



**WESTERN
AUSTRALIAN
GOVERNMENT**
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, MONDAY, 6 MAY 2013 No. 73

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

© STATE OF WESTERN AUSTRALIA

SHIRE OF CARNAMAH

LOCAL GOVERNMENT ACT 1995

**PUBLIC PLACES AND LOCAL GOVERNMENT
PROPERTY LOCAL LAW 2013**

STANDING ORDERS LOCAL LAW 2013

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

PEST PLANTS LOCAL LAW 2013

CEMETERIES ACT 1986

WINCHESTER PUBLIC CEMETERY LOCAL LAW 2013

DIVIDING FENCES ACT 1961

FENCING LOCAL LAW 2013

HEALTH ACT 1911

HEALTH LOCAL LAW 2013

LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

**PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2013**

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Interpretation
- 1.4 Meaning of public place
- 1.5 Meaning of food
- 1.6 Types of licences

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL
GOVERNMENT PROPERTY***Division 1—Determinations*

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

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property
- 2.9 Sign under repealed local law taken to be determination

**PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING
A LICENCE**

- 3.1 Activities requiring a licence
- 3.2 Licence required to camp outside a facility
- 3.3 Licence required for possession and consumption of liquor

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Behaviour and interference with local government property*

- 4.1 Behaviour which interferes with others
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs

Division 2—Signs

- 4.6 Signs

Division 3—Miscellaneous

- 4.7 Authorised person to be obeyed
- 4.8 Persons may be directed to leave local government property
- 4.9 Disposal of lost property
- 4.10 Liability for damage to local government property

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY*Division 1—Swimming pool areas*

- 5.1 When entry must be refused
- 5.2 Consumption of food or drink may be prohibited

Division 2—Fenced or closed property

- 5.3 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

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

Division 4—Fees for entry onto local government property

- 5.5 No unauthorized entry to function

PART 6—ACTIVITIES IN THOROUGHFARES*Division 1—General*

- 6.1 General prohibitions
- 6.2 Activities allowed with a licence
- 6.3 No possession and consumption of liquor on thoroughfare

Division 2—Vehicle crossings

- 6.4 Temporary crossings

Division 3—Verge treatments

- 6.5 Removal of redundant crossing
- 6.6 Permissible verge treatments
- 6.7 Only permissible verge treatments to be installed
- 6.8 Obligations of owner or occupier
- 6.9 Notice to owner or occupier
- 6.10 Transitional provision
- 6.11 Power to carry out public works on verge

Division 4—Property numbers

- 6.12 Assignment of numbers

Division 5—Fencing

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

Division 6—Signs erected by the local government

- 6.14 Signs
- 6.15 Transitional

Division 7—Driving on closed thoroughfare

- 6.16 No driving on closed thoroughfare

Division 8—Miscellaneous

- 6.17 Notice to redirect or repair sprinkler
- 6.18 Hazardous plants
- 6.19 Notice to repair damage to thoroughfare
- 6.20 Notice to remove thing unlawfully placed on thoroughfare

PART 7—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles*

- 7.1 Leaving animal or vehicle in public place
- 7.2 Prohibitions relating to animals

Division 2—Shopping trolleys

- 7.3 Shopping trolley to be marked
- 7.4 Person not to leave trolley in public place
- 7.5 Retailer to remove abandoned trolley
- 7.6 Retailer taken to own trolley

