CONTENTS

PART 1—PRELIMINARY

1.1 Citation
1.2 Commencement
1.3 Application
1.4 Interpretation

PART 2—KEEPING OF ANIMALS

Division 1—Animals

2.1 Interpretation
2.2 Cleanliness
2.3 Animal enclosures
2.4 Cats

Division 2—Keeping of birds

2.5 Keeping of poultry and pigeons in a residential zone
2.6 Conditions for keeping of poultry
2.7 Roosters, geese, turkeys and peafowl
2.8 Conditions for keeping of pigeons
2.9 Restrictions on pigeon nesting and perching
2.10 Conditions of keeping aviary birds
2.11 Nuisance caused by birds

Division 3—Keeping of farm animals

2.12 Keeping of farm animals
2.13 Conditions for keeping farm animals
2.14 Keeping a miniature horse
2.15 Keeping a miniature pig

Division 4—Livestock

2.16 Livestock not to stray
2.17 Impounding of livestock
2.18 Property to be fenced

Division 5—Keeping of bees

2.19 Permit required to keep bees
2.20 Application for a permit
2.21 Determination of application
2.22 Conditions of approval
2.23 Variation or cancellation of permit and conditions
2.24 Permit holder to notify cessation of registration or keeping of bees
2.25 Permit not transferable
2.26 Nuisance
2.27 Notice to remove bees

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles
3.2 Control of refuse
3.3 Unauthorised storage of materials

Division 2—Prevention of dust and liquid waste

3.4 Prohibited activities

Division 3—Smoke

3.5 Burning of cleared vegetation prohibited

Division 4—Unsightly land and disused materials

3.6 Storage of vehicles, vessels and machinery
3.7 Disposing of disused refrigerators or similar containers

Division 5—Hazardous materials

3.8 Hazardous trees

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

4.1 Use of exterior lights
4.2 Emission or reflection of light
4.3 Notice may require specified action to prevent emission or reflection of light

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material
4.5 Escape of smoke, fumes, odours and other emissions

Division 3—Trucks

4.6 Livestock vehicles
4.7 Truck noise from residential land

Division 4—Swimming pool backwash management

4.8 Containment and disposal of swimming pool and other wastewater

Division 5—Stormwater management

4.9 Containment of stormwater
4.10 Guttering and downpipes
4.11 Stormwater disposal systems

Division 6—Amusement activities

4.12 Nuisance
4.13 Abatement by authorised person

Division 7—Advertising, bill posting and junk mail

4.14 Placement of advertisement, bill posting or junk mail
4.15 Exemptions

Division 8—Bird nuisance

4.16 Restrictions on feeding of birds

PART 5—OBJECTIONS AND APPEALS

5.1 Objections and appeals

PART 6—ENFORCEMENT

Division 1—Notice of breach

6.1 Notice of breach
6.2 Form of notices
6.3 When local government may undertake work required by notice

Division 2—Offences and penalties

Subdivision 1—General

6.4 Offences and penalties

Subdivision 2—Infringement notices and modified penalties

6.5 Modified penalties
6.6 Form of infringement notices
Under the powers conferred by the Local Government Act 1995, Health Act 1911, Cat Act 2011 and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation
This local law may be cited as the Shire of Gnowangerup Animals, Environment and Nuisance Local Law 2016.

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

1.3 Application
This local law applies throughout the district.

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

- **Act** means the Local Government Act 1995;
- **affiliated person** means a person who is a member of a poultry or pigeon club incorporated under the Associations Incorporation Act 2015;
- **amusement** means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;
- **AS/NZS 3500** means the Australian/New Zealand standard called “Plumbing and Drainage” published by the Standard Association of Australia;
- **authorised person** means a person appointed by the local government, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;
- **aviary bird** means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;
- **beekeeper** has the meaning given to it in Regulation 3 of the Biosecurity and Agriculture Management Regulations 2013;
- **birds** includes poultry;
- **builder** means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;
- **Building Code** means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Building Code;
- **building permit** has the meaning given to it by the Building Act 2011;
- **building site** means any lot for which a building permit is current;
- **cat** has the meaning given in the Cat Act 2011;
- **Class 6 building** means any Class 6 building as defined by the Building Code;
- **Class 9 building** means any Class 9 building as defined by the Building Code;
- **Code of Practice—Pigeon Keeping** means the document entitled A Code of Practice—for Pigeon Keeping and Pigeon Racing in Western Australia published by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;
cow includes an ox, calf or bull;
development has the meaning given to it in the Planning and Development Act 2005;
development approval means a development approval under a local planning scheme;
development site includes any lot or lots for which there is currently a development or subdivision approval, and any lot or lots upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place;
district means the district of the local government;
disused means, in relation to any thing whatsoever, that the thing—
(a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
(b) has been stored or left stationary on land in the district for more than 1 month;
dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;
dwelling has the meaning given to it in the Residential Design Codes of Western Australia as amended;
EHO means an Environmental Health Officer appointed by the local government under the Health Act 1911 and includes any acting or Assistant Environmental Health Officer;
farm animal includes a sheep, cow, goat, horse (excluding a miniature horse), deer, alpaca, pig (excluding a miniature pig);
food has the meaning given in section 9 of the Food Act 2008;
food business has the meaning given under section 10 of the Food Act 2008;
food premises means any premises which is used to prepare food or to conduct a food business;
horse means a stallion, mare, gelding, shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;
land includes any building or structure on the land;
liquid waste means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;
livestock means any horse, cow, sheep, goat, swine, buffalo, deer, camel, llama or alpaca;
livestock vehicle means a vehicle that contains livestock or previously has been used for the carriage of livestock;
local government means the Shire of Gnowangerup;
local planning scheme has the meaning given to it by the Planning and Development Act 2005;
lot has the meaning given to it by the Planning and Development Act 2005;
manure receptacle means a receptacle of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;
miniature horse means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;
miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;
nuisance means—
(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
(c) interference which causes material damage to land or other property on the land affected by the interference;
occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;
owner has the meaning given in the Act;
permit means a permit issued under this local law;
permit holder means a person who holds a valid permit;
pigeon includes homing pigeons and other domesticated breeds of the species Columba livia, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment Regulation;
pound means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Dog Act 1976;
poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;
refuse means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

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

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

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

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

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

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

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

townsite includes the townsites within the district which are—

(a) constituted under section 26(2) of the Land Administration Act 1997; or

(b) referred to in clause 37 of Schedule 9.3 of the Act;

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

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

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

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

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

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

PART 2—KEEPING OF ANIMALS

Division 1—Animals

2.1 Interpretation

In this Division, unless the context otherwise requires—

animal includes cats, dogs, rabbits and ferrets;

cattery is a premise registered for the breeding or caring of cats;

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

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

2.2 Cleanliness

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

(a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or to attract rats or other vectors of disease;

(b) when so directed by an EHO, clean and disinfect the premises; and

(c) keep the premises, so far as possible, free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means.

2.3 Animal enclosures

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

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

2.4 Cats

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

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

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

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

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

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

(7) The occupier of any premises shall not keep a cattery on those premises, unless the cattery is registered with the local government and the occupier has complied with the following conditions—

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

(8) A certificate of registration of a cattery issued by the local government shall—

(a) be in the form approved by local government; and
(b) expire on 30 June next after the date of its issue.

Division 2—Keeping of birds

2.5 Keeping of poultry and pigeons in a residential zone

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

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

2.6 Conditions for keeping of poultry

(1) A person who keeps poultry or permits poultry to be kept shall ensure that—

(a) no poultry shall be kept less than 9 metres from any residential building;
(b) no poultry is able to approach within 15 metres of a public thoroughfare, public building, commercial premises or food premises;
(c) all poultry is kept in a properly constructed and securely fastened structure;
(d) the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
(e) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition; and
(f) all poultry is kept continually confined.

(2) An owner or occupier of a premises who keeps poultry or permits poultry to be kept may apply in writing to the local government to vary the requirements of subclauses (1)(d) and (f).

