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LOCAL GOVERNMENT ACT 1995

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**CITY OF MELVILLE**

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**LOCAL GOVERNMENT  
PROPERTY LOCAL LAW 2010**



**LOCAL GOVERNMENT ACT 1995**

## CITY OF MELVILLE

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010**

## CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Over-riding power to hire and agree
- 1.5 Repeal
- 1.6 Definitions
- 1.7 Interpretation

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

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination
- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property
- 2.9 Signs taken to be determinations

**PART 3—PERMITS**

- 3.1 Application of Part
- 3.2 Application for permit
- 3.3 Decision on application for permit
- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions
- 3.7 Agreement for building
- 3.8 Duration of permit
- 3.9 Renewal of permit
- 3.10 Transfer of permit
- 3.11 Production of permit
- 3.12 Cancellation of permit
- 3.13 Activities needing a permit
- 3.14 Permit required to camp outside a facility
- 3.15 Permit required for possession and consumption of liquor
- 3.16 Responsibilities of permit holder

**PART 4—BEHAVIOUR ON ALL 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 Removing or damaging any flora
- 4.5 Intoxicated persons not to enter local government property
- 4.6 No prohibited drugs
- 4.7 Refusal of entry to local government property
- 4.8 Signs
- 4.9 Refuse

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

- 5.1 When entry must be refused
- 5.2 Consumption of food or drink may be prohibited
- 5.3 No entry to fenced or closed local government property
- 5.4 Only specified gender to use entry of toilet block or change room
- 5.5 Hire of lockers
- 5.6 Unclaimed property in locker
- 5.7 Use of shower or bath facilities
- 5.8 Interpretation
- 5.9 Observance of special conditions of play
- 5.10 Children under the age of 10 years

**PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY**

- 6.1 No unauthorised entry to function

**PART 7—JETTIES AND BRIDGES**

- 7.1 Interpretation
- 7.2 Application for consent and application fee
- 7.3 When use of jetty is prohibited
- 7.4 Method of mooring boat
- 7.5 When boat may remain moored
- 7.6 Authorised person may order removal of boat
- 7.7 Restrictions on launching
- 7.8 Loading and discharging
- 7.9 Outgoing cargo not to be stored on jetty
- 7.10 Removal of incoming cargo from jetty
- 7.11 Authorised person may direct removal
- 7.12 Handling of bulk cargo
- 7.13 Polluting surrounding area
- 7.14 Limitations on fishing

**PART 8—OBJECTIONS AND REVIEW**

- 8.1 Application of Division 1, Part 9 of the Act

**PART 9—MISCELLANEOUS**

- 9.1 Authorised person to be obeyed
- 9.2 Persons may be directed to leave local government property
- 9.3 Disposal of lost property
- 9.4 Liability for damage to local government property
- 9.5 Decency of dress
- 9.6 False or misleading statement
- 9.7 Breach of a permit
- 9.8 Notice requirements

**PART 10—ENFORCEMENT**

- 10.1 Offence to fail to comply with notice
- 10.2 Local government may undertake requirements of notice
- 10.3 Offences and general penalty
- 10.4 Prescribed offences
- 10.5 Form of notices
- 10.6 Impounding of goods
- 10.7 Evidence of a determination

**SCHEDULE 1—PRESCRIBED OFFENCES****SCHEDULE 2—DETERMINATIONS**

Part 1—Preliminary

Part 2—Application

**SCHEDULE 3—POINT WALTER GOLF COURSE**

## LOCAL GOVERNMENT ACT 1995

## CITY OF MELVILLE

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010

Under the powers conferred on it by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Melville resolved on 21 December 2010 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *City of Melville Local Government Property Local Law 2010*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Over-riding power to hire and agree**

Notwithstanding anything to the contrary in this local law, the local government may—

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

**1.5 Repeal**

The following local laws are repealed—

- (a) Local Law Relating to the Control and Management of Community Halls and Recreation Centres as published in the *Government Gazette* on 13 May 1994;
- (b) Local Law Relating to Parks Recreation Grounds and Public Reserves as published in the *Government Gazette* on 15 March 1996;
- (c) Local Law Relating to Point Walter Golf Course as published in the *Government Gazette* on 5 May 1995; and
- (d) Local Law Relating to The Use of Public Jetties as published in the *Government Gazette* on 12 December 1995 and as amended and published in the *Government Gazette* on 12 July 2002 and 17 June 2003.

