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SHIRE OF DUMBLEYUNG

BUSH FIRE BRIGADES LOCAL LAW 2022

CEMETERIES LOCAL LAW 2022

**CONTROL OF REFUSE ON BUILDING SITES REPEAL
LOCAL LAW 2022**

DOGS LOCAL LAW 2022

EXTRACTIVE INDUSTRIES LOCAL LAW 2022

FENCING LOCAL LAW 2022

HEALTH LOCAL LAW 2022

**PARKING AND PARKING FACILITIES REPEAL LOCAL
LAW 2022**

PEST PLANTS REPEAL LOCAL LAW 2022

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

STANDING ORDERS LOCAL LAW 2022

**LOCAL GOVERNMENT ACT 1995
BUSH FIRES ACT 1954**

SHIRE OF DUMBLEYUNG

BUSH FIRE BRIGADES LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, *Bush Fires Act 1954* and under all other powers enabling it, the Council of the Shire of Dumbleyung resolved on 15 September 2022 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Dumbleyung Bush Fire Brigades Local Law 2022*.

2. Application

This local law applies throughout the district.

3. Repeal

This local law repeals *the Shire of Dumbleyung Bush Fire Brigades Local Law 2002* as published in the *Government Gazette* on 21 March 2003.

4. Definitions

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

Act means the *Bush Fires Act 1954*;

brigade area has the meaning given in clause 6(1)(b);

brigade officer means a person holding a position referred to in clause 6.1(c), whether or not he or she was appointed by the local government or elected at an annual meeting of a bush fire brigade or otherwise appointed to the position;

bush fire brigade is defined in section 7 of the Act;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

local government means the Shire of Dumbleyung;

normal brigade activities is defined by section 35A of the Act; and

Regulations means Regulations made under the Act.

(2) In this local law, unless the context otherwise requires, a reference to—

- (a) a Captain;
- (b) a First Lieutenant;
- (c) a Second Lieutenant;
- (d) any additional Lieutenants;
- (e) an Equipment Officer;
- (f) a Secretary; and
- (g) Treasurer; or
- (h) a Secretary/Treasurer combined;

means a person holding that position in a bush fire brigade.

5. Establishment of a bush fire brigade

(1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

(3) A bush fire brigade established under subclause (1) is to hold a meeting at least once every financial year to appoint persons to the positions specified in clause 6(1)(c).

6. Name and officers of bush fire brigade

(1) On establishing a bush fire brigade under clause 5(1) the local government is to—

- (a) Give a name to the bush fire brigade;
- (b) Specify the brigade area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and
- (c) Appoint—
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) an Equipment Officer;

- (vi) a Secretary; and
- (vii) Treasurer; or
- (viii) A Secretary/Treasurer combined.

(2) A person appointed to a position pursuant to subclause (1)(c) is to be taken to be a brigade member.

(3) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.

(4) An election is to be held at the first annual general meeting by the members of the brigade for appointments to the positions referred to in subclause (1)(c) and every subsequent annual general meeting.

(5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting or at any time, then the Brigade members are to vote for a replacement member to fill the position.

(6) The Brigade members may elect, describe the duties of, and dismiss, any person to any other position including Secretary, Treasurer, Equipment Officer or other positions, and may combine those positions.

(7) The Brigade members may establish types of brigade membership including fire fighting members, auxiliary members, cadet members, and honorary life members.

7. Duties of Captain and bush fire brigade officers

(1) The duties of the Captain are to—

- (a) Provide leadership to bush fire brigades;
- (b) Monitor bush fire brigades' resourcing, equipment and training levels;
- (c) Liaise with the local government concerning—
 - (i) Fire prevention or fire suppression matters generally;
 - (ii) Directions to be issued by the local government to bush fire control officers, including those who issue permits to burn; and
 - (iii) Bush fire brigade officers;
- (d) Ensure that a list of bush fire brigade members is maintained;
- (e) Report annually to the local government the office bearers of the bush fire brigade in accordance with the Regulations;
- (f) Report to the local government not later than 30 April each year, for consideration and appropriate provision being made in the next local government budget, the status of a bush fire brigade's—
 - (i) Training and readiness;
 - (ii) Protective clothing;
 - (iii) Equipment; and
 - (iv) Vehicles and appliances.
- (g) Nominate persons to the CEO for appointment as bush fire control officers by the local government;
- (h) Arrange for normal brigade activities as authorised by the Act or by the local government; and
- (i) Where a vacancy occurs in a position appointed under clause 6(1)(c), to—
 - (i) Advise the CEO of the vacancy as soon as practicable; and
 - (ii) Make alternate suitable arrangements for that position until an appointment is made.

(2) It is the duty of other bush fire brigade officers to support the Captain in his/her role.

8. Appointment, employment, payment, dismissal and duties of bush fire control officers

The appointment, employment, payment, dismissal and duties of bush fire control officers is dealt with by the Act.

9. Maintenance and equipment with appliances and apparatus of bush fire brigades

The local government may provide funds for the maintenance and equipment with appliances and apparatus of bush fire brigades in accordance with Part 6 of the *Local Government Act 1995*.

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DUMBLEYUNG

CEMETERIES LOCAL LAW 2022

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions

PART 2—ADMINISTRATION

Division 1—General

- 2.1 Powers and functions of CEO
- 2.2 Plans

Division 2—Right of Burial

- 2.3 Issuing of grants
- 2.4 Right of holder
- 2.5 Renewal of grant
- 2.6 Replacement of grant
- 2.7 Transfer of grant
- 2.8 Exercising the rights of holder
- 2.9 Board may enter into an agreement for maintenance

PART 3—APPLICATION FOR INTERMENT

- 3.1 Application for interment permit
- 3.2 Applications to be accompanied by certificates etc.
- 3.3 Certificate of identification
- 3.4 Minimum notice required
- 3.5 Refusal of application

PART 4—FUNERALS AND MEMORIAL SERVICES

- 4.1 Fixing times for interments
- 4.2 Memorial services or processions
- 4.3 Processions
- 4.4 Conduct of interments by the Board

PART 5—INTERMENTS

- 5.1 Requirements for burials
- 5.2 Requirements for preparation of graves
- 5.3 Requirements for dimensions of graves
- 5.4 Requirements for disposal of ashes
- 5.5 Requirements for re-opening a grave
- 5.6 Requirements for exhumation
- 5.7 Requirements for opening of coffin or removal of shroud
- 5.8 Ashes not to be held by the Board

PART 6—APPLICATIONS FOR MEMORIALS

- 6.1 Application to place memorial
- 6.2 Australian War Graves

PART 7—MEMORIALS PERMITTED

- 7.1 Limitation on dimensions of memorials
- 7.2 Specification for monument
- 7.3 Specification for headstone
- 7.4 Specification for memorial plaque base
- 7.5 Specification for memorial plaque

- 7.6 Specification for gravesite fencing
- 7.7 Display of trade names on memorials not allowed
- 7.8 Use of wood

PART 8—MEMORIALS AND OTHER WORK

- 8.1 Carrying out memorial work
- 8.2 Removal of sand, soil or loam
- 8.3 Removal of rubbish
- 8.4 Plants and trees
- 8.6 Placing of grave ornaments
- 8.7 Hours of work
- 8.8 Unfinished work

PART 9—GENERAL

- 9.1 Vehicle access and speed limitation
- 9.2 Animals
- 9.3 Utility services
- 9.4 Damaging and removing of objects
- 9.5 Withered flowers
- 9.6 Littering and vandalism
- 9.7 Advertising
- 9.8 Signs and directions of the Board
- 9.9 Removal from a cemetery
- 9.10 Board may close cemetery
- 9.11 Offensive matters
- 9.12 Liability for damage or works required to comply
- 9.13 Offence to fail to comply with notice
- 9.14 Board may undertake requirements of notice

PART 10—OFFENCES AND MODIFIED PENALTIES

- 10.1 General penalties
- 10.2 Modified penalties

SCHEDULE 1—MODIFIED PENALTIES

SCHEDULE 2—INFRINGEMENT NOTICE

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF DUMBLEYUNG

CEMETERIES LOCAL LAW 2022

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dumbleyung resolved on 15 September 2022 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dumbleyung Cemeteries Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies to the Nippering Cemetery (Reserve 9943) and Kukerin Cemetery (Reserve 16502) located in the district.

1.4 Repeal

This local law repeals *the Shire of Dumbleyung Cemetery Local Law 2002* as published in the *Government Gazette* on 21 March 2003.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

ashes means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

authorised person means a person—

(a) appointed by the Board for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or

(b) authorised under section 64 of the Act to give infringement notices;

Board means the local government;

burial means placement of a coffin containing a dead body into a grave, and includes a natural burial;

business day means any week day other than a public holiday in Western Australia;

cemetery means a cemetery under the care and control of the Board;

CEO means the chief executive officer, for the time being, of the Board;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site, or the receptacle used for the burial of a dead body in a grave;

Commissioner of Police means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

district means the district of the local government;

funeral director means a person holding a current funeral director's licence;

grant of right of burial means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, niche wall, memorial garden or under a memorial plaque, or scattering of ashes within a cemetery;

headstone means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

interment includes, as the case may be—

(a) burial of a dead body;

(b) placement of ashes in a grave, niche wall, memorial garden or under a commemorative plaque; or

(c) scattering of ashes;

interment permit means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement or scattering of ashes in a cemetery;

local government means the Shire of Dumbleyung;

memorial has the meaning set out in the Act;

memorial plaque means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

memorial work means to install, repair, renovate or remove a memorial;

monument means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

natural burial means burial in the ground—

- (a) without preparation of the dead body using chemical preservatives; and
- (b) by containment of the dead body only in a shroud or biodegradable coffin;

niche wall means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

personal representative means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

set fee refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

shroud means, as the context requires—

- (a) a cloth or cloths used to securely wrap a dead body for burial; or
- (b) a dead body contained within a cloth or cloths;

standard grave means a grave which does not exceed any of the following dimensions: 2400 millimetres long, 1000 millimetres wide and 2140 millimetres deep;

utility services means municipal or public services and includes the supply of water, electrical power, and, gas and also includes refuse, building waste and sewerage disposal services; and

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or baby stroller, and includes a bicycle and a skateboard.

PART 2—ADMINISTRATION

Division 1—General

2.1 Powers and functions of CEO

Subject to the direction of the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery in the district.

2.2 Plans

(1) The Board shall establish and maintain a plan of each cemetery showing—

- (a) the location of areas set aside for burials, niche walls, memorial gardens, and placement of ashes in a garden;
- (b) the location of an area to be used only for burials of persons of a particular religious denomination;
- (c) the location of different areas of the cemetery to which different requirements for memorials apply;
- (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
- (e) any restricted areas.

(2) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

Division 2—Right of Burial

2.3 Issuing of grants

The Board may from time to time issue to a person a grant for the term specified in the Act, upon—

- (a) Written application by that person; and
- (b) Payment of the set fee.

2.4 Right of holder

(1) Subject to the local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right—

- (a) to be buried in a grave specified in the grant; and
- (b) to carry out monumental works on the gravesite specified in the grant.

(2) The Board at its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any rights referred to in subclause (1) and the holder shall forthwith comply with that request.

(4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

2.5 Renewal of grant

- (1) Where, at any time during the term of a grant, a holder—
 - (a) makes written application; and
 - (b) pays a set fee, the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
- (2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.
- (3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.
- (4) The holder shall forthwith upon receiving a request by the Board in accordance with subclause (3) deliver the existing grant to the Board.

2.6 Replacement of grant

- (1) The Board may—
 - (a) upon the written application of a holder; and
 - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.7 Transfer of grant

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the Board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.8 Exercising the rights of holder

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

2.9 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of a cemetery at the expense of the holder.

PART 3—APPLICATION FOR INTERMENT

3.1 Application for interment permit

- (1) A funeral director, the personal representative of a deceased person, or other person approved by an authorised person may apply for approval for an interment of a dead body in a cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.
- (3) An application for an interment permit under subclause (1) or (2) of—
 - (a) a dead body shall include details of—
 - (i) proposed burial method for the dead body in accordance with clause 5.1; and
 - (ii) the vehicle transporting the dead body to the gravesite; or
 - (b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).
- (4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

An application under clause 3.1(1) shall be accompanied by—

- (a) a certificate issued under clause 3.3; and
- (b) either a medical certificate of death or a Coroner's order of burial.

3.3 Certificate of identification

- (1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—
 - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

- (2) A funeral director shall provide a certificate, where—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

An application for interment shall be made to the Board at least five business days prior to the day proposed for interment, otherwise an extra fee may be charged.

3.5 Refusal of application

- (1) The Board may refuse an application for the interment permit under clause 3.1(1).
- (2) If the Board refuses to approve an application under subclause (1), written notice of the refusal is to be given to the applicant.

PART 4—FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

- (1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
- (a) approve a time for the interment; and
 - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—
- (a) on a Saturday, a Sunday or a public holiday;
 - (b) commencing at any time other than between the hours 9:00 am to 3:00 pm; or
 - (c) to conclude later than 4:00 pm.

4.2 Memorial services or processions

A person shall not conduct a memorial service or procession within a cemetery unless that person has the permission of the Board.

4.3 Processions

The time fixed by the Board for interment shall be the time at which the procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the interment under clause 3.1 shall if required by the Board, pay the set fee for being late.

4.4 Conduct of interments by the Board

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

- (a) require a written request to be made for the Board to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee is applicable or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in a cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which is considered necessary or convenient for the conduct of the funeral by the Board.

PART 5—INTERMENTS

5.1 Requirements for burials

A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for the burial of that dead body made under clause 3.1(1);
- (b) it is enclosed in a coffin or shroud which bears the name of the deceased person indelibly inscribed in legible characters on a plate attached in a clearly visible position; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 millimetres in height.

5.2 Requirements for preparation of graves

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.

(2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—

- (a) evidence of a prior interment is found, or known to have occurred;
- (b) access to the position is constrained;
- (c) the digging or preparation of the grave is unreasonably difficult; or
- (d) utility services may be interfered with.

(3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director, the personal representative of a deceased person, or other person approved by an authorised person, immediately.

5.3 Requirements for dimensions of graves

(1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the Board.

(2) Every grave prepared by the Board shall be dug at least 1800 millimetres deep and shall not exceed 2140 millimetres in depth, unless otherwise determined by the Board.

(3) Unless otherwise permitted by the Board, a person shall not bury a dead body within a cemetery so that the distance from the top of the coffin or shroud to the original surface of the ground is—

- (a) subject to paragraph (b), less than 1600 millimetres, unless that person has the permission of an authorised person; or
- (b) in any circumstances less than 750 millimetres.

(4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

5.4 Requirements for disposal of ashes

(1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.

(2) The person approved under subclause (1) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—

- (a) placed within the perimeter of an authorised gravesite's at a depth of at least 600 millimetres;
- (b) placed in a family grave;
- (c) placed in a niche wall;
- (d) placed in a memorial garden; or
- (e) other method approved by the Board.

(3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.

(4) The Board may—

- (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under clause 3.1(2).

(5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

5.5 Requirements for re-opening a grave

(1) A person shall not reopen a grave without the approval of the Board.

(2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.6 Requirements for exhumation

(1) Subject to subclause (2), a person shall not exhume a dead body in a cemetery for the purposes of reburial within 12 months after the date of its interment.

(2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

(3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the Board requesting the exhumation and an authorised person has authorised the exhumation.

5.7 Requirements for opening of coffin or removal of shroud

A person shall not open a coffin or remove a shroud in a cemetery unless—

- (a) the coffin is opened or shroud removed for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed or authorised pursuant to the Act and an authorised person has approved the opening of that coffin or removal of the shroud.

5.8 Ashes not to be held by the Board

The Board shall not accept custody of ashes of a deceased person.

PART 6—APPLICATIONS FOR MEMORIALS**6.1 Application to place memorial**

(1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of a cemetery.

(2) The Board may require the written consent of the holder of the grant of right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of an authorised person to accompany an application for a memorial made under section 30 of the Act.

(3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion

(4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

6.2 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

- (a) may place a complying memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

PART 7—MEMORIALS PERMITTED**7.1 Limitation on dimensions of memorials**

(1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the dimensions of a standard grave.

(2) No part of a monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—

- (a) where the persons interred are of the same family; or
- (b) for another acceptable reason.

7.2 Specification for monument

A monument is to be constructed in a manner approved by the Board.

7.3 Specification for headstone

A headstone is to be constructed in a manner approved by the Board.

7.4 Specification for memorial plaque base

A memorial plaque base is to be constructed in a manner approved by the Board.

7.5 Specification for memorial plaque

A memorial plaque is to be made in a manner approved by the Board.

7.6 Specification for gravesite fencing

Gravesite fencing is to be constructed in a manner approved by the Board.

7.7 Display of trade names on memorials not allowed

A person shall not display any trade names or marks on a memorial.

7.8 Use of wood

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

PART 8—MEMORIALS AND OTHER WORK**8.1 Carrying out memorial work**

(1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.

(2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to a cemetery.

(3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.

(4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.

(5) Work is not permitted to be left unattended in an untidy or unsafe state.

8.2 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of a cemetery for use in the construction of any memorial or other work except with the written approval of the Board.

8.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from a cemetery by the person carrying out the work.

8.4 Plants and trees

No trees or shrubs shall be planted on any grave or within a cemetery except such as shall be approved by the Board.

8.5 Supervision

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of a cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

8.6 Placing of grave ornaments

A person shall not place vases or other grave ornaments—

- (a) outside the perimeter of a grave in a cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) outside of an area set aside by the Board as a memorial plaque section.

8.7 Hours of work

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within a cemetery—

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

8.8 Unfinished work

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

PART 9—GENERAL**9.1 Vehicle access and speed limitation**

(1) A person must only drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 20 kilometres per hour, and shall comply with the signs and directions in the cemetery.

9.2 Animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth) or with the approval of the CEO or an authorised officer.

9.3 Utility services

(1) Other than with the approval of the Board, a person shall not—

- (a) connect any device or equipment to any utility services supplied on or at a cemetery; or
- (b) alter or interfere with utility services infrastructure located in a cemetery.

(2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

9.5 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

9.6 Littering and vandalism

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon a cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

9.7 Advertising

(1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.

(2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Signs and directions of the Board

(1) The Board may display, mark, place or erect a sign within a cemetery specifying conditions relating to the use of that cemetery.

(2) A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Board.

9.9 Removal from a cemetery

(1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.

(2) A person to whom an order under subclause (1) is given must comply with that order.

9.10 Board may close cemetery

The Board may—

- (a) temporarily close a cemetery or any part of it;
- (b) exclude from a cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to a cemetery or any part of it; or
- (d) direct persons to leave a cemetery or any part of it, for purposes of—
 - (i) a funeral or public convenience;
 - (ii) maintenance, redevelopment or extension of a cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

9.11 Offensive matters

(1) A person shall not allow or cause to be displayed any offensive materials, wording, symbols or images of any kind, whether as a sign, on a memorial or otherwise visible.

(2) Where, in the opinion, based on reasonable grounds, of the Board, a person does not comply with subclause (1), the Board may issue a notice under clause 9.12(1).

9.12 Liability for damage or works required to comply

(1) Where a person—

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law;

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

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

9.13 Offence to fail to comply with notice

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

9.14 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.13, the Board 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.

PART 10—OFFENCES AND MODIFIED PENALTIES

10.1 General penalties

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500, and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

10.2 Modified penalties

(1) The offences specified in Schedule 1 are offences which may be dealt with under Section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The infringement notice referred to in Section 63(1) of the Act shall be in the form set out in the Schedule 2.

(4) The notice withdrawing an infringement notice referred to in Section 63(3) of the Act shall be in the form set out in Schedule 3.

SCHEDULE 1—MODIFIED PENALTIES

Cemeteries Local Law 2022

[cl. 10.2(1)]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised reopening of a grave	50
7	5.6(1)	Unauthorised exhumation of a coffin or shroud	50
8	5.7	Unauthorised opening of a coffin or shroud	50
9	7.7	Use of trade name or mark on a memorial	50
10	7.8	Unauthorised use of wood on a gravesite	50
11	8.1	Unauthorised construction of a memorial	50
12	8.2	Unauthorised use of materials taken from within a cemetery	50
13	8.3	Failure to remove rubbish and surplus materials	50
14	8.4	Unauthorised planting of tree or shrub	50
15	8.5	Failure to comply with direction of authorised person	50
16	8.6	Unauthorised placing of grave ornaments	50
17	8.7	Works carried out during unauthorised times	50
18	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
19	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
20	9.1(2)	Exceeding speed limit	50
21	9.3	Interference with utility services	50
22	9.4	Damaging or removing object	50
23	9.5	Failure to dispose of withered flowers appropriately	50
24	9.6	Littering or vandalism within a cemetery	50
25	9.7	Unauthorised advertising and/or trading	50
26	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
27	9.9(2)	Failure to comply with order to leave cemetery	50
28	9.11(1)	Display of offensive materials, wording, symbols or images	50
29	9.13	Failure to comply with notice within specified period	50

SCHEDULE 2—INFRINGEMENT NOTICE

Cemeteries Local Law 2022

[cl. 10.2(3)]

Infringement Notice

INFRINGEMENT NUMBER—		
To—		
Address—		
	It is alleged that—	
Cemetery address—		
At—	Time	
On—	Date	
	You committed the following offence—	
Contrary to—	<i>Shire of Dumbleyung Cemeteries Local Law 2022</i>	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description—		
The modified penalty for the offence is—	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Dumbleyung within a period of 28 days after the giving of this notice.	
Name of authorised person—		
Position—		
Signature—		
Date—		
Payments may be made—	(a) EFT to the Shire of Dumbleyung specifying the infringement number (b) In person at—Shire of Dumbleyung, Harvey Street, Dumbleyung during business hours (c) By mail to—Shire of Dumbleyung PO Box 99, Dumbleyung 6350 Please make cheques payable to Shire of Dumbleyung.	

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

Cemeteries Local Law 2022

[cl. 10.2(4)]

Withdrawal of Infringement Notice

No. Date / /

To: ^[1]

Infringement Notice No dated ___/___/___ for the alleged offence of ^[2]

Penalty ^[3] \$_____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

* It is proposed to institute court proceedings for the alleged offence.

(Authorised Person)

^[1] Insert name and address of alleged offender.

^[2] Insert short particulars of offence alleged.

^[3] Insert amount of penalty prescribed.

Dated 15 September 2022

The Common Seal of the Shire of Dumbleyung was affixed in the presence of—

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

CONTROL OF REFUSE ON BUILDING SITES REPEAL LOCAL LAW 2022

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

1. Citation

This local law is cited as the *Shire of Dumbleyung Control of Refuse on Building Sites Repeal Local Law 2022*.

2. Commencement

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

3. Repeal

This Local Law repeals the *Shire of Dumbleyung Control of Refuse on Building Sites Local Law 2002* as published in the *Government Gazette* on 21 March 2003.

Dated 15 September 2022

The Common Seal of the Shire of Dumbleyung was affixed in the presence of—

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF DUMBLEYUNG

DOGS LOCAL LAW 2022

TABLE OF CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions

PART 2—IMPOUNDING OF DOGS

- 2.1 Fees and charges
- 2.2 Attendance of authorised person at dog management facility
- 2.3 Release of impounded dog
- 2.4 Unauthorised release

PART 3—KEEPING OF DOGS

- 3.1 Dogs to be confined
- 3.2 Limitation on the number of dogs
- 3.3 Application to keep additional dog or dogs
- 3.4 Determination of application
- 3.5 Where application cannot be approved
- 3.6 Conditions of approval
- 3.7 Revocation of licence to keep additional dogs

PART 4—APPROVED KENNEL ESTABLISHMENTS

- 4.1 Application for licence for approved kennel establishment
- 4.2 Notice of proposed use
- 4.3 Exemption from notice requirements
- 4.4 When application can be determined
- 4.5 Determination of application
- 4.6 Where application cannot be approved
- 4.7 Conditions of approval
- 4.8 Fees
- 4.9 Form of licence
- 4.10 Period of licence
- 4.11 Variation or cancellation of licence
- 4.12 Transfer
- 4.13 Notification
- 4.14 Objections and appeals
- 4.15 Inspection of kennel

PART 5—DOGS IN PUBLIC PLACES

- 5.1 Places where dogs are prohibited absolutely
- 5.2 Places which are dog exercise areas

PART 6— MISCELLANEOUS

- 6.1 Fees and charges
- 6.2 Offence to excrete

PART 7— ENFORCEMENT

- 7.1 Offences
- 7.2 General penalty
- 7.3 Modified penalties
- 7.4 Issue of infringement notice
- 7.5 Failure to pay modified penalty
- 7.6 Payment of modified penalty

7.7 Withdrawal of infringement notice

7.8 Service of notices

**SCHEDULE 1—INFORMATION REQUIRED FOR APPLICATION FOR A
LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

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

SCHEDULE 3—PRESCRIBED OFFENCES

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF DUMBLEYUNG

DOGS LOCAL LAW 2022

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

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dumbleyung Dogs Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the *Shire of Dumbleyung Dogs Local Law 2002* published in the *Government Gazette* on 21 March 2003.

1.5 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6 metres in width;

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

CEO means the Chief Executive Officer for the local government;

dangerous dog has the meaning given to it by section 3(1) of the Act;

district means the district of the Shire of Dumbleyung;

dog management facility has the meaning given to it in section 3(1) of the Act;

infringement notice means the notice referred to in clause 7.4;

kennel establishment means any premises where more than the number of dogs under clause 3.2(2) over the age of three months are kept, boarded, trained or bred temporarily, usually for profit and where the occupier of the premises is not the ordinary keeper of the dogs;

licence means a licence to keep an approved kennel establishment on premises granted under clause 4.7;

licensee means the holder of a licence granted under clause 4.7;

local government means the Shire of Dumbleyung;

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

notice of withdrawal means the notice referred to in clause 7.7(1);

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

premises in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence made under clause 4.1;

public place has the meaning given to it by section 3(1) of the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule to this local law;

set fee means a fee or charge made by the local government in accordance with clause 2.1 or clause 4.8;

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

townsite means land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.12.

PART 2—IMPOUNDING OF DOGS

2.1 Fees and charges

The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional set fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) application for additional costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

An authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to an authorised person.
- (2) An authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of an authorised person, evidence—
 - (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
 - (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 Unauthorised release

Unauthorised release of dogs is dealt with by section 43 of the Act.

PART 3—KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must—
 - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and the Regulations.