2.7 Roosters, geese, turkeys and peafowl

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

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

2.8 Conditions for keeping of pigeons
(1) An owner or occupier of premises who keeps pigeons, or permits pigeons to be kept, shall ensure that—
   (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
   (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
   (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building; and
   (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.
(2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

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

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

2.11 Nuisance caused by birds
An owner or occupier of land shall not keep any bird or birds which—
   (a) are or create a nuisance; or
   (b) emit an unreasonable noise.

Division 3—Keeping of farm animals

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

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

2.14 Keeping a miniature horse
(1) An owner or occupier of a premises may keep only a sterilised miniature horse on land of not less than 1 000 square metres in area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
(2) An owner of occupier of premises shall—
   (a) not keep more than one miniature horse on land zoned residential or special rural without the written approval of the local government or an authorised person; and
   (b) not permit a miniature horse to come within 9 metres of any house.
(3) The local government or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

2.15 Keeping a miniature pig
(1) Except for a miniature pig, and subject to subclause (2) no person shall keep a pig or pigs, in any residential zone or on any land zoned commercial or industrial under the local planning scheme.
(2) Except for premises registered by the local government as an abattoir or a piggery under the provisions of section 191 of the Health Act 1911, and except in the case of a miniature pig, the keeping of pigs is forbidden.
(3) The local government or an authorised person may prohibit the keeping of a miniature pig on any land, or state the conditions under which the miniature pig may be kept.
(4) A person may keep 1 miniature pig in any residential or rural or special rural zone provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
(5) An owner or occupier of premises where a miniature pig is kept shall—
   (a) only keep a sterilised animal and retain written proof of its sterilisation;
   (b) confine the animal on the property at all times;
   (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust, or odour; and
   (d) maintain documentary evidence that the animal’s veterinary treatment against roundworm and tapeworm is current.
Division 4—Livestock

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

2.17 Impounding of livestock
(1) An authorised person or a member of the Police Service may impound livestock found straying in contravention of clause 2.16.
(2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

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

Division 5—Keeping of bees

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

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

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

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

(2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

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

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

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

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

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

PART 3—BUILDING, DEVELOPMENT AND LAND CARE

Division 1—Litter and refuse on building sites

3.1 Provision of refuse receptacles
The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will—
   (a) contain any refuse likely to be produced on the site; and
   (b) prevent refuse being blown from the receptacle by wind.
3.2 Control of refuse
(1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall take all reasonable steps to—
   (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
   (b) keep the site as free as is reasonably practicable from any refuse;
   (c) keep the thoroughfare verge, and any other reserve, immediately adjacent to the site, free of refuse generated or originating from the building or development site; and
   (d) ensure the refuse receptacle is emptied when full.
(2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site—
   (a) the site and the thoroughfare verge immediately adjacent to it, is cleared of all refuse generated or originating from the building or development site; and
   (b) that all refuse receptacles are removed from the site.

3.3 Unauthorised storage of materials
(1) All construction materials must be stored on the building site or development site under construction unless written approval of the local government to store materials on another property.
(2) Written approval must be obtained from the local government prior to any proposal to store construction material on any thoroughfare verge.

Division 2—Prevention of dust and liquid waste

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

Division 3—Smoke

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

Division 4—Unsightly land and disused materials

3.6 Storage of vehicles, vessels and machinery
The owner or occupier of a lot shall not—
   (a) store, or allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
   (b) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
   (c) store, or allow to remain in public view on any lot, any vehicle parts, vessel parts or machinery parts (including tyres);
   (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
      (i) inside a building; or
      (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the thoroughfare and from adjoining properties; or
   (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.
3.7 Disposing of disused refrigerators or similar containers
A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—
(a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
(b) rendering every door and lid incapable of being fastened; and
(c) removing any refrigerants as per requirements of the Environment Protection (Ozone Protection) Policy 2000.

Division 5—Hazardous materials

3.8 Hazardous trees
(1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.
(2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).
(3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

PART 4—NUISANCES AND DANGEROUS THINGS

Division 1—Light

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

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

4.3 Notice may require specified action to prevent emission or reflection of light
(1) Where—
(a) floodlights or other exterior lights shine directly onto any other premises;
(b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
(c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,
the local government may by notice in writing direct the owner or occupier to take such actions as an authorised person considers necessary within the time specified in the notice.
(2) The notice referred to in subclause (1) may direct that—
(a) floodlights or other exterior lights are used only during the hours specified in the notice;
(b) the direction in which the lights shine be altered as specified in the notice;
(c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
(d) any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material
(1) A person shall not on any land of an area 2000 square metres or less, set fire to rubbish, refuse or other materials on rural residential zoned property unless—
(a) written approval has first been obtained from the local government;
(b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
(c) the material does not include any plastic, rubber, food scraps other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
(d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
(e) the burning complies with the Bush Fires Act 1954, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

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

4.5 Escape of smoke, fumes, odours and other emissions

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

Division 3—Trucks

4.6 Livestock vehicles

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

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

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

4.7 Truck noise from residential land

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 12.00am and 5.00am on the following day without first obtaining the written consent of the local government.

Division 4—Swimming pool backwash management

4.8 Containment and disposal of swimming pool and other wastewater

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

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

Division 5—Stormwater management

4.9 Containment of stormwater

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

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

4.10 Guttering and downpipes

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

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

4.11 Stormwater disposal systems

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

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

Division 6—Amusement activities

4.12 Nuisance

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

4.13 Abatement by authorised person

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

Division 7—Advertising, bill posting and junk mail

4.14 Placement of advertisement, bill posting or junk mail

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

4.15 Exemptions
Clause 4.14 does not apply to—
(a) delivery of articles by Australia Post;
(b) documents issued under or for the purposes of an Act of Parliament;
(c) an authorised person or member of the Police Service acting in the course of their duties;
(d) electoral materials; or
(e) legal process.

Division 8—Bird nuisance

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

PART 5—OBJECTIONS AND APPEALS

5.1 Objections and appeals
When the local government makes a decision under this local law as to whether it will—
(a) grant a person a permit or authorisation;
(b) vary or cancel a permit or authorisation; or
(c) give a person a notice,
the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

PART 6—ENFORCEMENT

Division 1—Notice of breach

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

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

6.3 When local government may undertake work required by notice
(1) This clause applies only in respect of a notice issued under clauses 3.8(1) and 4.3(1) of this local law.
(2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
(3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.
Division 2—Offences and penalties

Subdivision 1—General

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

Subdivision 2—Infringement notices and modified penalties

6.5 Modified penalties
(1) An offence against any provision of this local law is a prescribed offence for the purposes of section
    9.16(1) of the Act.
(2) Unless otherwise specified, the amount of the modified penalty for an offence against any
    provision of this local law is $150.
(3) An authorised person should be satisfied that—
    (a) commission of the offence is a relatively minor matter; and
    (b) only straightforward issues of law and fact are involved in determining whether the
        prescribed offence was committed, and the facts in issue are readily ascertainable,
        before giving an infringement notice to a person in respect of the commission of an offence.

6.6 Form of infringement notices
For the purposes of this local law—
   (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to
       in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
   (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in
       Schedule 1 of the Regulations; and
   (c) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice
       is that of Form 3 in Schedule 1 of the Regulations.

This Local Law was made by the Shire of Gnowangerup at an Ordinary Meeting held on 27 of July
2016.
Dated 10 August 2016.
The Common Seal of the Shire of Gnowangerup was affixed by authority of a resolution of the Council
in the presence of—

Cr KEITH HOUSE, President.
SHELLEY PIKE, Chief Executive Officer.