**1.6 Definitions**

In this local law unless the context otherwise requires—

**Act** means the *Local Government Act 1995*;

**applicant** means a person who applies for a permit under clause 3.2;

**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;

**boat** means any registered ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski or dinghy;

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

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

**business undertaking** means any act of business for private commercial gain inclusive of schools, classes, sales and hire of goods and services;

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

**commencement day** means the day on which this local law commences under clause 1.2;

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

**date of publication** means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

**decency of dress** means the wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure;

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

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

**function** means an event or activity characterised by all or any of the following—

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

**indecent exposure** means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

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

**local government** means the City of Melville;

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

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

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

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

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

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

**person** does not include the local government;

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

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

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

**surf riding equipment** means any device or toy used to or assist a rider in moving in or across waves or the water surface, and includes surfboard, boogey board, windsurfer, wave ski, canoe, kite surfer, inflatable toy, ski/wake board or similar device, but not a boat;

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

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

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

**Unclaimed Property Register** means the register kept by an attendant of any unclaimed belongings under Division 3 of Part 5 of this local law; and

**vehicle** includes—

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

but excludes—

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

### 1.7 Interpretation

In this local law, unless the context otherwise requires, a reference to local government property includes a reference to any part of that local government property.

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY***Division 1—Determinations***2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
  - (a) are to be taken to have been made in accordance with clause 2.2;
  - (b) may be amended or revoked in accordance with clause 2.6; and
  - (c) have effect on the commencement day.

**2.2 Procedure for making a determination**

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

**2.3 Discretion to erect sign**

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

**2.4 Determination to be complied with**

A person shall comply with a determination.

**2.5 Register of determinations**

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

**2.6 Amendment or revocation of a determination**

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

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

**2.7 Activities which may be pursued on specified local government property**

(1) A determination may provide that specified local government property is set aside as an area on which a person may—

- (a) bring, ride or drive an animal;
- (b) take, ride or drive a vehicle, or a particular class of vehicle;
- (c) fly or use a motorised model aeroplane;
- (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
- (e) launch, beach or leave a boat;
- (f) take or use a boat, or a particular class of boat;
- (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
- (h) play or practise—
  - (i) golf or archery;
  - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
  - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) use a sandboard or a similar device;
- (j) ride a bicycle, a skateboard, rollerblades, or a similar device; or
- (k) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—

- (a) the days and times during which the activity may be pursued;
- (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

**2.8 Activities which may be prohibited on specified local government property**

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) taking, using or leaving a boat, or a particular class of boat;
- (f) the playing or practise of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

- (a) the days and times during which the activity is prohibited;
- (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
- (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
- (d) that an activity is prohibited in respect of a class of persons or all persons; and
- (e) may distinguish between different classes of the activity.



(3) In this clause—

**premises** means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

*Division 3—Transitional*

**2.9 Signs taken to be determinations**

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

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

**PART 3—PERMITS**

*Division 1—Preliminary*

**3.1 Application of Part**

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

*Division 2—Applying for a permit*

**3.2 Application for permit**

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

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

- (a) be in the form determined by the local government and if the proposal is defined as a development under the *Planning and Development Act 2005*, include an application for Planning approval (unless specifically exempted by way of the Local Town Planning Scheme operating in the City at the time);
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

**3.3 Decision on application for permit**

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

*Division 3—Conditions*

**3.4 Conditions which may be imposed on a permit**

(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;

- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
- (a) when fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of material or external decorations;
  - (d) rules about the use of furniture, plant and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
  - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
  - (i) whether or not the hire is for the exclusive use of the local government property;
  - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
  - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### 3.5 Imposing conditions under a policy

(1) In this clause—

*policy* means a policy of the local government adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

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

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

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

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

### 3.6 Compliance with and Variation of conditions

(1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

## Division 4—General

### 3.7 Agreement for building

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

### 3.8 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

### 3.9 Renewal of permit

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

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

### 3.10 Transfer of permit

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;

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

### **3.11 Production of permit**

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

### **3.12 Cancellation of permit**

- (1) Subject to clause 9.1, a permit may be cancelled by the local government if the permit holder has not complied with a—
- (a) condition of the permit; or
  - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the CEO; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

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

### **3.13 Activities needing a permit**

- (1) A person must not without a permit—
- (a) subject to subclause (3), hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect, on local government property, a structure for public amusement or for any performance, whether for gain or otherwise;
  - (d) teach, coach or train any person in a pool area or an indoor recreation facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading as part of a business undertaking on local government property unless the trading is conducted—
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (h) conduct a function, or undertake any promotional activity, on local government property;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (o) deposit or store any thing on local government property;
  - (p) depasture or tether any animal to a tree, shrub, tree guard, wall or fence or permit any animal to enter on or into any local government property. This clause does not apply to a guide dog used for the assistance of visually impaired persons;
  - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly;
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property;
  - (s) bring, drive or ride any animal on local government property;
  - (t) kitesurfing; or
  - (u) circuses.

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

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

### **3.14 Permit required to camp outside a facility**

(1) In this clause—

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

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

(3) Except in accordance with a determination or a permit, a person shall not—

(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or

(b) erect any tent, camp, caravan, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

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

### **3.15 Permit required for possession and consumption of liquor**

(1) A person shall not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless—

(a) that is permitted under the *Liquor Control Act 1988*; and

(b) a permit has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

#### *Division 6—Responsibilities of permit holder*

### **3.16 Responsibilities of permit holder**

A holder of a permit shall, in respect of local government property to which the permit relates—

(a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;

(b) leave the local government property in a clean and tidy condition after its use;

(c) comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;

(d) report any damage or defacement of the local government property to the local government; and

(e) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

## **PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY**

### *Division 1—Behaviour on and interference with local government property*

#### **4.1 Behaviour which interferes with others**

(1) A person shall not, in or on any local government property, behave in a manner which—

(a) is likely to interfere with the enjoyment of a person who might use the property;

(b) interferes with the enjoyment of a person using the property; or

(c) places the public at risk or interferes with the safety of others.

(2) A person shall not obstruct or interfere with a Manager or authorised person in carrying out their duties. A person using local government property shall obey all reasonable directions of the Manager or authorised person with regard to use.

#### **4.2 Behaviour detrimental to property**

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

(2) In subclause (1)—

**detrimental to the property** includes—

(a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

(b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

#### **4.3 Taking or injuring any fauna**

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

(2) In this clause—

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

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

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

#### 4.4 Removing or damaging any flora

(1) A person shall not remove or damage or attempt to remove or damage any flora which is on or above any local government property, unless that person is authorised to do so under a written law or with the written approval of the local government.

(2) In this clause—

**flora** means all vascular plants.

#### 4.5 Intoxicated persons not to enter local government property

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

#### 4.6 No prohibited drugs

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

#### 4.7 Refusal of entry to local government property

(1) An authorised person may refuse to allow entry, or suspend admission, to any local government property by any person whom he or she believes has behaved in a manner contrary to the provisions of this local law.

(2) This refusal or suspension can be for any period as decided by that authorised person.

(3) A decision made under this clause is a decision to which clause 8 applies.

