to hear public submissions

(1) Where an item on the agenda at a council meeting is contentious and is likely to be the subject of a number of deputations, the council may resolve to meet at another time to provide a greater opportunity to be heard.

(2) The CEO and the president shall set the time and date of the meeting to provide the opportunity to be heard.

(3) Where the council resolves to meet to provide the opportunity to be heard under subclause (1), the presiding member shall—

- (a) instruct the CEO to provide local public notice of the time and date when the council will meet to provide an opportunity to be heard;
- (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
- (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.

(4) A meeting held under subclause (1) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard.

(5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.

(6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the presiding member.

(7) Once every member of the public has had the opportunity to make a submission the presiding member is to close the meeting.

(8) The CEO is to ensure that a report is included on the agenda of the next council meeting summarising each submission made at the meeting.

(9) The council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

6.14 Public inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations, may be exercised at 13 Cottrell Street Dowerin WA 6461 and on the local government's website.

6.15 Confidentiality of information withheld

(1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—

- (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
- (b) marked "*Confidential*" in the agenda; and
- (c) kept confidential by members and employees until the council resolves otherwise.

(2) A member or an employee in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not apply where a member or employee discloses the information to his or her lawyer or a government employee for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

6.16 Recording of proceedings

A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the council without the permission of the presiding member.

6.17 Prevention of disturbance

(1) A reference in this clause to a person is to a person other than a member.

(2) A person addressing the council shall extend due courtesy and respect to the council and the processes under which it operates and shall comply with any direction by the presiding member.

(3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

(4) A person shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the council.

(5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

PART 7— QUESTIONS BY MEMBERS

7.1 With due notice

(1) A question on notice is to be given by a member in writing to the CEO at least four (4) business days before the meeting at which it is raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

7.2 Without due notice

(1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.

(2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.

(3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—

- (a) the question be placed on notice for the next meeting of Council; or committee; and
- (b) the answer to the question be given to the member who asked it within 14 days.

(4) Every question and answer—

- (a) is to be brief and concise; and
- (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.

(5) In answering any question, an employee may qualify his or her answer and may at a later time in meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

PART 8—CONDUCT OF MEMBERS

8.1 Members to be in their proper places

(1) At the first meeting held after each election day, or at any other time considered necessary, each member is to be allocated a seat at the Council Table by the CEO.

(2) Each member is to occupy his or her allocated position at each Council meeting.

8.2 Respect to the presiding member

After the business of a council has commenced, a member is not to enter or leave the meeting without first paying due respect to the presiding member.

8.3 Titles to be used

A speaker, when referring to the president, deputy president or presiding member, or a member or employee, is to use the title of that person's office.

8.4 Advice of entry or departure

During the course of a meeting of the council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

A member of the council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the council.

8.6 Priority of speaking

(1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.

(2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.

(3) A member is to cease speaking immediately after being asked to do so by the presiding member.

8.7 Presiding member may take part in debates

The presiding member may take part in a discussion of any matter before the council, subject to compliance with this local law.

8.8 Relevance

(1) A member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

(2) The presiding member, at any time, may—

(a) call the attention of the meeting to—

(i) any irrelevant, repetitious, offensive or insulting language by a member; or

(ii) any breach of order by a member; and

(b) direct that member, if speaking, to discontinue his or her speech.

(3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.9 Speaking twice

A member is not to address the council more than once on any motion or amendment except—

(a) as the mover of a substantive motion, to exercise a right of reply;

(b) to raise a point of order; or

(c) to make a personal explanation.

8.10 Duration of speeches

(1) A member is not to speak on any matter for more than 5 minutes without the consent of the council which, if given, is to be given without debate.

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

8.11 No speaking after conclusion of debate

A member is not to speak on any motion or amendment—

(a) after the mover has replied; or

(b) after the motion has been put.

8.12 No interruption

A member is not to interrupt another member who is speaking unless—

(a) to raise a point of order;

(b) to call attention to the absence of a quorum;

(c) to make a personal explanation under clause 8.13; or

(d) to move a procedural motion that the member be no longer heard (see clause 11.1(e)).

8.13 Personal explanations

(1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.

(2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

(3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

A member is not to reopen discussion on any council decision, except to move that the decision be revoked or changed (see Part 16).

8.15 Adverse reflection

(1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed.

(2) A member is not—

- (a) to reflect adversely on the character or actions of another member or employee; or
- (b) to impute any motive to a member or employee

unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered.

(3) A member is not to use offensive or insulting expressions in reference to any member, employee or other person.

(4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—

- (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the council may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

(1) A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15—
 - (i) reflects adversely on the character or actions of another member or employee; or
 - (ii) imputes any motive to a member or employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

(2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

PART 9—PRESERVING ORDER

9.1 Presiding member to preserve order

(1) The presiding member is to preserve order and, whenever considered necessary, may call any member or other person to order.

(2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every member present is to preserve strict silence so that the presiding member may be heard without interruption.

(3) Subclause (2) is not used to by the presiding member to exercise the right provided in clause in clause 8.7, but not to preserve order.

9.2 Point of order

(1) A member may object, by way of a point of order, only to a breach of—

- (a) any of this local law; or
- (b) any other written law.

(2) Despite anything in this local law to the contrary, a point of order—

- (a) takes precedence over any discussion; and
- (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

(1) A member who is addressing the presiding member is not to be interrupted except on a point of order.

(2) A member interrupted on a point of order is to immediately cease speaking until—

- (a) the member raising the point of order has been heard; and
- (b) the presiding member has ruled on the point of order,

and, if permitted, the member who has been interrupted may then proceed.

9.4 Calling attention to breach

A member may, at any time, draw the attention of the presiding member to any breach of this local law.