3.2 Limitation on the number of dogs

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

3.3 Application to keep additional dog or dogs

- (1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—
 - (a) the property is deemed suitable by an authorised person—
 - (i) having sufficient space capable of confining all dogs;
 - (ii) noise, odours, fleas, flies and other vectors of disease will be effectively controlled; and
 - (iii) the care and welfare of the dogs is considered adequate;
 - (b) the details of every dog proposed to be kept on the premises are provided including name, age, colour/description, breed, registration number and microchip details; and

- (c) sufficient reason has been provided, including—
 - (i) to replace an elderly or sick dog not expected to live;
 - (ii) a family emergency resulting in the dog being inherited;
 - (iii) merging of two households;
 - (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
 - (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.
- (d) in the case of a tenanted property provide written consent by either the landowner or their appointed property owner

3.4 Determination of application

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

- (a) the matters referred to in clause 3.3;
- (b) the effect which approval of the application may have on the environment or amenity of the neighbourhood;
- (c) whether approval of the application will create a nuisance for the owners and occupiers of adjoining premises.

3.5 Where application cannot be approved

The local government will not approve an application to keep an additional dog or dogs where it exceeds the limit of six (6) referred to in the Act.

3.6 Conditions of approval

- (1) The local government may approve an application to keep an additional dog or dogs subject to any conditions as considered appropriate.
- (2) Approval of an application is not transferable to successive owners or occupiers of the premises.
- (3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

3.7 Revocation of licence to keep additional dogs

Where a person does not comply with the conditions of approval to keep an additional dog or dogs under clause 3.6 the local government may revoke the approval to keep an additional dog or dogs.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Application for licence for approved kennel establishment

An application for a licence must contain the information listed in Schedule 1, and must be lodged with the local government together with—

- (a) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;
- (b) any other information reasonably required by the local government; and
- (c) the set fee for the application for a licence referred to in clause 4.8(1).

4.2 Notice of proposed use

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

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

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

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

(3) The local government may refuse to determine the application for a licence until the notice or notices, as the case may be, is given in accordance with its directions where—

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

4.3 Exemption from notice requirements

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

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

4.4 When application can be determined

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

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.2(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises.

4.5 Determination of application

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

- (a) the matters referred to in clause 4.6;
- (b) any written submissions received within the time specified in clause 4.2(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.6 Where application cannot be approved

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

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

4.7 Conditions of approval

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

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

(3) A person who fails to comply with a condition imposed under subclause (1) commits an offence.

4.8 Fees

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

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

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

(4) The set fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.9 Form of licence

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

4.10 Period of licence

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

(2) A licence is to be renewed if the set fee referred to in clause 4.8(2) is paid to the local government prior to the expiry of the licence.

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

4.11 Variation or cancellation of licence

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

(2) The local government may cancel a licence—

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

(3) The date a licence is cancelled is to be, in the case of—

- (a) subclause (2)(a), the date requested by the licensee; or
- (b) subclause (2)(b) or (c), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the set fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.12 Transfer

(1) A written application for the transfer of a valid licence from the licensee to another person must be—

- (a) made by the transferee;
- (b) made with the written consent of the licensee; and
- (c) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence;
 - (ii) the set fee for the application for the transfer of a licence referred to in clause 4.8(3); and
 - (iii) any other relevant information required.

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.13(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.13 Notification

The local government is to give written notice to—

- (i) an applicant for a licence of the local government's decision on her or his application;
- (ii) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (iii) a licensee of any variation made under clause 4.11(1);
- (iv) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (v) a licensee when her or his licence is renewed;
- (vi) a licensee of the cancellation of a licence under clause 4.11(2)(a); and
- (vii) a licensee of the cancellation of a licence under clause 4.11(2)(b) or (c), which notice is to be given in accordance with section 27(6) of the Act.

4.14 Objections and appeals

(1) The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to a decision where the local government makes a decision as to whether it will—

- (a) grant an application for a licence;
- (b) vary or cancel a licence;
- (c) impose or amend a condition to which a licence is subject; or
- (d) transfer of a licence.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.15 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

Designation of places where dogs are prohibited absolutely is dealt with in the Act.

5.2 Places which are dog exercise areas

Designation of places which are dog exercise areas is dealt with in the Act.

PART 6— MISCELLANEOUS

6.1 Fees and charges

Set fees and charges are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

6.2 Offence to excrete

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

(4) Notwithstanding clause 7.2, the maximum penalty for an offence under subclause (1) is \$1000.

PART 7— ENFORCEMENT

7.1 Offences

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

7.2 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

7.3 Modified penalties

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

(2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is not a dangerous dog.

(3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

7.5 Failure to pay modified penalty

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

7.6 Payment of modified penalty

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

7.7 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

(2) A person authorised to issue an infringement notice under clause 7.4 cannot sign or send a notice of withdrawal.

7.8 Service of notices

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

**SCHEDULE 1—INFORMATION REQUIRED FOR APPLICATION
FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[cl. 4.1]

1. Details of applicants—
 - (a) Full name/s of applicant/s;
 - (b) Postal address;
 - (c) Telephone number;
 - (d) Mobile number;
 - (e) Fax number; and
 - (f) E-mail address.
 - (g) Address of proposed premises.
 - (h) Dogs to be kept—
 - (a) Number; and
 - (b) Breed.
 - (i) Either—
 - (a) Person residing on the premises—
 - (i) Name;
 - (ii) As from; and
 - (iii) Mobile phone number, or
 - (b) Person sufficiently close to the premises so as to control the dogs and ensure their health and welfare—
 - (i) Name;
 - (ii) Address;
 - (iii) As from; and
 - (iv) Mobile phone number.
 - (j) To be included—
 - (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
 - (b) plans and specifications of the proposed kennel establishment;
 - (c) copy of notice of proposed use to appear in newspaper and to be given to adjoining premises under clause 4.2;
 - (d) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
 - (e) if the person in item (d) is not the applicant, written evidence that the person is a person in charge of the dogs.
 - (k) Signature of applicant/s.
 - (l) Date.

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

[cl. 4.7]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
 - (ii) 10 metres from any dwelling; and
 - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;

- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
 - (f) the upper surface of the kennel floor must be—
 - (i) at least 100 millimetres above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
 - (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
 - (h) the kennel floor must have a durable up-stand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
 - (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
 - (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2000 millimetres; or
 - (ii) four times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
 - (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
 - (l) all external surfaces of each kennel must be kept in good condition;
 - (m) the roof of each kennel must be constructed of impervious material;
 - (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
 - (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
 - (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
 - (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
 - (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
-

SCHEDULE 3—PRESCRIBED OFFENCES

[cl. 7.3(1)]

Item	Clause	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200	As per Regulations
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200	500
3	4.7	Failure to comply with the conditions of a licence	200	200
4	6.2	Dog excreting in prohibited place	100	100

Dated 15 September 2022

The Common Seal of the Shire of Dumbleyung was affixed in the presence of—

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****EXTRACTIVE INDUSTRIES LOCAL LAW 2022****TABLE OF CONTENTS****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Definitions
- 1.4 Application
- 1.5 Transition
- 1.6 Repeal

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

- 2.1 Extractive industries prohibited without licence
- 2.2 Applicant to advertise proposal
- 2.3 Application for licence

PART 3—DETERMINATION OF APPLICATION

- 3.1 Determination of application
- 3.2 Payment of annual licence fee

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE

- 4.1 Transfer of licence
- 4.2 Cancellation of licence
- 4.3 Renewal of licence
- 4.4 Notice of outcome

PART 5—SECURED SUM AND APPLICATION THEREOF

- 5.1 Security for restoration and reinstatement
- 5.2 Use by local government of secured sum

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS

- 6.1 Limits on excavation near boundary
- 6.2 Obligations of the licensee
- 6.3 Prohibitions
- 6.4 Blasting

PART 7—MISCELLANEOUS PROVISIONS

- 7.1 Public liability
- 7.2 Mines Safety and Inspection Act and Environment Protection Act
- 7.3 Notice of cessation of operations
- 7.4 Works to be carried out on cessation of operations

PART 8—OBJECTIONS AND APPEALS

- 8.1 Objection and review rights

PART 9—OFFENCES, PENALTIES AND FORMS

- 9.1 Offences
- 9.2 Modified penalties
- 9.4 Forms

SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****EXTRACTIVE INDUSTRIES LOCAL LAW 2022**

Under the powers conferred by the *Local Government Act 1995* and by all other powers, the local government of the Shire of Dumbleyung resolved on 15 September 2022 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Dumbleyung Extractive Industries Local Law 2022*.

1.2 Commencement

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

1.3 Definitions

In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995*;

AS means an Australian Standard published by Standards Australia, as amended from time to time, and available for viewing free of charge at the Shire of Dumbleyung Administration office;

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

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

excavation includes quarry;

land unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

licence means a licence issued under this local law;

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

local government means the Shire of Dumbleyung;

occupier has the meaning given to it in the Act;

owner has the meaning given to it in the Act;

person does not include the local government;

planning approval means an approval for a development and/or a land use that is issued under a local planning scheme administered by the local government;

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

Schedule means a schedule to this local law; and

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

1.4 Application

(1) The provisions of this local law—

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

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

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

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

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

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

(e) do not affect the validity of any licence issued under the local law repealed by clause 1.6 of this local law if that licence is currently in force at the date of gazettal of this local law.

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

1.5 Transitional provisions

(1) Within 90 days of commencement of this local law or within 90 days of the date of the annual licence fee of a previous licence becoming due and payable (under clause 3.2), the local government may in respect of the licence—

(a) vary or delete a condition; or

- (b) impose one or more other conditions, as specified in clause 3.1(5).
- (2) A condition that is varied, deleted or imposed under subclause (1) does not become effective until 90 days (or longer period that is specified by the local government) after written notice of the condition is given by the local government to the licensee.

1.6 Repeal

This local law repeals the *Shire of Dumbleyung Extractive Industries Local Law 2002* as published in the *Government Gazette* on 21 March 2003.

PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY

2.1 Extractive industries prohibited without licence

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

2.2 Applicant to advertise proposal

(1) Unless the local government first approves otherwise, a person seeking the issue of a licence shall, before applying to the local government for a licence—

- (a) forward by registered mail a notice in the form determined by the local government from time to time to—
 - (i) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within 21 days from the date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (ii) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(1)(a)(vii) and (viii) within 500 metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence; and
- (b) as soon as practicable after complying with the requirements of paragraph (a)—
 - (i) forward a copy of the notice to the CEO; and
 - (ii) publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

(2) The local government may, within 14 days after receiving a copy of a notice referred to in subclause (1), cause to be displayed, or require the proposed applicant to display, in a prominent position on the land one or more notices—

- (a) in the form determined by the local government from time to time;
- (b) the content, size and construction of which have been approved by the CEO;
- (c) specifying particulars of the proposed excavation; and
- (d) inviting objections or comments within 21 days from the placement of the notice.

2.3 Application for licence

(1) Subject to subclause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—

- (a) three (3) copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—
 - (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
 - (ii) the land on which the excavation site is to be located;
 - (iii) the external surface dimensions of the land;
 - (iv) the location and depth of the existing and proposed excavation of the land;
 - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
 - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
 - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
 - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
 - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
 - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;

- (b) Three (3) copies of a works and excavation programme containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
 - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
 - (iv) details of the depth and extent of the existing and proposed excavation of the site;
 - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
 - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
 - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
 - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
 - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
 - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
 - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
 - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
 - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
 - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
 - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) Three (3) copies of a rehabilitation and decommissioning programme indicating—
- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
 - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
 - (iii) how any face is to be made safe and batters sloped;
 - (iv) the method by which topsoil is to be replaced and revegetated;
 - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
 - (vi) how rehabilitated areas are to be maintained; and
 - (vii) the programme for the removal of buildings, plant, waste and final site clean-up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (a); and
 - (ii) the datum peg and related point referred to in paragraph (d);
- (f) where the applicant is required to display a notice, evidence that the requirements of clause 2.2 (2) have been carried out;
- (g) copies of all land use planning approvals required under any planning legislation;
- (h) copies of any environmental approval required under any environmental legislation;
- (i) copies of any geotechnical information relating to the excavation site;
- (j) the consent in writing to the application from the owner of the excavation site;
- (k) the licence application fee specified by the local government from time to time; and
- (l) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of subclause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 5000 square metres; and
 - (b) the extracted material is not to exceed 5000 cubic metres;

the local government may exempt a person making application for a licence under subclause (1) from supplying any of the data specified in paragraphs (b), (d), (e) and (i) of subclause (1).

PART 3—DETERMINATION OF APPLICATION**3.1 Determination of application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.3, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
 - (b) approve the application—
 - (i) over the whole or part of the land in respect of which the application is made; and
 - (ii) such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 5 years from the date of issue; and
 - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (4) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*;
 - (b) payment of the secured sum if any, imposed under clause 5.1;
 - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
 - (d) a copy of the public liability insurance policy required under clause 7.1(1) shall issue the licence to the applicant.
- (5) Without limiting subclause (2), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
 - (b) the appropriate siting of access thoroughfares, buildings and plant;
 - (c) the stockpiling of material;
 - (d) the hours during which any excavation work may be carried out;
 - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
 - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
 - (g) the depths below which a person shall not excavate;
 - (h) distances from adjoining land or thoroughfares within which a person must not excavate;
 - (i) the safety of persons employed at or visiting the excavation site;
 - (j) the control of dust and wind-blown material;
 - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
 - (l) the prevention of the spread of dieback or other disease;
 - (m) the drainage of the excavation site and the disposal of water;
 - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
 - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
 - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
 - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in repairing damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
 - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
 - (s) any other matter for properly regulating the carrying on of an extractive industry.

3.2 Payment of annual licence fee

On or before 30 June in each year, a licensee shall pay to the local government the annual licence fee determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**4.1 Transfer of licence**

- (1) An application for the transfer of a licence shall—
 - (a) be made in writing;
 - (b) be signed by the licensee and the proposed transferee of the licence;
 - (c) be accompanied by the current licence;
 - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
 - (e) include any information that the local government may reasonably require; and
 - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government in accordance with sections 6.16 to 6.19 of the Act, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

4.2 Cancellation of licence

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

4.3 Renewal of licence

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—
 - (a) the fee determined by the local government from time to time;
 - (b) a copy of the current licence;
 - (c) a plan showing the contours of the excavation carried out to the date of that application;
 - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.3 (1) (b) and (c); and
 - (e) any other things referred to in clauses 2.3 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1) (d) or (e).
- (3) If—
 - (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
 - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application,

then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.3 and 3.1.

- (4) Upon receipt of an application for the renewal of a licence, the local government may—
 - (a) refuse the application; or
 - (b) approve the application on such terms and conditions, if any, as it sees fit.

4.4 Notice of outcome

The local government will provide written notice to an applicant whenever it makes a decision regarding the issue, renewal, transfer or cancellation of a licence.

PART 5—SECURED SUM AND APPLICATION THEREOF**5.1 Security for restoration and reinstatement**

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

- (a) as a condition of a licence; or
- (b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.

(2) A bond required under subclause (1) is to be paid into a fund established by the local government for the purposes of this clause.

(3) Subject to clause 5.2, any interest accrued in respect of the bond paid into the fund under subclause (2) is to be returned to the licensee at the completion of the restoration and reinstatement works required by the licence conditions or otherwise under this local law.

5.2 Use by the local government of secured sum

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

- (a) within the time specified in those conditions; or
- (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions,

then, subject to the local government giving the licensee 14 days notice of its intention to do so—

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

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

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

PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**6.1 Limits on excavations near boundary**

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any thoroughfare; or
- (d) 40 metres of any watercourse.

6.2 Obligations of the licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
 - (i) is not more than 200 metres apart;
 - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
 - (iii) bears the words 'DANGER EXCAVATIONS KEEP OUT';
- (c) except where the local government approves otherwise, drain and keep drained to the local government's satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

6.3 Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the Department of Mines, Industry Regulation and Safety; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

6.4 Blasting

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

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

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

PART 7—MISCELLANEOUS PROVISIONS

7.1 Public liability

(1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation operations.

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

7.2 Mines Safety and Inspection Act and Environmental Protection Act

(1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.

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

7.3 Notice of cessation of operations

(1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of 12 months; or
- (b) permanently,

the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

7.4 Works to be carried out on cessation of operations

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
 - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
 - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

PART 8—OBJECTIONS AND REVIEW

8.1 Objection and review rights

(1) The provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply when the local government makes a decision as to whether it will—

- (a) grant a person a licence under this local law; or
- (b) renew, vary, transfer, or cancel a licence that a person has under this local law.

(2) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

PART 9—OFFENCES, PENALTIES AND FORMS

9.1 Offences

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

9.2 General penalty

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

9.3 Modified penalty

(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.

9.4 Forms

For the purposes of this local law—

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

SCHEDULE 1
PRESCRIBED OFFENCES

Extractive Industries Local Law 2022

(clause 9.3)

Item	Clause	Description	Modified Penalty \$
1	2.1	Carry on extractive industry without licence or in breach of terms and conditions	500
2	6.1	Excavate near boundary	500
3	6.2(a)	Gateways not kept locked where required	500
4	6.2(b)	Warning signs not erected or maintained as required	500
5	6.2(c)	Excavation not drained as required	500
6	6.2(e)	Failure to prevent the emission of dust, noise or other forms of nuisance	500
7	6.3(a)	Remove trees or shrubs near boundary without approval	500
8	6.3(b)	Store without required approval explosives or explosive devices	500
9	6.3(c)	Fill or excavate in breach of licence	500
10	6.4(1)(a)	Blasting without approval of the local government	500
11	6.4(1)(b)	Blasting outside times authorised	500
12	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	500
13	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	500

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

FENCING LOCAL LAW 2022**TABLE OF CONTENTS****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions
- 1.6 Requirements of local planning scheme
- 1.7 Requirements of *Building Act 2011*

PART 2—SUFFICIENT FENCES

- 2.1 Sufficient fences—requirement
- 2.2 Sufficient fences—generally
- 2.3 Sufficient fences—between lots having different requirements
- 2.4 General discretion of the local government
- 2.5 Transitional provision

PART 3—FENCING GENERALLY

- 3.1 Fences within front and secondary setback areas
- 3.2 Alteration of ground levels
- 3.3 Obstruction of watercourse
- 3.4 Gates or doors in fences
- 3.5 Retaining walls
- 3.6 Estate fencing
- 3.7 Maintenance of fences
- 3.8 Fences across rights-of-way, public access ways or thoroughfares

PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE

- 4.1 Prohibited materials
- 4.2 Pre-used fencing materials
- 4.3 Approved materials
- 4.4 Screening

PART 5—RESTRICTED FENCING

- 5.1 Barbed wire fencing
- 5.2 Electrified fencing
- 5.3 Razor wire fencing

PART 6—APPROVALS

- 6.1 Application for approval
- 6.2 Decision on application for approval
- 6.3 Compliance with approval
- 6.4 Cancellation of an approval
- 6.5 Duration of approval

PART 7—OBJECTIONS AND REVIEW

- 7.1 Objections and review

PART 8—ENFORCEMENT

- 8.1 Notices of breach
- 8.2 Offences and penalties
- 8.3 Modified penalties
- 8.4 Form of notices

SCHEDULE 1—SUFFICIENT FENCE—RESIDENTIAL AND TOWNSITE LOTS**SCHEDULE 2—SUFFICIENT FENCE—COMMERCIAL,
INDUSTRIAL AND SPECIAL USE LOTS****SCHEDULE 3—SUFFICIENT FENCE—RURAL AND RURAL RESIDENTIAL LOTS****SCHEDULE 4—PRESCRIBED OFFENCES**

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****FENCING LOCAL LAW 2022**

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

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Dumbleyung Fencing Local Law 2022*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the *Shire of Dumbleyung Local Laws Relating to Fencing 2002* as published in the *Government Gazette* on 21 March 2003.

1.5 Definitions

In this local law unless the context otherwise requires—

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

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

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

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

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

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

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

CEO means the Chief Executive Officer of the local government;

dangerous in relation to any fence means—

- (a) an electrified fence which does not comply with clause 5.2 of this local law;
- (b) a fence containing barbed wire other than a fence constructed and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire, metal spikes or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

district means the district of the local government;

dividing fence has the meaning given in section 5 of the *Dividing Fences Act 1961*;

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

estate boundary fence means the fence constructed around the external boundary of a subdivision of land to indicate the extent of that subdivision and includes any special works or construction that identifies the entrance to that land;

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

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

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

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

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

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

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

local government means the Shire of Dumbleyung;

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

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

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

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

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

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

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

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

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

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

Schedule means a Schedule to this local law;

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

secondary setback area means the area between the building line of a lot and a side boundary of that lot which adjoins a thoroughfare.

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

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

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

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

townsite lot means a lot zoned as townsite under the local planning scheme.

1.6 Requirements of local planning scheme

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

1.7 Requirements of *Building Act 2011*

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

PART 2—SUFFICIENT FENCES

2.1 Sufficient fences—requirement

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

2.2 Sufficient fences—generally

Subject to clause 2.3 a sufficient fence—

- (a) on a residential lot or townsite lot is a dividing fence or a boundary fence constructed in accordance with Schedule 1;
- (b) on a commercial lot, industrial lot or special use lot is a dividing fence or a boundary fence constructed in accordance with Schedule 2; and
- (c) on a rural lot or rural residential lot is a dividing fence or a boundary fence constructed in accordance with Schedule 3.

2.3 Sufficient fences—between lots having different requirements

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

- (a) a residential lot or townsite lot and a lot zoned for any other purpose, a sufficient fence is a fence constructed in accordance with Schedule 1; and
- (b) a commercial lot or industrial lot and a rural lot or rural residential lot, a sufficient fence is a fence constructed in accordance with Schedule 3.

2.4 General discretion of the local government

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

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

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

2.5 Transitional provision

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

PART 3—FENCING GENERALLY

3.1 Fences within front and secondary setback areas

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

(2) An authorised person may approve the construction of a fence of a height greater than 1200mm in the front setback area of a residential lot or townsite lot, if provision is made for lines of vision for a motorist using the driveway to access a thoroughfare where the fence on each side of the driveway into the lot across the front boundary is angled—

- (a) into the lot for a distance of not less than 1500mm along the frontage, and
- (b) to a distance of not less than 1500mm from the frontage.

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

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

3.2 Alteration of ground levels

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

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

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

3.3 Obstruction of watercourse

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

3.4 Gates or doors in fences

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

3.5 Retaining walls

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

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

3.6 Estate fencing

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

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

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

3.7 Maintenance of fences

An owner or occupier of a lot on which a fence is constructed shall maintain the fence in good condition and suitably enclosed so as to prevent it from becoming damaged, dangerous, dilapidated, unfit for purpose or unsightly.

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

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

PART 4—FENCING MATERIALS, SCREENING AND MAINTENANCE

4.1 Prohibited materials

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

4.2 Pre-used fencing materials

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

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

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

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

4.3 Approved materials

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

4.4 Screening

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

(2) Screening is not to be affixed to a fence so that the maximum combined height of the fence and screening exceeds 2100mm.

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

PART 5—RESTRICTED FENCING

5.1 Barbed wire fencing

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

(2) An owner or occupier of a townsite lot, rural lot or rural residential lot shall not place or affix barbed wire upon a fence on that lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the top or the side of the fence posts furthest from the thoroughfare or other public place.

(3) An owner or occupier of a commercial lot, industrial lot or special use lot shall not construct or affix to any fence bounding that lot any barbed wire unless—

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

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

5.2 Electrified fencing

(1) An owner or occupier of a lot shall not construct or use an electrified fence on that lot without first obtaining approval of an authorised person.

(2) Notwithstanding subclause (1), approval is not required for an electrified fence if—

- (a) constructed on a rural lot or rural residential lot;
- (b) for the purpose of animal control;
- (c) installed in accordance with the manufacturer's specifications; and
- (d) which is not the dividing fence with a residential lot, townsite lot or special use lot.

(3) An electrified fence for the purpose of security must not be present on a lot unless it complies with *AS/NZS 3016-2002 Electrical installations—Electric security fences*, as amended from time to time, and which is available for viewing free of charge at the Shire of Dumbleyung Administration Centre.

- (4) Approval to have and use an electrified fence for the purpose of security shall not be issued—
- (a) in respect of a lot which is or which abuts a residential lot or townsite lot; and
 - (b) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is constructed.

5.3 Razor wire fencing

- (1) An owner or occupier of a lot shall not construct a fence wholly or partly of razor wire on that lot without first obtaining approval under subclause (2).
- (2) Approval to have a fence constructed wholly or partly of razor wire shall not be issued—
- (a) in respect of a lot which is or which abuts a residential lot or townsite lot;
 - (b) if the fence is within 3000mm of the boundary of the lot; or
 - (c) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

PART 6—APPROVALS

6.1 Application for approval

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

6.2 Decision on application for approval

- (1) An application submitted to the local government under this local law may be—
- (a) approved by an authorised person;
 - (b) approved by an authorised person subject to conditions as the authorised person sees fit; or
 - (c) rejected by an authorised person.
- (2) In determining whether to grant its consent to the construction or installation, an authorised person may consider, in addition to any other matter that it is authorised to consider, whether the construction or retention of the fence would have an adverse impact on—
- (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the streetscape or neighbouring properties.
- (3) An authorised person may by written notice amend a condition imposed under subclause (1)(b) at any time.
- (4) An amendment under subclause (3) is effective from the date specified in the notice.
- (5) If an authorised person approves an application for approval, it is to give written notice of the approval and any conditions applied, to the applicant.
- (6) If an authorised person refuses to approve an application for approval, it is to give written notice of that refusal and the reasons for the decision to the applicant.

6.3 Compliance with approval

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

6.4 Cancellation of an approval

An authorised person may cancel an approval if—

- (a) the owner or occupier requests an authorised person to do so;
- (b) the fence to which the approval applies has been demolished and is not rebuilt for a period of 6 months;
- (c) the circumstances have changed in such a way that an approval for the fence could no longer be granted under the local law;

- (d) the owner or occupier fails to comply with a condition of the permit or breaches a provision of this local law in respect of the fence; or
- (e) the owner or occupier fails to comply with a notice of breach issued under clause 8.1.

6.5 Duration of approval

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

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

Where the local government or an authorised person makes a decision whether to grant, renew, vary or cancel any licence, permit, approval or other means of authorisation under this local law, the provisions of Part 9 Division 1 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

PART 8—ENFORCEMENT

8.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, an authorised person may give a notice of breach in writing to the owner or occupier of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner or occupier is required to remedy the breach within the time specified in the notice.
- (3) An owner or occupier given a notice of breach shall comply with the terms of the notice and remedy the breach within the time specified in the notice.
- (4) Should an owner or occupier fail to comply with a notice, an authorised person may enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of doing so from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.
- (5) This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

8.2 Offences and penalties

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

8.3 Modified penalties

- (1) The amount appearing in the final column of Schedule 4 directly opposite a prescribed offence in that Schedule is the modified penalty for that prescribed offence.
- (2) An offence against a clause specified in Schedule 4 is a prescribed offence for the purposes of section 9.16(1) of the Act.