PART 8—TRADING ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY

- 8.1 Offence to trade without a licence

PART 9—MARKETS ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY

- 9.1 Offence to conduct a market without a licence

**PART 10—ENTERTAINMENT ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

- 10.1 Offence to entertain without a licence

**PART 11—FOOD SALES ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

- 11.1 Offence to sell food without a licence

PART 12—LICENSING

- 12.1 Who may apply for licence
12.2 Application for licence
12.3 Information required for application
12.4 Further information relevant to application
12.5 Additional information required for trading licence application
12.6 Additional information required for market licence application
12.7 Additional information required for entertainment licence application
12.8 Additional information required for food sales licence application
12.9 Power of local government to grant licence
12.10 General restrictions on grant of licence
12.11 Additional restriction on grant of food sales licence
12.12 Conditions applying to certain licence
12.13 Other conditions
12.14 Condition of every trading licence
12.15 Condition of every market licence
12.16 Condition of every entertainment licence
12.17 Condition of every food sales licence
12.18 Contravention of conditions
12.19 Duration of licence
12.20 Application for renewal of licence
12.21 Restrictions on renewal of licence
12.22 Renewal of licence
12.23 Suspension of licence
12.24 Proposed suspension
12.25 Revocation of suspension
12.26 Cancellation of licence
12.27 Surrender of licence
12.28 Licence not transferable
12.29 Amendment of licence
12.30 Licence document
12.31 Production of licence document for amendment
12.32 Return of licence document if licence no longer in effect
12.33 Advertising

PART 13—OFFENCES AND PENALTIES

- 13.1 Offences
13.2 Infringement and infringement withdrawal notices
13.3 Offence description and modified penalty
13.4 Prosecution for offences
13.5 Offence to fail to comply with notice
13.6 Local government may undertake requirements of notice

PART 14—REPEAL AND TRANSITIONAL PROVISIONS

- 14.1 Repeal
14.2 Application for licence or renewal of licence
14.3 Licences

SCHEDULE 1—CONDITIONS OF EVERY TRADING LICENCE**SCHEDULE 2—CONDITIONS OF EVERY MARKET LICENCE****SCHEDULE 3—CONDITIONS OF EVERY ENTERTAINMENT LICENCE****SCHEDULE 4—CONDITIONS OF EVERY FOOD SALES LICENCE****SCHEDULE 5—MODIFIED PENALTIES**

LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2013

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Carnamah resolved on 20 February 2013 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is the *Shire of Carnamah Public Places and Local Government Property Local Law 2013*.

1.2 Commencement

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

1.3 Interpretation

In this local law, unless the contrary intention appears—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a licence;

application means an application for a licence;

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

authorised person means a person appointed by the local government under section 9.10 of the Act;

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

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;

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

CEO means the Chief Executive Officer of the local government;

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

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

commercial activity means an activity referred to in clause 8.1, clause 9.1, clause 10.1 or clause 11.1;

Council means the council of the local government;

determination means a determination made under clause 2.1;

district means the district of the local government and includes any area placed under the jurisdiction of the local government pursuant to section 22 of the Health Act;

entertain means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

entertainment licence means a licence of the kind referred to in clause 1.6(c);

food has the meaning given by clause 1.5;

food sales licence means a licence of the kind referred to in clause 1.6(d);

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

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

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

Health Act means the *Health Act 1911*;

hire includes offer to hire and expose for hire;

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

kerb includes the edge of a carriageway;

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

licence means a licence under this local law;

licence fee means the fee payable upon the issue of a licence;

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

licensee means a person who holds a licence;

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

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

local government means the Shire of Carnamah;

local government property means anything except a thoroughfare—

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

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

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

market means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods, wares, merchandise or services or carrying out any other transaction;

market licence means a licence of the kind referred to in clause 1.6(b);

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

permissible verge treatment means any one of the 3 treatments described in clause 6.6(2), and includes any reticulation pipes and sprinklers;

person does not include the local government;

place means anywhere at all, and includes anywhere in or on something that is moving or can move;

private property means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a company or person enabling its use for private purposes and includes any building or structure thereon;

proprietor—

- (a) includes the owner, the occupier and any person having the management or control of any registered food business; or
- (b) the holder of a licence granted under the Liquor Act where the premises in question is the subject of a hotel licence, a limited hotel licence, special facility licence or a restaurant licence granted under that Act;

public place has the meaning given by clause 1.4;

registered food business means any premises used by a registered food business under the *Food Act 2008* or which are the subject of a hotel, tavern or small bar licence, a special facility licence or a restaurant licence under the Liquor Act;

repealed local law means the local law repealed under clause 14.1;

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

sell includes—

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

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

sightline hazard means any obstruction which limits or prevents a safe line of vision;

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

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

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

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

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

trading licence means a licence of the kind referred to in clause 1.6(a);

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, prams and shopping trolleys;

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

1.4 Meaning of public place

For the purpose of this local law a **public place** is—

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

1.5 Meaning of food

(1) In this local law, **food** includes—

- (a) any substance or thing of a kind used, or represented as being used, for human consumption (whether it is live, raw, prepared or partly prepared);
 - (b) any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a);
 - (c) any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes into direct contact with the substance or thing referred to in that paragraph, such as processing aid;
 - (d) chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum; and
 - (e) any substance or thing declared to be a food under a declaration in force under the Commonwealth *Food Standards Australia New Zealand Act 1991* section 6,
- whether or not the substance, thing or chewing gum is in a condition fit for human consumption.

