



PERTH, WEDNESDAY, 12 JANUARY 2022 No. 4 SPECIAL

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SHIRE OF MENZIES

LOCAL GOVERNMENT ACT 1995
CEMETRIES ACT 1986

REPEAL LOCAL LAW 2021

CEMETRIES ACT 1986
LOCAL GOVERNMENT ACT 1995

CEMETRIES LOCAL LAW 2021

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

DOGS LOCAL LAW 2021

LOCAL GOVERNMENT ACT 1995

MEETING PROCEDURES LOCAL LAW 2021

**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

SHIRE OF MENZIES

REPEAL LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995*, the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the Shire of Menzies resolved on 25 November 2021 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Menzies Repeal Local Law 2021*.

2. Commencement

This local law will come into operation 14 days after publication in the *Government Gazette*.

3. Repeal

The following local laws are repealed—

- (a) *By-laws Menzies General Cemetery*, published in the *Government Gazette* on 15 January 1904;
- (b) *By-laws for the Regulation of the Kookynie Cemetery*, published in the *Government Gazette* on 26 February 1904;
- (c) *By-laws of the Comet Vale Public Cemetery*, published in the *Government Gazette* on 5 February 1915;
- (d) *Health Series “B” Model By-laws*, published in the *Government Gazette* on 1 October 1915;
- (e) *Health Series A Model By-laws*, published in the *Government Gazette* on 17 December 1948;
- (f) *Health Series “A” Mode By-laws*, published in the *Government Gazette* on 13 August 1957.

Dated 25 November 2021

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

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

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MENZIES

CEMETERIES LOCAL LAW 2021

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CEMETERIES ACT 1986 LOCAL GOVERNMENT ACT 1995

SHIRE OF MENZIES

CEMETERIES LOCAL LAW 2021

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 Menzies resolved on 25 November 2021 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Menzies Cemeteries Local Law 2021*.

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 cemeteries and cemetery reserves located in the district specified in clause 3.1(1) and (2).

1.4 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

administrator means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law or 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;

ashes means so much of the remains of a dead body after the due processes of cremation;

authorised person means a person appointed under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power conferred upon an authorised person by this local law;

Board means the local government;

burial means burial of a dead body;

cemetery means a cemetery specified in clause 3.1(1) or (2);

CEO means the Chief Executive Officer of the Board;

commemorative works means a grave cover, headstone, memorial, memorial plaque, monument and includes any base upon which the commemorative work may be placed;

district means the district of the local government;

grave cover means a covering a grave of durable material whether permeable or impermeable;

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

interment of ashes includes, as the case may be—

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

local government means the Shire of Menzies;

mausoleum means a burial chamber wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

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;

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

standard grave means a grave which does not exceed 2.4m long, 1.2m wide and 2.1m deep; and

vault means a below ground lined grave with one or more sealed compartments.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Subject to any directions given by resolution of the Board, the CEO shall exercise all the powers and functions of the Board in respect of cemeteries.

PART 3—BURIALS

3.1 Burials

(1) In accordance with the Cemeteries (Menzies and Kookynie Cemeteries) Order 2016 the following cemeteries are closed to burials—

- (a) Kookynie Cemetery (Reserve 7839); and
- (b) Menzies Cemetery (Reserve 3348).

(2) Burials are not permitted in the following historical cemetery reserves—

- (a) Yerilla Reserve 3738;
- (b) Goongarrie Reserve 3780;
- (c) Tampa Reserve 4096;
- (d) Niagara Reserve 4560;
- (e) Yerilla Reserve 4587;
- (f) Mulwarrie Reserve 7609;
- (g) Edjudina Reserve 8679;
- (h) Daveyhurst Reserve 9453;
- (i) Mount Ida Reserve 9672;
- (j) Pinjin Reserve 10843; and
- (k) Comet Vale Reserve 11107.

(3) Burials within the Shire of Menzies are permitted only in accordance with sections 12 or 43(2) of the Act.

(4) Where a burial is approved under subclause (3) and is to be undertaken by the Board, the burial shall be—

- (a) at the expense of the administrator; and
- (b) the expense shall be calculated in accordance with the set fee; and
- (c) on the agreed date at the agreed time.

3.2 Minimum notice required

An application for a burial shall be made to the Board at least one week prior to the day proposed for burial, otherwise an extra charge may be made.