9.5 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a member is out of order, the presiding member may require the member to make an explanation, retraction or apology.

9.6 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 9.5(3),

the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction.

9.7 Right of presiding member to adjourn

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

PART 10—DEBATE OF SUBSTANTIVE MOTIONS

10.1 Motions to be stated

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the presiding member, is to put the motion or amendment in writing.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the council.
- (4) If a member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a council meeting (see Part 16).

10.4 Only one substantive motion at a time

- (1) When a substantive motion is under debate at a meeting of the council, no further substantive motion is to be accepted.
- (2) The council is not to consider more than one substantive motion at any time.

10.5 Order of call in debate

The presiding member is to call speakers to a substantive motion in the following order—

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

10.6 Member may require motion to be read

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

10.7 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.8 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

10.9 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.10 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.11 Relevance of amendments

Each amendment is to be relevant to the motion in respect of which it is moved.

10.12 Mover of motion may speak on amendment

Any member may speak during debate on an amendment.

10.13 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

10.14 Withdrawal of motion or amendment

(1) Subject to subclause (2), the council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.15 Right of reply

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

- (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
- (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

- (a) no other member is to speak on the motion;
- (b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

PART 11—PROCEDURAL MOTIONS AND MOTIONS CONCERNING BEHAVIOUR UNDER THE CODE OF CONDUCT

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a member may move the following procedural motions—

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the motion be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the presiding member be disagreed with;
- (g) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

(1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

11.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next business”, if carried, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

11.6 Debate to be adjourned

A motion “that the debate be adjourned”—

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

11.7 Meeting now adjourn

(1) A member is not to move or second more than one motion of adjournment during the same sitting of the council.

(2) Before putting the motion for the adjournment of the council, the presiding member may seek leave of the council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.5).

(3) A motion “that the meeting now adjourn”—

- (a) is to state the time and date to which the meeting is to be adjourned; and
- (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.

(4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the presiding member or the council determines otherwise.

11.8 Motion to be put

(1) If the motion “that the motion be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

(3) This motion, if lost, causes debate to continue.

11.9 Member to be no longer heard

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

11.10 Ruling of the presiding member to be disagreed with

If the motion “that the ruling of the presiding member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

PART 12—DISCLOSURE OF INTERESTS

12.1 Disclosure of interests

Disclosure of interests is dealt with in the Act.

PART 13—VOTING

13.1 Motion—when put

(1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—

- (a) is to put the motion to the council; and
 - (b) if requested by any member, is to again state the terms of the motion.
- (2) A member is not to leave the meeting when the presiding member is putting any motion.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

The majorities required for decisions of the council and committees are dealt with in the Act.

13.4 Method of taking vote

- (1) In taking the vote on any motion or amendment the presiding member—
- (a) is to put the motion, first in the affirmative, and then in the negative;
 - (b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and,
 - (d) is, subject to this clause, to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of council or a committee specifically requests that there be recorded—
- (a) his or her vote; or,
 - (b) the vote of all members present,
- on a matter voted on at a meeting of the council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.
- (4) If a member calls for a division—
- (a) those voting in the affirmative are to pass to the right of the Chair; and
 - (b) those voting in the negative are to pass to the left of the Chair.
- (5) For every division, the CEO is to record—
- (a) the name of each member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

PART 14—MINUTES OF MEETINGS

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

14.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11 of the Regulations, the minutes of a council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Regulations.

14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than 7 working days before the next ordinary meeting of the council.
- (2) At the next ordinary meeting of the council, the member who provided the alternative wording shall, at the time for confirmation of minutes—
- (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

PART 15—ADJOURNMENT OF MEETING

15.1 Meeting may be adjourned

The council may adjourn any meeting—

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this local law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 [speaking twice] apply when the debate is resumed.

PART 16—REVOKING OR CHANGING DECISIONS

16.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

16.2 Limitations on powers to revoke or change decisions

(1) Subject to subclause (2), the council or a committee is not to consider a motion to revoke or change a decision—

- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

(2) The council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

16.3 Implementing a decision

(1) In this clause—

- (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
- (b) **implement**, in relation to a decision, includes—
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
- (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and this local law and may be considered, but has not yet been considered, by the council or a committee as the case may be.

(2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.

(3) The council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.

(4) A decision made at a meeting is not to be implemented by the CEO or any other person—

- (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
- (b) unless and until the valid notice of revocation motion has been determined by the council or the committee as the case may be.

(5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation—

- (a) is to take effect only in accordance with this clause; and
- (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

PART 17—SUSPENSION OF LOCAL LAW

17.1 Suspension of local law

(1) A member may at any time move that the operation of one or more of the provisions of this local law be suspended.

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

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

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

is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

17.2 Where local laws do not apply

(1) In situations where—

- (a) one or more provisions of this local law have been suspended; or
- (b) a matter is not regulated by the Act, the Regulations or this local law, the presiding member is to decide questions relating to the conduct of the meeting.

(2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

17.3 Cases not provided for in local laws

(1) The presiding member is to decide questions of order, procedure, debate, or otherwise in cases where this local law, the Act or the Regulations are silent.

(2) The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

PART 18—MEETINGS OF ELECTORS

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

18.7 Procedure for electors' meetings

(1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

18.8 Participation of non-electors

A person who is not an elector of the local government shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Regulations.

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

PART 19—ENFORCEMENT

19.1 Penalty for breach

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

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

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

PART 20—COMMON SEAL

20.1 Local government common seal

(1) The use of the Common Seal is dealt with in the Act.

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

Dated: 15 February 2022.

The Common Seal of the Shire of Dowerin was affixed by authority of a resolution of the Council in the presence of:

ROBERT TREPP, President.
REBECCA MCCALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

REPEAL LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the Shire of Dowerin resolved on 15 February 2022 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Dowerin Repeal Local Law 2022*.