Consented to—

Professor TARUN WEERAMANTHRI, Executive Director, Public Health.
Dated this 22nd day of August 2016.
CONTENTS

PART 1—PRELIMINARY

1.1 Citation
1.2 Commencement
1.3 Application
1.4 Repeal
1.5 Definitions
1.6 Interpretation
1.7 Overriding power to hire and agree
1.8 Application as to assistance animals

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations
2.1 Determinations as to use of local government property
2.2 Procedure for making a determination
2.3 Discretion to erect sign
2.4 Determination to be complied with
2.5 Register of determinations
2.6 Amendment or revocation of a determination

Division 2—Activities which may be pursued or prohibited under a determination
2.7 Activities which may be pursued on specified local government property
2.8 Activities which may be prohibited on specified local government property

Division 3—Transitional
2.9 Signs taken to be determinations

PART 3—PERMITS

Division 1—Preliminary
3.1 Application of Part 3

Division 2—Applying for a permit
3.2 Application for permit
3.3 Decision on application for permit

Division 3—Conditions
3.4 Conditions which may be imposed on a permit
3.5 Imposing conditions under a policy
3.6 Compliance with and variation of conditions

Division 4—General
3.7 Duration of permit
3.8 Renewal of permit
3.9 Transfer of permit
3.10 Production of permit
3.11 Cancellation of permit

Division 5—When a permit is required
3.12 Activities needing a permit
3.13 Permit required to camp outside a facility
3.14 Permit required for possession and consumption of liquor

Division 6—Responsibilities of permit holder
3.15 Responsibilities of permit holder

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property
4.1 Behaviour which interferes with others
4.2 Behaviour detrimental to property
4.3 Taking or injuring any fauna
4.4 Intoxicated persons not to enter local government property
4.5 No prohibited drugs
4.6 No smoking

Division 2—Signs
4.7 Signs

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas
5.1 When entry must be refused
5.2 Consumption of food or drink may be prohibited

Division 2—Fenced or closed property
5.3 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms
5.4 Only specified gender to use entry of toilet block or change room

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY
6.1 No unauthorised entry to function

PART 7—OBJECTIONS AND APPEALS
7.1 Objections and review

PART 8—MISCELLANEOUS
8.1 Authorised person to be obeyed
8.2 Persons may be directed to leave local government property
8.3 Disposal of lost property
8.4 Liability for damage to local government property

PART 9—ENFORCEMENT

Division 1—Notices given under this local law
9.1 Offence to fail to comply with notice
9.2 Local government may undertake requirements of notice

Division 2—Offences and penalties
Subdivision 1—General
9.3 Offences and general penalty

Subdivision 2—Infringement notices and modified penalties
9.4 Prescribed offences
9.5 Form of notices

Division 3—Evidence in legal proceedings
9.6 Evidence of a determination

Schedule 1—Prescribed offences
Under the powers conferred by *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

1.1 Citation
This local law may be cited as the *Shire of Gnowangerup Local Government Property Local Law 2016*.

1.2 Commencement
This local law comes into operation 14 days after the date on which it is published in the *Government Gazette*.

1.3 Application
This local law applies throughout the district.

1.4 Repeal
The *Shire of Gnowangerup Local Government Property Local Law* published in the *Government Gazette* of the 28 November 2003 is repealed.

1.5 Definitions
(1) In this local law unless the context otherwise requires—
   - *Act* means the *Local Government Act 1995*;
   - *applicant* means a person who applies for a permit under clause 3.2;
   - *assistance animal* means an animal who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth);
   - *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;
   - *building* means any building which is local government property and includes a—
     (a) hall or room; and
     (b) corridor, stairway or annexe of any hall or room;
   - *CEO* means the chief executive officer of the local government;
   - *children’s playground* means an area set aside for use by children and noted by the presence of dedicated children’s playground equipment and the presence of either white sand or other form of soft fall surface;
   - *Code* means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities, as published by the Executive Director Public Health, from time to time, in accordance with the provisions of section 344A(2) of the *Health Act 1911*;
   - *costs* of the local government include its administrative costs;
   - *commencement day* means the day on which this local law comes into operation;
   - *Council* means the council of the local government;
   - *date of publication* means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;
   - *determination* means a determination made under clause 2.1;
   - *district* means the district of the local government;
   - *function* means an event or activity characterised by all or any of the following—
     (a) formal organisation and preparation;
     (b) its occurrence is generally advertised or notified in writing to particular persons;
     (c) organisation by or on behalf of a club;
(d) payment of a fee to attend it; and
(e) systematic recurrence in relation to the day, time and place;

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

*local government* means the Shire of Gnowangerup;

*local government property* means anything except a thoroughfare—

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

*local public notice* has the same meaning as in section 1.7 of the Act;

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

*nuisance* means—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
(c) interference which causes material damage to land or other property on the land affected by the interference;

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

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

*person* does not include the local government;

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

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

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

*Schedule* means a schedule in this local law;

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

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

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

*vehicle* includes—

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

### 1.6 Interpretation

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

### 1.7 Overriding power to hire and agree

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

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

### 1.8 Application as to assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).
PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

2.1 Determinations as to use of local government property
The local government may make a determination in accordance with clause 2.2—
(a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
(b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
(c) as to the matters in clauses 2.7(2) and 2.8(2); and
(d) as to any matter ancillary or necessary to give effect to a determination.

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

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

2.4 Determination to be complied with
A person shall comply with a determination.

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

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

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

2.7 Activities which may be pursued on specified local government property
(1) A determination may provide that specified local government property is set aside as an area on which a person may—
(a) bring, ride or drive an animal:
(b) take, ride or drive a vehicle, or a particular class of vehicle;
(c) fly or use a motorised model aeroplane;
(d) use 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;
(e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or
not in specified areas of that local government property;
(f) play or practice—
   (i) golf or archery;
   (ii) pistol or rifle shooting, but subject to the compliance of that person with the Firearms
       Act 1973 or
   (iii) a similar activity, specified in the determination, involving the use of a projectile which,
       in the opinion of the local government may cause injury or damage to a person or
       property; and
(g) ride a bicycle, a skateboard, rollerblades, a sand board 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, boats, equipment or things, or may extend it to all
vehicles, boats, equipment or things;
(e) may specify that the activity can be pursued by a class of persons or all persons; and
(f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

(1) In this clause—
   premises means a building, stadium or similar structure which is local government property, but
   not an open space such as a park or a playing field.

(2) A determination may provide that a person is prohibited from pursuing all or any of the following
activities on specified local government property—
(a) smoking on premises;
(b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
(c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
(d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
(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; and
(f) the playing or practice of any ball game which may cause detriment to the property or any
   fauna on the property.

(3) A determination may specify the extent to which and the manner in which a person is prohibited
from pursuing an activity referred to in subclause (1) and, in particular—
(a) the days and times during which the activity is prohibited;
(b) that an activity is prohibited on a class of local government property, specified local
government property or all local government property;
(c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or
   all vehicles, boats, equipment or things;
(d) that an activity is prohibited in respect of a class of persons or all persons; and
(e) may distinguish between different classes of the activity.

Division 3—Transitional

2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a local law of the local
government repealed by this local law, then it is to be taken to be and have effect as a determination
on and from the commencement day, except to the extent that the sign is inconsistent with any
provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).
PART 3—PERMITS

Division 1—Preliminary

3.1 Application of Part 3
This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

Division 2—Applying for a permit

3.2 Application for permit
(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
(2) An application for a permit under this local law shall—
   (a) be in the form determined by the local government;
   (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) or where the requirements of subclause (3) or (4) have not been satisfied.

3.3 Decision on application for permit
(1) The local government may—
   (a) approve an application for a permit unconditionally or subject to any conditions; or
   (b) refuse to approve an application for a permit.
(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
(4) The local government 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.

Division 3—Conditions

3.4 Conditions which may be imposed on a permit
(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—
   (a) the payment of a fee;
   (b) compliance with a standard or a policy of the local government adopted by the local government;
   (c) the duration and commencement of the permit;
   (d) the commencement of the permit being contingent on the happening of an event;
   (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
   (f) the approval of another application for a permit which may be required by the local government under any written law;
   (g) the area of the district to which the permit applies;
   (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
   (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
   (a) when fees and charges are to be paid;
   (b) payment of a bond against possible damage or cleaning expenses or both;
   (c) restrictions on the erection of material or external decorations;
   (d) rules about the use of furniture, plant and effects;
   (e) limitations on the number of persons who may attend any function in or on local government property;
   (f) the duration of the hire;
   (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit.
(h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act 1988;

(i) 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.