3.3 Vaults and mausoleums

A person shall not construct a vault or mausoleum within the cemetery, except with the specific approval by resolution of the Board.

3.4 Re-opening a grave

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

PART 4—INTERMENT OF ASHES

4.1 Interment of ashes

- (1) An administrator may apply for approval for interment of ashes in a cemetery listed in clause 3.1(1).
- (2) Interment of ashes in the cemetery reserves listed in clause 3.1(2) is—
 - (a) subject to the appropriateness of the interment as determined by the Board; and
 - (b) not permitted in a grave.
- (3) An application under subclause (1) shall be accompanied by the set fee.
- (4) Where an interment is approved under subclause (1) and is to be undertaken by the Board, the interment shall be—
 - (a) at the expense of the administrator; and
 - (b) the expense shall be calculated in accordance with the set fee; and
 - (c) if specified, on the agreed date at the agreed time.

4.2 Applications to be accompanied by statement

An application under clause 4.1(1) shall be accompanied by a statement by an administrator of—

- (a) identity of the ashes to be interred; and
- (b) such other information as may be required by the Board.

4.3 Minimum notice required

An application for interment of ashes in a grave shall be made to the Board at least one week prior to the day proposed for interment, otherwise an extra charge may be made.

4.4 Refusal of application

- (1) The Board shall refuse an application for approval for the interment of ashes—
 - (a) if the ashes are not being scattered; or
 - (b) if the ashes are not being interred as otherwise approved by the Board; or
 - (c) if the ashes are to be interred in an existing gravesite of a person in a cemetery listed in clause 3.1(1) and the ashes are to be interred do not have a direct and readily identifiable association with the person buried, as deemed appropriate by the Board; or
 - (d) on any other grounds considered appropriate.
- (2) If the Board refuses to approve an application under subclause (1), written notice of the refusal is to be given to the applicant.

4.5 Ashes not to be held by the Board

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

PART 5—MEMORIAL SERVICES

5.1 Memorial services or processions

Upon application, the Board may approve under such conditions as deemed appropriate, and with or without a burial or interment or broadcasting of ashes—

- (a) the conduct of a memorial service; or
- (b) a procession.

PART 6—MEMORIALS

6.1 Application to place memorial

- (1) An administrator may apply for approval of the Board for commemorative works in a cemetery listed in clause 3.1(1).
- (2) An administrator may apply for approval by resolution of the Board for commemorative works in a cemetery listed in clause 3.1(2).
- (3) An application under subclause (1) or (2) shall be accompanied by the set fee.
- (4) The Board may require an application for a memorial made under section 30 of the Act, to be accompanied by the written consent of—
 - (a) the holder of the right of burial of the grave;
 - (b) an administrator of a deceased person; or
 - (c) other person to the satisfaction of the Board.

(5) Where written consent under subclause (4) is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.

(6) If the Board refuses to approve an application under subclause (5), written notice of that refusal is to be provided to the applicant.

6.2 Requirement for commemorative works

(1) Commemorative works shall comply with such requirements and conditions as may be imposed by resolution the Board, including but not limited to—

- (a) grave cover—
 - (i) dimensions not to exceed the width and length of a standard grave without approval under clause 6.3(3);
 - (ii) thickness shall not to exceed 150mm; and
 - (iii) materials;
- (b) headstone, memorials and bases, monuments—
 - (i) dimensions not to extend beyond any grave cover in place, its base or dimensions of a standard grave if no grave cover is in place;
 - (ii) height; and
 - (iii) materials;
- (c) plaques—
 - (i) maximum dimensions;
 - (ii) dimensions shall not extend beyond any base upon which the plaque is mounted; and
 - (iii) materials;
- (d) gravesite boundary, whether kerbing, loose or cemented rock, or fencing—
 - (i) dimensions shall not to exceed the width and length of a standard grave without approval under clause 6.3(3);
 - (ii) height; and
 - (iii) materials.

(2) Where commemorative works approved under subclause (1) and is to be undertaken by the Board, the commemorative works shall be—

- (a) at the expense of the administrator; and
- (b) the expense shall be calculated in accordance with the set fee; and
- (c) if specified, on the agreed date at the agreed time.

6.3 Limitation on dimensions of memorials

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

(2) No part of a headstone, memorial plaque or monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of an administrator, the Board may approve commemorative works over multiple adjoining gravesites—

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

6.4 Display of trade names not allowed

A person shall not display any trade names or marks on commemorative works.