8.4 Form of notices

For the purposes of this local law—

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

SCHEDULE 1—SUFFICIENT FENCE—RESIDENTIAL AND TOWNSITE LOTS

Fencing Local Law 2022

[Clause 2.2(a)]

Each of the following is a sufficient fence on residential and townsite lots—

- (a) except with respect to the front setback area for which there is no minimum height but which is subject to clause 3.1; and
- (b) where constructed to an average height of 1800mm.

1. Timber fence

- (1) Any type of professionally manufactured timber fence, constructed in accordance with the manufacturer's specifications.
- (2) A dense brushwood constructed in accordance with the manufacturer's specifications.
- (3) A timber fence constructed as follows—
 - (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
 - (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
 - (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
 - (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
 - (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered; and
 - (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail.

2. Corrugated fence

- (1) Any fence constructed of corrugated fibre reinforced pressed cement sheet fence or steel sheeting fence in accordance with the manufacturer's specifications.
- (2) A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—
 - (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
 - (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet; and
 - (c) the sheets to be lapped and capped with extruded snap-fit type capping in accordance with the manufacturer's specifications.

3. Brick, stone or concrete fence

Any type of brick stone or concrete fence that—

- (a) is constructed in accordance with the Building Code, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance.
- (b) has footings having a minimum of 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (c) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres; and
- (d) expansion joints in accordance with the manufacturer's specifications.

4. Composite fence

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

**SCHEDULE 2—SUFFICIENT FENCE—COMMERCIAL,
INDUSTRIAL AND SPECIAL USE LOTS**

Fencing Local Law 2022

[Clause 2.2(b)]

Each of the following is a sufficient fence on commercial and industrial lots—

1. A fence constructed of galvanized or PVC coated—
 - (a) rail-less link;
 - (b) chain; or
 - (c) steel mesh.
2. A fence constructed in accordance with clause (1) shall be constructed in accordance with the following specifications—
 - (a) to a height of 2000mm;
 - (b) corner posts to be a minimum of 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
 - (c) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 4 metre centres and with footings of a 225mm diameter x 600mm;
 - (d) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
 - (e) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
 - (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables;
 - (g) vehicle entry gates shall provide an opening of not less than 3.6 metres and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework; and
 - (h) gates shall be fixed with a drop bolt and locking attachment.
3. A fence constructed in accordance with paragraph (2) may have up to 3 strands of plain or barbed wire, none being less than 1800mm above ground level, not more than 2400mm above ground level
4. Fences constructed in accordance with Schedule 1

SCHEDULE 3—SUFFICIENT FENCE—RURAL AND RURAL RESIDENTIAL LOTS

Fencing Local Law 2022

[Clause 2.2(c)]

Each of the following is a sufficient fence on rural and rural residential lots—

- (1) In the case of a non-electrified fence, a fence of posts and wire construction suitable for the stock type contained but with the minimum specifications as follows—
 - (a) at least 1000 mm finished height
 - (b) wire shall be—
 - (i) high tensile wire and not less than 2.5mm; and
 - (ii) a minimum of six wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;
 - (c) posts shall be of indigenous timber or other suitable material including—
 - (i) timber impregnated with a termite and fungicidal preservative, and not less than 50mm diameter at small end if round or 125mm x 60mm if split or sawn;
 - (ii) standard iron star pickets; or
 - (iii) concrete;
 - (d) posts to be set minimum 400mm in the ground; and
 - (e) strainer posts shall be—
 - (i) not less than 2250mm long and 50mm diameter at the small end (tubular steel to be 50mm in diameter);
 - (ii) cut from indigenous timber or other suitable material; and
 - (iii) placed a minimum of 1000mm in the ground.
- (2) An electrified fence having five wires only is a sufficient fence if constructed generally in accordance with clause (1).

SCHEDULE 4—PRESCRIBED OFFENCES

Fencing Local Law 2022

[Clause 8.3]

Item	Clause	Nature of offence	Modified penalty \$
1	2.1	Construction of a dividing fence or boundary fence on a lot that is not a sufficient fence without approval	200
2	3.1	Construction of a non-compliant fence within setback area without approval	200
3	3.2(1)	Alteration of ground levels without approval	500
4	3.3	Obstruction of a watercourse	200
5	3.4	Construction of a gate or fence encroaching over other property	200
6	3.5	Construction of retaining wall without approval	500
7	3.6(1)	Construction of estate fencing without approval	500
8	3.7	Failure to maintain fence in good condition	200
9	3.8	Construction of a fence across right-of-way etc. without approval	500
10	4.1	Use of prohibited materials in a fence	500
11	4.2(1)	Use of pre-used fencing materials without approval	200
12	4.4(2)	Construction of screen exceeding 2100mm in height	200
13	5.1(1)	Using or allowing to remain barbed wire on a residential lot	200
14	5.1(2)	Non-compliant use of barbed wire on a townsite, rural or rural residential lot	200
15	5.1(3)	Non-compliant use of barbed wire on a commercial, industrial or special use lots	500
16	5.2	Construction of an electric fence without approval	500
17	5.3	Construction of a razor wire fence without approval	500
18	6.3	Failure to comply with conditions of approval for fence	500
19	8.1(3)	Failure to comply with notice of breach in relation to Part 5—Restricted Fencing	500
20	8.1(3)	Failure to comply with notice of breach in relation to all matters other than Part 5—Restricted Fencing	200
21	8.2(1)	Other offences not specified	200

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

HEALTH LOCAL LAW 2022**TABLE OF CONTENTS****PART 1—PRELIMINARY**

- 1.1 Title
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Interpretation

PART 2—SANITATION*Division 1—Sanitary Conveniences*

- 2.1 Interpretation
- 2.2 Dwelling house
- 2.3 Premises other than a dwelling house
- 2.4 Events
- 2.5 Maintenance of sanitary conveniences and fittings
- 2.6 Public sanitary conveniences
- 2.7 Lighting

Division 2—Bathrooms, Laundries and Kitchens

- 2.8 Bathrooms
- 2.9 Laundries
- 2.10 Washing or keeping of clothes in kitchens
- 2.11 Kitchens

PART 3—HOUSING AND GENERAL*Division 1—Maintenance of Dwelling Houses*

- 3.1 Dwelling house maintenance
- 3.2 Guttering and downpipes
- 3.3 Exemption for short term hostels and recreational campsites
- 3.4 Overcrowding
- 3.5 Calculated sufficient space

Division 3—Water Supply

- 3.6 Water supply
- 3.7 Rainwater tanks
- 3.8 Pollution

Division 4—Morgues

- 3.9 Licensing of morgues

PART 4—LIQUID REFUSE AND LIQUID WASTE

- 4.1 Interpretation
- 4.2 Deposit of liquid refuse
- 4.3 Disposal of liquid waste

PART 5—NUISANCES AND GENERAL*Division 1—Nuisances*

- 5.1 Interpretation
- 5.2 Escape of smoke etc.
- 5.3 Public vehicles to be kept clean
- 5.4 Prohibition against spitting
- 5.5 Dust management
- 5.6 Emission or reflection of light
- 5.7 Use or storage of fertiliser

Division 2—Keeping of Animals

- 5.8 Cleanliness

- 5.9 Animal enclosures
5.10 Disposal of dead animals
Division 3—Keeping of Approved Animals
5.11 Interpretation
5.12 Keeping of approved animals and provision of stables
5.13 Proximity of approved animals to a dwelling house
5.14 Manure receptacles
Division 4—Keeping of Poultry and Pigeons
5.15 Interpretation
5.16 Limitation on numbers of pigeons, poultry and miscellaneous birds
5.17 Conditions of keeping poultry
5.18 Roosters, Geese, Turkeys, Peafowl and Gamebirds
5.19 Conditions of keeping pigeons
5.20 Removal of nonconforming structures or enclosures
5.21 Restrictions on pigeon nesting or perching
5.22 Restrictions on feeding wild birds

Division 5—Feedlots

- 5.23 Interpretation
5.24 Premises to be approved
5.25 Management of beef cattle feedlots
5.26 Compliance with direction or notice of an Authorised Officer

PART 6—PEST CONTROL

Division 1—Flies

- 6.1 Interpretation
6.2 Control of flies

Division 2—Mosquitoes

- 6.3 Interpretation
6.4 Measures to be taken to prevent mosquito breeding
6.5 Measures to be taken by occupier
6.6 Removal of undergrowth or vegetation
6.7 Filling in excavations etc.
6.8 Drains, channels and septic tanks
6.9 Drainage of land

Division 3—Rodents

- 6.10 Interpretation
6.11 Measures to be taken to eradicate rodents

Division 4—Cockroaches

- 6.12 Interpretation
6.13 Measures to be taken to eradicate cockroaches

Division 5—Argentine Ants

- 6.14 Interpretation
6.15 Measures to be taken to keep premises free from Argentine ants

Division 6—European Wasps

- 6.16 Interpretation
6.17 Measures to be taken to keep premises free from European wasp nest

Division 7—Bee Keeping

- 6.18 Interpretation
6.19 Limitation on numbers of hives
6.20 Restrictions on keeping of bees in hives
6.21 Bees which cause a nuisance not to be kept

Division 8—Arthropod Vectors of Disease

- 6.22 Interpretation
6.23 Responsibility of the owner or occupier
6.24 Local government may execute work and recover costs

PART 7—INFECTIOUS DISEASES

Division 1—General Provisions

- 7.1 Purpose of exercise of powers
7.2 Authorised Officer may visit, inspect and report

- 7.3 Requirements on owner or occupier to clean, disinfect and disinfect
- 7.4 Authorised Officer may disinfect or disinfect the premises
- 7.5 Insanitary houses, premises and things
- 7.6 Medical Officer may authorise disinfecting
- 7.7 Persons in contact with an infectious disease sufferer
- 7.8 Declaration of infected house or premises
- 7.9 Destruction of infected animals
- 7.10 Disposal of a body
- 7.11 Local government may carry out work and recover costs

Division 2—Disposal of Used Condoms and Needles

- 7.12 Disposal of used condoms
- 7.13 Disposal of used needles

PART 8—LODGING HOUSES

Division 1—Registration

- 8.1 Interpretation
- 8.2 Accommodation not to be kept unless registered
- 8.3 Application for registration
- 8.4 Certificate of Registration of accommodation
- 8.5 Renewal of registration
- 8.6 Notification upon sale or transfer
- 8.7 Revocation of registration

Division 2—Construction and use requirements

- 8.8 General construction requirements
- 8.9 Insect screening
- 8.10 Sanitary conveniences
- 8.11 Laundry unit
- 8.12 Kitchen
- 8.13 Cooking facilities
- 8.14 Dining room
- 8.15 Lounge room
- 8.16 Fire prevention and control
- 8.17 Obstruction of passages and stairways
- 8.18 Fitting of locks
- 8.19 Restriction on use of rooms for sleeping
- 8.20 Sleeping accommodation short term hostels and recreational campsites
- 8.21 Furnishing etc. of sleeping apartments
- 8.22 Ventilation
- 8.23 Numbers to be placed on doors

Division 3—Management and Care

- 8.24 Keeper or manager to reside in the lodging house
- 8.25 Register of lodgers
- 8.26 Keeper report
- 8.27 Certificate of Sleeping Accommodation
- 8.28 Duplicate keys and inspection
- 8.29 Room occupancy
- 8.30 Infectious disease
- 8.31 Maintenance of a room by a lodger or resident
- 8.32 Cleaning and maintenance requirements
- 8.33 Responsibilities of lodgers and residents

PART 9—OFFENSIVE TRADES

Division 1—General

- 9.1 Interpretation
- 9.2 Consent to establish an offensive trade
- 9.3 Notice of application
- 9.4 Registration of premises
- 9.5 Certificate of Registration of Premises for Offensive Trade
- 9.6 Change of occupier
- 9.7 Alterations to premises

Division 2—General Duties of an Occupier

- 9.8 Interpretation
- 9.9 Cleanliness
- 9.10 Rats and other vectors of disease
- 9.11 Sanitary conveniences and hand wash basins
- 9.12 Painting of walls etc.
- 9.13 Effluvia, vapours or gases
- 9.14 Offensive material
- 9.15 Storage of materials
- 9.16 Directions

Division 3—Fat Rendering Establishments

- 9.17 Interpretation
- 9.18 Ventilation
- 9.19 Covering of apparatus
- 9.20 Rendering of walls

Division 4—Laundries, Dry Cleaning Establishments and Dye Works

- 9.21 Interpretation
- 9.22 Receiving depot
- 9.23 Reception room
- 9.24 Walls and floors
- 9.25 Laundry floor
- 9.26 Escape of dust
- 9.27 Precautions against combustion
- 9.28 Trolleys
- 9.29 Sleeping on premises

Division 5—Abattoirs

- 9.30 Construction

Division 6—Piggeries

- 9.31 Interpretation
- 9.32 Premises to be approved
- 9.33 Limitations to registration
- 9.34 Conditions of registration
- 9.35 Sties, enclosures or sheds
- 9.36 Slaughtering
- 9.37 Feed
- 9.38 Fencing
- 9.39 Water supply
- 9.40 Feeding troughs
- 9.41 Prevention of nuisance

PART 10—OFFENCES AND PENALTIES

- 10.1 Offences and penalties
- 10.2 Form of infringement notices
- 10.3 Other enforcement actions
- 10.4 Power of entry into private property

PART 11—OBJECTION AND APPEAL

- 11.1 Objection and appeal rights

SCHEDULE 1—OFFENSIVE TRADES**SCHEDULE 2—PRESCRIBED OFFENCES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

HEALTH LOCAL LAW 2022

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

PART 1—PRELIMINARY**1.1 Title**

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

1.2 Commencement

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

1.3 Application

This local law applies throughout the entire district.

1.4 Repeal

This local law repeals the *Shire of Dumbleyung Health Local Laws 2001* as published in the *Government Gazette* on 25 July 2003.

1.5 Interpretation

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

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

adequate means satisfactory or fit for purpose or, if there is any doubt, at the discretion of an Authorised Officer;

adequate supply of water means a flow of water of not less than 5 litres per minute;

approved means approved by the local government;

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

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

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

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

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

AS 4282 means Australian Standard for Control of obtrusive effects of outdoor lighting;

Authorised Officer means a person appointed under

(a) the provisions of the *Public Health Act 2016*; or

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

(c) includes officers employed or contracted by the local government as an Environmental Health Officer, Acting Environmental Health Officer, Assistant Environmental Health Officer, Community and Development Services Manager and Principal Environmental Health Officer;

bed means a piece of furniture on which to sleep;

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

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

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

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

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

Council means the Council of the local government;

district means—

(a) the district of the local government under the *Local Government Act 1995*;

(b) any area placed under the jurisdiction of the local government under section 22 of the Act; and

- (c) any river, or other water deemed to be within the district of the local government under section 25 of the Act;

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

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

habitable room means a room used for normal domestic activities, and—

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

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

local government means the Shire of Dumbleyung;

Medical Officer means the Medical Officer appointed by the local government under the Act and includes an Acting Medical Officer so appointed;

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

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

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

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

Schedule means a Schedule to this local law;

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

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

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

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

townsite means the townsites within the district which are constituted under section 26(2) of the *Land Administration Act 1997* or referred to in clause 37 of the Schedule 9.3 of the *Local Government Act 1995*; and

urinal may be—

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

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

(3) Where under this local law an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

PART 2—SANITATION

Division 1—Sanitary Conveniences

2.1 Interpretation

In this Part, unless the context otherwise requires—

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

event includes a fair, function or festival;

low lying land means land that has a height no more than 2 metres above Australian height datum;

organiser means a person—

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

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

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

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

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

2.2 Dwelling house

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

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

2.3 Premises other than a dwelling house

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

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

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

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

2.4 Events

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

2.5 Maintenance of sanitary conveniences and fittings

(1) The occupier of premises shall—

- (a) keep clean, in good condition and repair; and
- (b) whenever required by an Authorised Officer, effectively disinfect and clean;

all sanitary conveniences including sanitary fittings in or on the premises.

(2) The owner of premises shall—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to; all sanitary conveniences including sanitary fittings in or on the premises.

2.6 Public sanitary conveniences

(1) A person shall not foul, damage or vandalise or write on or otherwise deface a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.

(2) A person shall not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

2.7 Lighting

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

Division 2—Bathrooms, Laundries and Kitchens

2.8 Bathrooms

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that is equipped with—

- (a) a hand wash basin; and
- (b) either a shower in a shower recess or a bath.

(2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.

(3) The floor of the bathroom must be properly surfaced, with an even fall to a floor waste unless otherwise approved, suitably trapped and discharging to—

- (a) the sewer of a licensed water service operator; or
- (b) an apparatus for the treatment of sewage approved by the local government.

2.9 Laundries

(1) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling, unless otherwise approved.

(2) Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall—

- (a) not be more than 1,220 millimetres wide; and
- (b) have a door which when closed shall completely fill the opening.

(3) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a laundry that—

- (a) is properly enclosed and roofed;
- (b) is adequately lined with an impervious material;
- (c) has a floor of concrete or other approved impervious material of an approved thickness;
- (d) is properly surfaced, with an even fall to a floor waste unless otherwise approved, suitably trapped and discharging to—
 - (i) the sewer of a licensed water service operator; or
 - (ii) an on-site waste water disposal system of a type approved as approved by the local government; and
- (e) is provided with adequate ventilation.

(4) The laundry referred to in subclause (1) must conform to the provisions of the Building Code and the *Health Act (Laundries and Bathrooms) Regulations*.

(5) In the case of a single occupancy dwelling, the laundry referred to in subclause (1) shall have—

- (a) either—
 - (i) two wash troughs;
 - (ii) a washing machine and either a wash trough or a sink; and
- (b) clothes drying facility comprising either a mechanical clothes dryer or not less than 20 metres of clothes line erected externally.

(6) All wash troughs, sinks and washing machines shall be—

- (a) in a laundry and connected to an adequate supply of hot and cold water; and
- (b) installed to manufacturer's specifications, and;
- (c) all wash troughs shall have a capacity of at least 36 litres.

(7) Sole or multiple occupancy units, each being a separate dwelling, shall have—

- (a) laundry facilities, in accordance with the Building Code, for the exclusive use of the occupants of each unit; or
- (b) a separate laundry, with communal laundry facilities in accordance with the Building Code, for up to 4 sole occupancy units that do not have their own laundry facilities.

2.10 Washing or keeping of clothes in kitchens

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

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

2.11 Kitchens

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen which complies with the requirements of the Building Code and which is equipped with—

- (a) a cooking facility which is adequate in the opinion of an Authorised Officer; and
- (b) a sink which is adequate in the opinion of an Authorised Officer and which has an adequate supply of hot and cold water.

(2) The occupier of a dwelling house shall ensure that the stove, oven and sink are kept clean, in good order and repair and fit for use.

(3) A cooking facility shall—

- (a) be installed in accordance with the requirements of the Department of Mines, Industry Regulation and Safety, and the manufacturer's specifications; and
- (b) not be installed or used in any room other than a kitchen.

(4) Mechanical extraction shall be provided in a kitchen and the exhaust air shall be—

- (a) carried to the outside air as directly as practicable; and
- (b) boxed throughout.

(5) In this clause, a **cooking facility** includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

PART 3—HOUSING AND GENERAL

Division 1—Maintenance of Dwelling Houses

3.1 Dwelling house maintenance

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

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

3.2 Guttering and downpipes

The owner or occupier of a dwelling house which has guttering and downpipes shall—

- (a) maintain all guttering, downpipes and drains on the premises in a good state of repair, clean and free from obstruction; and
- (b) not permit any rainwater from the premises to discharge from the guttering onto or over a footpath, street or other property.

Division 2—Ventilation of Houses

3.3 Exemption for short term hostels and recreational campsites

This division shall not apply to short term hostels and recreational campsites referred to in Division 2 of Part 8.

3.4 Overcrowding

The owner or occupier of a house shall not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes;
- (b) a habitable room in the house to be used for sleeping purposes unless—
 - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
 - (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- (c) any garage, shed or area under a veranda or patio to be used for sleeping purposes.

3.5 Calculated sufficient space

For the purpose of clause 3.4, in calculating the space required for each person—

- (a) each room shall be considered separately and sufficient space shall be allowed in each room for the number of persons present in the room at any one time; and
- (b) deduction shall be made for the space occupied by furniture, beds, equipment, fittings and projections of the walls into a room.

Division 3—Water Supply

3.6 Water supply

(1) The owner of every house shall provide a continuous supply of drinking water, reticulated for use and obtained from—

- (a) a licensed water service operator;
- (b) an underground bore; or

- (c) a rainwater storage system with a minimum capacity of 120,000 litres.
- (2) The water supply shall at all times deliver an adequate supply of drinking water to each tap in the house.
- (3) The water supply to toilets or for garden use may be from an alternative source that is not necessarily drinking water but must comply with the requirements of relevant legislation, codes of practice or guidelines where applicable.

3.7 Rainwater tanks

The owner or occupier of a house for which the water supply is drawn from a rainwater tank shall ensure that it is managed and maintained so as to meet the relevant standards in the *Australian Drinking Water Guidelines* developed by the National Health and Medical Research Council and in particular—

- (a) maintain in a clean condition—
- (i) the roof forming the catchment for the tank; and
 - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rainwater tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of inspecting, cleaning, repairing or maintaining the tank;
- (c) if the tank water is breeding mosquitoes, eliminate the point of entry and treat with a small quantity of liquid paraffin at a rate of not more than 5 millilitres per square meter of surface area so as to form a thin even film over the whole surface or otherwise as advised by an Authorised Officer;
- (d) inspect the rainwater tank and associated components at least every 6 months including gutters, catchment roof, tank inlet, debris traps, mosquito cowls, inside of the tank, tank roof and connecting pipework and remove any accumulated debris, leaf material or other contaminants evident and repair any damaged components;
- (e) at least once every two years, inspect the bottom and walls of the tank for accumulated sediments, sludge and slime and where necessary thoroughly clean any tank which contains water used for human consumption;
- (f) when directed by an Authorised Officer, empty, clean and disinfect any tank upon the premises which contains water used for human consumption; and
- (g) dispose of any organic material and water from cleaning and desludging operations around the garden or yard ensuring that it is retained on site and does not cause a health nuisance.

3.8 Pollution

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

Division 4—Morgues

3.9 Licensing of morgues

- (1) All non-government morgues shall be licensed pursuant to the provisions of this clause.
- (2) An application for licence of a morgue shall be in a form as determined by the local government from time to time and shall be—
- (a) made by the applicant;
 - (b) forwarded to the Chief Executive Officer with the fee as fixed by the local government from time to time under Sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) A Certificate of Licence of a Morgue shall—
- (a) be in a form as determined by the local government from time to time; and
 - (b) expire on 30 June next after the date of its issue.
- (4) A Certificate of Licence of a Morgue shall not be granted in respect of any premises unless—
- (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
 - (b) the walls are constructed of stone or brickwork or other approved material;
 - (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
 - (d) all floors are constructed of some impervious material, having a fall to an outlet discharging over a trapped gully; and
 - (e) the premises are adequately ventilated by direct communication with the outside air.

PART 4 –LIQUID REFUSE AND LIQUID WASTE

4.1 Interpretation

In this division, unless the context otherwise requires—

apparatus for the treatment of sewage has the same meaning as in section 3 of the *Health (Miscellaneous Provisions) Act 1911*;

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

liquid waste means wastewater or any other liquid waste from domestic, industrial or commercial activities, other than effluent; and includes bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage;

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

4.2 Deposit of liquid refuse

- (1) A person shall not deposit or cause or permit to be deposited liquid refuse—
 - (a) on a street;
 - (b) in a storm water disposal system; or
 - (c) on any land or place other than a place or depot duly authorised for that purpose.
- (2) 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.
- (3) Subclause (2) 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 officer.

4.3 Disposal of liquid waste

- (1) The owner or occupier of premises shall—
 - (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
 - (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.
- (2) Liquid waste shall be disposed of by one of the following methods—
 - (a) discharging it into the sewage system of a licensed water service operator in a manner approved by the licensed water service operator;
 - (b) discharging it into an apparatus for the treatment of sewage approved by the Chief Health Officer or the local government; or
 - (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the local government.

PART 5—NUISANCES AND GENERAL

Division 1—Nuisances

5.1 Interpretation

In this division, unless the context otherwise requires—

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

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

fertiliser includes manure;

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

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 without limiting the generality of the foregoing and for the avoidance of doubt includes a builder or contractor; and

public vehicle includes bus, tram, taxi or any other public transport.

5.2 Escape of smoke etc.

- (1) An owner or occupier of premises shall take reasonable measures to prevent the escape of smoke, dust, fumes, offensive or foul odours, liquid waste or liquid refuse from the premises in such quantity or of such a nature as to cause or to be a nuisance.
- (2) A person shall not on any land of an area 0.4 hectares 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, green garden materials or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;

- (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.

(3) Subclause (2) 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.

(4) Subclause (2) is subject to any fire danger rating as determined by the Bureau of Meteorology.

5.3 Public vehicles to be kept clean

The owner or person in control of a public vehicle shall take reasonable measures to maintain the vehicle at all times—

- (a) in a clean condition;
- (b) free from vectors of disease; and
- (c) whenever directed to do so by an Authorised Officer, thoroughly clean and disinfect the vehicle.

5.4 Prohibition against spitting

A person shall not spit on a footpath, street or within or on, any public place, building or facility accessible to the public which is within the local government's jurisdiction.

5.5 Dust management

(1) If an owner or occupier of land intends to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind, water or any other cause, the owner or occupier shall—

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

(2) An owner and or occupier of land must take effective measures to—

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

(3) The local government may serve on the owner and or occupier a notice requiring the owner or occupier to undertake one or more of the following—

- (a) comply with subclause (2)(a) or (2)(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; and
- (d) take effective measures to stop any further release or escape of dust or liquid waste.

(4) The requirements set out in a notice issued under subclause (3) must be complied with—

- (a) within 48 hours of service of the notice where no other time is specified;
- (b) within such other period as is specified in the notice; or
- (c) immediately, if the notice so specifies.

(5) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on the owner and or occupier of the land and or the operator of the equipment, as the case may be, requiring that the activity or use of the equipment on the land be ceased immediately, for such period as is specified in such notice.

(6) 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.