(2) To avoid doubt, **food** may include live plants and animals.

1.6 Types of licences

For the purposes of this local law—

- (a) a licence which authorises trading on any thoroughfare or local government property is to be referred to as a trading licence;

- (b) a licence which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market licence;
- (c) a licence which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment licence;
- (d) a licence which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales licence.

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.

2.2 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) is to 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 practice—
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (j) 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, equipment or things, or may extend it to all vehicles, equipment or things;
- (e) may specify that the activity can be pursued by a class of persons or all persons; and
- (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

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

- (a) smoking 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 or using a boat, or a particular class of boat;
- (f) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
- (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 land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

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

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

(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.

2.9 Sign under repealed local law taken to be determination

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

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

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A LICENCE

3.1 Activities requiring a licence

(1) A person must not without a licence—

- (a) subject to subclause (3) hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
- (d) teach, coach or train, for profit, any person in any facility which is local government property;
- (e) plant any plant or sow any seeds on local government property;
- (f) carry on any trading on local government property unless the trading is conducted—
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is 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 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) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
- (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.

(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).

3.2 Licence required to camp outside a facility

(1) In this clause—

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

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

(3) A person must not without a licence—

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
- (b) erect any tent, camp, hut or similar structure on local government property 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 licence in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Licence required for possession and consumption of liquor

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

- (a) that is permitted under the *Liquor Control Act 1988*; and
- (b) a licence has been obtained for that purpose.

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

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY*Division 1—Behaviour and interference with local government property***4.1 Behaviour which interferes with others**

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

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

4.2 Behaviour detrimental to property

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

(2) In subclause (1)—

detrimental to the property includes—

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

4.3 Taking or injuring any fauna

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

(2) In this clause—

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 Intoxicated persons not to enter local government property

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

4.5 No prohibited drugs

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

*Division 2—Signs***4.6 Signs**

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

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

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

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

*Division 3—Miscellaneous***4.7 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.

4.8 Persons may be directed to leave local government property

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

4.9 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.

4.10 Liability for damage to local government property

(1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—

- (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
- (b) replacing that property.

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

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY*Division 1—Swimming pool areas***5.1 When entry must be refused**

(1) A Manager or an authorised person can refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area, any person who—

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

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

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

5.2 Consumption of food or drink may be prohibited

A person must 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 must not use that entry of the toilet block or change room; or
- (b) males, then a person of the female gender must not 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.

*Division 4—Fees for entry onto local government property***5.5 No unauthorised entry to function**

(1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

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

PART 6—ACTIVITIES IN THOROUGHFARES*Division 1—General***6.1 General prohibitions**

A person must not—

- (a) plant, in any thoroughfare, any plant that is greater than 0.5m height or creates a sightline hazard;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;

- (c) damage a thoroughfare tree or remove a thoroughfare tree or part of a thoroughfare tree irrespective of whether the thoroughfare tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless—
 - (i) the removal of the thoroughfare tree is authorised by the local government in writing; or
 - (ii) the person is acting under authority of written law;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, roller-blades or similar device.

6.2 Activities allowed with a licence

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) fell or damage any thoroughfare tree;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a thoroughfare use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

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

6.3 No possession and consumption of liquor on thoroughfare

(1) A person must not consume any liquor or have in his or her possession or under his or her control any liquor on a thoroughfare unless—

- (a) that is permitted under the Liquor Act or under another written law; or
- (b) the person is doing so in accordance with a licence.