2. Commencement

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

3. Application

This local law applies throughout the district.

4. Repeal

The following local laws are repealed—

- (a) *Shire of Dowerin Local Government Model By-law (Prevention of Damage to Streets), No 1* published in the *Government Gazette* on 18 February 1965; and
- (b) *Shire of Dowerin Local Government Model By-laws No 7—Removal and Disposal of Obstructing Animals or Vehicles* published in the *Government Gazette* on 30 November 1973.

Dated: 15 February 2022.

The Common Seal of the Shire of Dowerin was hereunto affixed by authority of its Council in the presence of —

ROBERT TREPP, President.
REBECCA MCCALL, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF LEONORA

DOG LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, the *Dog Act 1976* and under all other powers enabling it, the Council of the Shire of Leonora resolved on 15th February 2022 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Leonora Dog Local Law 2022*.

1.2 Repeal

The *Shire of Leonora Local Law Relating to Dogs 1999* published in the *Government Gazette* on 9 July 1999 and amended in the *Government Gazette* on 24 December 1999 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Leonora;

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

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law; and

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

1.4 Application

This local law applies throughout the district.

1.5 Commencement

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

PART 2—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

2.1 Dogs to be confined

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition;
- (e) ensure the fence is erected and maintained in accordance with the provisions of the *Shire of Leonora Fencing Local Law* or a policy made under a local planning scheme ; and
- (f) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

(3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

2.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
 - (a) licensed under Part 3 as an approved kennel establishment;
 - (b) granted an exemption under section 26(3) of the Act; or
 - (c) established as a veterinary hospital or a veterinary clinic.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act is—
 - (a) two dogs over the age of three months and the young of those dogs under that age if the premises are situated within a town site; and
 - (b) four dogs over the age of three months and the young of those dogs under that age if the premises are situated outside a town site.

PART 3—APPROVED KENNEL ESTABLISHMENTS

3.1 Interpretation

In this Part and in Schedule 2—

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 3.14.

3.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) evidence of any approvals required under the local planning scheme—
- (b) plans and specifications of the kennel establishment, including a site plan;
- (c) copies of the notices to be given under clause 3.3;
- (d) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (e) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (f) the fee for the application for a licence referred to in clause 3.10.

3.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

3.4 Exemption from notice requirements

(1) Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a local planning scheme, then the requirements of clauses 3.2(c), 3.3 and 3.5(c) do not apply in respect of the application for a licence.

(2) The local government may require advertising of an application as part of the planning process.

3.5 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) any approvals required under the local planning scheme have been obtained by the applicant;
- (b) the applicant has complied with clause 3.2;
- (c) the applicant submits proof that the notices referred to in clause 3.3(1) have been given in accordance with that clause; and
- (d) the local government has considered any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises.

3.6 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 3.7;
- (b) any written submissions received within the time specified in clause 3.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the approved kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

3.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme unless prior valid planning approval has been issued by the local government and the application for a licence is consistent with that approval; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

3.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

3.9 Compliance with conditions of approval

Penalties applicable where a licensee does not comply with the conditions of a licence are contained in the Act and Regulations.

3.10 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.15 to 6.19 of the *Local Government Act 1995*.

3.11 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

3.12 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 3.10(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

3.13 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.

(2) The local government may cancel a licence—

- (a) on the request of the licensee;
- (b) following a breach of the Act, the Regulations or this local law; or
- (c) if the licensee is not a fit and proper person.

- (3) The date a licence is cancelled is to be, in the case of—
- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

3.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
- (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 3.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 3.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

3.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 3.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 3.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 3.13(2), which notice is to be given in accordance with section 27(6) of the Act.

3.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 4—MISCELLANEOUS

4.1 Offence to excrete

- (1) A dog must not excrete on—
- (a) any thoroughfare, any dog exercise area or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.
- (4) Notwithstanding clause 5.2, the unmodified penalty for an offence under this clause is \$1,000.

PART 5—ENFORCEMENT

5.1 Interpretation

In this Part—

infringement notice means the notice referred to in clause 5.4; and

notice of withdrawal means the notice referred to in clause 5.7(1).

5.2 Offences and general penalty

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

5.3 Modified penalties

The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

5.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of the First Schedule of the Regulations.

5.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

5.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

5.7 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

SCHEDULE 1—APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 3.2)

DOG LOCAL LAW 2022

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs).....

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at

..... (insert address of residence)

on and from (insert date).

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant.....

Date

* delete where inapplicable.

Note: A licence if issued will have effect for a period of 12 months—section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on *[insert date]*.

SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 3.8(1))

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;

- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES
(clause 5.3)

Offence	Nature of offence	Modified penalty \$
2.1	Failing to provide means for effectively confining a dog	100
4.1(2)	Dog excreting in prohibited place	100

Dated this 15th day of February 2022

The Common Seal of the Shire of Leonora was affixed in the presence of

CR PETER CRAIG, President.
JIM EPIS, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF LEONORA

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2022

Under the powers conferred on it by the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Leonora resolved on 15th February 2022 to make this local law.

PART 1—PRELIMINARY

1.1 Title

This is the *Shire of Leonora Public Places and Local Government Property 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.

1.4 Repeal and transitional provisions

(1) The following local laws are repealed—

- (a) The *Shire of Leonora Prevention of Damage to Roads By-Law 1951* published in the *Government Gazette* on 14 December 1951;
- (b) The *Shire of Leonora General Provisions Local Law 1998* published in the *Government Gazette* on 30 December 1998; and
- (c) The *Shire of Leonora Local Law—Leonora Airport 2001* published in the *Government Gazette* on 8 January 2001.