5.6 Emission or reflection of light

- (1) Where artificial light is emitted or reflected from anything on a lot so as to contravene the requirements of Australian Standard AS 4282, then every owner and occupier of the lot commits an offence.
- (2) Where natural light is reflected from anything on a lot so as to create or be a nuisance to any—
 - (a) owner or occupier of land; or
 - (b) person using a thoroughfare as a thoroughfare, then every owner and occupier of the lot commits an offence.
- (3) All lighting installations as defined within the Australian Standard AS 4282 must be maintained in good working order and repair at all times.
- (4) An owner and or occupier of a lot on which floodlights, lighting installations or other exterior lights are erected or used shall not allow the floodlights or other exterior lights to shine directly onto an adjoining lot.
- (5) The local government may give a notice to the owner and or occupier of a lot—
 - (a) requiring that any reflective surfaces creating a nuisance within clause 5.6(1) be painted or otherwise treated so as to abate the nuisance; and
 - (b) on which floodlights, lighting installations or other exterior lights are erected, requiring—
 - (i) the hours of use of the lighting to be limited to the hours specified in the notice; or
 - (ii) the direction in which the lights are shining to be altered as specified in the notice.

5.7 Use or storage of fertiliser

- An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any—
- (a) pig manure;
 - (b) human faeces; or
 - (c) urine.

Division 2—Keeping of Animals

5.8 Cleanliness

- An owner or occupier of premises in or on which a dog, cat or other animal or bird is kept shall—
- (a) keep the premises free from excrement, filth, food waste and all other matters which is or is likely to become offensive or injurious to health or to attract rats or other vermin and vectors of disease;
 - (b) when so directed by an Authorised Officer, clean and disinfect the premises; and
 - (c) keep the premises, so far as possible, free from flies or other vermin and vectors of disease by spraying with a residual insecticide or other effective means.

5.9 Animal enclosures

- (1) A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.
- (2) The owner or occupier of premises where animals or birds are kept shall, when directed by an Authorised Officer, pave, grade and drain floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds.
- (3) The owner or occupier of premises where an animal is kept must ensure that each animal is kept in a suitable enclosure that effectively prevents it from escaping.
- (4) The owner or person in charge of livestock shall not permit livestock to stray or to be at large in a street, public place or upon private property without the consent of the property owner.

5.10 Disposal of dead animals

- (1) An owner or occupier of premises on which there is a dead animal shall immediately remove the carcass and arrange for its disposal at an approved disposal site.
- (2) An owner, or a person having the care of any animal that dies or is killed in a public or private place, shall immediately remove the carcass and arrange for its disposal at an approved disposal site.
- (3) The requirements of subclauses (1) and (2) shall not apply to farmers, pastoralists and the like who dispose of carcasses on rural land in a manner that is not likely to pollute or be dangerous or injurious to health.
- (4) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.

Division 3—Keeping of Approved Animals

5.11 Interpretation

In this division, unless the context otherwise requires—

- approved animal** includes a horse, cow, pig, sheep, camel, alpaca, llama, deer, goat or other large animal;
- cow** includes an ox, calf or bull;
- horse** includes an ass, mule, donkey or pony; and
- natural shelter** means a mature tree or belt of trees.

5.12 Keeping of approved animals and provision of stables

(1) An owner or occupier of premises shall not keep an approved animal within a townsite or on a property of 0.5 hectares or less, without approval of the local government.

(2) An owner or occupier of premises who keeps an approved animal shall provide adequate natural shelter if approved by the local government or a stable which shall comply with the requirements of the Building Code, and which—

- (a) is not situated within 15 metres of a house;
- (b) has exclusive space for each animal of 0.2 hectares;
- (c) is constructed of weatherproof materials and of a design which provides adequate protection from the elements;
- (d) provides adequate natural ventilation;
- (e) prevents the animal from escaping; and
- (f) subject to subclauses (6) and (8), has a floor, which—
 - (i) is constructed of a material approved by an Authorised Officer; and
 - (ii) has a fall which effectively drains liquid wastes into a trapped gully situated outside the stable and discharged in a manner approved by an Authorised Officer.

(3) An application for approval to keep an approved animal shall include the following information—

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the animal is to be kept and the distance of that location from any residential building on another lot, or commercial premises;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the animal; and
- (c) a detailed written plan for the management of manure which addresses—
 - (i) control of flies and other vermin;
 - (ii) disease prevention; and
 - (iii) prevention of nuisance odours.

(4) The local government may vary the conditions of approval after it has been issued, and shall give notice of such variation to the owner or occupier within 14 days of such variation.

(5) The local government may cancel its approval in the event that the owner or occupier—

- (a) fails to comply with any condition of the approval; or
- (b) breaches this clause.

(6) The owner or occupier of premises on which a stable is located shall—

- (a) maintain the stable in a clean and hygienic condition at all times;
- (b) keep all parts of the stable so far as possible free from flies, vermin or other vectors of disease; by spraying with an approved residual insecticide or other effective means; and
- (c) comply with the relevant requirements of the *Biosecurity and Agriculture Management Act 2007* and the *Biosecurity and Agriculture Management (Stable Fly) Management Plan 2019* (as amended from time to time by the Department of Primary Industries and Regional Development).

(7) The owner or occupier of a stable shall comply with any direction or notice of an Authorised Officer in relation to its state of repair, cleanliness, hygiene, control of pests or any other matter which is considered necessary to prevent health nuisances or maintain a satisfactory standard for the keeping of animals therein.

(8) The owner or occupier of premises that contains a stable is to ensure a stable shall—

- (a) have a proper separate stall for each horse or cow; and
 - (i) with walls measuring not less than 3 metres, both horizontally and vertically, unless it has a sand floor provided in accordance with subclause (8)(f); and
 - (ii) with a floor area of not less than 11 square metres, unless it has a sand floor provided in accordance with subclause (8)(f);
- (b) have each wall and roof constructed of an approved impervious material;
- (c) have a roof that covers the entire floor area of the stall;
- (d) have on all sides of the building between the wall and the roof a clear opening of at least 150 millimetres in height;
- (e) subject to subclause (8)(f), have a floor, the upper surface of which shall—
 - (i) be at least 75 millimetres above the surface of the ground;
 - (ii) be constructed of cement, concrete or other similar impervious materials; and
 - (iii) have a fall ratio of 1:100 to a drain, which shall empty, into a trapped gully situated outside the stable and shall discharge in a manner approved by the local government; or
- (f) have a sand floor, if permitted by the local government, subject to the following—
 - (i) the site must be well drained with the highest known water table at least 0.6 metres below the sand floor level, which may be achieved artificially;
 - (ii) a 300 millimetres thick bed of aggregate approved by an authorised officer shall be laid under the sand of the stable;

- (iii) sand, whether natural or imported, must be clean, coarse and free from dust;
 - (iv) footings to each stable shall be a minimum of 450 millimetres below ground level;
 - (v) the stable design must allow for the access of small earth moving machinery, such as a skid steer loader, into each individual stall, to maintain the correct floor height;
 - (vi) the minimum floor area of each stall shall be not less than 28 square metres and walls shall not be less than 3 metres vertically or 4 metres horizontally; and
 - (vii) the roofed area of each stall shall not be less than 50 percent of the floor area of the stall.
- (g) Where an owner had lawful authority to keep an approved animal on their premises prior to this local law coming into operation, they are not required to obtain approval under this clause; however they will not substitute or replace any approved animal once that animal—
- (i) dies; or
 - (ii) is permanently removed from the premises.

5.13 Proximity of approved animals to a dwelling house

An owner or occupier of premises shall not permit an approved animal to approach within 30 metres of a dwelling house.

5.14 Manure receptacles

An owner or occupier of premises on which a stable is constructed shall—

- (a) provide in a position convenient to the stable a receptacle for manure, constructed of smooth, impervious, durable material that is easily cleanable and provided with a tight fitting hinged cover, and with no part of the floor lower than the surface of the adjoining ground;
- (b) keep the lid of the receptacle closed except when manure is being deposited or removed;
- (c) cause the receptacle to be emptied at least once a week and as often as may be necessary to prevent it coming offensive or a breeding place for flies or other vectors of disease;
- (d) keep the receptacle so far as possible free from flies or other vectors of disease by spraying with a residual insecticide or other effective means; and
- (e) cause all manure produced on the premises to be collected daily and placed in the receptacle or comply with such other arrangements as approved by an Authorised Officer.

Division 4—Keeping of Poultry and Pigeons

5.15 Interpretation

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

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

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

miscellaneous birds include all birds other than poultry and pigeons.

(2) This division applies to the keeping of poultry on residential properties for domestic purposes and not to commercial poultry establishments such as broiler, breeder or egg producing farms.

(3) Commercial poultry establishments mentioned in subclause (2) are to manage operations in accordance with the *Environmental Code of Practice for Poultry Farms in Western Australia 2004* produced by the Western Australian Broilers Growers Association and Poultry Farmers Association of Western Australia, in conjunction with state and local authorities to control environmental and health nuisances.

5.16 Limitation on numbers of pigeons, poultry and miscellaneous birds

(1) An owner or occupier of premises in a townsite shall not keep a combined total of more than 12 poultry and 12 pigeons on any one lot of land, unless approved by an Authorised Officer.

(2) An Authorised Officer may issue a written notice to the owner or occupier of land, whether in a townsite or not, where poultry or pigeons are kept for the number of poultry and pigeons to be reduced to ensure that a health nuisance does not exist.

(3) An Authorised Officer may increase the number of poultry or pigeons kept on any one lot of land if satisfied that a health nuisance does not exist.

(4) An owner or occupier shall not keep more than 20 miscellaneous birds on any premises within the district unless otherwise approved.

(5) An owner or occupier shall not keep pigeons, poultry or miscellaneous birds so as to create a nuisance.

(6) An Authorised Officer may apply relevant conditions, or require a reduction of the approved number of poultry, pigeons, or miscellaneous birds on any premises within the district, or alternatively prohibit the keeping of poultry, pigeons, or miscellaneous birds on a particular premises, if the conditions of this Division are not complied with or if unreasonable noise or a nuisance is being caused.

(7) An owner or occupier shall comply with a direction of an authorised officer under this clause.

(8) Subclause (4) does not apply to premises used for veterinary purposes or as a pet shop.

5.17 Conditions of keeping poultry

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

- (a) all poultry is kept in a properly constructed and securely fastened structure or enclosure;

- (b) the structure or enclosure is in a yard having an otherwise unobstructed area of at least 30 square metres; and
- (c) no poultry is able to approach within 15 metres of a street other than a right of way unless, in the case of land at the junction of two or more streets, an Authorised Officer has approved a lesser distance.

(2) A person who keeps poultry or permits poultry to be kept shall ensure no poultry is able to encroach within 9 metres of a dwelling house, public building, or premises where people are employed or premises where food is stored, prepared manufactured or sold.

5.18 Roosters, Geese, Turkeys, Peafowl and Gamebirds

(1) An owner or occupier of premises shall not within a townsite or on properties with an area of 2 hectares or less, keep or permit to be kept on those premises, any one or more of the following birds without the written approval of the local government—

- (a) a rooster;
- (b) a goose or gander;
- (c) a turkey;
- (d) a peacock or peahen; and
- (e) a gamebird (includes emus and ostriches).

(2) An Authorised Officer may, upon written application, grant approval with or without conditions to the owner or occupier of premises to keep on the premises a specified number of birds under this clause.

(3) An Authorised Officer may rescind approval for the keeping of birds under this clause if they cause a nuisance.

5.19 Conditions of keeping pigeons

A person who keeps, or permits to be kept, pigeons shall ensure that—

- (a) none is able to approach within 9 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
- (b) except where homing pigeons are freed for exercise, the pigeons are kept in a properly constructed pigeon loft that is in a yard having an otherwise unobstructed area of at least 30 square metres.

5.20 Removal of nonconforming structures or enclosures

If a structure or enclosure is used for the keeping of poultry or pigeons contrary to the provisions of clauses 5.17 or 5.19, as applicable, an Authorised Officer may direct the owner or occupier to amend it or remove it.

5.21 Restrictions on pigeon nesting or perching

An Authorised Officer may order an owner or occupier of a house or other structure in or on which pigeons are, or are in the habit of, nesting or perching so as to create a health nuisance to take adequate steps to prevent them continuing to do so.

5.22 Restrictions on feeding wild birds

(1) A person shall not feed a pigeon, dove, seagull, ibis, raven or other wild bird—

- (a) so as to cause a nuisance or be injurious or dangerous to health; or
- (b) with a food or substance that is not a natural food of a bird.

(2) Where an authorised officer forms the opinion that a person has not complied with subclause (1) the authorised officer 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.

Division 5—Feedlots

5.23 Interpretation

In this division, unless the context otherwise requires—

feedlot means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain;

animal includes cattle, sheep, goats, deer and the like;

birds includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches; and

sensitive land use means land use sensitive to emissions from industry and infrastructure, and includes land uses of residential developments, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds, public buildings, commercial and industrial land uses which require a high level of amenity or are sensitive to particular emissions.

5.24 Premises to be approved

(1) No premises shall be used as a feedlot unless approved by the local government.

(2) Subject to subsection (3) no premises shall be approved by the local government unless every portion of such feedlot complies with the minimum separation distances listed in Table 1.

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the feedlot will not give rise to a health nuisance.

(4) Notwithstanding subclause (1), cattle feedlots with more than 500 animals are to be licensed under Schedule 1 (Category 1) of the *Environmental Protection Regulations 1987*.

Table 1—Required Buffer Distances for Feedlots

	Townsite boundaries	Isolated rural dwellings, dairies and industries	Public roads and recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water courses/rural water impoundments	Bores/wells /soaks. Drinking water supply	Stock irrigation supply
Feedlots and facilities catering for								
a) >5000 animals or birds	5000m	1000m	200m	50m		300m	300m	100m
(b) 500-5000 animals or birds	3500m	1000m	150m	50m		300m	300m	100m
(c) 50-500 animals or birds	2000m	1000m	100m	50m		300m	300m	100m
(d) <50 animals or birds	1000m	1000m	50m	50m		200m	300m	100m
Land used to dispose of raw or partly treated wastes	1000m	1000m	100m	300m		300m	300m	300m
Land used to dispose of effectively treated wastes	200m	1000m	20m	20m		100m	100m	100m

5.25 Management of beef cattle feedlots

Beef cattle feedlots are to be operated and managed in accordance with the *Guidelines for the Environmental Management of Beef Cattle Feedlots in Western Australia (2004)*.

5.26 Compliance with direction or notice of an Authorised Officer

The owner or occupier of a feedlot shall comply with any direction or notice of an Authorised Officer in relation to its state of repair, cleanliness, hygiene, control of pests or any other matter which is considered necessary to prevent health nuisances or maintain a satisfactory standard for the keeping of animals therein.

PART 6—PEST CONTROL

Division 1—Flies

6.1 Interpretation

In this division, unless the context otherwise requires, *flies* means any of the two-winged insects constituting the order *Diptera* commonly known as flies.

6.2 Control of flies

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

Division 2—Mosquitoes

6.3 Interpretation

In this division, unless the context otherwise requires *mosquitoes* means any of the two-winged insects constituting the family *Diptera Cricidae* commonly known as mosquitoes.

6.4 Measures to be taken to prevent mosquito breeding

An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) follow any direction or notice of an Authorised Officer for the purpose of—
 - (i) controlling the prevalence of mosquitoes;
 - (ii) eradication of mosquitoes; and
 - (iii) effectively preventing the breeding of mosquitoes; and
- (b) assist an Authorised Officer to locate any possible mosquito breeding sites that may be present in or about the premises.

6.5 Measures to be taken by occupier

An occupier of premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime. Where it appears to the authorised officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the authorised officer may direct the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.

6.6 Removal of undergrowth or vegetation

Where it appears to an Authorised Officer that there is, on any premises, undergrowth or vegetation likely to harbour mosquitoes, the officer may direct, orally or in writing, the owner or occupier of the premises to cut down and remove within a specified time the undergrowth or vegetation.

6.7 Filling in excavations etc.

A person who undertakes any activity on any land which creates an excavation likely to hold water and cause mosquito breeding shall as soon as practicable following the completion of the activity, and taking into consideration the purpose of the excavation, ensure that the excavation is filled in with clean material and made level with the surrounding surface or alternatively treated with an approved pesticide to control mosquito breeding.

6.8 Drains, channels and septic tanks

An owner or occupier of land shall—

- (a) cause all drains and channels in or on the land to be kept in good order and free from obstruction; and
- (b) where a septic tank is installed on the land—
 - (i) apply an approved larvicide according to the direction on the container, into the septic tank system, whenever directed to do so by an Authorised Officer; and controlling the prevalence of mosquitoes; and
 - (ii) provide, and keep in sound condition at all times, wire mesh having openings no larger than 1.2 millimetres covering any inlet vent to the tank.

6.9 Drainage of land

An owner or occupier of land upon which there is water liable to become a breeding place for mosquitoes shall, when required by the local government, effectively drain the land and, for that purpose, shall—

- (a) make or provide drains on the land;
- (b) remove all irregularities in the surface of the land; and
- (c) if necessary, adjust the surface of the land or raise the level of the surface in such a manner that—
 - (i) the water on the land may flow into the drains without obstruction;
 - (ii) no water shall remain on any portion of the land other than the drains; and
 - (iii) keep all drains in good order and free from obstruction.

Division 3—Rodents

6.10 Interpretation

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

6.11 Measures to be taken to eradicate rodents

- (a) An owner or occupier of premises shall at all times take effective measures to eradicate any rodents in or on the premises.
- (b) A person must not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment.
- (c) An Authorised Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action, in the opinion of the Authorised Officer, is necessary to prevent the presence of rodents in or on the premises.

Division 4—Cockroaches

6.12 Interpretation

This this division *cockroach* means any of the various orthopterous insects commonly known as cockroaches.

6.13 Measures to be taken to eradicate cockroaches

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) An Authorised Officer may direct, orally or in writing, an owner or occupier of premises to take whatever action is necessary to prevent or deter the presence of cockroaches in or about the premises.
- (3) An owner or occupier shall within the time specified comply with any direction given by an Authorised Officer.

*Division 5—Argentine Ants***6.14 Interpretation**

In this division **Argentine ant** means an ant belonging to the species *Linepithema humile* (formerly *Irdomyrmex humilis*).

6.15 Measures to be taken to keep premises free from Argentine ants

An owner or occupier of premises shall comply with the requirements of an Authorised Officer if an infestation of Argentine ants are found on their premises.

*Division 6—European Wasps***6.16 Interpretation**

In this division **European wasp** means a wasp belonging to the species *Vespula germanica*.

6.17 Measures to be taken to keep premises free from European wasp nest

An owner or occupier of premises shall ensure that the premises are kept free from European wasp nests and shall—

- (a) immediately notify the local government of any wasp nest in, on or about the premises that is suspected to be a European wasp nest;
- (b) follow any direction of an Authorised Officer for the purpose of destroying the wasps and their nest; and
- (c) assist an Authorised Officer, of his or her representative, to trace any nest that may be present in, on or about the premises.

*Division 7—Bee Keeping***6.18 Interpretation**

In this division—

bee means an insect belonging to any of the various *hymenopterous* insects of the super family *Apoidea* and commonly known as bee; and

hive means a moveable or fixed structure, container or object in which a colony of bees is kept.

6.19 Limitation on numbers of hives

- (1) A person shall not keep or permit the keeping of bees anywhere within the district unless approval to do so has been given by an Authorised Officer.
- (2) Subject to subclauses (3) and (4), a person shall not keep or permit the keeping of bees in more than 2 hives on a lot.
- (3) An Authorised Officer may, upon written application, consent, with or without conditions, to a person keeping bees in more than 2 hives on a lot.
- (4) A person shall comply with any conditions imposed by an Authorised Officer under subclause (3).

6.20 Restrictions on keeping of bees in hives

A person shall not keep or permit the keeping of bees in a hive on a lot unless, at all times—

- (a) an adequate and permanent supply of water is provided on the lot which is readily accessible to bees;
- (b) no more than 2 hives are kept on land of less than 2,000 square metres in area unless otherwise approved;
- (c) the hive is kept—
 - (i) outside, and at least 10 metres from, any building other than a fence;
 - (ii) at least 10 metres from any footpath, street, private street or public place; and
 - (iii) at least 5 metres from the boundary of the lot;
- (d) the hive is enclosed on all sides by a fence, wall or other enclosure to encourage bees to fly at a height over the property boundary; and
- (e) the person is registered as a beekeeper if required by the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*.

6.21 Bees which cause a nuisance not to be kept

- (1) A person shall not keep, or permit the keeping of, bees which cause a nuisance.
- (2) An Authorised Officer may direct any person to remove any bees or beehives which in the opinion of the Authorised Officer are causing a nuisance.

*Division 8—Arthropod Vectors of Disease***6.22 Interpretation**

In this division **arthropod vectors of disease** includes—

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

6.23 Responsibility of the owner or occupier

The owner or occupier of the premises shall—

- (a) keep the premises and any person residing in or on the premises free from any arthropod vectors of disease; and
- (b) comply with the direction of an Authorised Officer to treat the premises, or anything on the premises, for the purpose of destroying any vectors of disease.

6.24 Local government may execute work and recover costs

(1) Where—

- (a) a person is required under this part or directed by a notice given under this part to execute any work; and
- (b) that person fails or neglects to comply with the requirement, the local government may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.

(2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from that person.

(3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

PART 7—INFECTIOUS DISEASES*Division 1—General Provisions***7.1 Purpose of exercise of powers**

The powers under this Part are to be exercised for the purpose of preventing or controlling the spread of an infectious disease.

7.2 Authorised Officer may visit, inspect and report

An Authorised Officer may visit and inspect any house, its occupants, fixtures and fittings, outbuildings, yards, drains and sewers connected with any house where an infectious disease has been identified or where an infectious disease is suspected in order to check or prevent the spread of any infectious disease.

7.3 Requirements on owner or occupier to clean, disinfect and disinfest

An Authorised Officer may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice; or both, to the satisfaction of an Authorised Officer.

7.4 Authorised Officer may disinfect or disinfest the premises

(1) Where the local government or the Medical Officer is satisfied that any case of infectious disease has occurred on any premises, the local government or the Medical Officer may direct an Authorised Officer, other local government officer or other person to disinfect and disinfest the premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises shall permit, and provide access to enable, an Authorised Officer, other local government officer or other person to carry out the direction given under subclause (1).

(3) The local government may recover the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government is not liable to pay compensation or damages of any kind to the owner or occupier of premises in relation to any action taken by the local government or any of its staff under this clause, other than compensation or damages for loss or damage suffered because the local government or any of its staff acted negligently or in breach of duty.

7.5 Insanitary houses, premises and things

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

(2) Where the local government considers that a house is insanitary, it may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to destroy or amend the house.

(3) Where an Authorised Officer considers that—

- (a) a house or premises is not being maintained in a sanitary condition; or
- (b) anything is insanitary, the officer may, by notice in writing, direct, as the case may be—
 - (i) the owner or occupier of the house or premises to amend any insanitary condition; or
 - (ii) the owner or occupier of the thing to destroy or amend it, within the time and in the manner specified in the notice.

(4) A person who is given notice under subclauses (2) or (3) shall comply with the terms of the notice.

7.6 Medical Officer may authorise disinfecting

Where the Medical Officer believes that a person is or may be infected by an infectious disease, the Medical Officer may direct the person to have his or her body, clothing and effects disinfected at a place and in a manner directed by the Medical Officer.

7.7 Persons in contact with an infectious disease sufferer

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

- (a) shall obey such instructions or directions as the local government or the Medical Officer may issue; and
- (b) may be removed, at the direction of the local government or the Medical Officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the Medical Officer directs otherwise.

7.8 Declaration of infected house or premises

(1) To prevent or check the spread of infectious disease, the local government or the Medical Officer may from time to time declare any house or premises to be infected.

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

7.9 Destruction of infected animals

An Authorised Officer, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice of writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—

- (a) in the manner and within the time specified in the notice; and
- (b) by the person in whose possession, or upon whose premises, the animal is located.

7.10 Disposal of a body

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

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

7.11 Local government may carry out work and recover costs

(1) Where—

- (a) a person is required under this division or by a notice given under this division, to carry out any work; and
- (b) that person fails or neglects to comply with the requirement, that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

(2) The costs and expenses incurred by the local government in the execution of a power under this clause may be recovered from the person referred to in subclause (1).

(3) The local government is not liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.

Division 2—Disposal of Used Condoms and Needles

7.12 Disposal of used condoms

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

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by an Authorised Officer.

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

7.13 Disposal of used needles

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

PART 8—LODGING HOUSES

Division 1—Registration

8.1 Interpretation

In this part—

- accommodation** means one or more buildings used for boarding purposes referred to in this part;
- bed** means a sleeping berth consisting of—

- (a) a single berth; or
- (b) a double berth provided for the use of couples, which shall have the same floor space requirements as two single beds;

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

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

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

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

laundry unit means a facility consisting of—

- (a) a washing machine with a capacity of not less than 4 kilograms of dry clothing;
- (b) either an electric drying cabinet or not less than 30 metres of clothes line;
- (c) one wash trough of not less than 45 litres capacity, connected to both hot and cold water; and
- (d) A hot water system that—
 - (i) is capable of delivering an adequate supply of water at a temperature of at least 65 degrees Celsius for each washing machine and wash trough provided with the communal facilities; and
 - (ii) has a delivery rate of not less than 5 litres per minute for each washing machine or a higher delivery rate according to the manufacturer's specifications;

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

lodging house includes a recreational campsite, a serviced apartment and a short-term hostel and has the same meaning as defined in Section 3 of the *Health (Miscellaneous Provisions) Act 1911*;

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

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

recreational campsite means a lodging house—

- (a) situated on a campsite principally used for—
 - (i) recreational, sporting, religious, ethnic or educational pursuits, or
 - (ii) conferences or conventions; and
- (b) where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth camps, youth education camps, church camps and riding schools;

but does not include a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*;

register of lodgers means the register kept in accordance with this Part;

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

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

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

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

sleeping apartment means a room used for lodgers to sleep in; and

vector 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 and head lice.

8.2 Accommodation not to be kept unless registered

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

- (a) the accommodation is constructed in accordance with the requirements of this Part;
- (b) the accommodation is registered by the local government under clause 8.4; and
- (c) the name of the person keeping the accommodation is entered in the register of keepers.

8.3 Application for registration

An application for registration of accommodation shall be—

- (a) in the form as determined by the local government from time to time;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
 - (i) the fee as fixed from time to time by the local government under Sections 6.16 to 6.19 of the *Local Government Act 1995*; and

- (ii) detailed plans and specifications of the accommodation.

8.4 Certificate of Registration of accommodation

The local government may approve, with or without conditions, an application under clause 8.3 by issuing to the applicant a Certificate of Registration of accommodation in a form as determined by the local government from time to time.

8.5 Renewal of registration

A person who keeps accommodation which is registered under this Part shall—

- (a) during the month of June in each year apply to the local government for the renewal of the registration of the accommodation; and
- (b) pay the fee as fixed from time to time by the local government under Sections 6.16 to 6.19 of the *Local Government Act 1995* at the time of making each application for renewal.