6.5 Use of wood

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than—

- (a) as a temporary marker; or
- (b) with the approval of the Board.

6.6 Placing of grave ornaments

(1) A person shall not place vases or other grave ornaments—

- (a) outside the perimeter of a standard grave; or
- (b) outside of an area set aside by the Board as a memorial plaque section.

(2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

6.7 Carrying out commemorative works

(1) A person shall not carry out commemorative works within the cemetery without the approval of the Board to do so under clause 6.1.

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

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

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

6.8 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—OTHER WORK

7.1 Numbering of graves

A person shall not install commemorative works on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

7.2 Removal of sand, soil or loam

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

7.3 Removal of rubbish

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

7.4 Plants and trees

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

7.5 Supervision

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

7.6 Hours of work

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

- (a) during a funeral; or
- (b) outside the hours approved by the Board.

7.7 Unfinished work

A person who does not complete any work within the approved hours shall leave the work in a neat and safe condition to the satisfaction of the Board or an authorised person.

PART 8—GENERAL

8.1 Assistance animals

A person shall not bring an animal into or allow to be brought an animal to enter or remain in a cemetery, other than—

- (a) an *'assistance animal'* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth); or
- (b) with the approval of the Board or an authorised person.

8.2 Littering, vandalism or removal of objects

Without the approval of the Board or an authorised person, a person shall not—

- (a) damage, remove or pick any tree, plant, shrub or flower;
- (b) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (c) damage or interfere with any property, object or infrastructure which is the property of the Board or other person;
- (d) break or cause to be broken any glass, ceramic or other material in or upon a cemetery;
- (e) 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.

8.3 Withered flowers

Notwithstanding clause 8.2 a person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

8.4 Signs and directions of the Board

A person shall obey—

- (a) all signs displayed, marked, placed or erected by the Board within a cemetery; and

(b) any other lawful direction by the Board or authorised person.

8.5 Removal from the cemetery

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

8.6 Liability for damage or works required to comply

Where a person commits a breach of this local law the Board may by written notice to that person require that person within the time required in the notice to, at the option of the Board—

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

8.7 Offence to fail to comply with notice

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

8.8 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 8.6, 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 9—OFFENCES AND MODIFIED PENALTIES

9.1 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.

9.2 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

[cl.9.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	3.3	Unauthorised construction of vault or mausoleum	50
2	3.4	Unauthorised reopening of a grave	50
3	4.1(1)	Unauthorised disposal of ashes in a cemetery listed in clause 3.1(1)	50
4	4.1(2)	Unauthorised disposal of ashes in a cemetery listed in clause 3.1(2)	50
5	5.1(a)	Holding a memorial service without permission	50
6	5.1(b)	Conducting a procession without permission	50
7	6.2(1)	Failure to comply with conditions of approval	50
8	6.4	Use of trade name or mark on a memorial	50
9	6.5	Use of wood without approval	50
10	6.6	Unauthorised placing of grave ornaments	50
11	6.7(1)	Unauthorised carrying out of commemorative works	50
12	6.7(3)	Works carried out during unauthorised times	50
13	6.7(4)	Failure to leave uncompleted works in a tidy and safe condition	50
14	7.1	Failure to inscribe grave number on commemorative works	50

Item	Clause	Nature of offence	Modified Penalty \$
15	7.2	Unauthorised use of materials taken from within the cemetery	50
16	7.3	Failure to remove rubbish and surplus materials	50
17	7.4	Unauthorised planting of tree or shrub	50
18	7.5	Failure to comply with direction of authorised person	50
19	7.6(b)	Failure to comply with approved hours of work	50
20	7.7	Failure to leave uncompleted works in a tidy and safe condition	50
21	8.2	Littering or damage	50
22	8.3	Failure to dispose of withered flowers appropriately	50
23	8.4	Failure to obey sign or lawful direction within cemetery	50
24	8.5	Failure to comply with order to leave cemetery	50
25	8.7	Failure to comply with notice within specified period	50
26	9.2(2)	Offences not elsewhere specified	50

Schedule 2—Infringement Notice

[cl. 9.2(3)]

Shire of Menzies

INFRINGEMENT NUMBER –		
To:		
Address:		
	It is alleged that –	
At—		
On—	Day	Date
Name of cemetery or cemetery reserve—		as defined in clause 3.1 of the Shire of Menzies Cemeteries Local Law 2021
	You committed the following offence—	
Contrary to—	Shire of Menzies Cemeteries Local Law 2021	
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 Menzies within a period of 28 days after the giving of this notice.	
Name of authorised person—		
Position—		
Signature—		
Date—		
	Payments may be made— (a) <i>by EFT (contact Shire office for details)</i> (b) <i>In person at—Shire of Menzies, 124 Shenton Street, Menzies during business hours</i> (c) <i>By mail to—Shire of Menzies PO Box 4, Menzies 6436</i> Please make cheques payable to Shire of Menzies.	