(2) An application for, or an application for the renewal of, a licence, permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.

(3) A licence, permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a permit under this local law and may be dealt with accordingly.

1.5 Definitions

In this local law—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

application means an application for a permit;

application fee means the fee payable on the lodgement of an application for a permit and which relates to the lodgement, assessment and determination of the application but does not include the permit fee;

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

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

- (a) hall or room; and
- (b) corridor, stairway or annexe of any hall or room.

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 by the *Road Traffic Code 2000*;

CEO means the chief executive officer of the local government;

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

council means the council of the local government;

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

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

determination means a determination made under clause 2.1;

district means the district of the local government and any area outside the district of the local government in respect of which the Governor's approval under section 3.6(1) of the Act has been obtained;

entertainment means the action of providing or being provided with amusement or enjoyment, an event, performance, or activity designed to entertain others.

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 street 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 street which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

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

Liquor Control Act means the *Liquor Control Act 1988* and all regulations made under that Act;

local government means the Shire of Leonora;

local government property means anything—

- (a) which belongs to or 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;

except a street.

local public notice has the meaning given to it by 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;

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;

permit means a permit under this local law;

permit fee means the fee payable on the issue of a permit;

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

permit holder means a person who holds a permit;

permissible verge treatment means any one of the treatments described in clause 7.4(2), and includes any associated reticulation pipes and sprinklers;

person does not include the local government;

private property means any land that—

- (a) has a separate certificate of title; and
- (b) is in private ownership or is the subject of a lease or agreement with a person enabling its use for private purposes,

and includes any building or structure on the land;

prohibited drug has the meaning given to it by the *Misuse of Drugs Act 1981*;

public place means—

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

Regulations mean the Local Government (Functions and General) Regulations 1996;

repealed local law means a local law repealed under clause 1.4;

retailer means a the owner or occupier of a shop in respect of which shopping trolleys are provided for the use of customers of the shop;

Schedule means a schedule to this local law;

sell includes—

- (a) offer or attempt to sell;
- (b) display for sale;

- (c) send, forward or deliver for sale or on sale;
- (d) barter or exchange;
- (e) dispose, by lot or chance or by auction;
- (f) supply, or offer, agree or attempt to supply—
 - (i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or
- (g) authorise, direct, cause or permit to be done any act referred to in this definition;

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

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

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

street means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

street tree means any tree planted or self sown in the street, of an appropriate species and in an appropriate location, for the purposes of contributing to the streetscape;

thoroughfare has the meaning given to it by the Act;

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

vehicle includes—

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

but excludes—

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

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

waste includes matter—

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

1.6 Interpretation

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

1.7 Overriding power to hire and agree

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

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

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

(1) The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in SCHEDULE 1—

- (a) are to be taken to have been made in accordance with clause 2.2;
- (b) may be amended or revoked in accordance with clause 2.6; and
- (c) have effect on the commencement day.

2.2 Procedure for making a determination

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

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

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

2.6 Amendment or revocation of a determination

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

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
 - (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - (b) fly or use a motorised model aeroplane;
 - (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;
 - (f) play or practise—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or

- (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; or
 - (g) ride a bicycle, a skateboard, roller skates, 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, roller skates, rollerblades, a sandboard or a similar device;
 - (b) taking, riding or driving a vehicle or a particular class of vehicle;
 - (c) riding or driving above a specified speed a vehicle or a particular class of vehicle;
 - (d) taking or using a boat, or a particular class of boat;
 - (e) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.

2.9 Sign under repealed local law taken to be determination

- (1) Where an approved 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 PERMIT

3.1 Activities requiring a permit

- (1) A person must not without a permit—
- (a) subject to subclause (3) hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect, 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, a person or animal on local government property;
 - (e) plant any plant or sow any seeds on local government property;
 - (f) carry on any trading on local government property or public place unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a permit 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 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 of local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property;
 - (q) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
 - (r) conduct an entertainment event on local government property;
 - (s) fly or land a drone, balloon, unmanned aircraft or similar device from or 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 Erecting structures or camping

- (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 facility operated by the local government.
- (3) A person must not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
 - (b) erect, on local government property, any tent, camp, hut or similar structure; or
 - (c) erect, on local government property that is not enclosed, an umbrella or temporary shade structure unless—
 - (i) it is erected for protection from the sun or other elements;
 - (ii) it has an area of no more than 18 square metres;
 - (iii) it has a height of no less than 2.5 metres;
 - (iv) it is removed by that person—
 - (I) immediately on leaving that local government property; and
 - (II) during daylight on the same day on which it was erected; and
 - (v) it is for a private use.
- (4) The maximum period for which the CEO or an authorised person may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Licence required for possession and consumption of liquor

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

PART 4—ADVERTISING SIGNS ON THOROUGHFARES

4.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement;

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

portable direction sign means a portable free standing direction sign; and portable sign means a portable free standing advertising sign.

4.2 Advertising signs and portable direction signs

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500 millimetres in height nor 0.5 square metres in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) on a footpath;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (c) on or within 3 metres of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

4.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 4.2(1), the local government is to have regard to—

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

4.4 Conditions on portable sign

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

- (a) the portable sign shall—
 - (i) not exceed 1 metre in height;
 - (ii) not exceed an area of 1 square metre on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200 millimetres in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition.

(2) No more than one portable sign shall be erected in relation to the one building or business.

(3) A person must not place or erect a sign in contravention of a condition of a permit issued under this clause.

PART 5—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Prohibited behaviour

5.1 Behaviour which interferes with others

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

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

5.2 Behaviour detrimental to property

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

(2) In subclause (1)—

detrimental to the property includes—

- (a) removing any thing from the local government property including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property, including a plant, a seat provided for the use of any person or a building.