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

Division 2—Vehicle crossings

6.4 Temporary crossings

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

- (a) a crossing does not exist; or
- (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

(2) The **person responsible for the works** in subclause (1) is to be taken to be—

- (a) the builder named on the building licence issued under the *Local Government (Miscellaneous Provisions) Act 1960*, if one has been issued in relation to the works; or
- (b) the registered proprietor of the lot, if no building licence has been issued under the *Local Government (Miscellaneous Provisions) Act 1960* in relation to the works.

(3) If the local government approves an application for a licence for the purpose of subclause (1), the licence is taken to be issued on the condition that until such time as the temporary crossing is removed, the licensee must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

*Division 3—Verge treatments***6.5 Removal of redundant crossing**

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

- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to—
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,
- within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

6.6 Permissible verge treatments

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

- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (c) the installation over no more than 30 per cent of the area of the verge (excluding any approved footpath and/or vehicle crossing) of an acceptable material, and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

6.7 Only permissible verge treatments to be installed

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

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.6.

6.8 Obligations of owner or occupier

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

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

6.9 Notice to owner or occupier

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

6.10 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

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

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

6.11 Power to carry out public works on verge

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

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and

- (c) is not liable to replace or restore any—
- (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 4—Property numbers

6.12 Assignment of numbers

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

Division 5—Fencing

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

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

A **public place**, as that term is defined in clause 1.4.

Division 6—Signs erected by the local government

6.14 Signs

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

6.15 Transitional

Where a sign erected in a thoroughfare has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 6.14 if—

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

Division 7—Driving on closed thoroughfare

6.16 No driving on closed thoroughfare

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

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

Division 8—Miscellaneous

6.17 Notice to redirect or repair sprinkler

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

6.18 Hazardous plants

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

6.19 Notice to repair damage to thoroughfare

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

6.20 Notice to remove thing unlawfully placed on thoroughfare

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

PART 7—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS*Division 1—Animals and vehicles***7.1 Leaving animal or vehicle in public place**

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

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

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

7.2 Prohibitions relating to animals

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

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

(2) An owner of an animal must not—

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

(3) An owner of a horse must not lead, ride or drive a horse on a thoroughfare, unless that person does so under a licence or under the authority of a written law.

*Division 2—Shopping Trolleys***7.3 Shopping trolley to be marked**

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

7.4 Person not to leave trolley in public place

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

7.5 Retailer to remove abandoned trolley

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

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

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

7.6 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

PART 8—TRADING ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**8.1 Offence to trade without a licence**

A person must not carry on trading in any thoroughfare or local government property except under and in accordance with the licence authorising the trading at that thoroughfare or local government property.

PART 9—MARKETS ON THOROUGHFARES AND LOCAL GOVERNMENT PROPERTY**9.1 Offence to conduct a market without a licence.**

A person must not conduct or set up a market in any thoroughfare or local government property except under and in accordance with a licence authorising the conduct of a market at that thoroughfare or local government property.

**PART 10—ENTERTAINMENT ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

10.1 Offence to entertain without a licence

A person must not entertain in any thoroughfare or local government property except under and in accordance with the licence authorising the entertainment at that thoroughfare or local government property.

**PART 11—FOOD SALES ON THOROUGHFARES AND LOCAL
GOVERNMENT PROPERTY**

11.1 Offence to sell food without a licence

A person must not sell food in any thoroughfare or local government property except under and in accordance with a food service licence authorising the sale of food at that thoroughfare or local government property.

PART 12—LICENSING

12.1 Who may apply for licence

An application for a licence may only be made to the local government by an individual.

12.2 Application for licence

An application must be—

- (a) in writing in a form approved by the local government;
- (b) accompanied by any document or information that is required under this local law; and
- (c) accompanied by the application fee.

12.3 Information required for application

The following documents and information are required to accompany an application—

- (a) written statement of the details of the activity for which a licence is being requested;
- (b) written particulars of arrangements made in respect of public liability insurance; and
- (c) any other information the local government considers necessary in the circumstances of the case.

12.4 Further information relevant to application

(1) The local government may ask an applicant for any additional document or information that the local government considers is or could be relevant to making a decision on the application.

(2) Without limiting subclause (1), for the purpose of deciding whether or not an individual applicant is a fit and proper person to be granted a licence, and whether or not the application should be granted, the local government—

- (a) may ask the applicant to provide a reference or report specified by the local government; and
- (b) may ask the applicant to provide evidence that the person has the necessary experience in relation to the type of commercial activity to which the application relates.