Schedule 3—Withdrawal of Infringement Notice

[cl. 9.2(4)]

Shire of Menzies

To—	
Address—	
	It is advised that –
Infringement Notice No.—	
Dated—	
For the alleged offence of—	
	has been withdrawn.
The modified penalty of—	\$
Reason for withdrawal— (Delete whichever does not apply)	No further action will be taken. It is proposed to institute court proceedings for the alleged offence
Name of authorised person—	
Position—	
Signature—	
Date—	

Dated 25 November 2021

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

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

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF MENZIES

DOGS LOCAL LAW 2021

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Schedule 1—Prescribed offences

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

SHIRE OF MENZIES

DOGS LOCAL LAW 2021

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 Menzies resolved on 25 November 2021 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Menzies Dogs Local Law 2021*.

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, excluding—

- (a) Crown Reserve 30490 Great Victoria Desert Nature Reserve and the Tjuntjuntjara Community located within that Reserve; and
- (b) the land subject to Native Title Determination WCD2000/003—Spinifex People north of Crown Reserve 30490.

1.4 Repeal

The *Shire of Menzies Dogs Local Law 2007* published in the *Government Gazette* on 6 July 2007, is repealed.

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 6m 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 of 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 Menzies;

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 6.4;

kennel establishment means any premises licensed under section 27 of the Act where more than the number of dogs under clause 3.3 over the age of 3 months are kept, boarded, trained or bred;

local government means the Shire of Menzies;

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 6.7(1);

nuisance means—

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

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

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;

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and
townsite means the townsites of Menzies and Kookynie as identified by the local planning scheme.

PART 2—IMPOUNDING OF DOGS

2.1 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.

2.2 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to an authorised person or if absent, to the CEO.

(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.

2.3 Unauthorised release

Unauthorised release of dogs is dealt with by section 43(1)(d) 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) granted an exemption under section 26(3) of the Act; or
- (b) licensed under section 27 of the Act as an approved kennel establishment.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—

- (a) two dogs over the age of three months and the young of those dogs under that age if the premises are within Menzies or Kookynie townsites; or
- (b) four dogs over the age of three months and the young of those dogs under that age if the premises are outside of Menzies or Kookynie townsites.

3.3 Application to keep additional dog or dogs

Subject to clause 3.5, the local government may consider—

(1) an application to keep additional dogs to a maximum of four dogs on premises within Menzies or Kookynie townsites shall—

- (a) provide sufficient detail regarding the reason for keeping more than two dogs;
- (b) provide written consent from owners and occupiers of any premises adjoining the premises; and
- (c) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.

(2) an application to keep more than four dogs on premises outside the Menzies and Kookynie townsites shall—

- (a) provide sufficient detail regarding the reason for keeping more than four dogs; and
- (b) in the case of a tenanted property, provide written consent from either the landowner or their appointed real estate agent.

- (3) applications 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 outside the Menzies and Kookynie townsites, the dog or dogs are required for stock management or to be on the premises temporarily for the purposes of training for stock management.

3.4 Determination of application

In determining an application for approval to keep additional dogs, the local government is to have regard to—

- (a) the matters referred to in clause 3.5;
- (b) the effect which approval of the proposed may have on the environment or amenity of the neighbourhood; and
- (c) whether approval of the application may 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—

- (a) more than four dogs are proposed to be kept on premises within the Menzies or Kookynie townsites;
- (b) more than six dogs are proposed to be kept on premises outside the Menzies or Kookynie townsites; or
- (c) where any dog already kept or proposed to be kept on the premises is a dangerous dog.

3.6 Conditions of approval

The local government may approve an application to keep additional dogs subject to any conditions as considered appropriate.

3.7 Variation of permit conditions

The local government may vary the conditions of approval to keep additional dogs by giving not less than 14 days notice.