### *Division 2—Signs*

#### 4.8 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 shall comply with a sign erected under subclause (1).

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

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

### *Division 3—Refuse*

#### 4.9 Refuse

(1) A person must not, on local government property—

- (a) shell, gut, scale or clean fish, shellfish or any other animal; or
- (b) deposit or discard the waste or rubbish from any fish, shellfish or other animal.

(2) A person must not, on local government property, deposit or discard refuse, rubbish or liquidwaste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.

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

### *Division 1—Pool areas*

#### 5.1 When entry must be refused

(1) A Manager or an authorised person shall refuse admission to a pool area to any person who—

- (a) in her or his opinion is—
  - (i) under the age of 11 years and who is unaccompanied by a responsible person over the age of 16 years or where the responsible person is incapable of, or not providing, adequate supervision of or care for that person;
  - (ii) under the age of 6 years and who is unaccompanied in the water by a responsible person over the age of 16 years or where the responsible person is incapable of, or not providing, adequate supervision of or care for that person;
  - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iv) under the influence of liquor or a prohibited drug.
- (b) is to be refused admission by the local government for breaching a clause of this local law.

(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—

- (a) direct the person to leave; and
- (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

### **5.2 Consumption of food or drink may be prohibited**

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

#### *Division 2—Fenced or closed property*

### **5.3 No entry to fenced or closed local government property**

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

#### *Division 3—Toilet blocks and change rooms*

### **5.4 Only specified gender to use entry of toilet block or change room**

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

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

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

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

### **5.5 Hire of lockers**

(1) A person may hire a locker in or near a change room for the purpose of safekeeping articles on the conditions that—

- (a) it is the responsibility of the person hiring the locker to lock the locker once the articles to be stored are placed in the locker and to return the key to the attendant; and
- (b) on receiving a receipt given in respect of the hire of the locker, an attendant is to hand to that person the key for the locker described in the receipt in order to remove the articles from the locker.

(2) A person shall not store in any locker a firearm or 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*.

(3) An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

### **5.6 Unclaimed property in locker**

(1) If an article in a locker is not claimed or collected within 48 hours after the date of hire, the article may be removed by an attendant or authorised person.

(2) An attendant or authorised person must record in the Unclaimed Property Register, with respect to each article removed from a locker—

- (a) a description of the article removed;
- (b) the time and date the article was removed; and
- (c) the time and date recorded on the original receipt.

(3) An attendant or authorised person must ensure that an article removed from the locker is stored at the place determined by the local government.

(4) An attendant or authorised person may deliver to a person an article recorded in the Unclaimed Property Register on receiving—

- (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.

(5) A person who receives delivery of an article from the Unclaimed Property Register must, by way of acknowledging receipt of the article, write her or his name and address and sign her or his name in the Unclaimed Property Register.

(6) Neither the Manager or authorised person or employee of the local government shall in any way be responsible for any articles or money lost by or stolen from any person whilst in a centre or for any articles damaged or destroyed whilst in or about a centre.

**5.7 Use of shower or bath facilities**

A person may use a shower or bath facility in change rooms only on conditions that—

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves;
- (b) use of the facilities must be restricted to a maximum period of 15 minutes or such lesser time as required by an attendant; or
- (c) the facilities must not be used for the purpose of laundering or washing any clothing or other articles.

*Division 4—Golf course***5.8 Interpretation**

In this Division—

**controller** means the person appointed by the local government to direct, control and manage a golf course;

**golf course** means that portion of a golf course reserve which is laid out as a golf course and includes all tees, fairways, greens, practice tees, practice fairways, practice greens and any driving range; and

**golf course reserve** means the local government property described in Schedule 3 and includes all buildings, structures, fittings, fixtures and equipment on that land.

**5.9 Observance of special conditions of play**

While on a golf course, every player shall—

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

**5.10 Children under the age of 10 years**

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

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

(1) A person shall not enter local government property on a day or during a time when the property is set aside for a function, or when an admission charge is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the applicable admission charge.

(2) The local government may exempt a person from compliance with subclause (1)(b).