3.5 Imposing conditions under a policy

1) In this clause—

   policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.

3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).

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

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

3.6 Compliance with and variation of conditions

Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions including any conditions as varied by the local government under clause 3.3(4).

Division 4—General

3.7 Duration of permit

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

(a) otherwise stated in this local law or in the permit; or

(b) cancelled under clause 3.11.

3.8 Renewal of permit

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

2) The provisions of this Part apply to an application for the renewal of a permit as though it were an application for a permit.

3.9 Transfer of permit

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

   (a) be made in writing;

   (b) be signed by the permit holder and the proposed transferee of the permit;

   (c) provide such information as the local government may require to enable the application to be determined; and

   (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.10 Production of permit

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

3.11 Cancellation of permit

1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with—

   (a) condition of the permit; or

   (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
(2) On the cancellation of a permit the permit holder—
(a) shall return the permit as soon as practicable to the CEO; and
(b) is to be taken to have forfeited any fees paid in respect of the permit.

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

3.12 Activities needing a permit

(1) A person shall not without a permit—
(a) subject to subclause (3), hire local government property;
(b) advertise anything by any means on local government property;
(c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
(d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
(e) plant any plant or sow any seeds on local government property;
(f) carry on any trading on local government property unless the trading is conducted—
   (i) with the consent of a person who holds a permit to conduct a function, and where the trading is conducted on and in accordance with the permit; or
   (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
(g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
   (i) drive or ride or take any vehicle on to local government property; or
   (ii) park or stop any vehicle on local government property;
(h) conduct a function on local government property;
(i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
(j) light a fire on local government property except in a facility provided for that purpose;
(k) parachute, hang-glide, abseil or base jump from or on to local government property;
(l) erect a building or a refuelling site on local government property;
(m) make any excavation on or erect or remove any fence on local government property;
(n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
(o) de-pasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
(p) deposit or store any thing on local government property;
(q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
(r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.

(2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

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

3.13 Permit required to camp outside a facility

(1) In this clause—

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

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

(3) Except in accordance with a determination or a permit, a person must not—
(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
(b) erect any tent, camp, hut or similar structure on local government property.

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

3.14 Permit required for possession and consumption of liquor

(1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
(a) that is permitted under the Liquor Control Act 1988; and
(b) a permit has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.
3.15 Responsibilities of permit holder

A holder of a permit shall 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) leave the local government property in a clean and tidy condition after its use;
(c) report any damage or defacement of the local government property to the local government; and
(d) shall take all reasonable steps 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 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

4.1 Behaviour which interferes with others

A person shall not in or on any local government property behave in a manner which—
(a) interferes with the enjoyment of a person who might use the property;
(b) causes a disturbance to nearby residents; or
(c) creates a nuisance.

4.2 Behaviour detrimental to property

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

(2) In subclause (1)...

4.3 Taking or injuring any fauna

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

(2) In subclause (1)...

4.4 Intoxicated persons not to enter local government property

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

4.5 No prohibited drugs

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

4.6 No smoking

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

4.7 Signs

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

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

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

(a) not to be inconsistent with any provision of this local law or any determination; and

(b) to be for the purpose of giving notice of the effect of a provision of this local law.
PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

5.1 When entry must be refused
(1) A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who—
   (a) in her or his opinion is—
      (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;
      (ii) under the minimum age that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;
      (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
      (iv) under the influence of liquor or a prohibited drug.
   (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.
(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—
   (a) direct the person to leave; and
   (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited
A person shall not consume any food or drink in an area where consumption is prohibited by a sign.

Division 2—Fenced or closed property

5.3 No entry to fenced or closed local government property
A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

Division 3—Toilet blocks and change rooms

5.4 Only specified gender to use entry of toilet block or change room
(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—
   (a) females—then a person of the male gender shall not use that entry of the toilet block or change room;
   (b) males—then a person of the female gender shall not use that entry of the toilet block or change room; or
   (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry or 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.

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function
(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—
   (a) through the proper entrance for that purpose; and
   (b) on payment of the fee chargeable for admission at the time.
(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7—OBJECTIONS AND APPEALS

7.1 Objections and review
Division 1 of Part 9 of the Act and regulation 33 of the Regulations applies to a decision under this local law—
   (a) to grant a person a permit or consent under this local law; or
   (b) to renew, vary, or cancel a permit or consent that a person has under this local law.
PART 8—MISCELLANEOUS

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

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

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

8.4 Liability for damage to local government property
(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—
   (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
   (b) replacing that property.
(2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 9—ENFORCEMENT

Division 1—Notices given under this local law

9.1 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 a person fails to comply with the notice, that person commits an offence.

9.2 Local government may undertake requirements of notice
Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

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

Subdivision 2—Infringement notices and modified penalties

9.4 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.

9.5 Form of notices
(1) For the purposes of this local law—
   (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
   (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
   (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

Division 3—Evidence in legal proceedings

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

### [Clause 9.4]

<table>
<thead>
<tr>
<th>Item</th>
<th>Clause</th>
<th>Description</th>
<th>Modified Penalty $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2.4</td>
<td>Failure to comply with determination</td>
<td>125</td>
</tr>
<tr>
<td>2</td>
<td>3.6</td>
<td>Failure to comply with conditions of permit</td>
<td>125</td>
</tr>
<tr>
<td>3</td>
<td>3.12(1)</td>
<td>Failure to obtain a permit</td>
<td>125</td>
</tr>
<tr>
<td>4</td>
<td>3.13(3)</td>
<td>Failure to obtain permit to camp outside a facility</td>
<td>125</td>
</tr>
<tr>
<td>5</td>
<td>3.14(1)</td>
<td>Failure to obtain permit for liquor</td>
<td>125</td>
</tr>
<tr>
<td>6</td>
<td>3.15</td>
<td>Failure of permit holder to comply with responsibilities</td>
<td>125</td>
</tr>
<tr>
<td>7</td>
<td>4.2(1)</td>
<td>Behaviour detrimental to property</td>
<td>125</td>
</tr>
<tr>
<td>8</td>
<td>4.3(1)</td>
<td>Taking injuring or killing any fauna or attempting to take, injure or kill any fauna</td>
<td>250</td>
</tr>
<tr>
<td>9</td>
<td>4.4</td>
<td>Entering or remaining on local government property while under the influence of liquor or a prohibited drug</td>
<td>125</td>
</tr>
<tr>
<td>10</td>
<td>4.5</td>
<td>Taking a prohibited drug onto, or consuming or using a prohibited drug on, local government property</td>
<td>125</td>
</tr>
<tr>
<td>11</td>
<td>4.6</td>
<td>Smoking within a 5 metre radius of any entrance, exit or aperture of premises on local government property</td>
<td>125</td>
</tr>
<tr>
<td>12</td>
<td>4.7(2)</td>
<td>Failure to comply with sign on local government property</td>
<td>125</td>
</tr>
<tr>
<td>13</td>
<td>5.2</td>
<td>Consuming food or drink in prohibited area</td>
<td>125</td>
</tr>
<tr>
<td>14</td>
<td>5.3</td>
<td>Unauthorised entry to fenced or closed local government property</td>
<td>125</td>
</tr>
<tr>
<td>15</td>
<td>5.4</td>
<td>Gender not specified using entry of toilet block or change room</td>
<td>125</td>
</tr>
<tr>
<td>16</td>
<td>6.1(1)</td>
<td>Unauthorised entry to function on local government property</td>
<td>125</td>
</tr>
<tr>
<td>17</td>
<td>9.1</td>
<td>Failure to comply with notice</td>
<td>250</td>
</tr>
<tr>
<td>18</td>
<td>9.3(1)</td>
<td>All other offences not specified</td>
<td>125</td>
</tr>
</tbody>
</table>

Dated 10 August 2016.