3.8 Transfer of approval not permitted

Transfer of approval to keep additional dogs is not transferable to—

- (a) successive owners or occupiers of the premises; or
- (b) alternative premises.

3.9 Revocation of approval 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—DOGS IN PUBLIC PLACES

4.1 Places where dogs are prohibited absolutely

- (1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth).

4.2 Places which are dog exercise areas

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

PART 5—MISCELLANEOUS**5.1 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.

PART 6—ENFORCEMENT**6.1 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.

6.2 General penalty

(1) 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.

(2) Notwithstanding subclause (1) a person who commits an offence under clause 5.1(2) is liable, on conviction, to a penalty not exceeding \$1,000.

6.3 Modified penalties

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

6.4 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 8 of Schedule 1 of the Regulations.

6.5 Failure to pay modified penalty

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

6.6 Payment of modified penalty

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

6.7 Withdrawal of infringement notice

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

(2) A person authorised to issue an infringement notice under clause 6.4 cannot sign or send a notice of withdrawal.

Schedule 1—Prescribed offences

[cl.7.3]

Item	Clause	Nature of offence	Modified penalty \$
1	3.1	Failing to provide means for effectively confining a dog	200
2	3.6	Failure to comply with conditions of approval to keep additional dog or dogs	200
3	5.1	Dog excreting in prohibited place	100

Dated 25 November 2021

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

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

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LOCAL GOVERNMENT ACT 1995

SHIRE OF MENZIES

MEETING PROCEDURES LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Menzies resolved on 25 November 2021 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Menzies Meeting Procedures Local Law 2021*.

1.2 Commencement

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

1.3 Application

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

1.4 Interpretation

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

absolute majority has the meaning given to it in section 1.4 of the Act;

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the local government;

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

committee meeting means a meeting of a committee;

Council means the Council of the local government;

local government means the Shire of Menzies;

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

member has the meaning given to it in section 1.4 of the Act, and where the context permits, a committee member;

Minister means the Minister for Local Government;

officer means an officer of the local government;

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

presiding member means—

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

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

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

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

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

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

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

(1) The establishment of committees is dealt with in section 5.8 of 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, officers and other persons to be appointed to the committee;

- (c) the names or titles of the Council members and officers 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.
- (4) Unless earlier determined by Council, a Committee established by Council ceases to exist immediately prior to the first ordinary meeting of the Council held after the next following ordinary local government election.
- (5) Council may re-establish the Committee by resolution until the first meeting held after the next following ordinary local government election.

2.2 Types of committees

The types of committees are dealt with in section 5.9 of 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 section 5.16 of 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 section 5.17 of the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in section 5.11 of the Act.

2.7 Resignation of committee members

The resignation of committee members is dealt with in regulation 4 of the Regulations.

2.8 Register of delegations to committees

The register of delegations to committees is dealt with in section 5.18 of 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 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 section 5.4 of the Act.

3.3 Convening Council meetings

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

3.4 Calling committee meetings

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

3.5 Public notice of meetings

Public notice of meetings is dealt with in regulation 12 of the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM**4.1 Who presides**

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

4.2 When the Deputy President can act

When the Deputy President can act is dealt with in section 5.34 of the Act.

4.3 Who acts if no President

Who acts if there is no President is dealt with in section 5.35 of the Act.

4.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in section 5.12(2) the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in section 5.13 of the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in section 5.14 of the Act.

4.8 Quorum for meetings

The quorum for meetings is dealt with in section 5.19 of 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 section 5.7 of the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in section 5.15 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 regulation 8 of 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 30 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

The names of the members then present are to be recorded in the minutes at any meeting—

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

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) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering new business.

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

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

5.2 Order of business

(1) The order of business of an ordinary meeting of the Council shall be determined by the local government 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, 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 seven 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) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) after consultation with the member where this is practicable, may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least three months from the date of such lapse.

5.4 New business of an urgent nature

- (1) In cases of 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 urgency or other special circumstances” means matters that have arisen after the preparation of the agenda that are considered by the presiding member to be of such importance and urgency that they are unable to be dealt with administratively by the local government and must be considered and dealt with by the Council before the next meeting.

5.5 Adoption by exception resolution

- (1) In this clause “adoption by exception resolution” means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the local government may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) in which an interest has been disclosed;
 - (b) that has been the subject of a petition or deputation;
 - (c) that is a matter on which a member wishes to make a statement; or
 - (d) 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 section 5.23(1) of 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 section 5.23(2) of 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; unless a relevant interest is declared; and
 - (ii) any officer 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 8.8 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.