**PART 7—JETTIES AND BRIDGES***Division 1—Preliminary***7.1 Interpretation**

(1) This Part only applies to bridges and jetties which are local government property.

(2) In this Part—

**jetty** means any jetty, pier, wharf or landing place which is local government property; and

**bulk cargo** means bulk produce, such as grain, coal, oil or mineral ore, which is not packaged.

*Division 2—Consents and fees***7.2 Application for consent and application fee**

(1) Where a person is required to obtain the consent of the local government under this Part, the person is to apply for that consent in the manner required by the local government.

(2) The local government may require an application for consent made under subclause (1) to be accompanied by a fee.

(3) If an application for consent is not made in the manner required by the local government or the fee which is to accompany that application is not paid, the local government may refuse to consider the application for consent.

(4) The local government shall give its decision on an application for consent, in writing to the person who applied for that consent.

(5) Where a fee is referred to in this Part, the fee must be imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

*Division 3—Prohibitions on use of jetty***7.3 When use of jetty is prohibited**

A person shall not land at, use or go on any part of a jetty which is—

- (a) under construction or repair; or
- (b) closed,

unless that person has first obtained the consent of the local government.

*Division 4—Mooring boats to jetties***7.4 Method of mooring boat**

A person in control of a boat shall not moor or make fast the boat to a jetty, or to any part of the jetty, except to such mooring piles, ring bolts or other fastenings as are provided.

*Division 5—When boats may remain at jetty***7.5 When boat may remain moored**

A person in control of a boat shall not moor or make fast the boat to a jetty unless—

- (a) the boat is in distress and then only to effect the minimum repairs necessary to enable the boat to be moved elsewhere;
- (b) the embarking or disembarking of passengers is in progress, and then not for a consecutive period exceeding 2 hours without the prior consent of the local government;
- (c) the loading or discharging of cargo or other goods is in progress in accordance with Division 7;
- (d) for the purposes of a rest break and then for a period not exceeding 15 minutes; or
- (e) where the boat is used at that time for commercial purposes, the person has first paid the fee (if any) for such mooring or making fast to the local government.

**7.6 Authorised person may order removal of boat**

Notwithstanding anything to the contrary in this Part, a person in control of a boat moored or fastened to or alongside a jetty shall remove it immediately upon being directed to do so by an authorised person.

*Division 6—Launching of boats***7.7 Restrictions on launching**

A person shall not launch a boat from or over any jetty (other than a boat ramp) unless she or he has first obtained the consent of the local government.

*Division 7—Cargo or other goods***7.8 Loading and discharging**

A person in control of a boat shall not allow the boat to come alongside or be moored or made fast to a jetty for the purpose of loading or discharging cargo or other goods—

- (a) until the cargo or other goods are ready to be loaded or discharged; or
- (b) without the consent of the local government—
  - (i) between the hours of 6.00pm to 6.00am on the next day; or
  - (ii) for longer than 2 consecutive hours.

**7.9 Outgoing cargo not to be stored on jetty**

A person in control of cargo or other goods intended for loading on to a boat shall—

- (a) not allow them to be stored or placed on a jetty unless and until the boat is moored or fastened to or alongside the jetty; and
- (b) load them on to the boat as soon as practicable after the boat is moored or fastened to or alongside the jetty.

**7.10 Removal of incoming cargo from jetty**

Any person unloading cargo or other goods from a boat on to a jetty shall remove them, or cause them to be removed from the jetty as soon as practicable, but not later than 6.00pm on the day on which they were placed there.

**7.11 Authorised person may direct removal**

An authorised person may direct a person who, in the opinion of the authorised person, is in charge of cargo or other goods which remain on a jetty contrary to any provision of this Part to remove them from the jetty.

**7.12 Handling of bulk cargo**

Except with the prior consent of the local government, a person shall not place or deposit bulk cargo from a vehicle, boat or container on to a jetty.