5.3 Taking or injuring fauna

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

(2) In this clause and in clause 5.5—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the animal in a normal or natural manner.

5.4 Flora

(1) Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not—

- (a) remove, damage or interfere with any flora that is on or above any local government property; or
- (b) cultivate, plant or deposit any flora on local government property.

(2) In this clause—

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

5.5 Leaving animal or vehicle in public place

(1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a licence or is authorized 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.

5.6 Intoxicated persons not to be on local government property

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

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

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

- (a) females—then a person of the male gender must not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender must not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

- (a) under the age of 8 years; or
- (b) otherwise permitted by an authorised person to use the relevant entry.

Division 2—Signs and powers to give directions

5.8 Signs

- (1) The CEO or an authorised person may erect a sign on local government property—
 - (a) specifying any conditions of use which apply to that property; and
 - (b) for any other purpose relevant to this local law, including giving notice of a breach of clause 5.4 and substituting a sign for flora that has been removed, damaged or interfered with contrary to clause 5.4.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is—
 - (a) not to be inconsistent with any provision of this local law or any determination; and
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

5.9 Authorised person to be obeyed

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

5.10 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) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (4) 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.

5.11 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 he or she thinks fit; or
- (c) in any other case, by donation to a not for profit body incorporated under the *Associations Incorporations Act 2015*.

PART 6—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Functions and closed property

6.1 No unauthorised entry to function

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

6.2 No entry to fenced or closed local government property

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

Division 2—Golf courses

6.3 Interpretation

In this Division—

controller means an authorised person who has been appointed to control and manage a golf course;

golf course means that portion of a local government property which is laid out as a golf course and includes—

- (a) all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and
- (b) all buildings, structures, fittings, fixtures and equipment on that property.

6.4 Observance of special conditions of play

While on a golf course, a player must—

- (a) observe and comply with a direction of the controller in respect of any special conditions of play;
- (b) observe and comply with a requirement of any notice erected to direct or control play; and
- (c) not be accompanied by a non playing person without the permission of the controller or an authorised person.

6.5 Children under the age of 10 years

A person under the age of 10 years must not enter, play or practise on a golf course unless accompanied by a person of 18 years or older.

Division 3—Airports

6.6 Application

This Part applies to each airport which is local government property within the district.

6.7 Use by aircraft

(1) The owner of every aircraft, upon payment of the set fee and compliance with this local law and other written law, shall be entitled to use the airport for the landing, servicing and departure of their aircraft and the embarkment and disembarkment of passengers and freight.

(2) The local government may close the airport to aircraft movements if it considers the surface of the airport to be unsafe.

6.8 Right of entry to airport

(1) Except as provided, a person other than—

- (a) a person lawfully employed upon duties in or about the supervision and control of the airport, or acting under a permit or other agreement of or with the local government, in or about the arrival, departure and servicing of or other attention to aircraft lawfully using the airport; or
- (b) a passenger or intending passenger of an aircraft lawfully using the airport; or
- (c) a person greeting or seeing off a passenger or intending passenger of an aircraft lawfully using the airport;

shall not enter or remain upon the airport or any part thereof without the approval of the local government.

(2) The local government may from time to time designate or set apart any specified part or parts of the Airport:-

- (a) to which only persons from time to time designated by the local government shall be admitted;
- (b) to which persons other than those mentioned in subclause (1) shall not be admitted;
- (c) to which the general public, or any limited classes of the general public, may be admitted, either at all times or at specified times, or for limited periods and generally upon such terms and conditions as the local government may resolve;
- (d) to which no vehicle may be admitted or to which a limited class of vehicles may be admitted or to which vehicles may be admitted only on such terms and conditions as the local government may resolve;
- (e) to which no aircraft may be admitted or to which a limited class of aircraft may be admitted or to which aircraft may be admitted only on such terms and conditions as the local government resolves.

(3) Signs, markings or notices may be placed by the local government at the airport indicating the limits of any part of the airport set apart for any special or limited use under subclause (2).

(4) Notwithstanding the provisions of this clause the local government may on special occasions, for instance, an aerial pageant or other event of public interest, make such arrangements for the control of the airport as it may by resolution impose.

6.9 Access of animals restricted

(1) A person shall not bring an animal on to an airport unless—

- (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;
- (b) the animal is being air freighted from the airport;
- (c) the animal has been air freighted to the airport; or
- (d) the person is authorized to do so by the local government.

(2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the airport.

(3) If an animal is at any time on an airport in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

(4) This clause is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)* Section 9(2).

PART 7—ACTIVITIES IN STREETS

Division 1—General

7.1 General prohibitions

A person must not—

- (a) plant, or allow to remain, in a street a plant that is or may become an obstruction to a reasonable sight line hazard for a driver of any vehicle negotiating or using the street;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a street unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the street and the lawn or the garden or the particular plant has not been installed or planted by the local government ; or
 - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the street or by the local government , unless—
 - (i) the damage to, or removal of, the street tree is authorised by the CEO or an authorised person in writing; or
 - (ii) the person is acting under authority of written law;
- (d) place, or allow to be placed or remain, on a street any thing (except water) that—
 - (i) obstructs the street; or
 - (ii) results in a hazard for any person using the street;
- (e) unless at the direction of the CEO or an authorised person, damage, remove or interfere with any part of a street, or any structure erected on a street, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a street.