8.6 Notification upon sale or transfer

If the owner of accommodation house sells or transfers or agrees to sell or transfer the accommodation to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the Chief Executive Officer, in a form as determined by the local government from time to time, written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

8.7 Revocation of registration

(1) Subject to subclause (3), the local government may, at any time, revoke the registration of accommodation for any reason which, in the opinion of the local government, justifies the revocation.

(2) Without limiting the generality of subclause (1), the local government may revoke a registration upon any one or more of the following grounds—

- (a) that the accommodation has not, to the satisfaction of an Authorised Officer, been kept free from vectors of disease or in a clean, wholesome and sanitary condition;
- (b) that the keeper has—
 - (i) been convicted of an offence against these local laws in respect of the lodging house; or
 - (ii) not complied with a requirement of this Part; or
 - (iii) not complied with a condition of registration;
- (c) that the local government, having regard to a report from the Police Service, is satisfied that the keeper or manager is not a fit and proper person; and
- (d) that, by reason of alterations or additions or neglect to repair or renovate, the condition of the accommodation is such as to render it, in the opinion of an Authorised Officer, unfit to remain registered.

(3) Before revoking the registration of accommodation under this clause, the local government shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.

(4) Whenever the local government revokes the registration of accommodation, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

(5) The keeper shall not be entitled to any proportionate refund of an annual fee paid to the local government during the year in which the local government has revoked the registration of accommodation.

Division 2—Construction and use requirements

8.8 General construction requirements

The general construction requirements of accommodation shall comply with the Building Code.

8.9 Insect screening

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

8.10 Sanitary conveniences

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

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

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

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

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

(5) Each toilet and bathroom in a lodging house shall—

- (a) be so situated, separated and screened so as to ensure privacy; and

- (b) be provided with adequate electric lighting.

8.11 Laundry unit

(1) A keeper of a lodging house shall subject to subclause (2)—

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

(2) An Authorised Officer may approve the provision of a reduced number of laundry facilities if suitable equipment of a commercial type is installed.

8.12 Kitchen

The keeper of a lodging house shall provide in that lodging house a kitchen which complies with the relevant requirements of the *Food Act 2008*, *Food Regulations 2009* and Standards 3.1.1, 3.2.2, and 3.2.3 of the Food Standards Code as determined by an Authorised Officer.

8.13 Cooking facilities

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

8.14 Dining room

The keeper of a lodging house shall provide in that lodging house a dining room located in close proximity to, or combined with, the kitchen—

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

8.15 Lounge room

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

- (a) with a floor area of—
 - (i) where the lounge is not combined with the dining room—not less than 0.6 square metres per person; or
 - (ii) where the lounge room is combined with a dining room—not less than 1.2 square metres per person;

but in either case having a minimum of 13 square metres; and

- (iii) which shall be adequately furnished to accommodate, at any one time, half the number of lodgers and provided with a suitable floor covering.

8.16 Fire prevention and control

(1) A keeper shall—

- (a) ensure smoke alarms complying with *AS 3786* are installed on or near the ceiling in every bedroom and in every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building as required by the Building Code;
- (b) ensure that there is installed in each passage or corridor in the lodging house a smoke alarm incorporating evacuation lighting which is activated by the smoke alarm as required by the Building Code;
- (c) provide evacuation lighting if required by the Building Code to be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (d) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
- (e) ensure if required by the Building Code that illuminated exit signs are installed above exit doorways which comply with *AS 2293.1* and which are maintained in good working order at all times; and
- (f) provide firefighting equipment in accordance with the requirements of the Building Code and ensure that the equipment is clearly visible, accessible and maintained in good working order at all times.

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

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

(4) The keeper of a lodging house which is a recreational campsite or short term hostel, but not a serviced apartment, shall ensure that materials used in bedrooms and dormitory area comply with AS 1530.2 and AS 1530.3 as updated from time to time.

8.17 Obstruction of passages and stairways

A keeper shall not cause, suffer or permit furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use, in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

8.18 Fitting of locks

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

8.19 Restriction on use of rooms for sleeping

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

- (a) which contains food;
- (b) which contains or is fitted with a cooking appliance or kitchen sink;
- (c) which is used as a kitchen, scullery, store room, dining room, general sitting room or lounge room or for the preparation or storage of food;
- (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
- (e) which, except in the case of a short-term hostel or a recreational campsite, contains less than 5 square metres of clear space for each lodger occupying the room;
- (f) which is not naturally illuminated in accordance with the requirements of the Building Code;
- (g) which is not ventilated in accordance with the requirements of the Building Code;
- (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
- (i) which is not free from internal dampness;
- (j) of which any part of the floor is below the level of the adjoining ground; or
- (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an Authorised Officer.

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

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

8.20 Sleeping accommodation short term hostels and recreational campsites

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

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

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

(3) The minimum height of any ceiling in a short-term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds and 2.7 metres in any dormitory utilising bunks.

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

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

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

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

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

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

- (a) ensure at all times there is a distance of 750 millimetres between beds and a distance of 900 millimetres between bunks;

- (b) ensure that where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks and the passageway is kept clear of obstruction at all times; and
- (c) ensure all doors, windows and ventilators are kept free from obstruction.

8.21 Furnishing etc. of sleeping apartments

A keeper of a lodging house shall, unless otherwise approved by the local government—

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

8.22 Ventilation

If, in the opinion of an Authorised Officer, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.

8.23 Numbers to be placed on doors

- (1) A keeper shall number each room available to a lodger in a lodging house or provide an alternative means of identification approved by an Authorised Officer.
- (2) The numbering system or alternative means of room identification is to be legible and easily identified.

Division 3—Management and Care

8.24 Keeper or manager to reside in the lodging house

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

- (a) reside continuously in the lodging house; and
- (b) not be absent from the lodging house unless he or she arranges for a reputable person to have the care and management of the lodging house.

8.25 Register of lodgers

- (1) A keeper shall keep a register of lodgers in a form as determined by the local government from time to time.
- (2) The register of lodgers shall be—
 - (a) kept in the accommodation; and
 - (b) available for inspection at any time on demand by any member of the Police Service or by an Authorised Officer.

8.26 Keeper report

A keeper shall, whenever required by the local government, provide, in a form as determined by the local government from time to time, the name of each lodger who lodges in the accommodation during the preceding day or night.

8.27 Certificate of Sleeping Accommodation

- (1) An Authorised Officer may issue to a keeper a Certificate of Sleeping Accommodation, in respect of each room, which shall be in a form as determined by the local government from time to time, or, for lodging houses with more than 20 sleeping apartments, a Certificate of Sleeping Accommodation for a Lodging House with more than 20 Sleeping Apartments, which shall be in a form as determined by the local government from time to time.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons who shall be permitted to occupy each room as a sleeping apartment at any one time.
- (3) When required by an Authorised Officer, a keeper shall exhibit the certificate issued under this clause in a conspicuous place in the room to which the certificate refers.
- (4) A person shall not allow a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

8.28 Duplicate keys and inspection

Each keeper and manager of accommodation shall—

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

8.29 Room occupancy

(1) A keeper shall not—

- (a) allow more than the maximum number of persons permitted by the Certificate of Registration of accommodation to be lodged at any one time in the accommodation;
- (b) allow to be placed or kept in any sleeping apartments—
 - (i) a larger number of beds; or
 - (ii) a larger quantity of bed linen than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and
- (c) allow to be used for sleeping purposes, a room that—
 - (i) has not been certified for that purpose; and
 - (ii) the local government or the Medical Officer has forbidden to be used as a sleeping apartment.

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

8.30 Infectious disease

A keeper shall immediately after becoming aware that a lodger or resident is suffering from a notifiable infectious disease notify an Authorised Officer.

8.31 Maintenance of a room by a lodger or resident

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

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

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

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

8.32 Cleaning and maintenance requirements

A keeper of accommodation shall—

- (a) maintain in a clean, sound and undamaged condition—
 - (i) the floor, walls, ceilings, woodwork and painted surfaces;
 - (ii) the floor coverings and window treatments; and
 - (iii) the toilets, including toilet seats, cisterns and associated plumbing; and
- (b) maintain in a clean and in good working order—
 - (i) all fixtures and fittings; and
 - (ii) all windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet have a smooth, impervious washable surface;
- (d) ensure that all floors are kept clean at all times;
- (e) ensure that—
 - (i) all bed linen, towels, and house linen in use is washed at least once a week;
 - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, the bed linen is removed and washed;
 - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
 - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
 - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
 - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by an Authorised Officer, ensure that—
 - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
 - (ii) a bed, or other article of furniture that is infested is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an Authorised Officer.

8.33 Responsibilities of lodgers and residents

A lodger or resident shall not—

- (a) use any room available to lodgers—

- (i) as a shop, store or factory; or
- (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials which are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware or culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
 - (i) wash or permit the washing of clothing or bed linen; or
 - (ii) keep or permit to be kept any soiled clothing or bed linen;
- (h) subject to clause 8.19—
 - (i) keep, store, prepare or cook food in any sleeping apartment; or
 - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding, bed linen or furniture, that is infested with vermin or vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house—
 - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
 - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or manager from inspecting or examining the room or rooms occupied by the lodger or resident; and
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

PART 9—OFFENSIVE TRADES

Division 1—General

9.1 Interpretation

In this part—

Certificate of Registration of Premises for Offensive Trade means a certificate issued under clause 9.5 in a form as determined by the local government from time to time;

occupier in relation to premises includes the person registered as the occupier of the premises in a form as determined by the local government from time to time;

offensive trade means any of the trades listed in Schedule 1; and

premises includes houses.

9.2 Consent to establish an offensive trade

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

- (a) advertise notice of his intention to apply for consent in accordance with clause 9.3; and
- (b) lodge with the Chief Executive Officer an application in a form as determined by the local government from time to time.

(2) A person who makes a false statement in an application under this clause shall be guilty of an offence.

9.3 Notice of application

A notice required under subclause 9.2(1) (a) shall—

- (a) contain the name and address of the person who intends to make the application;
- (b) contain a description of the nature of the offensive trade;
- (c) contain details of the premises in or upon which it is proposed to carry on the proposed trade; and
- (d) be published in accordance with regulation 3A (2) (c) of the *Local Government (Administration) Regulations 1996* at least two weeks but not more than one month before the application under clause 9.2 (1) (b) is lodged with the Chief Executive Officer.

9.4 Registration of premises

An application for the registration of premises pursuant to section 191 of the Act shall be—

- (a) in a form as determined by the local government from time to time;
- (b) accompanied by—
 - (i) the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976* as amended from time to time; and

- (ii) a comprehensive management plan; and
- (c) lodged with the Chief Executive Officer.

9.5 Certificate of Registration of Premises for Offensive Trade

Upon the registration of premises for the carrying on of an offensive trade, the local government shall issue to the applicant a Certificate of Registration of Premises for Offensive Trade in a form as determined by the local government from time to time.

9.6 Change of occupier

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the Chief Executive Officer in writing of such change.

9.7 Alterations to premises

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

Division 2—General Duties of an Occupier

9.8 Interpretation

In this Division—

occupier means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

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

9.9 Cleanliness

The occupier shall—

- (a) keep or cause to be kept in a clean and sanitary condition and in a state of good repair the floors, walls and ceilings and all other portions of the premises;
- (b) keep or cause to be kept in a clean and sanitary condition and in a state of good repair all fittings, fixtures, appliances, machinery, implements, shelves, counters, tables, benches, bins, cabinets, sinks, drain boards, drains, grease traps, tubs, vessels and other things used on or in connection with the premises;
- (c) keep the premises free from any unwholesome or offensive odour arising from the premises;
- (d) keep in a clean and tidy condition all yards, footpaths, passage ways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises in a clean and sanitary condition.

9.10 Rats and other vectors of disease

The occupier shall—

- (a) ensure that the premises are kept free from vermin, rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises effective means and methods for the eradication and prevention of vermin, rodents, cockroaches, flies and other vectors of disease.

9.11 Sanitary conveniences and hand wash basins

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

9.12 Painting of walls etc.

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof and all fittings as may be directed in and on the premises to be cleaned and painted when instructed by an Authorised Officer.

9.13 Effluvia, vapours or gases

The occupier shall provide, use and maintain in a state of good repair and working order, appliances capable of effectively destroying or of rendering harmless all offensive effluvia, vapours or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored upon the premises.

9.14 Offensive material

The occupier shall—

- (a) provide on the premises impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep airtight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day or other interval as may be directed by an Authorised Officer; and

- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

9.15 Storage of materials

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

9.16 Directions

An Authorised Officer may give to the occupier directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.

Division 3—Fat Rendering Establishments

9.17 Interpretation

In this Division—

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

occupier means the occupier of any premises on which the trade of fat rendering is carried on.

9.18 Ventilation

The occupier shall provide and maintain—

- (a) a hood which shall—
- (i) be of an approved design and construction;
 - (ii) be situated so as to arrest all effluvia, odours and smoke from the process of fat rendering; and
 - (iii) extend a minimum of 150 millimetres beyond the length of each appliance; and
- (b) an exhaust ventilation system—
- (i) the point of discharge of which shall be at least 1 metre above the ridge of a pitched roof or 3 metres above a flat roof and shall not be located within 6 metres of an adjoining property or any fresh air intake; and
 - (ii) which shall discharge in such manner and in such a position that no nuisance is created.

9.19 Covering of apparatus

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

9.20 Rendering of walls

The occupier shall cause each wall within a radius of 3 metres of the rendering apparatus or machinery to be rendered with a cement plaster with a steel float finish or other approved finish to a height of 2 metres, devoid of holes, cracks and crevices.

Division 4—Laundries, Dry Cleaning Establishments and Dye Works

9.21 Interpretation

In this Division—

dry cleaning establishment—

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

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

exempt laundromat means a premises in which—

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

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

laundry means any place where articles are laundered by commercial grade machinery but does not include an exempt laundromat.

9.22 Receiving depot

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of the local government, which may at any time by written notice withdraw such permission.

9.23 Reception room

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

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

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

9.24 Walls and floors

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

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes, cracks and crevices;
- (b) the floor to be impervious, constructed of concrete or other material approved by an Authorised Officer and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall and be deposited on it.

9.25 Laundry floor

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

9.26 Escape of dust

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

9.27 Precautions against combustion

The occupier of a dry-cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an Authorised Officer for that purpose.

9.28 Trolleys

The occupier of a dry-cleaning establishment shall—

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

9.29 Sleeping on premises

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

*Division 5—Abattoirs***9.30 Construction**

An abattoir shall conform to relevant Standards as adopted under the *Food Act 2008* section 144 (6) and the requirements of Part 5 of the *Food Regulations 2009*.

*Division 6—Piggeries***9.31 Interpretation**

In this Division, unless the context otherwise requires—

intensive piggery means pigs are housed, fed and watered in breeding and growing pens in sheds;

piggery means any building, enclosure or yard, in which one or more pigs are kept, bred, reared or fattened, and shall include any portion of the premises to which pigs have access; and

sensitive land use means land use sensitive to emissions from industry and infrastructure. Sensitive land uses include residential developments, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds, public buildings, commercial and industrial land uses which require a high level of amenity or are sensitive to particular emissions.

9.32 Premises to be approved

(1) No premises shall be used as a piggery unless approved by the local government.

(2) Subject to subsection (3), no premises shall be approved by the local government unless every portion of such piggery complies with the minimum separation distances listed in Table 2; or if it is an intensive piggery, the minimum separation distances listed in Table 3.

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.

Table 2—Required Buffer Distances for Piggeries

Description	Distance
Townsite boundaries	5000m
Isolated rural dwellings, dairies and industries	1000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

9.33 Limitations to registration

Unless otherwise approved, no premises shall be registered as a piggery unless it has been granted approval under the Local Planning Scheme.

9.34 Conditions of registration

Any person intending to establish a piggery within the district shall ensure an application made in a form as determined by the local government from time to time, is accompanied by plans and specifications in duplicate of the proposed piggery including—

- (a) details of the approximate number of pigs to be kept;
- (b) details of the drainage and effluent disposal system to be installed; and
- (c) details of the method by which cleanliness of the piggery shall be maintained.

9.35 Sties, enclosures or sheds

(1) The occupier of every piggery shall provide either—

- (a) sties and enclosures;
- (b) enclosures; or
- (c) sheds; within which pigs shall be kept.

(2) Where sties and enclosures are provided—

- (a) the floor of every sty shall be properly paved with impervious materials, and every such floor shall have sufficient fall to a surface gutter, which shall—
 - (i) be constructed of similar materials;
 - (ii) be not less than 300 millimetres wide and 75 millimetres deep in the centre of its width;
 - (iii) extend the whole length of the sty; and
 - (iv) have sufficient fall so that it shall discharge all liquids falling upon the floor or upon the gutter into an impervious sump of sufficient capacity to receive at least one day's drainage; and
- (b) the area of every enclosure appurtenant to a sty or group of sties shall be not less than 3 times the area of the sty or group of sties to which it is appurtenant.

(3) Where enclosures only are provided, then—

- (a) the fences of such enclosures shall be movable; and
- (b) the fences shall be moved and re-erected to enclose a new site whenever—
 - (i) the ground within a site is becoming offensive; or
 - (ii) the occupier is directed to do so by an Authorised Officer.

(4) Where one or more sheds are provided, then—

- (a) the floor of every shed shall comply with subclause 2(a);
- (b) they shall be maintained in a structurally sound and clean condition free of infestation with flies and other vectors of disease; and
- (c) they shall be effectively drained and effluent waste removed so as to prevent a nuisance occurring.

9.36 Slaughtering

The occupier of any piggery shall not permit any slaughtering of animals on the premises.

9.37 Feed

The occupier of any piggery shall—

- (a) not receive, or allow to be received on such premises, any carcass or part of a carcass of a diseased animal;
- (b) not feed the pigs upon the flesh or offal of diseased animals;
- (c) not receive or suffer or permit to be received on the premises, putrid matter for any purpose; and

- (d) not receive or suffer or permit to be received on the premises, any kitchen, slaughterhouse or butcher's wastes or other putrescible pig feed.

9.38 Fencing

Every piggery occupier shall securely fence all the enclosures.

9.39 Water supply

Every piggery occupier shall provide a sufficient and constant supply of clean water, which shall be properly protected against pollution and always available for cleansing purposes.

9.40 Feeding troughs

(1) Every such occupier shall—

- (a) where sties and enclosures are provided under the provisions of clause 9.35(2), provide feeding troughs in every sty, situated near to the drainage gutter or positioned to be accessible to the pigs in two or more sties or enclosures;
- (b) where enclosures are provided under the provisions of clause 9.35(3), provide feeding troughs in every such enclosure;
- (c) cause all feeding troughs, other than those provided in connection with movable enclosures, to be fixed upon a cement or concrete floor extending 1.2 metres in all directions from such trough, and designed to permit ready drainage; and
- (d) not permit pigs to be fed other than at the feeding troughs provided in accordance with this clause.

(2) Notwithstanding the provisions of subclause (1), where pigs are kept continually confined in fully enclosed pens, floor feeding with pellets or dry meal shall be permitted, in which case feeding troughs are not required to be provided.

9.41 Prevention of nuisance

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery shall comply with the minimum separation distances in Table 3.

Table 3—Required Buffer Distances for Intensive Piggeries

	Townsite boundaries	Isolated rural dwellings, dairies and industries	Public roads and recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water courses/rural water impoundments	Bores/wells /soaks. Drinking water supply	Stock irrigation supply
Feedlots and facilities catering for								
a) >5000 pigs	5000m	1000m	200m	50m	not permitted	300m	300m	100m
(b) 500-5000 pigs	3500m	1000m	150m	50m	not permitted	300m	300m	100m
(c) 50-500 pigs	2000m	1000m	100m	50m	not permitted	300m	300m	100m
(d) <50 pigs	1000m	1000m	50m	50m	not permitted	200m	300m	100m
Land used to dispose of raw or partly treated wastes	1000m	1000m	100m	300m	not permitted	300m	300m	300m
Land used to dispose of effectively treated wastes	200	1000m	20m	20m	not permitted	100m	100m	100m

PART 10—OFFENCES AND PENALTIES

10.1 Offences and penalties

(1) A person who—

- (a) fails to do anything required or directed to be done under this local law; or
- (b) fails to comply with the requirements of a notice issued under this local law by an authorised officer; or

- (c) does anything which under this local law that person is prohibited from doing; commits an offence.
- (2) A person who commits an offence under subclause (1) is liable to—
- (a) a penalty which is not more than \$5,000 and not less than—
- (i) in the case of a first such offence, \$500; and
 - (ii) in the case of a second such offence, \$1000; and
 - (iii) in the case of a third or subsequent such offence, \$2,500 and
- (b) if the offence is a continuing offence, a daily penalty which is not more than \$500 and not less than \$250.
- (3) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (4) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.

10.2 Form of infringement notices

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

10.3 Other enforcement actions

- (1) In addition to a penalty imposed under clause 10.1, any expense incurred by the local government in consequence of a breach or non-observance of this local law, in the execution of work directed to be executed by any person and not executed by him or her, must be paid by the person committing the breach for failing to execute the work.
- (2) On a breach, or successive breaches, by a licensee or a person registered under this local law, the local government may suspend or cancel the licence or registration as the case may be.

10.4 Power of entry into private property

This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

PART 11—OBJECTION AND APPEAL

11.1 Objection and appeal rights

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, renew, vary or cancel an approval.

SCHEDULE 1—OFFENSIVE TRADES

Health Local Law 2022

[clause 9.1]

Offensive trades are any of the trades, businesses or occupations usually carried on, in or connected with the undermentioned works or establishments—

- Abattoirs or slaughter houses;
- Bone mills or bone manure depots;
- Bones, hides, hoofs or skins storing, drying, or preserving establishments;
- Cleaning establishments, dye works;
- Fat rendering establishments;
- Fellmongeries, tanneries;
- Flock factories;
- Gut scraping, preparation of sausage skins;
- Knackeries;
- Laundromats, dry cleaning establishments;
- Livestock saleyards;
- Manure works;
- Piggeries;
- Poultry processing establishments;
- Poultry farming employing caged poultry housing;

- Tripe-boiling establishments; and
- Works for boiling down meat, bones, blood, or offal.

SCHEDULE 2 —PRESCRIBED OFFENCES

Health Local Law 2022

[Clause 10.1]

Item No.	Clause No.	Description	Modified Penalty \$
1.	4.2	Deposited or allowed to be deposited liquid refuse from land	\$250
2.	4.3	Released or allowed the escape of liquid waste from land	\$250
3.	5.2	Permitted the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$200
4.	5.5(1)	Commenced works involving clearing of land without an approved Dust Management Plan	\$250
5.	5.6(2)	Emitted light so as to create or cause a nuisance	\$250
6.	5.6(4)	Erected or used lighting installations other than in accordance with this local law	\$250
7.	5.8(a)	Failed to keep premises free from matter likely to be offensive or injurious to health or attracts vermin or insects	\$200
8.	5.8(b)	Failed to keep premises clean and disinfected when directed by an Authorised Officer	\$500
9.	5.8(c)	Failed to keep premises free of flies, or when directed by an Authorised Officer, spray premises with means to kill or repel flies	\$500
10.	5.9(1)	Failed to keep enclosures effectively drained	\$200
11.	5.9(3)	Failed to keep property fenced in a manner capable of confining livestock	\$200
12.	5.9(4)	Permitted livestock to stray, or be at large in a street, public place or private property without consent	\$200
13.	5.12(1)	Kept an approved animal without approval	\$200
14.	5.12(6)	Failed to maintain stable	\$200
15.	5.16(1)	Failed to comply with limitations on number of birds	\$200
16.	5.16(5)	Kept birds so as to create a nuisance	\$200
17.	5.17	Kept, or permitted to be kept, any poultry, not in accordance with conditions of this local law	\$200
18.	5.18(1)	Kept, or suffered to remain in a townsite or lot of 2 hectares or less, a rooster, turkey, goose or geese, gamebird or peafowl	\$200
19.	5.21	Failed to prevent pigeons nesting or perching	\$200
20.	5.22(1)(a)	Fed a wild bird so as to create or cause a nuisance	\$200
21.	5.22(1)(b)	Fed a wild bird a food/substance that is not a natural food	\$200
22.	6.19(1)	Kept bees without approval	\$200
23.	6.19(4)	Failed to comply with a condition of approval to keep bees	\$200
24.	6.21(1)	Created a nuisance from keeping of bees or bee hives	\$200
25.	6.21(2)	Failed to comply with a notice to remove bees or bee hives for contravention of local law	\$200
26.	10.1(1)(b)	Failed to comply with notice	\$500
27.		All other offences not specified	\$100

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****PARKING AND PARKING FACILITIES REPEAL LOCAL LAW 2022**

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

1. Citation

This local law is cited as the *Shire of Dumbleyung Parking and Parking Facilities Repeal Local Law 2022*.

2. Commencement

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

3. Repeal

This Local Law repeals the *Shire of Dumbleyung Parking and Parking Facilities Local Law 2016* as published in the *Government Gazette* on 13 March 2017.

Dated 15 September 2022

The Common Seal of the Shire of Dumbleyung was affixed in the presence of—

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007**

SHIRE OF DUMBLEYUNG

PEST PLANTS REPEAL LOCAL LAW 2022

Under the powers conferred by the *Biosecurity and Agriculture Management Act 2007* and the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Dumbleyung resolved on 15 September 2022 to make the following local law.

1. Citation

This local law is cited as the *Shire of Dumbleyung Pest Plants Repeal Local Law 2022*.

2. Commencement

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

3. Repeal

This Local Law repeals the *Shire of Dumbleyung Pest Plant Local Law 2016* as published in the *Government Gazette* on 13 March 2017.