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

6.3 Question time for the public

Question time for the public is dealt with in section 5.24 of the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in regulation 7 of the Regulations.

6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) 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.
- (8) The presiding member may decide that a public question shall not be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.8 Distinguished visitors

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

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council meeting is not to exceed a reasonable number as determined by the presiding member, and members of the delegation may address the Council, as permitted by the presiding member.

(4) A person addressing the Council is to cease that address immediately after being directed to do so by the presiding member—

- (a) in order to preserve order;
- (b) the time permitted has expired; or
- (c) the presentation has diverged from the purpose of the deputation.

(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 meeting.

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

6.10 Petitions

(1) A petition to the local government is to—

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

(2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).

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

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

6.11 Presentations

(1) In this clause, “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 or CEO.

6.12 Participation at committee meetings

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

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

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

(3) A person is not to address the committee for a period exceeding five minutes without the agreement of the presiding member.

(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 meeting.

(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 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 office of the local government.

6.14 Confidentiality of information withheld

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

- (a) the matter is to be identified in the agenda of a Council meeting as being confidential;
- (b) any documents are to be marked as being confidential in the agenda or referred to in subclause (1)(a); and
- (c) is to be kept confidential by officers and members until the Council resolves or the CEO determines otherwise.

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

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

6.15 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

6.16 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or pager is not audible or used during any meeting of the Council.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if—
 - (a) after being warned, the person again acts contrary to this clause, or to this local law; or
 - (b) a person refuses or fails to comply with a direction of the presiding member.
- (6) A person who is ordered to leave the meeting room and fails to do so may by order of the presiding member, be removed from the meeting room, and if the presiding member orders, from the premises.
- (7) A person in breach of this clause is subject to the penalties specified in clause 19.1.

PART 7—QUESTIONS BY MEMBERS**7.1 Questions by members**

- (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 officer at a Council meeting may ask a question without notice and with the consent of the presiding member, may ask one or more further questions of that officer or another officer present at the meeting.
- (3) Where possible the officer shall 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 officer may ask that—
 - (a) the question be placed on notice for the next meeting of Council; 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 officer 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, Council will, by consensus, determine a position at the Council table for each member.
- (2) Each member is to occupy his or her allotted position at each Council meeting until otherwise agreed by Council.

8.2 Official titles to be used

A speaker, when referring to the President, Deputy President or presiding member, or a member or officer, is to use the title of that person's office.

8.3 Entering or leaving a meeting

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

8.4 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.

8.5 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.

8.6 Presiding member may take part in debates

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

8.7 Relevance

- (1) A member is to restrict his or her remarks to—
 - (a) the motion or amendment under discussion;
 - (b) a personal explanation;
 - (c) or point of order.
- (2) The presiding member may at any time—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
 - (ii) any breach of order by a member; and
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member is to comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.8 Speaking twice

Without the consent of the presiding member, a member is not to address the Council more than once on any motion or amendment except—

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

8.9 Duration of speeches

A member is not to speak on any matter for more than five minutes without the consent of the Council which, if given, is to be given without debate.

8.10 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.

8.11 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 8.12; or
- (d) to move a procedural motion that the member be no longer heard under clause 11.1.

8.12 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.

8.13 No reopening of discussion

A member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

8.14 Adverse reflection

- (1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed unless the meeting resolves, without debate, that the matter before the meeting cannot otherwise be adequately considered.
- (2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, a member is not—
 - (a) to reflect adversely on the character or actions of another member or officer; or
 - (b) to impute any motive to a member or officer.

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

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

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

8.15 Withdrawal of offensive language

(1) A member must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member—

- (a) in the absence of a resolution under subclause 8.14(2)—
 - (i) reflects adversely on the character or actions of another member or officer; or
 - (ii) imputes any motive to a member or officer; or
- (b) is offensive or insulting.

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

PART 9—PRESERVING ORDER

9.1 Presiding member to preserve order

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

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

(3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.6, 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) 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 shall not continue until permitted, but is to remain silent until—

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

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—

- (a) Is not to be subject to debate; and
- (b) is to be final unless the majority of members then present and voting dissent from the ruling, on a motion moved immediately after 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

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, 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).

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

PART 10—DEBATE OF SUBSTANTIVE MOTIONS**10.1 Motions to be stated and 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.