7.2 Activities allowed with a permit

(1) A person must not, without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge or street except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a street as a street;
- (d) cause any obstruction to a water channel or a water course in a street;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a street;
- (f) damage a street;
- (g) fell or damage any street tree;
- (h) fell any tree onto a street;
- (i) light any fire or burn any thing on a street other than in a stove or fireplace provided for that purpose;
- (j) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install, on any part of a street, any thing such as gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (k) provide, erect, install or use in or on any building, structure or land abutting on a street any hoist or other thing for use over the street;
- (l) on a street use anything or do anything so as to create a nuisance;
- (m) place or cause to be placed on a street a bulk rubbish container;
- (n) interfere with the soil of, or anything in, a street or take anything from a street;
- (o) conduct or carry on any trading on a street or public place;
- (p) conduct, carry on or set up a market or stall on a street or public place;
- (q) conduct or carry on an entertainment event on a street or public place; or
- (r) film or make a recording as part of or for commercial gain on a street or public place.

(2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.

7.3 Notice to owner or occupier

The CEO or an authorised person may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Part.

Division 2—Permissible verge treatments

7.4 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may, on that part of the verge directly in front of her or his land, install a permissible verge treatment.
- (2) A permissible verge treatment is—
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting street in the vicinity of an intersection or bend in the street or using a driveway on land adjacent to the street for access to or from the street;
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny, poisonous or hazardous nature; and
 - (c) the installation of an acceptable material.
- (3) In this clause ***acceptable material*** means any material which would create a hard surface, and which has been approved by the local government.
- (4) A person must not install or maintain a verge treatment which is not a permissible verge treatment.
- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 7.5.

7.5 Obligations of owner or occupier

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

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge are not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a thoroughfare, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
 - (i) do not protrude above the level of the lawn or verge treatment when not in use;
 - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
 - (iii) do not otherwise present a hazard to pedestrians or other persons.

7.6 Transitional provision

- (1) In this clause—

former provisions means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

- (2) A verge treatment which—

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

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

7.7 Power to carry out public works on verge

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

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

- (ii) sprinklers, pipes or other reticulation equipment.

Division 3—Vehicle crossings

7.8 Temporary crossings

(1) Where it is likely that works on a lot will involve vehicles leaving a street and entering the lot, the person responsible for the works must obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains, footpath, existing materials and street trees, where—

- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The **person responsible for the works** in subclause (1) is to be taken to be—
- (a) the builder named on the building 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 permit authority for the purpose of subclause (1) is the local government, the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the person to whom the permit is given must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the street.

7.9 Removal of redundant crossing

(1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the street affected by the removal are to be reinstated to the satisfaction of the CEO.

- (2) The CEO may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the street, which may be affected by the removal,

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

Division 4—Property numbers

7.10 Assignment of numbers

(1) The CEO or an authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

(2) In this clause, **number** means a number of a lot with or without an alphabetical suffix indicating the address of a lot by reference to a thoroughfare.

Division 5—Fencing

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

A public place, as that term is defined in clause 1.5, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 6—Signs erected by the local government

7.12 Signs

(1) The local government may erect a sign in a street specifying any conditions of use which apply to that street.

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

7.13 Transitional

Where a sign erected in a street has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 7.12 if—

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

Division 7—Driving on a closed street

7.14 No driving on closed street

(1) A person must not drive or take a vehicle on a closed street unless—

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a permit.

(2) In this clause—

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

Division 8—Notices

7.15 Notice to redirect or repair sprinkler

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

7.16 Notice to remove hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a street, the CEO or an authorised person may give a written notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

7.17 Notice to remove any thing unlawfully placed on street

Where any thing is placed on a street in contravention of this local law, the CEO or an authorised person may give a written notice—

(a) to the owner or the occupier of the property which abuts that portion of the street where the thing has been placed; or

(b) to any other person who may be responsible for the thing being so placed,
requiring the person to remove the thing.

PART 8—ACTIVITIES IN PUBLIC PLACES

Division 1—General provisions

8.1 Leaving animal or vehicle in public place

(1) A person must not leave an animal or a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit 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.

8.2 Prohibitions relating to animals

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

(a) an owner of it;

(b) a person in possession of it;

(c) a person who has control of it; and

(d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal must not—

(a) allow the animal to enter or remain for any time on any public place except for the use of the public place as a thoroughfare and unless it is led, ridden or driven;

(b) allow the animal, if it has a contagious or infectious disease, to be led, ridden or driven in a public place; or

(c) train or race the animal in a public place.

(3) An owner of a horse must not lead, ride or drive the horse on a street, unless that person does so under a permit or under the authority of a written law.

(4) This clause is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) Section 9(2).

8.3 Shopping trolley to be marked

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

8.4 Person not to leave trolley in public place

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

8.5 Retailer to remove abandoned trolley

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

(2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1).

8.6 Retailer taken to own trolley

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

PART 9—PERMITS

Division 1—Applying for a permit

9.1 Application for permit

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

(2) An application for a permit under this local law must—

- (a) be in the form determined by the CEO;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.

(3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to the application before determining the application.

(4) The CEO or an authorised person may require an applicant to give local public notice of the application.

(5) The CEO or an authorised person may refuse to consider an application which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

9.2 Decision on application

(1) The CEO or an authorised person may—

- (a) approve an application unconditionally or subject to any conditions; or
- (b) refuse to approve an application.

(2) If the CEO or an authorised person approves an application, he or she is to issue to the applicant a permit in the form determined by the CEO.

(3) If the CEO or an authorised person refuses to approve an application, he or she is to give written notice of that refusal to the applicant.

(4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

9.3 General restrictions on grant of permit

(1) The CEO or an authorised person must not grant a permit 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 must not grant a permit unless the CEO or an authorised person is satisfied that—

- (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit;
- (b) the public place at which the activity is to be carried on is suitable for that purpose;
- (c) a permit or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
- (d) the applicant is a fit and proper person to carry on the activity.

9.4 Amendment of permit

(1) In this clause—

amend includes—

- (a) to impose any new condition; and
- (b) to change or remove any existing condition.

(2) The CEO or an authorised person may, by written notice given to the permit holder, amend a permit.