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

Cr KEITH HOUSE, President.
SHELLEY PIKE, Chief Executive Officer.
LOCAL GOVERNMENT ACT 1995

SHIRE OF GNOWANGERUP

STANDING ORDERS LOCAL LAW 2016

CONTENTS

PART 1—PRELIMINARY
1.1 Citation
1.2 Commencement
1.3 Application
1.4 Repeal
1.5 Interpretation

PART 2—CALLING MEETINGS
2.1 Ordinary and special Council meetings
2.2 Calling Council meetings
2.3 Convening Council meetings
2.4 Calling Committee meetings
2.5 Public notice of meeting
2.6 Production of documents
2.7 Conference of Committees

PART 3—BUSINESS OF THE MEETING
3.1 Business to be specified in the agenda
3.2 Order of business
3.3 Public question time
3.4 Petitions
3.5 Confirmation of minutes
3.6 Announcements by the Presiding Member without discussion
3.7 Matters for which meeting may be closed to members of the public
3.8 Motions of which previous notice has been given
3.9 Questions by members of which due notice has been given
3.10 Urgent business approved by the Presiding Member or by decision
3.11 Deputations
3.12 Attending Committee meetings as an observer

PART 4—PUBLIC ACCESS TO AGENDA MATERIAL
4.1 Inspection entitlement
4.2 Confidentiality of information withheld
4.3 Media attendance
4.4 Distinguished visitors

PART 5—DISCLOSURE OF INTERESTS
5.1 Disclosure of interests

PART 6—QUORUM
6.1 Quorum for meetings
6.2 Loss of quorum during a meeting

PART 7—KEEPING OF MINUTES
7.1 Content of minutes
7.2 Preservation of minutes
PART 8—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

8.1 Official titles to be used
8.2 Members to occupy own seats
8.3 Leaving meetings
8.4 Adverse reflection
8.5 Recording of proceedings
8.6 Prevention of disturbance
8.7 Protection of employees

PART 9—CONDUCT OF MEMBERS DURING DEBATE

9.1 Members to rise
9.2 Priority
9.3 The Presiding Member to take part in debates
9.4 Relevance
9.5 Limitation of number of speeches
9.6 Duration of speeches
9.7 Members not to speak after conclusion of debate
9.8 Members not to interrupt
9.9 Re-opening discussion on decisions

PART 10—PROCEDURES FOR DEBATE OF MOTIONS

10.1 Permissible motions on report recommendations
10.2 Motions to be stated
10.3 Motions to be supported
10.4 Unopposed business
10.5 Only one substantive motion considered
10.6 Breaking down of complex questions
10.7 Order of call in debate
10.8 Limit of debate
10.9 Member may require questions to be read
10.10 Consent of seconder required to accept alteration of wording
10.11 Order of amendments
10.12 Amendments must not negate original motion
10.13 Mover of motion may speak on amendment
10.14 Substantive motion
10.15 Withdrawal of motion or amendments
10.16 Limitation of withdrawal
10.17 Personal explanation
10.18 Personal explanation—when heard
10.19 Ruling on questions of personal explanation
10.20 Right of reply
10.21 Right of reply provisions

PART 11—PROCEDURAL MOTIONS

11.1 Permissible procedural motions
11.2 No debate on procedural motions
11.3 Procedural motions—closing debate—who may move
11.4 Procedural motions—right of reply on substantive motion

PART 12—EFFECT OF PROCEDURAL MOTIONS

12.1 Council or Committee to proceed to the next business—effect of motion
12.2 Question to be adjourned—effect of motion
12.3 Council or Committee to now adjourn—effect of motion
12.4 Question to be put—effect of motion
12.5 Member to be no longer heard—effect of motion
12.6 Ruling of the Presiding Member disagreed with—effect of motion
12.7 Council or Committee to meet behind closed doors—effect of motion

PART 13—MAKING DECISIONS

13.1 Question—when put
13.2 Question—method of putting

PART 14—IMPLEMENTING DECISIONS

14.1 Implementation of a decision

PART 15—PRESERVING ORDER

15.1 The Presiding Member to preserve order
15.2 Demand for withdrawal
15.3 Points of order—when to raise—procedure
15.4 Points of order—when valid
15.5 Points of order—ruling
15.6 Points of order—ruling conclusive, unless dissent motion is moved
15.7 Points of order take precedence
15.8 Precedence of Presiding Member
15.9 Right of the Presiding Member to adjourn without explanation to regain order

PART 16—ADJOURNMENT OF MEETING
16.1 Meeting may be adjourned
16.2 Limit to moving adjournment
16.3 Unopposed business—motion for adjournment
16.4 Withdrawal of motion for adjournment
16.5 Time to which adjourned

PART 17—COMMITTEES OF THE COUNCIL
17.1 Establishment and appointment of Committees
17.2 Appointment of deputy Committee members
17.3 Presentation of Committee reports
17.4 Reports of Committees—questions
17.5 This local law applies to Committees

PART 18—ADMINISTRATIVE MATTERS
18.1 Suspension of this local law
18.2 Cases not provided for in this local law

PART 19—COMMON SEAL
19.1 The Council’s common seal

PART 20—ENFORCEMENT
20.1 Penalty for breach
20.2 Who can prosecute
Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation
This local law is the Shire of Gnowangerup Standing Orders Local Law 2016.

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

1.3 Application
All meetings of the Council, Committees and electors are to be conducted in accordance with the Act, the Regulations and this local law.

1.4 Repeal
The Shire of Gnowangerup Standing Orders Local Law 1999 published in the Government Gazette on 1 June 1999 is repealed.

1.5 Interpretation
(1) In these this local law, unless the contrary intention appears—

- **Act** means the Local Government Act 1995;
- **absolute majority** has the same meaning as given to it in the Act;
- **CEO** means the Chief Executive Officer of the local government;
- **Committee** means a Committee of the Council established under the Act;
- **Council** means the Council of the local government;
- **Councillor** has the same meaning as is given to it in the Act;
- **deputation** means a verbal submission at a Council or Committee meeting on an agenda item made by a person who has a direct interest in the agenda item;
- **employee** means an employee of the local government;
- **implement** in relation to a decision, includes—
  (a) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
  (b) take other action to give effect to the decision;
- **local government** means the Shire of Gnowangerup;
- **member**
  (a) in relation to the Council means the President or a Councillor; and
  (b) in relation to a Committee, means a member of the Committee;
- **Minister** means the Minister responsible for administering the Act;
- **motion** means a proposition presented to the Council for its deliberation;
- **President** means the President of the local government;
- **Presiding Member** means—
  (a) in respect of the Council, the Presiding Member in accordance with the Act; and
  (b) in respect of a Committee, the Presiding Member in accordance with the Act;
- **Regulations** means the Local Government (Administration) Regulations 1996;
- **simple majority** means more than 50% of members present and voting;
**substantive motion** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion; and

**urgent business** means business dealt with in accordance with clause 3.10.

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

## PART 2—CALLING MEETINGS

### 2.1 Ordinary and special Council meetings

(1) Ordinary and special Council meetings are dealt with in the Act.

(2) An ordinary meeting of the Council held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### 2.2 Calling Council meetings

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

### 2.3 Convening Council meetings

The convening of Council meetings is dealt with in the Act.

### 2.4 Calling Committee meetings

The CEO is to call a meeting of any Committee when requested to do so verbally or in writing by—

(a) the President or the Presiding Member of a Committee; or

(b) any two members of the Committee; or

(c) if so decided by the Council.

### 2.5 Public notice of meeting

Public notice of meetings is dealt with in the Regulations.

### 2.6 Production of documents

(1) In this clause the term **document** means a deed, book, report, paper or any other written material whatsoever or any other recorded or stored information.

(2) Upon the request of a member, made at least 8 hours before a meeting, the CEO is to make available by the commencement of the meeting, any document of the local government that relates to an item on the agenda for the meeting.

(3) Any document requested may be made available in the Council Chamber or in a place to which members have reasonable access within the Council’s administration building.