Dated 15 September 2022

The Common Seal of the Shire of Dumbleyung was affixed in the presence of—

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2022****TABLE OF CONTENTS****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions
- 1.6 Transitional
- 1.7 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 a 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 on specified local government property as a result of 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 Existing signs to have effect as a determination

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY*Division 1—When a permit is required*

- 3.1 Activities needing a permit—general
- 3.2 Possession and/or consumption of liquor

Division 2—Hiring local government property

- 3.3 Application for a permit to hire local government property
- 3.4 Decision on application where 2 or more applicants
- 3.5 Responsibilities of a permit holder
- 3.6 Conditions on use and hire

Division 3—Camping on local government property

- 3.7 Camping on local government property

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 Drunk persons not to enter local government property
- 4.5 No prohibited drugs
- 4.6 No smoking
- 4.7 Appropriate behaviour and adequate clothing
- 4.8 Entry to local government property
- 4.9 Refusal of entry to local government property

Division 2—Signs

- 4.10 Signs

**PART 5—SPECIFIC MATTERS RELATING TO TYPES OF
LOCAL GOVERNMENT PROPERTY**

Division 1—Public swimming pools and other recreation facilities

- 5.1 General prohibitions
- 5.2 Use of all or part of a public swimming pool or recreation facility
- 5.3 When entry and use may be refused
- 5.4 Suspension of admission
- 5.5 Carnivals

Division 2—Fenced or closed property

- 5.6 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

- 5.7 Only specified gender to use entry of toilet block or change room
- 5.8 Hire of lockers
- 5.9 Use of showers
- 5.10 No use of camera devices in toilet blocks or change rooms

PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY

- 6.1 Payment of applicable fees for entry or participation

PART 7—ACTIVITIES IN PUBLIC PLACES

Division 1—General

- 7.1 General prohibitions
- 7.2 Activities requiring a permit
- 7.3 Obstructions

Division 2—Vehicle crossings

- 7.4 Temporary crossing
- 7.5 Removal of a redundant crossing

Division 3—Property numbers

Subdivision 1—Preliminary

- 7.6 Interpretation

Subdivision 2—Assignment and marking of numbers

- 7.7 Assignment and marking of number

Division 4—Fencing

- 7.8 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act

Division 5—Signs erected by the local government

- 7.9 Signs
- 7.10 Transitional

**PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT
PROPERTY OR PUBLIC PLACES**

- 8.1 General prohibitions
- 8.2 Public interest signage
- 8.3 Other Portable Signs
- 8.4 Election advertising
- 8.5 Notification regarding removal and impounding of advertising signs
- 8.6 Advertising sign to be marked
- 8.7 Person or business taken to own advertising sign
- 8.8 Insurance

**PART 9—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS ON OR IN
LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

Division 1—Animals

- 9.1 Leaving an animal on local government property or in a public place
- 9.2 Prohibitions relating to animals
- 9.3 Removal of animals

Division 2—Vehicles

- 9.4 Leaving a vehicle in a public place

PART 10—ROADSIDE CONSERVATION

Division 1—Preliminary

- 10.1 Interpretations
- 10.2 Application

Division 2—Flora roads

- 10.3 Declaration of flora road
- 10.4 Construction work on flora road
- 10.5 Signposting of flora roads
- 10.6 Driving only on carriageway of flora roads

Division 3—Special environmental areas

- 10.7 Designation of special environmental areas
- 10.8 Marking of special environmental areas

Division 4—Planting in thoroughfares

- 10.9 Permit to plant
- 10.10 Relevant considerations in determining application

Division 5—Clearance of vegetation

- 10.11 Permit to clear
- 10.12 Application for permit

Division 6—Fire management

- 10.13 Permit to burn thoroughfare
- 10.14 Application for permit
- 10.15 When application for a permit can be approved
- 10.16 Prohibition on burning

Division 7—Firebreaks

- 10.17 Fire breaks on thoroughfares

Division 8—Commercial wildflower harvesting on thoroughfares

- 10.18 General prohibition on commercial wildflower harvesting
- 10.19 Permit for revegetation projects

PART 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY*Division 1—Traders and street markets*

- 11.1 Restrictions and requirement to obtain a permit
- 11.2 Exemptions from requirement to pay a fee
- 11.3 Insurance
- 11.4 When a permit is required for a street market

Division 2—Street entertainers

- 11.5 When a permit is required
- 11.6 Variation of permitted area and permitted time
- 11.7 Duration of a permit for street entertaining
- 11.8 Cancellation of a permit for street entertaining
- 11.9 Obligations of a permit for street entertaining

Division 3—Alfresco dining on or in local government property or public places

- 11.10 Permit required for alfresco dining area
- 11.11 Matters to be considered in determining an application
- 11.12 Obligations of a permit holder for an alfresco dining area
- 11.13 Conditions on an alfresco dining area
- 11.14 No smoking areas
- 11.15 Removal of an unlawfully conducted alfresco dining area
- 11.16 Temporary removal of an alfresco dining area
- 11.17 Change of ownership of an alfresco dining area
- 11.18 Terms and validity of an alfresco dining permit

PART 12—PERMITS*Division 1—Applying for a permit*

- 12.1 Application for a permit
- 12.2 Decision on application for permit
- 12.3 Relevant considerations in determining application for granting a permit

Division 2—Conditions on a permit

- 12.4 Examples of conditions
- 12.5 Compliance with and variations to terms and conditions

Division 3—General

- 12.6 Duration of permit
- 12.7 Renewal of permit
- 12.8 Transfer of permit

- 12.9 Production of permit
- 12.10 Cancellation or suspension of permit
- 12.11 Nominee of permit holder

PART 13—OBJECTIONS AND APPEALS

- 13.1 Objection and appeal rights

PART 14—MISCELLANEOUS

Division 1—Authorised person

- 14.1 Authorised person to be obeyed
- 14.2 Persons may be directed to leave local government property or a public place

Division 2—Notices

- 14.3 Liability for damage to local government property or a public place
- 14.4 Notice to redirect or repair sprinklers
- 14.5 Notice to remove thing unlawfully placed on thoroughfare
- 14.6 Notice to repair damage to thoroughfare
- 14.7 Hazardous plants

Division 3—Lost property

- 14.8 Lost property and unclaimed property in a locker

PART 15—ENFORCEMENT

Division 1—Notices given under this local law

- 15.1 Offence to fail to comply with a notice
- 15.2 Local government may undertake requirements of a notice

Division 2—Offences and penalties

- 15.3 Offences and general penalty
- 15.4 Prescribed offences
- 15.5 Form of notices

Division 3—Person to give name and address on demand

- 15.6 Requirement to give name and address on demand

SCHEDULE 1—PRESCRIBED OFFENCES

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2022

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

PART 1—PRELIMINARY

1.1 Citation

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

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the:-

- (1) *Shire of Dumbleyung Local Government Property Local Law 2002* as published in the *Government Gazette* on 21 March 2003.
- (2) *Shire of Dumbleyung Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2002* as published in the *Government Gazette* on 21 March 2003.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995* (WA);

advertising sign means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

alfresco dining area means an area in which tables, chairs and other temporary structures are provided for the purpose of the supply of food or beverages or both by the public or the consumption of food or beverages or both by the public;

animal means any animal other than a dog;

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

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

attendant means an employee of the local government with responsibility for the control and management of persons in a public swimming pool or recreation facility which is local government property;

Building Act means the *Building Act 2011* (WA);

Building Code Australia means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

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

camera device means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

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

change room means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

charitable organisation means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

CEO means the Chief Executive Officer of the local government;

closed thoroughfare means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

commencement day means the day on which this local law commences under clause 1.2;

Commissioner of Main Roads WA means the person appointed under section 7 of the *Main Roads Act 1930* (WA) to be the Commissioner;

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

Council means the council of the local government;

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

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

determination means a determination made under clause 2.1;

detrimental to the property includes—

- (a) removing anything from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;
- (b) destroying, defacing or damaging a building or anything on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and
- (c) causing environmental harm or nuisance on the local government property;

development approval means an approval issued under the local government's planning scheme;

district means the district of the local government;

drunk has the meaning provided in the *Liquor Control Act 1988*;

election advertising means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

election date means the date on which a federal, state or local government election is held;

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

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

Firearms Act means the *Firearms Act 1973* (WA);

flora means all vascular plants other than plants recognised as weeds;

Food Act means the *Food Act 2008* (WA);

food business has the same meaning as given in the Food Act;

footpath has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

gaming means has the same meaning as in the *Gaming and Wagering Commission Act 1987*;

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

liquor has the meaning given to it by the Liquor Act;

Liquor Act means the *Liquor Control Act 1988* (WA);

local government means the Shire of Dumbleyung;

local government policy means a policy or standard adopted by the local government;

local government property means anything except a thoroughfare which—

- (a) is owned by the local government;
- (b) is vested in the local government;
- (c) is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997* (WA); or
- (d) is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

local public notice means notice given in accordance with the procedure set out in section 1.7 of the Act;

manager means the person for the time being employed, contracted or appointed by the local government to manage any swimming pool or recreation facility, and includes any 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 common 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 has the meaning given to it by the Act, but does not include the local government;

off-road vehicle has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978* (WA);

other portable sign means a portable sign other than a home open sign, display home sign or garage sale sign;

owner has the meaning given to it by the Act;

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

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

permitted area means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

permitted time means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

planning scheme has the same meaning as “local planning scheme” in the *Planning and Development Act 2005*;

portable sign means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a ‘A’ frame sign;

premises for the purposes of clauses 2.8(1)(a) and 4.6 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;

prohibited drug has the meaning given to it in the *Misuse of Drugs Act 1981* (WA);

promotional activity means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

public interest sign means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

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

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

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

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

smoke has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

solicit in relation to money, means actively seeking or calling for a donation from another person, but does not include a non-verbal invitation by a holder of a permit approved under clause 12.9 to place a donation in a receptacle within the permitted area;

street entertaining means any form of theatrical, artistic, musical, audio or visual performance and includes busking;

street market means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

lot numbering means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

street tree means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

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

tobacco product has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

trader means a person who carries on trading;

trading means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;
- (b) displaying goods in a public place or local government property for the purpose of—
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them,

and includes the setting up of a stall, or the conducting of a business at a stall;

vehicle includes—

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

but excludes—

- (c) a wheelchair or any device designed for use by physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle or wheeled recreational device; and
- (f) a shopping trolley;

Western Power means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* (WA) or such other entity established or constituted in its place or by which its functions have become exercisable;

wheeled recreational device means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skaters, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person 12 years of age or older; and
- (c) a unicycle,

but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

1.6 Transitional

Any permit, licence, consent or authorisation issued in accordance with a local law listed in clause 1.4—

- (a) is taken to be a permit granted under this local law;
- (b) is to be valid for the period specified on the permit, licence, consent or authorisation; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

1.7 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* (Cth).

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 must 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 under clause 2.2(2)(c), the local government is to decide—
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case clause 2.2(5) will apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received under clause 2.2(2)(c), the local government—
 - (a) is to consider those submissions; and
 - (b) is to decide—
 - (i) whether to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
 - (a) of the effects of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.

(7) A proposed amendment is to have effect as a determination on and from the date of publication of the local public notice referred to in clauses 2.2(3), 2.2(5) and 2.2(6).

(8) A decision under clauses 2.2(3) or 2.2(4) is not to be delegated by Council.

2.3 Discretion to erect a sign

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

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

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

(2) Sections 5.94 and 5.95 of the Act apply to the register referred to in clause 2.5(1) and for that purpose, the register is taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

(1) The local government may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the local government revokes a determination, it must give local public notice of the revocation and the determination will cease to have effect on and from the date of publication.

Division 2—Activities which may be pursued or prohibited on specified local government property as a result of 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 aircraft, car, ship, glider or rocket;
- (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 compliance of that person with the Firearms Act; 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 and damage to a person or property; or
- (g) ride a bicycle, a wheeled recreational device, or similar device; or
- (h) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in clause 2.7(1) may be pursued and in particular—

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

2.8 Activities which may be prohibited on specified local government property

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

- (a) smoking in premises;
- (b) riding a bicycle, a wheeled recreational device, 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 or rifle shooting; or

- (ii) a similar activity specified in the determination involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in clause 2.7(1) and, in particular—
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.

Division 3—Transitional

2.9 Existing signs to have effect as a determination

- (1) Where a sign erected on local government property has been erected under a local law that is repealed by this local law, then it is to be taken to have effect as a determination under this local law on and from the commencement day, except to the extent that the sign is inconsistent with any provisions 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 clause 2.9(1).

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY

Division 1—When a permit is required

3.1 Activities needing a permit—general

- (1) Subject to this local law, a person must not without a permit granted in accordance with Part 14—
- (a) hire local government property;
 - (b) cut, break, damage, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass, plant or flora of any kind on any local government property;
 - (c) cut, collect or remove any timber, firewood, stone, sand or other materials on local government property;
 - (d) plant any plant or sow any seeds on local government property;
 - (e) erect any sign on local government property;
 - (f) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
 - (g) erect a building or a refuelling site on local government property;
 - (h) make any excavation on, erect a fence on or remove a fence from, local government property;
 - (i) 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;
 - (j) deposit or store anything on local government property;
 - (k) depasture, tether, drive or ride any animal on local government property;
 - (l) launch an aircraft or helicopter from, or land an aircraft or helicopter into, local government property;
 - (m) camp on or lodge at local government property for the purpose of sleeping on local government property;
 - (n) occupy any structure, including a vehicle, at night for the purpose of sleeping on local government property;
 - (o) erect a tent, camp, hut or similar structure on local government property other than a sunshade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day;
 - (p) teach, coach or train for profit any person, animal or dog on or in local government property;
 - (q) conduct a function, or undertake any promotional activity, on local government property;
 - (r) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
 - (s) light a fire on local government property except in a facility provided for that purpose;
 - (t) light or set off any fireworks or conduct a fireworks display on local government property;
 - (u) parachute, hang glide, abseil or base jump from or onto local government property;
 - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or

- (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a sporting club in the performance of its functions.
- (2) The local government may exempt by written notice—
 - (a) a person from compliance with clause 3.1(1) or any part thereof on the application by that person; or
 - (b) specified local government property or a class of local government property or any part thereof from the application of clause 3.1(1).

3.2 Possession and/or consumption of liquor

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

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

Division 2—Hiring local government property

3.3 Application for a permit to hire local government property

(1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12 and who pays the hire fee determined by the local government.

- (2) The local government may—
 - (a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and
 - (b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

3.4 Decision on application where two or more applicants

In the event of two or more applications being made for the hire of the same local government property for the same date and time, the local government may determine, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

3.5 Responsibilities of a permit holder

The holder of a permit must—

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (c) prevent overcrowding;
- (d) leave the local government property in a clean and tidy condition after its use;
- (e) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government;
- (g) 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 Act* for that purpose; and
- (h) comply with any other direction imposed by the local government.

3.6 Conditions on use and hire

In addition to the conditions described in clause 12.4, the local government may impose conditions on the hire of local government property relating to—

- (i) the purpose for which the local government property may be hired;
- (ii) the use of furniture, plants and effects;
- (iii) restrictions on the erection of decorations inside and outside any building which is local government property;
- (iv) the number of persons that may attend any function in or on local government property;
- (v) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (vi) securing and locking up local government property at the end of each hire period;
- (vii) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987* (WA);
- (viii) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997* (WA); or
- (ix) any other matter that the local government considers fit or appropriate.

*Division 3—Camping on local government property***3.7 Camping on local government property**

(1) The maximum period for which the local government may approve an application for a permit in respect of the activities set out in clauses 3.1(1)(m) and 3.1(1)(o) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997* (WA).

(2) Any tent, camp, hut or similar structure erected in contravention of clause 3.1(1)(o) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Behaviour on and interference with local government property***4.1 Behaviour which interferes with others**

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

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

4.2 Behaviour detrimental to property

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

4.3 Taking or injuring any fauna

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

4.4 Drunk persons not to enter local government property

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

4.5 No prohibited drugs

A person must 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 Appropriate behaviour and adequate clothing

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

- (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(h);
- (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
- (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

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

4.8 Entry to local government property

A person, other than an authorised person performing a function or a contractor of the local government carrying out a contracted duty, shall not—

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

4.9 Refusal of entry to local government property

(1) Subject to clauses 5.3 and 5.4, an authorised person, manager or attendant may refuse to allow entry, or suspend admission, to any local government property to any person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

(2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

(3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

*Division 2—Signs***4.10 Signs**

- (1) The local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person must comply with a sign erected under clause 4.10(1).
- (3) A condition of use specified on a sign erected under clause 4.10(1) must not be inconsistent with any provision of this local law or any determination.

PART 5—SPECIFIC MATTERS RELATING TO TYPES OF LOCAL GOVERNMENT PROPERTY*Division 1—Public swimming pools and other recreation facilities***5.1 General prohibitions**

A person shall not—

- (a) obstruct an authorised person, manager or attendant in carrying out his or her duties;
- (b) fail to comply with a direction given by an authorised person, manager or attendant—
 - (i) refusing admission to a person;
 - (ii) directing a person to leave the public swimming pool or recreational facility; or
 - (iii) directing a person in relation to his or her use of the public swimming pool or recreation facility;
- (c) fail to comply with a direction given by an authorised person or manager suspending admission to a person;
- (d) permit an animal to enter or remain in or about a public swimming pool or recreational facility where such entry is prohibited by a sign;
- (e) consume any food or drink in an area where consumption is prohibited by a sign; or
- (f) foul or pollute the water in a public swimming pool.

5.2 Use of all or part of a public swimming pool or recreation facility

An authorised person, manager or attendant may—

- (a) direct that all or part of a public swimming pool or recreation facility is for the use of certain persons to the exclusion of others; and
- (b) direct a person as to that person's use of the public swimming pool or recreation facility.

5.3 When entry and use may be refused

(1) An authorised person, manager or attendant may—

- (a) refuse admission to;
- (b) direct to leave; or
- (c) cause to be removed from,

a public swimming pool, the water at a public swimming pool or recreation facility any person where any of the requirements set out in clause 5.3(2) are not being complied with or for any reason set out in clause 5.3(3).

(2) For the purposes of clause 5.3(1), the requirements are—

- (a) children under the age of 5 years must be accompanied into the public swimming pool or recreation facility by a responsible adult, and must be supervised by that responsible adult within arms' length at all times while within the public swimming pool or recreation facility;
- (b) a responsible adult can only be responsible for a maximum of 3 children under the age of 5 years at any one time; and
- (c) subject to clause 5.3(2)(a) children under the age of 12 years must be accompanied into the public swimming pool or recreation facility by a responsible adult of age, and where practicable, must be supervised by that responsible adult within line of sight at all times while within the public swimming pool or recreation facility.

(3) For the purposes of clause 5.3(1), the reasons are—

- (a) where the authorised person, manager or attendant reasonably suspects the person is—
 - (i) suffering from any gastrointestinal disease, contagious, infectious or cutaneous disease or complaint or has unhealed wounds;
 - (ii) in an unclean condition; or
 - (iii) wearing unclean clothes; or
 - (iv) under the influence of liquor a prohibited drug; or
- (b) if in the opinion of the authorised person, manager or attendant—
 - (i) such action is necessary or desirable to prevent a contravention of this local law; or
 - (ii) the person is committing a breach of any provision of this local law;
- (c) by reason of his or her past or present conduct within or about the public swimming pool or recreation facility, has created or is creating a nuisance.

5.4 Suspension of admission

An authorised person or manager may suspend admission for a minimum period of one day to any person who has committed a breach of any provision of this local law in relation to the public swimming pool or recreation facility.

5.5 Carnivals

- (1) A person, club, organisation, school or association shall not conduct controlled swimming or other sporting events, carnivals or competitions without the prior consent of the manager.
- (2) The manager may grant such consent subject to any conditions considered fit by the manager and may withdraw that consent at any time.
- (3) A person, club, organisation, school or association conducting a carnival or event at a public swimming pool or recreation facility must take reasonable steps to—
 - (a) prevent overcrowding;
 - (b) ensure that no damage is done to the buildings or fencing or any other portion of the public swimming pool or recreation facility; and
 - (c) ensure that this local law is observed by all competitors, officials and spectators.

*Division 2—Fenced or closed property***5.6 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 authorised by the local government.

*Division 3—Toilet blocks and change rooms***5.7 Only specified gender to use entry of toilet block or change room**

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—
 - (a) females, then a person of the male gender must not use that entry to the toilet block or change room; or
 - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 5.7 (1) does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
 - (a) under the age of 6 years; or
 - (b) otherwise permitted by an authorised person to use the relevant entry.

5.8 Hire of lockers

- (1) A person may hire a locker in or near a change room for the purpose of safekeeping articles.
- (2) A person must not store in any locker a firearm or an offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of ‘dangerous goods’ under the *Dangerous Goods Safety Act 2004* (WA).
- (3) An authorised person, manager or attendant may open and inspect the contents of a locker at any time, where the authorised person, manager or attendant reasonably suspects that a breach of this local law has occurred.

5.9 Use of showers

A person may use a shower in a change room provided that—

- (a) the facilities must only be used by the person for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

5.10 No use of camera devices in toilet blocks or change rooms

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY**6.1 Payment of applicable fees for entry or participation**

- (1) Subject to clause 6.1(2), where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person shall not enter that property or participate in the activity without first paying the applicable fee.
- (2) The local government may exempt a person from compliance with clause 6.1(1) on the application of that person.

PART 7—ACTIVITIES IN PUBLIC PLACES*Division 1—General***7.1 General prohibitions**

(1) Subject to this local law, a person shall not—

- (a) plant any plant on a thoroughfare—
 - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
 - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
- (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on or in a public place unless—
 - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
 - (ii) the person is acting under the authority of a written law;
- (c) on a verge, repair or service any vehicle;
- (d) place, allow to be placed or allow to remain on a thoroughfare or verge anything that results in a hazard for any person using the thoroughfare or verge;
- (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
- (f) play or participate in any game or sport so as to—
 - (i) cause danger to any person on a thoroughfare; or
 - (ii) obstruct the movement of vehicles or persons on a thoroughfare;
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device; or
- (h) use anything or do anything so as to create a nuisance on or in a public place.

7.2 Activities requiring a permit

(1) Subject to clause 7.2(2), a person must not without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on or in a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;
- (c) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;
- (d) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (e) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;
- (f) light any fire or burn anything on a thoroughfare or verge;
- (g) lay pipes under or provide taps on any verge;
- (h) place or install, on any part of a thoroughfare, anything such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage or stockpiling;
- (i) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;
- (j) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
- (k) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;
- (l) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath; and
- (m) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act.

(2) The local government may exempt a person from compliance with clause 7.2(1) on the application of that person.

7.3 Obstructions

Where anything is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

- (a) remove or cause to be removed such deposit or obstruction; and
- (b) recover the costs of doing so as a debt due to it.

*Division 2—Vehicle crossings***7.4 Temporary crossing**

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

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

(2) If the local government approves an application for a permit for the purpose of clause 7.4(1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

7.5 Removal of a redundant crossing

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

(2) The local government may give written notice to the owner or occupier of a lot requiring him or her to—

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice.

*Division 3—Property numbers**Subdivision 1—Preliminary***7.6 Interpretation**

In this Division, unless the context requires otherwise—

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

*Subdivision 2—Assignment and marking of numbers***7.7 Assignment and marking of number**

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

(2) The owner or occupier of each property must display and maintain the current lot number assigned by the local government in a conspicuous place at the front of the property.

(3) A person shall not place or display the lot number of the property in such a location as to cause confusion or be misleading.

(4) Where the location of a street number causes confusion or is misleading, or an unauthorised lot number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

*Division 4—Fencing***7.8 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act**

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

*Division 5—Signs erected by the local government***7.9 Signs**

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

(2) A person must comply with a sign erected under clause 7.9(1).

(3) A condition of use specified on a sign erected under clause 7.9(1) is to be for the purpose of giving notice of the effect of the provision of a local law.

7.10 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.9 if the sign is not inconsistent with any provisions of this local law.

**PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT
PROPERTY OR PUBLIC PLACES**

8.1 General prohibitions

- (1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place other than in accordance with this local law.
- (2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place—
- (a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;
 - (b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;
 - (c) on any roundabout;
 - (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;
 - (e) on any pedestrian overpass bridges in the District; or
 - (f) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—
 - (i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
 - (ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or
 - (iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.
- (3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

8.2 Public interest signage

- (1) Public interest signage is subject to the general prohibitions outlined in clause 8.1.
- (2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.
- (3) A permit holder must not erect or display on or in local government property or a public place—
- (a) subject to clause 8.2(3)(b), more than 6 public interest signs for one event at any one time within the district;
 - (b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;
 - (c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;
 - (d) subject to clause 8.2(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;
 - (e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;
 - (f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;
 - (g) a public interest sign in a position which—
 - (i) creates a hazard for pedestrians; or
 - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic,unless permitted by the terms and conditions of a permit;
 - (h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;
 - (i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;
 - (j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;
 - (k) on a verge, a public interest sign which is—
 - (i) less than 3 metres from the kerb line;
 - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
 - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
 - (l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.

(4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.

8.3 Other Portable Signs

(1) Other portable signs are subject to the general prohibitions outlined in clause 8.1.

(2) Subject to clause 8.4 any other portable sign shall—

- (a) not exceed 1.2 metres in height above the finished ground or pavement level;
- (b) not contain more than 2 sign faces;
- (c) not exceed 1 square metre total area on any single sign face;
- (d) not be illuminated or incorporate reflective or fluorescent materials;
- (e) not have moving parts once the sign is in place;
- (f) contain writing that is of a professional standard and quality, and is appropriately maintained;
- (g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;
- (h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;
- (i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;
- (j) in the case of another portable sign relating to a business—
 - (i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and
 - (ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;
- (k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;
- (l) not be erected or displayed within 1.8 metres of an intersection or crossover;
- (m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and
- (n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.

(3) A person can only erect one other portable sign per business.

(4) A person can only erect another portable sign on a verge of a road which is under the care, control and management of the local government if—

- (a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than \$10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;
- (b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;
- (c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and
- (d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

8.4 Election advertising

(1) Election advertising is subject to the general prohibitions outlined in clause 8.1.

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

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until 6 weeks prior to the election to which it relates has been officially announced;
- (g) being removed within 72 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; or

- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

8.5 Notification regarding removal and impounding of advertising signs

(1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.

(2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

8.6 Advertising sign to be marked

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

8.7 Person or business taken to own advertising sign

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person, organisation or business whose name is marked on the advertising sign.

8.8 Insurance

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

PART 9—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES

Division 1—Animals

9.1 Leaving an animal on local government property or in a public place

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

- (a) has first obtained a permit; or
- (b) is authorised to do so under a written law or a determination made under this local law.

9.2 Prohibitions relating to animals

(1) In this clause, **owner** in relation to an animal includes—

- (a) the owner of the animal;
- (b) a person who has the animal in his or her possession or under his or her control; or
- (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.

(2) An owner of an animal must not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in or on local government or a public place;
- (c) train or race the animal on a thoroughfare; or
- (d) subject to clause 9.2(4), allow the animal to defecate on local government property or in a public place.

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

(4) An owner of an animal does not commit an offence if the defecation is immediately removed.

9.3 Removal of animals

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

Division 2—Vehicles

9.4 Leaving a vehicle in a public place

A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

PART 10—ROADSIDE CONSERVATION

Division 1—Preliminary

10.1 Interpretations

In this Part—

MRWA means Main Roads Western Australia;

protected flora has the meaning given to it in the *Biodiversity Conservation Act 2016*;

rare flora has the meaning given to it in the *Biodiversity Conservation Act 2016*;

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for Environment; and

special environmental area means an area designated as such under clause 10.7.

10.2 Application

This Part does not apply to any townsite within the district.