(3) An amendment may be made on application made by the permit holder or on the CEO or authorised person's initiative.

Division 2—Conditions

9.5 Examples of conditions

(1) Examples of the conditions that the CEO or an authorised person may impose on a permit under clause 9.2(1)(a) or 9.4(2) are conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy adopted by the local government;
- (c) the duration and commencement of the permit;

- (d) the commencement of the permit being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the local government under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the CEO or an authorised person.
- (2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include—
- (a) when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of the CEO or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the CEO or an authorised person sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act*;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
 - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

9.6 Imposing conditions under a policy

(1) In this clause—

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

- (2) Under clause 9.2(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.
- (3) The CEO or an authorised person must give to the permit 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 permit, with the form of permit referred to in clause 9.2(2).
- (4) An application for a permit 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 permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

9.7 Compliance with conditions

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

Division 3—Duration of permits

9.8 Duration of permit

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

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

9.9 Renewal of permit

- (1) A permit holder may apply to the CEO for the renewal of a permit.
- (2) An application for renewal must—
 - (a) be in the form determined by the CEO;
 - (b) be signed by the permit holder;
 - (c) provide the information required by the form;

- (d) be forwarded to the CEO no later than 28 days before the expiry of the permit, or within a shorter period that the CEO in a particular case permits; and
 - (e) be accompanied by any fee imposed by the Council under section 6.16 to 6.19 of the Act.
- (3) The provisions of this Part that apply to an application for a permit also apply to an application for the renewal of a permit as though it were an application for a permit.

9.10 Transfer of permit

- (1) An application for the transfer of a valid permit is—
- (a) to be made in writing;
 - (b) to be signed by the permit holder and the proposed transferee of the permit;
 - (c) to include such information as the CEO or an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.
- (2) The CEO or an authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the CEO or an authorised person approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO or the authorised person.
- (4) Where the CEO or an authorised person approves the transfer of a permit, the local government is not required to refund any part of any fee paid by the former permit holder.

9.11 Suspension of permit

- (1) The CEO may, subject to clause 9.12, by written notice given to the permit holder, suspend a permit if there are reasonable grounds for believing that—
- (a) the permit holder has contravened a term or condition of a permit;
 - (b) the permit holder has contravened a provision of this local law; or
 - (c) the continued carrying on of the activity authorised by the permit constitutes or will constitute an unacceptable risk to the safety of the public.
- (2) The suspension notice must—
- (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the CEO's decision to suspend the permit; 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 permit holder that he/she has a right to apply under the Act for a review of the CEO's decision to suspend the permit.

9.12 Proposed suspension

- (1) If the CEO proposes to suspend a permit for the reason mentioned in clause 9.11(1)(a), the CEO must give written notice to the permit holder of the proposed suspension.
- (2) The notice must—
- (a) state that the CEO proposes to suspend the permit;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the permit holder that the permit holder is entitled to make representations to the CEO in respect of the proposed suspension within 7 days after the day on which the permit holder is given the notice.
- (3) In considering whether to suspend the permit, the CEO must have regard to any representations made by the permit holder within the period referred to in subclause (2)(c).

9.13 Revocation of suspension

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

9.14 Period of suspension

The suspension of a permit has effect on the day, or the day and time, specified in the suspension notice until one of the following happens—

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

9.15 Cancellation of permit

A permit may be cancelled by the CEO if—

- (a) the permit was obtained improperly by including false or misleading information;

- (b) the permit holder has persistently or frequently contravened a term or condition of the permit, or a provision of this local law, whether or not the permit is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued carrying on of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the permit has been suspended on the grounds of that risk.

9.16 Surrender of permit

A permit holder may, at any time by notice in writing to the CEO, surrender the permit.

Division 4—Responsibilities of permit holders and others

9.17 Production of permit

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

9.18 Other responsibilities of permit holder

A permit holder must, in respect of local government property to which the permit relates—

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to the CEO or an authorised person; and
- (e) take reasonable action to prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act* for that purpose.

9.19 Production of permit document for amendment

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

9.20 Return of permit document if permit no longer in effect

If a permit—

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

the person who was the permit holder must, as soon as practicable after the expiry, suspension, cancellation or surrender, return the permit document to the CEO.

9.21 Advertising

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a permit authorising that commercial activity.

9.22 False or misleading statement

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

PART 10—OBJECTIONS AND REVIEW

10.1 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 permit.

PART 11—ENFORCEMENT

Division 1—Notices

11.1 Definition

In this Division—

costs of the local government include its administrative costs.

11.2 Damage to local government property

If a person unlawfully removes, damages or interferes with local government property or portion of a street, the CEO or an authorised person may give the person a notice requiring that person, within the time specified in the notice, to do any one or more of the following (at the local government's option)—

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or

- (c) pay for the costs of reinstatement or replacement.

11.3 Breach of a permit

If a permit holder breaches a condition of the permit, or fails to comply with a direction under this local law, the CEO or an authorised person may give the person a notice.

11.4 Notice requirements

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 11.2 or 11.3, as the case may be.

11.5 Local government may undertake requirements of notice

- (1) If a person fails to comply with a notice referred to in clause 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; and
 - (b) recover from the person, as a debt, the costs of doing so.
- (2) If a person fails to comply with a notice referred to in clause 11.3, the local government may—
 - (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
 - (b) recover from the person, as a debt, the costs of doing so.

11.6 Offence to fail to comply with notice

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

Division 2—Offences and penalties

11.7 Offences and general penalty

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

11.8 Prescribed offences

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

11.9 Form of notices

- (1) For the purposes of this local law—
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

11.10 Evidence of a determination

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

SCHEDULE 1—DETERMINATIONS

[Clause 2.1]

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1—PRELIMINARY

1.1 Definition

In these determinations—

local law means the *Public Places and Local Government Property Local Law 2022* made by the local government.