10.2 Motions to be supported

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

10.3 Unopposed business

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

10.4 Only one substantive motion at a time

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

10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

10.6 Order of call in debate

The presiding member—

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before Council, and
- (b) may call speakers to a substantive motion or amendment in the following order—
 - (i) the mover to state the motion;
 - (ii) a seconder to the motion;
 - (iii) the mover to speak to the motion;
 - (iv) the seconder to speak to the motion;
 - (v) a speaker against the motion;
 - (vi) a speaker for the motion;
 - (vii) other speakers against and for the motion, alternating where possible; and
 - (viii) mover takes right of reply which closes debate.

10.7 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.

10.8 Member may require motion to be read

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

10.9 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.

10.10 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.

10.11 Form of an amendment

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

10.12 Amendment must not negate original motion

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

10.13 Relevance of amendments

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

10.14 Mover of motion may speak on amendment

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

10.15 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.

10.16 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.

10.17 Right of reply

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

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

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

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

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

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

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

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

PART 11—PROCEDURAL MOTIONS**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 meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the presiding member be disagreed with; or
- (g) that the meeting be closed to the public.

11.2 No debate

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

11.3 Procedural motion—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.

11.4 Meeting to proceed to the next business

(1) If carried, the motion that the meeting proceed to the next item of business, has the effect that—

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

(2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

11.5 Debate to be adjourned

A motion that the debate be adjourned—

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

11.6 Meeting now adjourn

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

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

(3) A motion that the meeting now adjourn is to state the time and date or circumstances to which the meeting is to be adjourned.

(4) If carried, a motion that the meeting now adjourn has the effect that the meeting is adjourned to the time and date or circumstances specified in the motion.

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

11.7 Question to be put

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

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

(3) If lost, the motion that the question be now put causes debate to continue.

(4) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion that the question be now put.

11.8 Member to be no longer heard

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

11.9 Ruling of the presiding member to be disagreed with

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

PART 12—DISCLOSURE OF INTERESTS**12.1 Disclosure of interests**

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

PART 13—VOTING**13.1 Motion—when put**

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

- (a) is to put the motion to the Council; and
- (b) if requested by any member, is to again state the terms of the motion.

(2) A member is not to leave the meeting when the presiding member is putting any motion.

13.2 Voting

Voting is dealt with in section 5.25(1)(d) the Act and regulation 9 of the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

(1) In taking the vote on any motion or amendment the presiding member—

- (a) is to put the motion, first in the affirmative, and then in the negative;
- (b) may put the motion in this way as often as may be necessary to enable determination 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) subject to this clause, is 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.

13.5 Recording of votes

Recording of votes is dealt with in section 5.21(4) of the Act.

PART 14—MINUTES OF MEETINGS**14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

14.2 Content of minutes

(1) The content of minutes is dealt with in regulation 11 of 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 regulation 13 of the Regulations.

14.4 Confirmation of minutes

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than seven working days before the next ordinary meeting of the Council.

(2) At the next ordinary meeting of the Council, the member who provided the alternative wording shall, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

PART 15—ADJOURNMENT OF MEETING**15.1 Meeting may be adjourned**

The Council may adjourn any meeting—

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

15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this local law, debate is to be resumed at the next meeting at the point where it was interrupted.

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—

authorisation means a licence, permit, approval or other means of authorising a person to do anything;

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

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 afternoon of the first business day after the commencement of the meeting at which the decision was made.

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

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

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

(5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice at the commencement of both agenda and minutes of the meeting, 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) Unless the meeting resolves otherwise, a resolution to suspend the operation of the clause or clauses to which the motion relates is for the duration of the meeting.

17.2 Where local law does not apply

(1) The presiding member is to decide any question relating to the conduct of the meeting 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.

(2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.

(3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).

(4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

PART 18—MEETINGS OF ELECTORS**18.1 Electors' general meetings**

Electors' general meetings are dealt with in section 5.27 of the Act.

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

18.3 Electors' special meetings

Electors' special meetings are dealt with in section 5.28 of the Act.

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in section 5.29 of the Act.

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

18.7 Procedure for electors' meetings

(1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of the Regulations.

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

18.8 Participation of non-electors

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

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in regulation 17 of the Regulations.

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

PART 19—ENFORCEMENT**19.1 Penalty for breach**

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$500 in respect of each day during which the offence has continued.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated 25 November 2021

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

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