(3) If the local government makes a request under subclause (1) or (2) the local government does not have to consider the application, or consider it further, until the request is complied with.

(4) Any costs incurred in complying with the request under subclause (1) or (2) are to be paid by the applicant unless the local government determines otherwise.

12.5 Additional information required for trading licence application

The following additional information and documents are required to accompany an application for a trading licence—

- (a) the number of assistants to be employed in the trading at any one time;
- (b) a plan of the proposed location;
- (c) the proposed goods, wares, merchandise or services to be traded;
- (d) a detailed and accurate plan and description of any proposed stall, stand, table, structure or vehicle to be used for trading; and
- (e) the type of sign to be used to display the licence name and licence number.

12.6 Additional information required for market licence application

The following additional information and documents are required to accompany an application for a market licence—

- (a) a copy of the planning approval issued by the local government under a town planning scheme;
- (b) a plan or plans to a scale of 1:50 showing—
 - (i) the location and dimensions of the proposed area to be used for the market;
 - (ii) the dimensions of the public place including any footpath and the location and nature of any thoroughfare furniture, trees, utilities, parking or service bays in the area; and
 - (iii) the position and dimensions of all proposed stalls;

- (c) a management plan outlining the operation of the market including—
 - (i) the proposed days and times of operation;
 - (ii) the proposed type and form of any advertising devices to be used; and
 - (iii) details of how the operational responsibilities of the licensee will be met; and
- (d) the nature and extent of any activity relating to entertainment.

12.7 Additional information required for entertainment licence application

The following additional information and documents are required to accompany an application for an entertainment licence—

- (a) the nature of the proposed entertainment;
- (b) any musical instrument or amplifier proposed to be used; and
- (c) the number of people involved in the proposed entertainment.

12.8 Additional information required for food sales licence application

The following additional information and documents are required to accompany an application for a food sales licence—

- (a) a plan and specification of the proposed area to be licensed on a scale of 1:50 showing—
 - (i) the location and dimensions of the proposed area and the means by which the area is to be separated from the balance of the public place; and
 - (ii) the position of all tables, chairs and other structures proposed to be provided in the area and which of the items, if any, are to be retained within the area at all times;
- (b) a plan and specification on a scale of 1:200 showing the area and all improvements within 30 metres of the boundaries of the area including any public facility and parking restrictions;
- (c) a colour photograph or photographs of the tables, chairs and other structures to be set up in the area;
- (d) a written statement of the manner in which foodstuffs and other dining accessories are to be conveyed to and protected from contamination within the area; and
- (e) written particulars of arrangements made in respect of public liability insurance.

12.9 Power of local government to grant licence

- (1) The local government may grant a licence to a person authorising the person to provide a specified type of trading at a specified public place.
- (2) In subsection (1)—
specified means specified in the licence document.
- (3) A licence cannot be granted in respect of more than one type of commercial activity or in respect of more than one public place.
- (4) A licence cannot be granted to 2 or more persons.
- (5) A person may be granted 2 or more licences whether for the same type of commercial activity or for different types of commercial activity or for different public places.

12.10 General restrictions on grant of licence

- (1) The local government must not grant a licence if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) The local government must not grant a licence unless the local government is satisfied that—
 - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the licence;
 - (b) the public place at which the activity is to be provided is suitable for that purpose;
 - (c) a licence or equivalent authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
 - (d) the applicant is a fit and proper person to carry on the activity.
- (3) The local government must not grant a licence to an individual applicant if the applicant has been found guilty of an offence under this local law unless the local government is satisfied that there are exceptional reasons for doing so.

12.11 Additional restriction on grant of food sales licence

The local government must not grant a food sales licence unless—

- (a) the applicant is the proprietor of a registered food business which adjoins that part of the thoroughfare or local government property in respect of which the application is made; or
- (b) the application is with respect to local government property and only for the duration of a sporting or community event on that local government property.

12.12 Conditions applying to certain licence

It is a condition of every trading licence, market licence, entertainment licence and food sales licence that—

- (a) at all times during the period for which the licence is issued, the licensee must effect and maintain a public risk policy of insurance with a reputable insurer with respect to the commercial activity authorised by the licence.