1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in this local law then the term is to have the meaning given to it in this local law.

PART 2—APPLICATION

2.1 Vehicles on local government property

(1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—

- (a) subject to subclause (3), the local government property is clearly designated as a road, access way or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
 - (i) providing a service or making a delivery in connection with the local government property; or
 - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle in the course of his or her duties;
- (d) the vehicle is—
 - (i) driven on local government property that has been designated as a golf course;
 - (ii) used in accordance with the conditions set down by the local government, the controller or an authorised person; and
 - (iii) of a type allowed to be taken onto the golf course by the local government, the controller or an authorised person; or
- (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour or as otherwise indicated by a sign, or in such a manner as to cause danger to any person.

(3) Other than in accordance with paragraphs (b), (c), (d) or (e) of subclause (1), a person must not drive a vehicle on local government property that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

2.2 Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a drone, motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except in accordance with a permit or determination that specifies that particular local government property.

2.3 Children's playgrounds

(1) The local government may set aside a public reserve or any portion of a public reserve as a children's playground.

(2) The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.

(3) A person over the age specified on that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

2.4 Launching and retrieval of boats

A person must not take a boat onto, launch a boat from, or retrieve a boat on, local government property except in accordance with permit or a determination that specifies that particular local government property unless—

- (a) the person is
 - (i) a local government employee or authorised person; or
 - (ii) a contractor engaged by the local government and who is engaged in providing a service, maintaining or making a delivery in connection with, the local government property.
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency; or

- (c) the local government property is a boat ramp that is delineated by a sign to that effect.

2.5 Activities prohibited on local government property

(1) A person must not play or practise archery or pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise permitted by a determination or permit.

(2) A person must not play or practise golf on local government property except on a reserve set aside by the local government as a golf course.

(3) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board—

(a) inside, or on the curtilage to, a building;

(b) on a golf course except to the extent permitted under clause 2.1(1)(d) of these Determinations; or

(c) in or on a lakebed or waterway.

(4) A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device unless permitted by a determination or permit.

(5) A person shall not traverse sand dunes except along pathways designated by signs or fences for the purpose.

SCHEDULE 2—PRESCRIBED OFFENCES

[Clause 11.8]

Item number	Clause	Description	Modified Penalty (\$)
1	2.4	Failure to comply with a determination	100
2	3.1	Undertaking activity on local government property without a permit	100
3	3.2	Camping on local government property or erecting an unauthorised structure	100
4	3.3	Failure to obtain licence for liquor	100
5	4.2	Failure to obtain permit for sign	100
6	4.4(3)	Failure to comply with sign permit condition	100
7	5.1	Behaviour interfering with others	100
8	5.2	Behaviour detrimental to local government property	100
9	5.3	Taking or injuring fauna without authorisation	100
10	5.4	Removing, damaging or depositing flora without authorisation	100
11	5.5	Animal on local government property without a permit	100
12	5.6	Under influence of liquor or prohibited drug on local government property	100
13	5.8	Failure to comply with sign	100
14	5.9	Failure to comply with direction of authorised person	100
15	6.1, 6.2	Unauthorised entry to event, closed or fenced local government property	100
16	6.4	Failure to observe conditions of play or direction of course controller on golf course	100
17	6.8	Unauthorised entry to airport premises	100
18	6.9	Animal on airport premises without approval	100
19	7.1(a), 7.4(2)(b)	Planting or allowing plant or verge treatment in street to become a sightline hazard	100
20	7.1(b)	Damaging a street lawn or garden	100
21	7.1(c)	Damaging or removing whole or part of a street tree without authorisation	300
22	7.1(d)	Obstruction of street	100
23	7.1(e)	Damaging, removing or interfering with street, part of street, sign or structure in a street without authorisation	100
24	7.1(f)	Playing games in street so as to impede vehicles or persons	100

Item number	Clause	Description	Modified Penalty (\$)
25	7.2	Carry on or undertake prohibited activity in street or damage local government property in a street without authorisation	300
26	7.4(4)	Install verge treatment that is not a permissible treatment	100
27	7.5(a), 7.5(d) 7.5(e)	Failure to keep permissible verge treatment in good and tidy condition, obstruct a street, footpath, drain, or driveway	100
28	7.5(c)	Placing an obstruction on or around a verge treatment	100
29	7.5(f)	Failure to ensure sprinklers or reticulation pipes do not protrude above level of verge treatment when not in use, not used at such times as to cause inconvenience to pedestrians, or otherwise present a hazard	100
30	7.8	Failure to obtain permit for a temporary crossing	100
31	7.9	Failure to remove redundant crossing or reinstate kerb, drain, footpath, verge or street	100
32	7.12	Failure to comply with condition of use of a street indicated by a sign	100
33	8.1(1)	Animal or vehicle obstructing public place without authorisation	100
34	8.2(2)	Animal in public place when not led, ridden or driven	100
35	8.3	Failure to clearly mark name or trading name on shopping trolley	100
36	8.4	Person leaving a shopping trolley in a public place other than trolley bay	100
37	8.5	Failure to remove shopping trolley after being advised of location	100
38	9.7	Failure to comply with permit condition	100
39	9.18	Failure to comply with permit condition in relation to local government property	100
40	9.17, 9.19, 9.20	Failure to produce permit for inspection, amendment or to return permit when no longer in effect	100
41	11.6	Failure to comply with notice	300
42	11.7	All other offences not specified	100

Dated this 15th day of February 2022.

The Common Seal of the Shire of Leonora was affixed in the presence of

CR PETER CRAIG, President.
JIM EPIS, Chief Executive Officer.