*Division 8—Polluting surrounding area***7.13 Polluting surrounding area**

A person shall not tip or deposit anything on to a jetty so as to pollute the surrounding area.

*Division 9—Fishing from jetties and bridges***7.14 Limitations on fishing**

(1) A person shall not—

- (a) fish from a jetty or a bridge so as to obstruct or interfere with the free movement of a boat approaching or leaving the jetty or the bridge or so as to unreasonably interfere with the use of the jetty or the bridge by any other person; or
- (b) hang or spread a fishing net from, on or over any part of a jetty or a bridge.

(2) This Part applies only to jetties which are under the care, control and management of the local government.

**PART 8—OBJECTIONS AND REVIEW****8.1 Application of Division 1, Part 9 of the Act**

When the local government makes a decision as to whether it will—

- (a) grant a person a permit, membership or consent under this local law; 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 9—MISCELLANEOUS****9.1 Authorised person to be obeyed**

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

**9.2 Persons may be directed to leave local government property**

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

**9.3 Disposal of lost property**

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

**9.4 Liability for damage to local government property**

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time 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 subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

**9.5 Decency of dress**

Where an authorised person considers that the clothing, or lack of, of any person on local government property is not proper and adequate to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person is to comply with the direction immediately.

**9.6 False or misleading statement**

A person must not make a false or misleading statement in connection with an application for a permit under clause 3.2 under this local law.

**9.7 Breach of a permit**

If a permit holder breaches a condition of the permit, or fails to comply with a direction under clause 3.16(c), the CEO or an authorised person may, give the person a notice under this Division.

**9.8 Notice requirements**

A notice under this Division must—

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 9.7, as the case may be.

**PART 10—ENFORCEMENT***Division 1—Notices given under this local law***10.1 Offence to fail to comply with notice**

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

**10.2 Local government may undertake requirements of notice**

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

*Division 2—Offences and penalties***10.3 Offences and general penalty**

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

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

**10.4 Prescribed offences**

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

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

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, the local government should be satisfied that—

- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

**10.5 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.

**10.6 Impounding of goods**

Provisions dealing with the power to impound goods that are involved in a contravention, including a contravention of this local law, are contained in the Act and Regulations.

**10.7 Evidence of a determination**

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.

*Schedule 1***PRESCRIBED OFFENCES**

| Clause  | Description  | Modified Penalty<br>\$ |
|---------|--|------------------------|
| 2.4     | Failure to comply with determination                     | 125                    |
| 3.6     | Failure to comply with conditions of permit              | 125                    |
| 3.13(1) | Failure to obtain a permit                               | 125                    |
| 3.14(3) | Failure to obtain permit to camp outside a facility      | 125                    |
| 3.15(1) | Failure to obtain permit for liquor                      | 125                    |
| 3.16    | Failure of permit holder to comply with responsibilities | 125                    |
| 4.1     | Behaviour which interferes with others                   | 125                    |

| Clause | Description   | Modified Penalty<br>\$ |
|--------|---|------------------------|
| 4.2(1) | Behaviour detrimental to property   | 350                    |
| 4.3(1) | Taking or injuring any fauna  | 350                    |
| 4.4(1) | Removing or damaging any flora  | 350                    |
| 4.5    | Under influence of liquor or prohibited drug  | 125                    |
| 4.8(2) | Failure to comply with a sign on local government property                              | 125                    |
| 5.2    | Consuming food or drink in prohibited area  | 125                    |
| 5.3    | Unauthorised entry to fenced or closed local government property                        | 125                    |
| 5.4    | Using or entering other gender specified toilet block or change room                    | 125                    |
| 5.9    | Failure to comply with direction of controller or notice on golf course                 | 125                    |
| 6.1(1) | Unauthorised entry to a function on local government property                           | 125                    |
| 7.3    | Unauthorised use of any part of a jetty which is closed or under repair or construction | 125                    |
| 7.4    | Mooring of boats in an unauthorised manner  | 125                    |
| 7.5    | Unauthorised mooring of a boat to jetty   | 125                    |
| 7.6    | Failure to remove a moored boat on direction of authorised person                       | 125                    |
| 7.7    | Launching of a boat from jetty without consent  | 125                    |
| 7.14   | Fishing from jetty or bridge so as to obstruct a boat or another person                 | 125                    |
| 9.1    | Failure to obey lawful direction of an authorised person                                | 250                    |
| 9.2    | Failure to obey direction of authorised person to leave local government property       | 250                    |
| 10.1   | Failure to comply with notice   | 250                    |
|        |   |                        |