(4) Notwithstanding subclause (1), (2) and (3), if the CEO considers that any document requested is confidential, the CEO may make it available in any circumstances necessary to protect the integrity of that document.

### 2.7 Conference of Committees

Any two or more Committees may confer together by mutual agreement on any matter of joint interest.

## PART 3—BUSINESS OF THE MEETING

### 3.1 Business to be specified in the agenda

(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 a decision of the Council or Committee.

(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) No business is to be transacted at a Committee meeting other than that specified in the agenda of the meeting, without the approval of the Presiding Member or a decision of the Committee.

(4) No business is to be transacted at an adjourned meeting of the Council or a Committee other than that—

(a) specified in the agenda of the meeting which had been adjourned; and

(b) which remains unresolved,

except in the case of an adjournment to the next ordinary meeting of the Council or the Committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

### 3.2 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. Opening and announcement of visitors

2. Attendance/apologies/approved leave of absence

3. Application for leave of absence
4. Response to questions taken on notice
5. Public question time
6. Declarations of financial interests and interests affecting impartiality
7. Petitions/deputations/presentations
8. Confirmation of previous meeting minutes
9. Use of common seal
10. Announcements by Elected Members without discussion
11. Reports for Decision—Committees of Council
12. Reports for Decision—Strategy and Governance
13. Reports for Decision—Corporate Services and Community Development
14. Reports for Decision—Infrastructure and Asset Management
15. Reports for Decision—Statutory Compliance
16. Reports for Decision—Finance
17. Reports for Decision—Confidential Items
18. Urgent business introduced by decision of Council
19. Motions of which previous notice has been given
20. Date of next meeting

2. Unless otherwise decided by the members present, the order of business at any special meeting of
the Council or at a Committee meeting is to be the order in which that business stands in the agenda
of the meeting.

3. Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a
Committee, the provisions of the Act and Regulations relating to the time at which public question
time is to be held are to be observed.

4. Notwithstanding subclause (1), the CEO may include on the agenda of a Council or Committee
meeting in an appropriate place within the order of business any matter which must be decided, or
which he or she considers is appropriately decided, by that meeting.

3.3 Public question time
(1) Procedures for public question time are dealt with in the Act and Regulations.
(2) A member of the public who raises a question during question time is to state his or her name and
address.
(3) Questions asked by members of the public are not to be accompanied by any statement reflecting
adversely upon any member or employee.

3.4 Petitions
(1) A petition, in order to be effective, 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 names, addresses and signatures of the electors making the request, and the date
each elector signed;
(e) contain a summary of the reasons for the request;
(f) state the name of the person upon whom, and an address at which, notice to the petitioners
can be given;
(g) be in the form prescribed by the Act and Local Government (Constitution) Regulations 1998 if
it is—
(i) a proposal to change the method of filling the office of President; or
(ii) a submission about changes to wards, the name of a district or ward or the number of
Councillors for a district or ward.
(2) Following the presentation of a petition a member may move that the Council receive the petition
and refer it to an appropriate Committee for consideration.

3.5 Confirmation of minutes
(1) When minutes of a meeting are submitted to an ordinary meeting of the Council or Committee for
confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to—
(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.
(2) Discussion of any minutes, other than discussion as to their accuracy as a record of the
proceedings, is not permitted.

3.6 Announcements by the Presiding Member
(1) At any meeting of the Council or a Committee the Presiding Member may announce or raise any
matter of interest or relevance to the business of the Council or Committee, or propose a change to the
order of business.
Any member may move that a change in order of business proposed by the Presiding Member not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

3.7 Matters for which meeting may be closed to members of the public

For the convenience of members of the public, the Council or Committee may identify by decision any matter on the agenda of the meeting requiring confidential consideration and that matter is to be deferred for consideration as the last item of the meeting.

3.8 Motions of which previous notice has been given

(1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included in the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 clear working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good government of persons in the district.

(4) The CEO—

(a) with the concurrence of the President, may exclude from the agenda any notice of motion deemed to be out of order or likely to involve a breach of this local law or any other written law; or

(b) may after consultation with the member who gave notice of the motion make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and

(c) may under his or her name provide 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 thereof, or some other member authorised by him or her 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 in the circumstances referred to in subclause (5)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

3.9 Questions by members of which due notice has been given

(1) A question on notice is to be given by a member in writing to the CEO at least 2 clear working 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 is 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.

3.10 Urgent business approved by the Presiding Member or by decision

(1) Subject to subclauses (2) and (3), in cases of extreme urgency or other special circumstance, matters may, with the consent of the Presiding Member, or by decision of the members present, be raised without notice and decided by the meeting.

(2) Before a matter may be raised under subclause (1) the Presiding Member or a member otherwise seeking to raise the matter is to state why the matter is considered to be of extreme urgency or other special circumstance.

(3) If a member of the Council or Committee as the case requires, objects to a matter being raised without notice, any decision of the Council or Committee in regard to that matter does not have effect unless it has been made by an absolute majority.

3.11 Deputations

(1) A deputation wishing to be received by the Council or a Committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.

(2) The President, if the request is to attend a Council meeting, or the Presiding Member of the Committee, if the request is to attend a meeting of a Committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or Committee as the case may be, or may instruct the CEO to refer the request to the Council or Committee to decide by simple majority whether or not to receive the deputation.

(3) A deputation invited to attend a Council or Committee meeting—

(a) is not to exceed 3 persons, all of whom may address or respond to specific questions from the members of the Council or Committee; and

(b) is not to address the Council or Committee for a period exceeding 15 minutes without the agreement of the Council or the Committee as the case requires.

(4) Any matter which is the subject of a deputation to the Council or a Committee is not to be decided by the Council or that Committee until the deputation has completed its presentation.
3.12 Attending Committee meetings as an observer
(1) The President or a Councillor may attend any meeting of a Committee as an observer, even if the President or Councillor is not a member of that Committee.
(2) A deputy to a member of a Committee appointed under clause 17.2 may attend a meeting of that Committee as an observer, even if the deputy is not acting in the capacity of the member.
(3) The President or Councillor in the case of subclause (1), or deputy to a member attending a Committee meeting as an observer in the case of subclause (2) may, with the consent of the Presiding Member, speak, but cannot vote on any motion before the Committee.

PART 4—PUBLIC ACCESS TO AGENDA MATERIAL

4.1 Inspection entitlement
Members of the public have access to agenda material in the terms set out in the Regulations.

4.2 Confidentiality of information withheld
(1) Information withheld by the CEO from members of the public under the Regulations, is to be—
(a) identified in the agenda of a Council or Committee meeting under the item “Matters for which meeting may be closed to members of the public”; and
(b) marked “confidential” in the agenda; and
(c) kept confidential by members and employees until the Council or Committee resolves otherwise.
(2) A member or an employee who has—
(a) confidential information under subclause (1); or
(b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public,
is not to disclose such information to any person other than a member or an employee to the extent necessary for the purpose of carrying out his or her duties.
(3) Subclause (2) does not prevent a member or employee from disclosing information—
(a) at a closed meeting;
(b) to the extent specified by the Council and subject to such other conditions as the Council determines:
(c) that is already in the public domain:
(d) to an officer of the Department:
(e) to the Minister:
(f) to a legal practitioner for the purpose of obtaining legal advice; or
(g) if the disclosure is required or permitted by law.

4.3 Media attendance
Media persons are to be permitted to attend meetings of the Council or Committees that are open to the public, in such part of the Council Chamber or meeting room as may be set aside for their accommodation, but must withdraw during any period when the meeting is closed to the public.

4.4 Distinguished visitors
If a distinguished visitor is present at a meeting of the Council or a Committee, the Presiding Member may—
(a) invite the person to sit beside the Presiding Member or at the meeting table;
(b) acknowledge the presence of the distinguished visitor at an appropriate time during the meeting; and
(c) direct that the presence of the distinguished visitor be recorded in the minutes.