Division 2—Flora roads

10.3 Declaration of flora road

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

10.4 Construction works on flora roads

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

10.5 Signposting of flora roads

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

10.6 Driving only on carriageway of flora roads

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

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

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

Division 3—Special environmental areas

10.7 Designation of special environmental areas

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

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

10.8 Marking of special environmental areas

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

Division 4—Planting in thoroughfares

10.9 Permit to plant

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

10.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 10.9, the local government is to have regard to—

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

Division 5—Clearance of vegetation

10.11 Permit to clear

(1) A person shall not clear and maintain in a cleared state, the surface of a thoroughfare outside a gazetted town boundary, beyond 1.5m of that person’s land without first obtaining a permit and any other approvals which may be required under any written law.

(2) A person shall not clear and maintain in a cleared state, the surface of any thoroughfare within a gazetted town boundary, without first obtaining a permit and any other approvals which may be required under any written law.

10.12 Application for permit

In addition to the requirements of clause 12.1(2), a person making an application for a permit for the purpose of clause 10.11 shall submit a sketch plan clearly showing the boundary of the person’s land and the portions of the thoroughfare joining that person’s land which are to be cleared.

10.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit from an authorised person other than a Fire Control Officer, or unless acting under the authority of any other written law.

10.14 Application for permit

In addition to the requirements of clause 12.1(2), an application for a permit for the purposes of clause 10.13 shall—

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

10.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 10.13 only if the burning of the particular part of the thoroughfare will—

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

10.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 10.13 is not to be approved by the local government—

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

*Division 7—Firebreaks***10.17 Firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare.

*Division 8—Commercial wildflower harvesting on thoroughfares***10.18 General prohibition on commercial wildflower harvesting**

Subject to clause 10.19, a person shall not commercially harvest native flora on a thoroughfare.

10.19 Permit for revegetation projects

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

PART 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY*Division 1—Traders and street markets***11.1 Restrictions and requirement to obtain a permit**

- (1) A person must not carry on trading on local government property or in a public place unless—
 - (a) subject to clause 11.1(2), that person is—
 - (i) the holder of a permit for that purpose; or
 - (ii) an assistant specified in a permit for trading; and
 - (b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and
 - (c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of waste water.
- (2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.
- (3) In determining whether to grant an exemption under clause 11.1(2), the local government may have regard to the matters set out in any local government policy.

11.2 Exemptions from requirement to pay a fee

(1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—

- (a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that—
 - (i) does not sublet space to commercial participants;
 - (ii) does not involve commercial participants in the conduct of the stall or trading; and
 - (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.

(2) In this clause 11.2, **commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

11.3 Insurance

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

11.4 When a permit is required for a street market

A person must not conduct a street market on a public place or on local government property—

- (a) without a valid permit for that purpose; and
- (b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

Division 2—Street entertainers

11.5 When a permit is required

A person must not perform on or in local government property or a public place without a permit for the purpose of street entertaining.

11.6 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a person holding a permit for the purpose of street entertaining vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time.

(2) The local government or an authorised person may direct a holder of a permit for street entertaining to move from one permitted area to another permitted area if more than one area is specified in the permit.

11.7 Duration of a permit for street entertaining

A permit for street entertaining is valid for the period of time specified in the permit, unless it is cancelled earlier in accordance with this local law.

11.8 Cancellation of a permit for street entertaining

The local government may cancel a permit for street entertaining if, in its opinion or in the opinion of an authorised person—

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons or businesses in a public place;
or
- (b) the performance otherwise constitutes a nuisance.

11.9 Obligations of a permit for street entertaining

A person holding a permit for street entertaining shall not, except with the written approval of the local government, in a public place or on local government property—

- (a) perform wearing dirty or ragged clothing;
- (b) use or fire any weapon or object with sharp edges;
- (c) perform any act that endangers the safety of the public;
- (d) perform any act of cruelty to an animal or dog;
- (e) have more than 4 people perform, unless otherwise authorised by the permit;
- (f) unless otherwise authorised by the permit, allow any person under the age of 14 years to perform—
 - (i) during school hours on school days; and
 - (ii) between 7.00pm and 6.00am;
- (g) sell or permit the sale of any music tapes, recordings, compact discs or merchandise unless authorised by the local government;
- (h) act in an offensive or obscene manner;

- (i) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit; or
- (j) solicit money from members of the public.

Division 3— Alfresco dining on or in local government property or public places

11.10 Permit required for alfresco dining area

- (1) In clause 11.10(2)(c)(ii), ‘**private property**’ means any property which is not local government property or a public place.
- (2) Subject to clause 11.10(3), a person must not establish or conduct an alfresco dining area in or on local government property or a public place—
- (a) unless the person has a permit for that purpose;
 - (b) unless the person is the proprietor of a food business or is acting on behalf of the proprietor of a food business;
 - (c) other than in a portion of local government property or a public place which—
 - (i) adjoins a food business; or
 - (ii) is adjacent to or in the immediate vicinity of a food business, provided that if the portion of local government property or public place is adjacent to private property, the person has the permission of the owner and occupier of that private property to establish and conduct an alfresco dining area on that adjacent portion of local government property or public place; and
 - (d) unless the person has public liability insurance in respect of the establishment and conduct of the alfresco dining area; and
 - (e) other than in accordance with a permit.
- (3) The local government may exempt a person from any requirements in clause 11.10 on the application of that person.

11.11 Matters to be considered in determining an application

In determining an application for a permit to establish or conduct an alfresco dining area, the local government may consider, in addition to the relevant considerations described in clause 11.12, whether or not—

- (a) the abutting food businesses are registered in accordance with the Food Act and whether the use of the food premises is permitted under the planning scheme;
- (b) the alfresco dining area will comply with any other local law made by the local government under the Act;
- (c) users of the alfresco dining area will have access to proper and sufficient sanitary and ablutionary conveniences as per the Building Code of Australia;
- (d) alfresco dining area would—
 - (i) obstruct the visibility or clear sight lines for pedestrians and motorists at an intersection of thoroughfares; or
 - (ii) impede pedestrian access;
- (e) the proposed furniture is unsuitable, including whether or not the tables, chairs and other equipment to be used may obstruct or impede the use of the local government property or public place for the purposes for which it was designed;
- (f) any abutting food businesses provide sufficient car parking bays for customers of the alfresco dining area; and
- (g) the applicant is a fit and proper person.

11.12 Obligations of a permit holder for an alfresco dining area

- (1) A holder of a permit for an alfresco dining area must—
- (a) display the permit in a conspicuous place in the alfresco dining area or in the abutting food business and when requested by an authorised person or employee of the local government, produce the permit to him or her;
 - (b) ensure that the alfresco dining area is conducted at all times in accordance with the provisions of—
 - (i) this local law;
 - (ii) any other local law made under the Act; and
 - (iii) the Food Act;
 - (c) ensure that the alfresco dining area is kept in a clean and tidy condition, including by maintaining the chairs, tables and other structures in the alfresco dining area in a good, clean and serviceable condition at all times;
 - (d) on the cancellation of the permit, the permit holder shall at his or her cost, reinstate or restore the local government property or public place on which the alfresco dining area is established or conducted, to a condition consistent with the condition prior to the commencement of the alfresco dining area; and

- (e) present an authorised person with a copy of a current certificate of public liability insurance upon the request of the authorised person.

(2) If, at the absolute discretion of the local government, any work is required to be carried out to an alfresco dining area, the local government may give notice to the permit holder to carry out that work specified within the notice within the time specified in the notice.

(3) In this part, “work” includes the removal, alteration, repair, reinstatement or construction of a street or footpath or any part of a street or footpath arising from or in connection with the setting up or conduct of an alfresco dining area.

11.13 Conditions on an alfresco dining area

In addition to the conditions described in clause 12.4, the local government may impose conditions or grant an exemption on the grant of a permit for an alfresco dining area relating to—

- (a) the permit holder having non-exclusive rights to establish and conduct an alfresco dining area in the relevant area;
- (b) the colour, number, type, form and construction, as the case may be, of any furniture which may be used in the alfresco dining area;
- (c) the care, maintenance and cleaning of any furniture used in the alfresco dining area;
- (d) the removal and storage of all furniture used in the alfresco dining area prior to the close of business of the abutting food business on any day that the alfresco dining area is operating;
- (e) the removal of all furniture used in the alfresco dining area for the purposes of events or other activities of the local government;
- (f) the requirement to maintain pedestrian access between the alfresco dining area and an abutting food business;
- (g) the alfresco dining area not impeding or obstructing any local government property or public place used by either pedestrians or vehicles;
- (h) the obtaining of public liability insurance in an amount and or terms reasonably required by the local government;
- (i) the requirement to maintain clear sight lines for vehicles entering or leaving local government property, a thoroughfare or a vehicle crossing; and
- (j) the payment of costs associated with the local government preparing the local government property or public place for use as an alfresco dining area including the reshaping of footpaths and marking the boundaries of the alfresco dining area.

11.14 No smoking areas

Subject to this local law if a permit is granted under this local law in respect of an alfresco dining area—

- (a) the alfresco dining area is deemed to be a no smoking area; and
- (b) a person shall not smoke a tobacco product while in the alfresco dining area.

11.15 Removal of an unlawfully conducted alfresco dining area

(1) Where an alfresco dining area is conducted without a permit or in contravention of the terms or condition of a permit—

- (a) an authorised person may direct a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment; and
- (b) any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

(2) If an authorised person directs a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment, that person must comply with the direction of the authorised person.

11.16 Temporary removal of an alfresco dining area

(1) The holder of a permit for an alfresco dining area must temporarily remove the alfresco dining area when requested to do so on reasonable grounds by an authorised person or a member of the police service or an emergency service.

(2) The holder of a permit for an alfresco dining area may replace the alfresco dining area removed under clause 11.16(1) as soon as the person who directed him or her to remove it allows it to be replaced.

11.17 Change of ownership of an alfresco dining area

Where the ownership of a food business subject to an alfresco dining permit changes, the new owner must notify the local government within 2 weeks of the change of ownership.

11.18 Terms and validity of an alfresco dining permit

Except where otherwise stated in the local law or on the permit, an alfresco dining permit remains valid until—

- (a) the proprietor of the food business changes;
- (b) approved changes are made to an existing licence, including increase or reduction in area subject of the licence, or conditions under which the licence was granted;
- (c) the public liability insurance policy required in accordance with 13.4(h) lapses, is cancelled or is no longer in operation;
- (d) the permit is cancelled by the local government.

PART 12—PERMITS*Division 1—Applying for a permit***12.1 Application for a permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
 - (a) be in the form determined by the local government;
 - (b) state the full name and address of the applicant;
 - (c) be signed by the applicant;
 - (d) contain the information required by the form;
 - (e) contain any other information required for that particular type of permit under this local law; and
 - (f) be forwarded to the local government 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) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
 - (a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;
 - (b) details of any location in which the applicant proposes to trade or conduct a street market;
 - (c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;
 - (d) the proposed goods and services which will be traded or sold by the trader or at a street market; and
 - (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (5) The local government may require an applicant to give local public notice of the application for the permit.

12.2 Decision on application for permit

- (1) The local government may—
 - (a) approve an application for a permit;
 - (b) approve an application for a permit subject to conditions; or
 - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form approved by the local government.
- (3) Where the local government approves an application for a permit for an alfresco dining area with or without conditions, the local government must attach to the permit a plan showing the area where the alfresco dining area may be conducted, which will then form part of the permit.
- (4) If the local government refuses to approve an application for a permit, it must give written notice of that refusal to the applicant.
- (5) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

12.3 Relevant considerations in determining application for granting a permit

- (1) In determining an application for a permit, the local government is to have regard to—
 - (a) any relevant local government policies;
 - (b) the Competition Principles Agreement;
 - (c) the desirability of the proposed activity;
 - (d) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and
 - (e) such other matters as the local government considers relevant.
- (2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—
 - (a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;
 - (b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;
 - (c) the applicant is not a desirable or suitable person to hold a permit;
 - (d) the applicant is insolvent or under administration;

- (e) the activity may result in traffic and pedestrian safety being adversely impacted;
- (f) the activity is not in keeping with the surrounding land uses; or
- (g) such other grounds as the local government considers relevant.

Division 2—Conditions on a permit

12.4 Examples of conditions

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (f) the payment of a bond against possible damage, cleaning or other expenses;
- (g) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (h) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place or local government property by the permit holder;
- (i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and
- (j) any other matter that the local government considers fit or appropriate.

12.5 Compliance with and variations to terms and conditions

- (1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.
- (2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

Division 3—General

12.6 Duration of permit

- (1) 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 terms and conditions of the permit; or
 - (b) cancelled under clause 12.10.

12.7 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of this Part 12 regarding an application for a permit apply to an application for the renewal of a permit with any necessary modifications.

12.8 Transfer of permit

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee for 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 local government 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—
 - (a) approve an application for the transfer of a permit;
 - (b) approve an application for the transfer of a permit subject to conditions; or
 - (c) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
 - (a) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

(6) Alfresco dining permits are non-transferable.

12.9 Production of permit

A permit holder must produce to an authorised person his or her permit immediately on being directed to do so by that authorised person.

12.10 Cancellation or suspension of permit

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if—
- (a) the permit holder has not complied with a condition of the permit;
 - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit; or
 - (c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
 - (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.10(1), the permit holder—
- (a) must return the permit to the local government as soon as practicable; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.
- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.
- (4) On the cancellation or suspension of a permit under clause 12.10(3), the permit holder is, subject to clause 12.10(5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under clause 12.10(3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

12.11 Nominee of permit holder

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

PART 13—OBJECTIONS AND APPEALS

13.1 Objection and appeal rights

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

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

PART 14—MISCELLANEOUS

Division 1—Authorised person

14.1 Authorised person to be obeyed

A person in or on local government property or a public place—

- (a) must obey any lawful direction of an authorised person; and
- (b) must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

14.2 Persons may be directed to leave local government property or a public place

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

Division 2—Notices

14.3 Liability for damage to local government property or a public place

(1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing to that person require that person within the time specified 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 clause 14.3(1), the local government may recover the costs referred to in the notice as a debt due to it.

14.4 Notice to redirect or repair sprinklers

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

14.5 Notice to remove thing unlawfully placed on thoroughfare

Where anything is placed on a thoroughfare contrary to this local law, the local government or an authorised person may give a notice to—

- (a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or
- (b) such other person who may be responsible for the thing being so placed, requiring the relevant person to remove the thing.

14.6 Notice to repair damage to thoroughfare

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

14.7 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove that hazard.

(2) Clause 14.7(1) does not apply where the plant was planted by the local government.

*Division 3—Lost property***14.8 Lost property and unclaimed property in a locker**

(1) A person who finds an article which may have been left on or lost by another person on local government property must immediately deliver that article to a manager, attendant or other employee of the local government.

(2) If an article in a locker is not claimed or collected at the expiry of the period of hire or before the close of operations of the local government property or public place on the date of hire, the article may be removed by an attendant or authorised person.

(3) In respect of any article removed from a locker or otherwise left on local government property, an authorised person, manager or attendant must record in the unclaimed property register—

- (a) a description of the relevant article;
- (b) the time and date when the article was removed from the locker or identified; and
- (c) if an original receipt exists in respect of the hire of the locker, the time and date recorded on that original receipt.

(4) An authorised person, manager or attendant must ensure that an article removed from the locker or otherwise left on local government property is stored at a place for storing lost property determined by the local government.

(5) An authorised person, manager or attendant may deliver to a person an article recorded in the unclaimed property register provided that the attendant or authorised person has received—

- (a) satisfactory evidence of the person's right to obtain the article;
- (b) an accurate description of the article being claimed; and
- (c) payment of any outstanding fees or storage charges.

(6) A person who receives delivery of an article from the unclaimed property register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the unclaimed property register.

(7) If an article is not claimed or collected within a period of 1 month the local government may dispose of the article in any manner that the local government sees fit.

(8) This clause will not apply where a local government considers an item left on local government property or a public place to be, in its absolute discretion, suspicious or dangerous.

PART 15—ENFORCEMENT*Division 1—Notices given under this local law***15.1 Offence to fail to comply with a notice**

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

15.2 Local government may undertake requirements of a notice

If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

*Division 2—Offences and penalties***15.3 Offences and general penalty**

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

15.4 Prescribed offences

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

15.5 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—Person to give name and address on demand***15.6 Requirement to give name and address on demand**

- (1) An authorised person may—
- (a) upon finding a person committing or having committed; or
 - (b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.
- (2) A person from whom information is demanded in accordance with clause 15.6(1) commits an offence if the person—
- (a) refuses without lawful excuse to give the information; or
 - (b) gives information that is false or misleading in any material particular.
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SCHEDULE 1—PRESCRIBED OFFENCES

Local Government Property and Public Places Local Law 2022

[Clause 15.4(1)]

ITEM	CLAUSE	DESCRIPTION	MODIFIED PENALTY
1.	2.4	Failure to comply with a determination	\$300
2.	3.1(1)(b)	Damaging a tree or plant etc. on local government property without a permit	\$300
3.	3.1(1)(c)	Cutting, collecting or removing timber, firewood etc. on local government property without a permit	\$300
4.	3.1(1)(d)	Planting any plant or sowing any seeds on local government property without a permit	\$300
5.	3.1(1)(e)	Erecting a sign on local government property without a permit	\$300
6.	3.1(1)(f)	Erecting a structure for public amusement etc. on local government property without a permit	\$300
7.	3.1(1)(g)	Erecting a building or a refuelling site on local government property without a permit	\$300
8.	3.1(1)(h)	Making an excavation on, erecting a fence or removing a fence on local government property without a permit	\$300
9.	3.1(1)(i)	Erecting or installing structures on local government property for supplying power, water etc. services without a permit	\$300
10.	3.1(1)(j)	Depositing or storing anything on local government property without a permit	\$300
11.	3.1(1)(k)	Depasturing, tethering, driving or riding animals on local government property without a permit	\$300
12.	3.1(1)(l)	Launching an aircraft or helicopter from or landing an aircraft into local government property without a permit	\$300
13.	3.1(1)(m)	Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit	\$300
14.	3.1(1)(n)	Occupying a structure on local government property at night for the purpose of sleeping without a permit	\$300
15.	3.1(1)(o)	Erecting a tent, camp, hut or similar structure on local government property in certain circumstances without a permit	\$300
16.	3.1(1)(p)	Teaching, coaching or training person, animal or dog for profit in or on local government property without a permit	\$300
17.	3.1(1)(q)	Conducting a function or undertaking a promotional activity on local government property without a permit	\$300
18.	3.1(1)(r)	Charging a person for entry to local government property without a permit	\$300
19.	3.1(1)(s)	Lighting a fire on local government property without a permit	\$300
20.	3.1(1)(t)	Lighting, setting off or conducting a display of fireworks on local government property without a permit	\$300
21.	3.1(1)(u)	Parachuting, hang-gliding, abseiling or base jumping from or onto local government property without a permit	\$300
22.	3.1(1)(v)	Gambling or betting etc. on local government property without permit	\$300
23.	3.1(1)(w)	Erecting, installing, operating or using devices for the emission and amplification of noise on local government property without a permit	\$300
24.	3.5	Failure of permit holder to comply with responsibilities	\$300
25.	4.1	Behaviour on local government property which interferes with others	\$300
26.	4.2	Behaviour on local government property detrimental to property	\$300
27.	4.3	Taking or injuring any fauna on local government property	\$300
28.	4.4	Entering or remaining on local government property while drunk or under the influence of a prohibited drug	\$300
29.	4.5	Taking or consuming a prohibited drug on local government property	\$300

30.	4.6	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	\$300
31.	4.7(1)(a)	Failing to wear adequate clothing to prevent indecent exposure on local government property	\$300
32.	4.7(1)(b)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property	\$300
33.	4.7(1)(c)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	\$300
34.	4.7(2)	Failing to comply with a direction to put on adequate clothing	\$300
35.	4.8	Unauthorised entry to local government property	\$300
36.	4.10(2)	Failure to comply with a sign on local government property regarding conditions of use	\$300
37.	5.1	Carrying out a prohibited activity at a public swimming pool or recreation facility	\$300
38.	5.5(1)	Conducting a controlled swimming or other sporting event, or carnival or competition without consent at a public swimming pool or recreation facility	\$300
39.	5.6	Unauthorised entry to fenced off or closed local government property	\$300
40.	5.7(1)	Gender not specified using entry of toilet block or change room on local government property	\$300
41.	5.8(2)	Storing a prohibited item in a locker on local government property	\$300
42.	5.9	Using a shower in a prohibited manner	\$300
43.	5.10	Using a camera device to record or transmit an image in a toilet, shower or change room	\$300
44.	6.1(1)	Entering local government property without paying the required fee	\$300
45.	7.1(a)	Planting a plant on a thoroughfare in a prohibited manner	\$300
46.	7.1(b)	Damaging a lawn or garden or removing any plant or part of a plant on or in a public place	\$300
47.	7.1(c)	Repairing or servicing any vehicle on a verge	\$300
48.	7.1(d)	Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing	\$300
49.	7.1(e)	Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians	\$300
50.	7.1(f)	Playing games or sport in a prohibited manner on or in a thoroughfare	\$300
51.	7.1(g)	Riding a bicycle or wheeled recreational device within a mall, arcade or verandah of a shopping centre	\$300
52.	7.1(h)	Creating a nuisance on or in a public place	\$300
53.	7.2(1)(a)	Digging or creating a trench through or under a kerb or footpath without a permit	\$300
54.	7.2(1)(b)	Damaging or removing a street tree without a permit	\$300
55.	7.2(1)(c)	Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit	\$300
56.	7.2(1)(d)	Causing an obstruction to a thoroughfare without a permit	\$300
57.	7.2(1)(e)	Causing an obstruction to a water channel or a water course in a thoroughfare without a permit	\$300
58.	7.2(1)(f)	Lighting a fire or burning anything on a thoroughfare or verge without a permit	\$300
59.	7.2(1)(g)	Laying pipes under or providing taps on any verge without a permit	\$300
60.	7.2(1)(h)	Placing or installing prohibited materials on a thoroughfare without a permit	\$300
61.	7.2(1)(i)	Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit	\$300
62.	7.2(1)(j)	Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit	\$300

63.	7.2(1)(k)	Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit	\$300
64.	7.2(1)(l)	Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit	\$300
65.	7.2(1)(m)	Driving or taking a vehicle on a closed thoroughfare without a permit	\$300
66.	7.3	Depositing anything or causing an obstruction to a thoroughfare, kerb or footpath	\$300
67.	7.4(1)	Failure to obtain a permit for a temporary vehicle crossing	\$300
68.	7.7(2)	Failure to properly display and maintain street number	\$300
69.	7.7(3)	Placing or display a street number in a location causing confusion or which is misleading	\$300
70.	7.7(4)	Adopting, using or displaying a street number other than the street number assigned.	\$300
71.	7.10 (2)	Failure to comply with a sign on a public place	\$300
72.	8.1(2)	Erecting or placing etc. advertising sign in a prohibited manner	\$300
73.	8.2(1)	Erecting or displaying a public interest sign without a permit	\$300
74.	8.2(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	\$300
75.	8.3(1)	Erecting or displaying an other portable sign contrary to local law	\$300
76.	8.3(3)	Erecting or displaying more than one other portable sign per business	\$300
77.	8.3(4)	Erecting or displaying an other portable sign on a local government verge contrary to local law	\$300
78.	8.4(1)	Erecting or placing election advertising contrary to local law	\$300
79.	8.4(2)(e)	Failing to maintain election advertising in good condition	\$300
80.	8.4(2)(g)	Failing to remove election advertising within 72 hours of close of polls on election date	\$300
81.	8.4(2)(i)	Failing to securely install election advertising	\$300
82.	8.6	Erecting an advertising sign without marking a name	\$300
83.	9.1	Leaving an animal in a public place or local government property without a permit or authorisation	\$300
84.	9.2(2)(a)	Allowing an animal to enter or remain on a thoroughfare	\$300
85.	9.2(2)(b)	Allowing an animal with a contagious or infectious disease to enter local government property or a public place	\$300
86.	9.2(2)(c)	Training or racing an animal on a thoroughfare	\$300
87.	9.2(2)(d)	Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation	\$300
88.	9.2(3)	Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation	\$300
89.	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	\$300
90.	10.6(1)	Driving a vehicle on other than the carriageway of a flora road	\$300
91.	10.9	Planting in thoroughfare without a permit	\$300
92.	10.11	Failure to obtain permit to clear a thoroughfare	\$500
93.	10.13	Burning of thoroughfare without a permit	\$500
94.	10.17	Construction of firebreak on thoroughfare	\$500
95.	10.19	Commercial harvesting of native flora on thoroughfare	\$500
96.	10.20(1)	Collecting seed from native flora on thoroughfare without a permit	\$400
97.	11.1	Carrying on trading in a restricted area without the express written consent of the local government	\$300
98.	11.1(1)	Carrying on trading in a public place or on local government property contrary to local law	\$300
99.	11.4(a)	Conducting a street market on or in a public place without a permit	\$300

100.	11.5	Engaging in street entertaining on or in a public place without a permit	\$300
101.	11.9	Failure of a holder of a permit for street entertaining to comply with obligations under local law	\$300
102.	11.10(2)	Establishing or conducting an alfresco dining area contrary to local law	\$300
103.	11.12(1)	Failure of a holder of a permit for an alfresco dining area to comply with obligations	\$300
104.	11.14(b)	Smoking a tobacco product in an alfresco dining area	\$300
105.	11.15(2)	Failure to comply with direction of authorised person to remove tables, chairs, umbrellas or other chairs in an alfresco dining area	\$300
106.	11.17	Failure to notify the local government of a change of ownership of an alfresco dining area	\$300
107.	12.5(1)	Failure to comply with terms and conditions of a permit	\$300
108.	12.9	Failure to produce permit upon request by an authorised person	\$300
109.	14.1(a)	Failure to obey a lawful direction of an authorised person	\$300
110.	14.1(b)	Obstructing or hindering an authorised person in the execution of his or her duties	\$300
111.	15.1	Failure to comply with a notice	\$300
112.	15.6(2)(a)	Refusing to give name and address contrary to local law	\$300
113.	15.6(2)(b)	Giving false or misleading information regarding name and address etc.	\$300

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995**SHIRE OF DUMBLEYUNG****STANDING ORDERS LOCAL LAW 2022****ARRANGEMENT****PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and intent
- 1.4 Application
- 1.5 Repeal
- 1.6 Interpretation

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

- 2.1 Establishment of committees
- 2.2 Types of committees
- 2.3 Delegation of some powers and duties to certain committees
- 2.4 Limits on delegation of powers and duties to certain committees
- 2.5 Appointment of committee members
- 2.6 Tenure of committee membership
- 2.7 Resignation of committee members
- 2.8 Register of delegations to committees
- 2.9 Committees to report

PART 3—CALLING AND CONVENING MEETINGS

- 3.1 Ordinary and special Council meetings
- 3.2 Calling Council meetings
- 3.3 Convening Council meetings
- 3.4 Calling committee meetings
- 3.5 Convening committee meetings
- 3.6 Public notice of meetings