### Schedule 2

#### DETERMINATIONS

The following determinations are to be taken to have been made by the local government under clause 2.1.

#### PART 1—PRELIMINARY

##### 1.1 Definition

In these determinations—

*local law* means the *Local Government Property Local Law 2010* made by the local government.

##### 1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in the local law then the term is to have the meaning given to it in the local law.

#### PART 2—APPLICATION

##### 2.1 Vehicles on local government property

(1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless—

- (a) subject to sub-clause (3), the local government property is clearly designated as a road, access way or car park;
- (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in—
  - (i) providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
- (c) the person is driving an emergency vehicle in the course of her or his duties; or
- (d) the vehicle is a motorised wheelchair, and the driver of that vehicle is a disabled person.

(2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person.

(3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), a person shall not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

## **2.2 Motorised model aeroplanes, toys or ships**

A person must not use, launch or fly a motorised model aeroplane, helicopter, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a permit or a determination specifies a particular local government property.

## **2.3 Children's playgrounds**

(1) The local government may set aside a public reserve or any portion of a public reserve as a children's playground.

(2) The local government may limit the ages of persons who are permitted to use a children's playground and may erect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.

(3) A person over the age specified in that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

## **2.4 Launching and retrieval of boats**

A person must not take onto, launch from, or retrieve a boat on local government property except where a permit or a determination specifies a particular local government property unless —

- (a) the person is a local government employee, authorised person; or—
  - (i) contractor engaged by the local government and who is engaged in providing a service or making a delivery in connection with the local government property; or
  - (ii) maintaining the local government property;
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency.

## **2.5 Activities prohibited on local government property**

(1) A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or permit.

(2) A person must not play or practise golf, on local government property except on Reserve No. A4813 as stipulated in Schedule 3 and Reserve No. 24826 and Reserve No. 28600 as directed and in accordance with the requirements of the controller at each of these reserves.

(3) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, skateboard, or sand board—

- (a) inside or on the curtilage to, a building;
- (b) in a pool area;
- (c) on a golf course; or
- (d) in or on a lakebed or waterway.

(4) A person must not use on, or take on to, any local government property, a spear gun, hand spear, gidgie or similar device.

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### *Schedule 3*

#### **POINT WALTER GOLF COURSE**

The Point Walter Golf Course—being the area within the Point Walter Reserve (No. A4813) bounded by a line taken from the south eastern corner of Point Walter Reserve westerly to the south western corner of that reserve. Then generally north east along the boundary which runs between the Point Walter Reserve and the Blackwall Reach Reserve (No. 11240) to where the boundary meets with the western side of the roundabout at the intersection of Honour Avenue and Carroll Drive. Then generally north east for approximately 33.3 metres, then generally east for approximately 17.5 metres, then south for approximately 29.7 metres around the golf course car park. Then generally east for approximately 15.6 metres north of the golf course club house, then generally south east for approximately 67.4 metres to the south west corner of the existing fence between the golf course and the recreation camp and then along the fence in a south easterly direction to the eastern boundary of the Point Walter Reserve and then southerly along the boundary of that reserve to the starting point.

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Dated: 15 February 2011.

The Common Seal of the City of Melville was affixed by authority of a resolution of the Council in the presence of—

RUSSELL AUBREY, Mayor.  
Dr SHAYNE SILCOX, Chief Executive Officer.

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