PART 5—DISCLOSURE OF INTERESTS

5.1 Disclosure of interests
Disclosure of interests is dealt with in the Act.

PART 6—QUORUM

6.1 Quorum for meetings
The quorum for meetings is dealt with in the Act.

6.2 Loss of quorum during a meeting
(1) If at any time during the course of a meeting of the Council or a Committee a quorum is not present—
(a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—
(i) a quorum is present to decide the matter; or
(ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under the Act; or
(b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the Presiding Member is to suspend the proceedings of the meeting for a period of ten minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the Presiding Member is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or this local law when calling a meeting of that type.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)(b)—
(a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
(b) in the case of a Council meeting—
(i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
(ii) the provisions of clause 9.5 of this local law apply when the debate is resumed.

PART 7—KEEPING OF MINUTES

7.1 Content of minutes
The content of minutes is dealt with in the Regulations.

7.2 Preservation of minutes
Minutes including the agenda of each Council and Committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the State Records Office within the Department of Culture and the Arts, in accordance with the retention and disposal policy determined by that office from time to time.

PART 8—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

8.1 Official titles to be used
Members of the Council are to speak of each other in the Council or Committee by their respective titles of President or Councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

8.2 Members to occupy own seats
(1) At the first meeting held after each election day, the President is to allocate a position at the Council table to each Member.
(2) Each Member is to occupy his or her allotted position at each Council meeting.

8.3 Leaving meetings
During the course of a meeting of the Council or a Committee no member is 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.

8.4 Adverse reflection
No member of the Council or a Committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.

8.5 Recording of proceedings
(1) No person is to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or a Committee without the written permission of the Council.
(2) If the Council gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.
(3) If a member of the Council or Committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

8.6 Prevention of disturbance
(1) Any member of the public addressing the Council or a Committee is to extend due courtesy and respect to the Council or Committee and the processes under which they operate and must take direction from the Presiding Member whenever called upon to do so.
(2) No person observing a meeting, is to 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.

8.7 Protection of employees
(1) For the purpose of this clause, complaint means any expression of censure or dissatisfaction raised with the object, whether expressed or implied, of having remedial or disciplinary action taken against the employee concerned.
(2) If at a meeting of the Council or a Committee, a complaint is received from a member of the Council or any other person about the ability, character or integrity of any employee or of any act or omission of an employee, and the person making the complaint has provided or is prepared to provide details of the complaint in writing and sign the complaint, the Council or Committee may—

(a) if the complaint is about the CEO, direct the signed written complaint to the President who is to refer the complaint to the Committee deemed most appropriate by the President to investigate and report upon the matter; or

(b) if the complaint is about any other employee, refer the signed written complaint to the CEO, who is to investigate the matter and report any action taken by him or her to the Council or Committee.

(3) Where a complaint is received by the Council or a Committee and becomes the subject of an investigation and report under subclause (2), the employee about whom the complaint is made, is to be given the opportunity to answer the complaint in writing.

PART 9—CONDUCT OF MEMBERS DURING DEBATE

9.1 Members to rise
Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the Presiding Member to speak, members may rise and address the Council through the Presiding Member.

9.2 Priority
In the event of two or more members of the Council or a Committee wishing to speak at the same time, the Presiding Member is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

9.3 The Presiding Member to take part in debates
Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in this local law, the Presiding Member may take part in a discussion of any matter before the Council or Committee as the case may be.

9.4 Relevance
Every member of the Council or a Committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

9.5 Limitation of number of speeches
No member of the Council is to address the Council more than once on any motion or amendment before the Council unless they are the mover of a substantive motion in reply, raising a point of order or making a personal explanation.

9.6 Duration of speeches
All addresses are to be limited to a maximum of 5 minutes. Extension of time is permissible only with the agreement of a simple majority of members present, which is to be given without debate.

9.7 Members not to speak after conclusion of debate
No member of the Council or a Committee is to speak to any question after it has been put by the Presiding Member.

9.8 Members not to interrupt
No member of the Council or a Committee is to interrupt another member of the Council or Committee whilst 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 10.17; or
(d) to move a motion under clause 11.1(e).

9.9 Re-opening discussion on decisions
No member of the Council or a Committee is to re-open discussion on any decision of the Council or Committee, except for the purpose of moving that the decision be revoked or changed.

PART 10—PROCEDURES FOR DEBATE OF MOTIONS

10.1 Permissible motions on report recommendations
A recommendation contained in a report to Council may be adopted without amendment or modification, failing which, it may be—

(a) rejected by the Council and replaced by an alternative decision; or
(b) amended or modified and adopted with such amendment or modification; or
(c) referred back to a Committee or Council for further consideration.

10.2 Motions to be stated
Any member of the Council or a Committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.
10.3 Motions to be supported
No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a Committee meeting, unless the motion has the support required under the Regulations.

10.4 Unopposed business
(1) Upon a motion being moved and seconded, the Presiding Member may ask the meeting if any member opposes it.
(2) If no member signifies opposition to the motion the Presiding Member may declare the motion in subclause (1) carried without debate and without taking a vote on it.
(3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or Committee.
(4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.
(5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or Committee meeting.

10.5 Only one substantive motion considered
When a substantive motion is under debate at any meeting of the Council or a Committee, no further substantive motion is to be accepted.

10.6 Breaking down of complex questions
The Presiding Member may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

10.7 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 in view, if any; and
(h) mover takes right of reply which closes debate.

10.8 Limit of debate
The Presiding Member may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

10.9 Member may require questions to be read
Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

10.10 Consent of seconder required to accept alteration of wording
The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.11 Order of amendments
Any number of amendments may be proposed to a 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 or lost.

10.12 Amendments must not negate original motion
No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

10.13 Mover of motion may speak on amendment
Any member may speak during debate on an amendment.

10.14 Substantive motion
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 (subject to clause 10.12).

10.15 Withdrawal of motion or amendments
Council or a Committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

10.16 Limitation of withdrawal
Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.
10.17 Personal explanation
No member is to speak at any meeting of the Council or a Committee, except upon the matter before the Council or Committee, unless it is to make a personal explanation. Any member of the Council or Committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or Committee rises to explain, no reference is to be made to matters unnecessary for that purpose.

10.18 Personal explanation—when heard
A member of the Council or a Committee wishing to make a personal explanation of matters referred to by any member of the Council or Committee then speaking, is entitled to be heard immediately, if the member of the Council or Committee then speaking consents at the time, but if the member of the Council or Committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

10.19 Ruling on questions of personal explanation
The ruling of the Presiding Member on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

10.20 Right of reply
(1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
(2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

10.21 Right of reply provisions
The right of reply is governed by the following provisions—
(a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
(b) if an amendment is moved to the substantive motion, the mover of the substantive motion is to take the right of reply subject to clause 10.12, at the conclusion of the vote on any amendments;
(c) the mover of any amendment does not have a right of reply; and,
(d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

PART 11—PROCEDURAL MOTIONS

11.1 Permissible procedural motions
In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions—
(a) that the Council or Committee proceed to the next business;
(b) that the question be adjourned;
(c) that the Council or Committee now adjourn;
(d) that the question be now put;
(e) that the member be no longer heard;
(f) that the ruling of the Presiding Member be disagreed with; and
(g) that the Council or Committee meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under the Act.

11.2 No debate on procedural motions
(1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (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 stated in each of paragraphs (d) and (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 Procedural motions—closing debate—who may move
No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment 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.
PART 12—EFFECT OF PROCEDURAL MOTIONS

12.1 Council or Committee to proceed to the next business—effect of motion
The motion in clause 11.1(a), if carried, causes the debate to cease immediately and for the Council or Committee to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

12.2 Question to be adjourned—effect of motion
(1) The motion in clause 11.1(b), if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
(2) If the motion is carried at a meeting of the Council—
   (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
   (b) the provisions of clause 9.5 apply when the debate is resumed.