PART 4—PRESIDING MEMBER AND QUORUM*Division 1: Who presides*

- 4.1 Who presides
- 4.2 When the Deputy President can act
- 4.3 Who acts if no President
- 4.4 Election of presiding members of committees
- 4.5 Election of deputy presiding members of committees
- 4.6 Functions of deputy presiding members
- 4.7 Who acts if no presiding member

Division 2—Quorum

- 4.8 Quorum for meetings
- 4.9 Reduction of quorum for Council meetings
- 4.10 Reduction of quorum for committee meetings
- 4.11 Procedure where no quorum to begin a meeting
- 4.12 Procedure where quorum not present during a meeting
- 4.13 Names to be recorded

PART 5—BUSINESS OF A MEETING

- 5.1 Business to be specified
- 5.2 Order of business
- 5.3 Motions of which previous notice has been given
- 5.4 New business of an urgent nature
- 5.5 Motions without notice
- 5.6 Adoption by exception resolution

PART 6—PUBLIC PARTICIPATION

- 6.1 Meetings generally open to the public
- 6.2 Meetings not open to the public
- 6.3 Question time for the public
- 6.4 Question time for the public at certain meetings
- 6.5 Minimum question time for the public
- 6.6 Procedures for question time for the public
- 6.7 Other procedures for question time for the public
- 6.8 Distinguished visitors
- 6.9 Deputations
- 6.10 Petitions
- 6.11 Presentations
- 6.12 Participation at committee meetings
- 6.13 Council may meet to hear public submissions
- 6.14 Public Inspection of agenda materials
- 6.15 Confidentiality of information withheld
- 6.16 Recording of proceedings
- 6.17 Standard of conduct
- 6.18 Right of reply

PART 7—QUESTIONS BY MEMBERS

- 7.1 With due notice
- 7.2 Without due notice

PART 8—CONDUCT OF MEMBERS

- 8.1 Members to be in their proper places
- 8.2 Respect to the presiding member
- 8.3 Titles to be used
- 8.4 Advice of entry or departure
- 8.5 Members to indicate their intention to speak
- 8.6 Priority of speaking
- 8.7 Presiding member may take part in debates
- 8.8 Relevance
- 8.9 Speaking twice
- 8.10 Duration of speeches
- 8.11 No speaking after conclusion of debate
- 8.12 No interruption
- 8.13 Personal explanations
- 8.14 No reopening of discussion
- 8.15 Adverse reflection
- 8.16 Withdrawal of offensive language

PART 9—PRESERVING ORDER

- 9.1 Presiding member to preserve order
- 9.2 Point of order
- 9.3 Procedures on a point of order
- 9.4 Calling attention to breach
- 9.5 Ruling by the presiding member
- 9.6 Continued breach of order
- 9.7 Right of presiding member to adjourn

PART 10—DEBATE OF MEMBERS

- 10.1 Recommendations in reports
- 10.2 Alternative motion
- 10.3 Motions to be stated in writing
- 10.4 Motions to be supported
- 10.5 Unopposed business
- 10.6 Only one substantive motion at a time
- 10.7 Order of call in debate
- 10.8 Limit of debate
- 10.9 Member may require question to be read
- 10.10 Consent of seconder required for alteration

- 10.11 Order of amendments
- 10.12 Form of an amendment
- 10.13 Amendment must not negate original motion
- 10.14 Relevance of amendments
- 10.15 Mover of motion may speak on amendment
- 10.16 Effect of an amendment
- 10.17 Withdrawal of motion or amendment
- 10.18 Right of reply
- 10.19 Foreshadowing alternative motions

PART 11—PROCEDURAL MOTION

- 11.1 Permissible procedural motions
- 11.2 No debate
- 11.3 Who may move
- 11.4 Procedural motions—right of reply on substantive motion
- 11.5 Effect of procedural motions
 - 11.5.1 The motion be deferred
 - 11.5.2 The meeting now adjourn
 - 11.5.3 The debate be adjourned
 - 11.5.4 The motion be now put
 - 11.5.5 The motion lie on the table
 - 11.5.6 Meeting to proceed to the next business
 - 11.5.7 Meeting be closed to members of the public
 - 11.5.8 Ruling by the Presiding Member be overruled
 - 11.5.9 Member be no longer heard
 - 11.5.10 Item be referred back to Committee

PART 12—DISCLOSURE OF INTERESTS

- 12.1 Disclosure of interests

PART 13—VOTING

- 13.1 Question—when put
- 13.2 Voting
- 13.3 Majorities required for decisions
- 13.4 Method of taking vote

PART 14—MINUTES OF MEETINGS

- 14.1 Keeping of minutes
- 14.2 Content of minutes
- 14.3 Public inspection of unconfirmed minutes
- 14.4 Confirmation of minutes

PART 15—ADJOURNMENT OF MEETING

- 15.1 Meeting may be adjourned
- 15.2 Effect of adjournment

PART 16—REVOKING OR CHANGING DECISIONS

- 16.1 Requirements to revoke or change decisions
- 16.2 Limitations on powers to revoke or change decisions
- 16.3 Implementing a decision

PART 17—SUSPENSION OF LOCAL LAW

- 17.1 Suspension of local law
- 17.2 Where local law does not apply

PART 18—MEETINGS OF ELECTORS

- 18.1 Electors' general meetings
- 18.2 Matters for discussion at electors' general meetings
- 18.3 Electors' special meetings
- 18.4 Requests for electors' special meetings
- 18.5 Convening electors' meetings
- 18.6 Who presides at electors' meetings
- 18.7 Procedure for electors' meetings
- 18.8 Participation of non-electors

- 18.9 Voting at electors' meetings
- 18.10 Minutes of electors' meetings
- 18.11 Decisions made at electors' meetings

PART 19—ENFORCEMENT

- 19.1 Penalty for breach
- 19.2 Who can prosecute

SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF DUMBLEYUNG

LOCAL GOVERNMENT ACT 1995

SHIRE OF DUMBLEYUNG

STANDING ORDERS LOCAL LAW 2022

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

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the *Shire of Dumbleyung Standing Orders Local Law 2022*.

1.2 Commencement

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

1.3 Purpose and intent

- (1) The purpose of the local law is to provide for the conduct of meetings of the Council, Committees and electors.
- (2) This local law is intended to result in—
 - (a) better decision-making at meetings;
 - (b) the orderly and efficient conduct of meetings;
 - (c) greater community participation and understanding of the business of the Council; and
 - (d) more open and accountable local government.

1.4 Application

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

1.5 Repeal

This local law repeals the *Shire of Dumbleyung Standing Orders Local Law 2001* as published in the *Government Gazette* on 24 June 2002.

1.6 Interpretation

In this local law, unless the contrary intention appears—

- absolute majority** has the meaning given to it in the Act;
- Act** means the *Local Government Act 1995*;
- CEO** means the Chief Executive Officer of the Shire;
- committee** means a committee of the council (established under section 5.8 of the Act);
- Council** means the Council of the Shire;
- Councillor** has the same meaning as is given to it in the Act;
- Deputy President** means the deputy president of the Shire;
- district** means the district of the local government;
- employee** has the same meaning as is given to it in the Act;
- Local Government** means the Shire;
- meeting** means a meeting of the Council or of a committee, or an electors' meeting, as the context requires;
- member** has the same meaning as given to it in the Act;
- Minister** means the Minister responsible for administering the Act;
- minor amendment** in relation to a motion, means an amendment which does not alter the basic intent of the motion to which the amendment applies;
- President** means the president of the Shire;
- presiding person** means the person presiding at a meeting;
- Regulations** means the *Local Government (Administration) Regulations 1996*;
- Shire** means the Shire of Dumbleyung;
- simple majority** means more than 50% of the members present and voting;
- substantive motion** means an original motion, or an original motion as amended, but does not include an amendment motion or a procedural motion.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**2.1 Establishment of committees**

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

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
- (a) the terms of reference of the committee;
 - (b) the number of Council members, employees and other persons to be appointed to the committee;
 - (c) the names or titles of the Council members and employees to be appointed to the committee;
 - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
 - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

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

2.4 Limits on delegation of powers and duties to certain committees

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

2.5 Appointment of committee members

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

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

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

2.8 Register of delegations to committees

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

2.9 Committees to report

A committee—

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

PART 3—CALLING AND CONVENING MEETINGS

3.1 Ordinary and special Council meetings

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

3.2 Calling Council meetings

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

3.3 Convening Council meetings

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

3.4 Calling committee meetings

A meeting of a committee is to be held—

- (a) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) In accordance with a decision of the Council or the committee.

3.5 Convening committee meetings

- (1) The CEO is to convene a committee meeting by giving each member of the committee notice of the date, time and place of the meeting and an agenda for the meeting.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of subclause (1), in convening a meeting of a committee.
- (3) Where, in the opinion of the President, the presiding member of the committee or at least one-third of the members of the committee, there is a need to meet urgently, the CEO may give a lesser period of notice of a committee meeting.

3.6 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM*Division 1—Who presides***4.1 Who presides**

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

4.2 When the Deputy President can act

When the Deputy President can act is dealt with in the Act.

4.3 Who acts if no President

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

4.4 Election of presiding members of committees

The election of presiding members of committees and their deputies is dealt with in the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

4.6 Functions of deputy presiding members

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

4.7 Who acts if no presiding member

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

*Division 2—Quorum***4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

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

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

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
which is adjourned for want of a quorum,
- (b) the names of the members then present are to be recorded in the minutes.

PART 5—BUSINESS OF A MEETING**5.1 Business to be specified**

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

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

(3) No business is to be transacted at a committee meeting other than that specified in the agenda or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or the committee.

(4) Where a Council meeting is adjourned to the next ordinary meeting of the Council, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.

(5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be dealt with as soon as practicable after the confirmation of the minutes of the previous meeting.

- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclauses (4) or (5), no business is to be transacted at that later meeting other than that—
- (a) is specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) The order of business of an ordinary meeting of the Council or a committee must be determined by the Council from time to time.
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council 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.

5.3 Motions of which previous notice has been given

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

5.4 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the presiding member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), ‘cases of extreme urgency or other special circumstances’ means matters—
- (a) that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council or committee before the next meeting; and
 - (b) that, if not dealt with at the meeting, are likely to—
 - (i) have a significant adverse effect (financially or otherwise) on the Local Government; or
 - (ii) result in a contravention of a written law.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report to the meeting—
- (a) the presiding member is to ask the CEO to give; and
 - (b) the CEO, or the CEO’s nominee, is to give, a verbal report to the meeting.
- (4) The minutes of the meeting are to include—
- (a) a summary of the verbal report and any recommendations of the CEO or the CEO’s nominee; and
 - (b) the reasons for any decision made at the meeting that is significantly different from any advice or recommendations of the CEO or the CEO’s nominee.

5.5 Motions without notice

A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.

5.6 Adoption by exception resolution

- (1) In this clause ‘adoption by exception resolution’ means a resolution of the Council that has the effect of adopting, recommendations from any committee or, for a number of specifically identified reports, the employee recommendation as the Council resolution.

- (2) Subject to subclause (3), the Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) that requires an absolute majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

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

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the presiding member is to direct everyone to leave the meeting except—
 - (i) the members;
 - (ii) the CEO;
 - (iii) any employee specified by the presiding member; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including the vote of a member or members that is required under clause 13.4(3) to be included in the minutes.

6.3 Question time for the public

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

6.4 Question time for the public at certain meetings

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

6.5 Minimum question time for the public

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

6.6 Procedures for question time for the public

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

6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council or a committee for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council or the committee.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (6) The presiding member may decide that a public question must not be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;

- (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (7) The presiding member may agree to extend public question time.
- (8) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.
- (9) In this clause: “**relevant person**” has the same meaning as in section 5.59 of the Act.

6.8 Distinguished visitors

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

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council or a committee, is to either—
- (a) apply, before the meeting, to the President for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council or a committee.
- (2) Any application for a deputation is to include details of the topic on which the deputation is to be made and a brief outline of the contents of the proposed submission which will be made during the deputation.
- (3) The President may either—
- (a) approve the request and invite the deputation to attend a meeting of the Council or committee; or
 - (b) refer the request to the Council or the committee to decide by simple majority whether or not to receive the deputation.
- (4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—
- (a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;
 - (b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and
 - (c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.
- (5) Unless decided otherwise by the President or presiding member of a committee, the number of deputations approved for any meeting must not exceed four.
- (6) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or the committee until the deputation has completed its presentation.

6.10 Petitions

- (1) Where a member or the CEO receives a petition conforming to the requirements of clause 6.10 (2), that petition is to be presented to the next Council meeting.
- (2) Except where required by the Act, the Regulations or any other written law, any petition to the Council—
- (a) must be addressed to the Council;
 - (b) state the name and address of the person to whom correspondence in respect of the petition may be served; and
 - (c) be in the form detailed in Schedule 1 of this local law.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

6.11 Presentations

- (1) In this clause, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the President.

6.12 Participation at committee meetings

- (1) In this clause a reference to a **person** is to a person who—
- (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.

(3) The presiding member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes on a recommendation contained in a report to the committee, with a maximum of 3 speakers for the recommendation and 3 speakers against the recommendation.

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

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

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

6.13 Council may meet to hear public submissions

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

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

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

(a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;

(b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and

(c) cause minutes to be kept of the meeting to provide the opportunity to be heard.

(4) A meeting held under subclause (1) must be conducted only to hear submissions but a member may, at any time with leave of the presiding member, ask a question to seek to clarify any aspect of a submission. The Council must not make resolutions at a meeting held under subclause (1).

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

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

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

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

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

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire's administration office, any Shire library or on the Local Government's website.

6.15 Confidentiality of information withheld

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

(a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed"; and

(b) marked "*Confidential*" in the agenda.

(2) A member or an employee who has—

(a) confidential information under subclause (1); or

(b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,

is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions.

(3) Subclause (2) does not prevent a member or employee from disclosing the information—

(a) at a closed meeting;

(b) to the extent specified by 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) The Council may by resolution declare that any information withheld under clause 6.15 (1) must remain confidential for a specified period or indefinitely.

6.16 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council, any committee or electors meeting without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

6.17 Standard of conduct

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person at a meeting—
 - (a) addressing the Council or a committee must, when invited to speak, extend due courtesy and respect to the person presiding and others at the meeting;
 - (b) must not reflect adversely on the character or actions of any member or employee;
 - (c) must not impute any motive to a member or employee;
 - (d) must not use offensive or objectionable expressions;
 - (e) must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether expressing approval or dissent, by conversing or by any other means;
 - (f) must ensure that his or her mobile telephone or audible pager is not switched on or used; and
 - (g) must not behave in a manner that is contrary to section 75 of the Criminal Code.
- (3) The presiding person may warn a person who fails to comply with this clause.
- (4) If a person—
 - (a) after being warned, acts contrary to this clause, or to this local law; or
 - (b) refuses or fails to comply with a direction by the presiding member,the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (5) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding person, be removed from the meeting room and, if the presiding person orders, from the premises.

6.18 Right of reply

- (1) A member who is aggrieved by a statement made (including a question asked) by a member of the public at a meeting may, with the leave of the presiding member, reply to that statement.
- (2) A reply under this clause is to be confined to a succinct response to the specific part of the statement in respect of which the member is aggrieved.

PART 7—QUESTIONS BY MEMBERS**7.1 With due notice**

- (1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear business days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding member.

7.2 Without due notice

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A member requesting general information from an employee at a Council or committee meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that employee or another employee present at the meeting.
- (3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—
 - (a) the question be placed on notice for the next meeting of Council; or committee and
 - (b) the answer to the question be given to the member who asked it within 14 days.
- (4) Every question and answer—
 - (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an employee may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

PART 8—CONDUCT OF MEMBERS**8.1 Members to be in their proper places**

(1) At the first meeting held after each election day, or at any other time considered necessary, each member, other than the President, is to be allocated a seat at the Council table by a method determined by the Council from time to time.

(2) In any set allocation, the President is to be seated next to the CEO.

(3) Each member is to occupy his or her position allotted position at each Council or committee meeting.

8.2 Respect to the presiding member

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

8.3 Titles to be used

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

8.4 Advice of entry or departure

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

8.5 Members to indicate their intention to speak

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

8.6 Priority of speaking

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

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

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

8.7 Presiding member may take part in debates

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

8.8 Relevance

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

8.9 Speaking twice

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

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

8.10 Duration of speeches

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

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

8.11 No speaking after conclusion of debate

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

- (a) after the mover has replied; or
- (b) after the question has been put.

8.12 No interruption

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 11.1(i)).

8.13 Personal explanations

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

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

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

8.14 No reopening of discussion

A member is not to reopen discussion on any Council or committee decision, except to move that the decision be revoked or changed.

8.15 Adverse reflection

- (1) A member is not to reflect adversely on a decision of the Council or committee except—
 - (a) on a motion that the decision be revoked or changed; or
 - (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (2) A member is not—
 - (a) to reflect adversely on the character or actions of another member or employee; or
 - (b) to impute any motive to a member or employee, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A member is not to use offensive expressions in reference to any member, employee or other person.
- (4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—
 - (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
 - (b) the Council or committee may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

- (1) A member who, in the opinion of the presiding member, uses an expression which—
 - (a) in the absence of a resolution under clause 8.15(2)—
 - (i) reflects adversely on the character or actions of another member or employee; or
 - (ii) imputes any motive to a member or employee; or
 - (b) is offensive or insulting,must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.
- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

PART 9—PRESERVING ORDER

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.7, but to preserve order.

9.2 Point of order

- (1) A member may object, by way of a point of order, only to a breach of—
 - (a) any of this local law; or
 - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order—
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

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

9.4 Calling attention to breach

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

9.5 Ruling by the presiding member

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

9.6 Continued breach of order

If a member—

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

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

9.7 Right of presiding member to adjourn

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

PART 10—DEBATE OF MEMBERS**10.1 Recommendations in reports**

- (1) Recommendations contained in a committee or employee's report are to be given first priority consideration for adoption by the Council.
- (2) Any proposed amendment to a recommendation in a committee or employees' report that is significantly different to the recommendation, is not to be accepted unless a notice of motion in accordance with clause 5.3 has been given by the mover of the proposed amendment.
- (3) The Council may by majority decision dispense with requirements of clause 5.1 (2) where the Council is satisfied that the reason for the proposed amendment meets the criteria of "*extreme urgency or other special circumstances*" in clause 5.4 (2).
- (4) The requirements for recording of written reasons in the minutes of a meeting for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the regulations.

10.2 Alternative motion

- (1) A member may submit an alternative motion for consideration by the Council that differs from a committee or employee's recommendation contained in the meeting agenda.
- (2) A member may submit an alternative motion for consideration by a committee that differs from an employee's recommendation contained in a meeting agenda.
- (3) A request for an alternative motion must be received by the CEO or their delegate no later than 9.00am on the day of the meeting.
- (4) The meeting may by absolute majority dispense with the requirement of clause 10.2 (3) where the meeting is satisfied that that the alternative motion does not—
 - (a) reflect a significant departure from the intent of the recommendation; or
 - (b) involve a determination of a matter or the exercise of a discretion under the Local Planning Scheme.

10.3 Motions to be stated in writing

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

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

10.4 Motions to be supported

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

10.5 Unopposed business

(1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting—

- (a) if any member opposes it; or
- (b) if any member wishes the mover to speak to the motion before deciding whether to oppose it.

(2) If any member wishes the mover to speak to the motion, the presiding member may—

- (a) call on the mover to speak to the motion; and
- (b) after the mover has spoken to the motion, again ask the meeting if any member opposes it.

(3) If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.

(4) A motion declared carried under this clause is to be recorded in the minutes as a “carried without dissent” decision of the Council.

(5) If a member opposes a motion, the motion is to be dealt with under this Part.

(6) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

10.6 Only one substantive motion at a time

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

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 where possible; 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 a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all members may not have spoken.

10.9 Member may require question to be read

A 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 who is speaking.

10.10 Consent of seconder required for alteration

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

10.11 Order of amendments

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

10.12 Form of an amendment

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

10.13 Amendment must not negate original motion

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

10.14 Relevance of amendments

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

10.15 Mover of motion may speak on amendment

Any member may speak during debate on an amendment in reference to the order set out in clause 10.7.

10.16 Effect of an amendment

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

10.17 Withdrawal of motion or amendment

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

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

10.18 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion has a right of reply.
- (3) The right of the reply may only be exercised—
 - (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply—
 - (a) no other member is to speak on the question; and
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

10.19 Foreshadowing alternative motions

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

PART 11—PROCEDURAL MOTION

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion, a member may move the following procedural motions—

- (a) that the motion be deferred;
- (b) that the meeting now adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the motion lie on the table;
- (f) that the meeting proceed to the next item of business;
- (g) that the meeting be closed to members of the public;
- (h) that the ruling of the Presiding Member be overruled;
- (i) that the member be no longer heard; or
- (j) that the item be referred back to the (appropriate) Committee.

11.2 No debate

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

11.3 Who may move

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

11.4 Procedural motions—right of reply on substantive motion

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

11.5 Effect of procedural motions**11.5.1 The motion be deferred**

(1) If a motion “that the motion be deferred”, is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.

(2) A motion “that the motion be deferred” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(3) A member must not, at the same meeting, move or second more than one motion “that the motion be deferred” in respect of the same item.

11.5.2 The meeting now adjourn

(1) If a motion “that the meeting now adjourn”, is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the Presiding Member declares, or to the next ordinary meeting.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—

(a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and

(b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

(c) the provisions of clause 8.9 apply when the debate is resumed.

(3) If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until—

(a) after the conclusion of the business under discussion at the time the motion was moved; or

(b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or

(c) after the conclusion of any other business allowed precedence by the meeting.

(4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

11.5.3 The debate be adjourned

(1) If a motion “that the debate be adjourned”, is carried—

(a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;

(b) the names of members who have spoken on the matter are to be recorded in the minutes; and

(c) the provisions of clause 8.9 apply when the debate is resumed.

(2) A motion “that the debate be adjourned” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(3) A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

11.5.4 The motion be now put

(1) If a motion “that the motion be now put”, is carried during discussion of a primary motion, the Presiding Member is to offer the right of reply and then immediately put the motion to the vote without further debate.

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

(3) If the motion “that the motion be now put” is lost, debate is to continue.

11.5.5 The motion lie on the table

(1) If a motion “that the motion lie on the table”, is carried, debate on the primary motion and any amendment must cease and the meeting is to proceed to the next item of business.

(2) Debate on the motion laid on the table is to be adjourned until such time (if any) as the meeting resolves to take the motion from the table.

(3) Where debate on a motion is interrupted by laying a motion on the table under subclause (1)—

(a) the names of members who have spoken on the matter are to be recorded in the minutes; and

(b) the provisions of clause 8.9 apply when the debate is resumed.

(4) A motion “that the motion lie on the table” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(5) A member moving the taking of the motion from the table is entitled to speak first on the resumption of the debate.

11.5.6 Meeting to proceed to the next business

(1) The motion “that the meeting proceed to the next item of business”, if carried has the effect that—

(a) the debate on the substantive motion or amendment ceases immediately;

(b) no decision is made on the substantive motion;

(c) the meeting moves to the next item of business; and

(d) there is no requirement for the matter to be raised again for consideration.

(2) A motion that “the meeting proceed to the next item of business” must not be moved in respect of the election of a Presiding Member or the Deputy President.

11.5.7 Meeting be closed to members of the public

If a motion “that the meeting be closed to members of the public” is carried then the Presiding Member is to close the meeting in accordance with clause 6.2.

11.5.8 Ruling by the Presiding Member be overruled

If a motion “that the ruling of the Presiding Member be overruled” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

11.5.9 Member be no longer heard

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

11.5.10 Item be referred back to Committee

(1) If a motion “that the item be referred back to Committee” is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate Committee for further consideration.

(2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

PART 12—DISCLOSURE OF INTERESTS**12.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

PART 13—VOTING**13.1 Question—when put**

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

- (a) is to put the question to the Council; and
- (b) if requested by any member, is to again state the terms of the question.

(2) A member is not to leave the meeting when the presiding member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the question, first in the affirmative, and then in the negative;
- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and
- (d) is, subject to this clause, to declare the result.

(2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

(3) Unless decided otherwise by a decision of Council or a committee the details of the members vote or votes for or against, a matter, as the case may be, is to be recorded in the minutes.

PART 14—MINUTES OF MEETINGS**14.1 Keeping of minutes**

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

14.2 Content of minutes

(1) The content of minutes is dealt with in the Regulations.

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

14.3 Public inspection of unconfirmed minutes

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

14.4 Confirmation of minutes

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.

(2) At the next ordinary meeting of the Council, the member who provided the alternative wording must, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

PART 15—ADJOURNMENT OF MEETING

15.1 Meeting may be adjourned

The Council or a committee may adjourn any meeting—

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

15.2 Effect of adjournment

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

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

PART 16—REVOKING OR CHANGING DECISIONS

16.1 Requirements to revoke or change decisions

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

16.2 Limitations on powers to revoke or change decisions

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

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

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

16.3 Implementing a decision

(1) In this clause—

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

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

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

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

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

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

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

PART 17—SUSPENSION OF LOCAL LAW**17.1 Suspension of local law**

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

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

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

(a) seconded; and

(b) carried by an absolute majority,

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

17.2 Where local law does not apply

(1) In situations where—

(a) one or more provisions of this local law have been suspended; or

(b) a matter is not regulated by the Act, the Regulations or this local law,

the presiding member is to decide questions relating to the conduct of the meeting.

(2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.5.10.

PART 18—MEETINGS OF ELECTORS**18.1 Electors' general meetings**

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

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

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

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

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

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

18.7 Procedure for electors' meetings

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

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

18.8 Participation of non-electors

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

18.9 Voting at electors' meetings

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

18.10 Minutes of electors' meetings

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

18.11 Decisions made at electors' meetings

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

PART 19—ENFORCEMENT**19.1 Penalty for breach**

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

Penalty: \$1,000.00 and a daily penalty of \$500.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

SCHEDULE 1—PETITION OF ELECTORS OF THE SHIRE OF DUMBLEYUNG

Standing Orders Local Law 2022

To the Shire President and Councillors of the Shire of Dumbleyung

We, the undersigned, all being electors of the Shire of Dumbleyung do respectfully request that the Council—

[Here set out a concise statement of facts and the action sought]

Correspondence in respect of this petition should be addressed to—

[Here set out relevant name(s) and address (es) for correspondence]

The names and addresses of your petitioners are as follows—

Date	Full Name	Address	Signature	Agree/Disagree/ No Opinion

Dated 15 September 2022

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

JULIE RAMM, Shire President.
GAVIN TREASURE, Chief Executive Officer.