12.3 Council or Committee to now adjourn—effect of motion
(1) The motion in clause 11.1(c), if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the Presiding Member or a simple majority of members upon vote, determine otherwise.
(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—
   (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
   (b) in the case of a Council meeting—
      (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
      (ii) the provisions of clause 9.5 apply when the debate is resumed.

12.4 Question to be put—effect of motion
(1) The motion in clause 11.1(d), if carried during discussion of a substantive motion without amendment, causes the Presiding Member to offer the right of reply and then immediately put the matter under consideration without further debate.
(2) The motion in clause 11.1(d), if carried during discussion of an amendment, causes the Presiding Member to put the amendment to the vote without further debate.
(3) The motion in clause 11.1(d), if lost, causes debate to continue.

12.5 Member to be no longer heard—effect of motion
The motion in clause 11.1(e), if carried, causes the Presiding Member to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

12.6 Ruling of the Presiding Member disagreed with—effect of motion
The motion in clause 11.1(f), if carried, causes the ruling of the Presiding Member about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

12.7 Council or Committee to meet behind closed doors—effect of motion
(1) Subject to any deferral under clause 3.7 or other decision of the Council or Committee, this motion, if carried, causes the general public and any officer or employee the Council or Committee determines, to leave the room.
(2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
(3) Upon the public again being admitted to the meeting, the Presiding Member, unless the Council or Committee decides otherwise, is to cause the motions passed by the Council or Committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes in accordance with the Act.
(4) A person who is a Council member, a Committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

PART 13—MAKING DECISIONS

13.1 Question—when put
When the debate upon any question is concluded and the right of reply has been exercised the Presiding Member shall immediately put the question to the Council or the Committee, and, if so desired by any member of the Council or Committee, shall again state it.

13.2 Question—method of putting
If a decision of the Council or a Committee is unclear or in doubt, the Presiding Member shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter’s vote is secret, before declaring the decision.
PART 14—IMPLEMENTING DECISIONS

14.1 Implementation of a decision
(1) If a notice of motion to revoke or change a decision of the Council or a Committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that—
   (a) if a notice of motion to revoke or change a decision of the Council or a Committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under the Regulations indicate their support for the notice of motion at that meeting; and
   (b) if a notice of motion to revoke or change a decision of the Council or a Committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under the Regulations.

(2) Implementation of a decision is only to be withheld under subclause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(3) The Council or a Committee shall not vote on a motion to revoke or change a decision of the Council or Committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given—
   (a) action has been taken to implement the decision; or
   (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

PART 15—PRESERVING ORDER

15.1 The Presiding Member to preserve order
The Presiding Member is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

15.2 Demand for withdrawal
A member at a meeting of the Council or a Committee may be required by the Presiding Member, or by a decision of the Council or Committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the Presiding Member may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

15.3 Points of order—when to raise—procedure
(1) Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker.

(2) Any member, who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the Presiding Member listens to the point of order.

(3) A member raising a point of order is to specify one of the grounds of the breach of order before speaking further on the matter.

(4) A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.

15.4 Points of order—when valid
The following are to be recognised as valid points of order—
   (a) that the discussion is of a matter not before the Council or Committee;
   (b) that offensive or insulting language is being used; and
   (c) drawing attention to the violation of any written law, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

15.5 Points of order—ruling
(1) The Presiding Member is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

(2) If a member persists in any conduct that the Presiding Member had ruled out of order under this clause, the Presiding Member may direct the member to refrain from taking part in the debate of that item, other than by voting and the member must comply with that direction.

15.6 Points of order—ruling conclusive, unless dissent motion is moved
The ruling of the Presiding Member upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.
15.7 Points of order take precedence
Notwithstanding anything contained in this local law to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

15.8 Precedence of Presiding Member
(1) When the Presiding Member rises during the progress of a debate, any member of the Council or Committee then speaking, or offering to speak, is to immediately sit down and every member of the Council or Committee present shall preserve strict silence so that the Presiding Member may be heard without interruption.
(2) Subclause (1) is not to be used by the Presiding Member to exercise the right provided in clause 9.3, but to preserve order.

15.9 Right of the Presiding Member to adjourn without explanation to regain order
(a) If a meeting ceases to operate in an orderly manner, the Presiding Member may use discretion to adjourn the meeting for a period of up to 15 minutes without explanation, for the purpose of regaining order.
(b) Upon resumption, debate is to continue at the point at which the meeting was adjourned.
(c) If, at any one meeting, the Presiding Member has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.
(d) Where debate of a motion is interrupted by an adjournment under subclause (a), in the case of a Council meeting—
   (i) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
   (ii) the provisions of clause 9.5 apply when the debate is resumed.

PART 16—ADJOURNMENT OF MEETING

16.1 Meeting may be adjourned
The Council or a Committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

16.2 Limit to moving adjournment
No member is to move or second more than one motion of adjournment during the same sitting of the Council or Committee.

16.3 Unopposed business—motion for adjournment
On a motion for the adjournment of the Council or Committee, the Presiding Member, before putting the motion, may seek leave of the Council or Committee to proceed to the transaction of unopposed business.

16.4 Withdrawal of motion for adjournment
A motion or an amendment relating to the adjournment of the Council or a Committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

16.5 Time to which adjourned
The time to which a meeting is adjourned for want of a quorum, by the Presiding Member to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

PART 17—COMMITTEES OF THE COUNCIL

17.1 Establishment and appointment of Committees
A Committee is not to be established except on a motion setting out the proposed functions of the Committee and either—
   (a) the names of the Council members, employees and other persons to be appointed to the Committee; or
   (b) the number of Council members, employees and other persons to be appointed to the Committee and a provision that they be appointed by a separate motion.

17.2 Appointment of deputy Committee members
(1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a Committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.
(2) Where a member of a Committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.
17.3 Presentation of Committee reports
When the report or recommendations of a Committee are placed before the Council, the adoption of recommendations of the Committee is to be moved by—

(a) the Presiding Member of the Committee if the Presiding Member is a Council Member and is in attendance; or
(b) a Council member who is a member of the Committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
(c) otherwise, by a Council member who is not a member of the Committee.

17.4 Reports of Committees—questions
Subject to clause 10.1, when a recommendation of any Committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendations through the Presiding Member to the Presiding Member or to any member of the Committee in attendance.

17.5 This local law applies to Committees
Where not otherwise specifically provided, this local law applies generally to the proceedings of Committees, except that the following do not apply to the meeting of a Committee—

(a) clause 8.2, in regard to seating;
(b) clause 9.1, in respect of the requirement to rise; and
(c) clause 9.5, limitation on the number of speeches.

PART 18—ADMINISTRATIVE MATTERS

18.1 Suspension of this local law
(1) The Council or a Committee may decide, by simple majority vote, to suspend temporarily one or more clauses of this local law.
(2) The mover of a motion to suspend temporarily any one or more clauses of this local law is to state the clause or clauses to be suspended, and the purpose of the suspension.

18.2 Cases not provided for in this local law
The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law and the Act and Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.1(f).

PART 19—COMMON SEAL

19.1 The Council's common seal
(1) The CEO is to have charge of the common seal of the local government, and is responsible for the safe custody and proper use of it.
(2) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by—

(a) the President and the CEO or an appropriate officer authorised;
(b) the Deputy President and the CEO or an appropriate officer authorised; or
(c) the CEO and an appropriate officer authorised.
(3) The common seal of the local government is to be affixed to any local law which is made by the local government.
(4) The CEO is to record in a register each date on which the common seal of the local government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
(5) Any person who uses the common seal of the local government or a replica thereof without authority commits an offence.

PART 20—ENFORCEMENT

20.1 Penalty for breach
A person who breaches a provision of this local law commits an offence. Penalty: $1,000 and a daily penalty of $100.

20.2 Who can prosecute
Who can prosecute is dealt with in the Act.

Dated 10 August 2016.
The Common Seal of the Shire of Gnowangerup was affixed by authority of a resolution of the Council in the presence of—

Cr KEITH HOUSE, President.
SHELLEY PIKE, Chief Executive Officer.