- (b) unless otherwise stated on the licence, the expiration date of the licence is midnight on the 30th day of June of that year.

12.13 Other conditions

The local government may grant a licence subject to any conditions that the local government considers appropriate.

12.14 Condition of every trading licence

Every trading licence is taken to be subject to the conditions set out in Schedule 1.

12.15 Condition of every market licence

Every market licence is taken to be subject to the conditions set out in Schedule 2.

12.16 Condition of every entertainment licence

Every entertainment licence is taken to be subject to the conditions set out in Schedule 3.

12.17 Condition of every food sales licence

Every food sales licence is taken to be subject to the conditions set out in Schedule 4.

12.18 Contravention of conditions

A licensee who contravenes a condition of the licence commits an offence.

12.19 Duration of licence

- (1) A licence has effect for the period specified in the licence document unless—
- (a) it is suspended under clause 12.23; or
 - (b) it is cancelled under clause 12.26; or
 - (c) it is surrendered under clause 12.27.
- (2) The period specified in the licence document must not exceed one year from the day on which the licence is granted or renewed.

12.20 Application for renewal of licence

- (1) A licensee may apply to the local government for the renewal of a licence.
- (2) An application for renewal must be—
- (a) in writing in the form approved by the local government;
 - (b) lodged with the local government no later than 28 days prior to the expiry of the licence or any further time that the local government in a particular case allows;
 - (c) accompanied by any document or information that is required under this local law; and
 - (d) accompanied by the prescribed fee.
- (3) Clause 12.4 applies in relation to an application for renewal as if it were an application for a licence.

12.21 Restrictions on renewal of licence

The local government must not renew a licence if—

- (a) the local government is no longer satisfied as to any matter referred to in clause 12.10 or 12.11 that was relevant to the decision to grant the licence; or
- (b) the local government is satisfied that the licensee has persistently or frequently contravened the provisions of this local law or a term or condition of the licence; or
- (c) there are reasonable grounds for believing that the continued provision of the trading to which the application relates will constitute an unacceptable risk to the safety of the public.

12.22 Renewal of licence

If the local government renews a licence the local government may—

- (a) renew it subject to any existing conditions; or
- (b) impose any new conditions; or
- (c) change or remove any existing condition (other than the conditions referred to in clauses 12.12, 12.14, 12.15, 12.16 and 12.17).

12.23 Suspension of licence

- (1) The local government may, subject to clause 12.24, by written notice given to the licensee, suspend a licence if there are reasonable grounds for believing that—
- (a) the licensee has contravened a term or condition of a licence; or
 - (b) the licensee has contravened a provision of this local law; or
 - (c) the continued provision of the activity constitutes or will constitute an unacceptable risk to the safety of the public.
- (2) The suspension notice must—
- (a) state the day, or the day and time, on or at which the suspension takes effect;
 - (b) state the reasons for the local government's decision to suspend the licence; and
 - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and

- (d) inform the licensee that the licensee has a right to apply under the Act for a review of the local government's decision to suspend the licence.
- (3) The suspension of a licence has effect on the day or the day and time, specified in the suspension notice until one of the following happens—
- (a) the suspension is revoked under clause 12.25;
 - (b) the licence is cancelled under clause 12.26 or expires;
 - (c) the licence is surrendered in accordance with the provisions of this local law.

12.24 Proposed suspension

- (1) If the local government proposes to suspend a licence for the reason mentioned in clause 12.23 (1)(a)(b), the local government must give written notice to the licensee of the proposed suspension.
- (2) The notice must—
- (a) state that the local government proposes to suspend the licence;
 - (b) state the reasons for the proposed suspension; and
 - (c) inform the licensee that the licensee is entitled to make representation to the local government in respect of the proposed suspension within 7 days after the day on which the licensee is given the notice.
- (3) In considering whether to suspend the licence the local government must have regard to any representations made by the licensee within the period referred to in subclause (2)(c).

12.25 Revocation of suspension

- (1) The local government must, by written notice given to the licensee revoke the suspension of a licence if the local government is satisfied that the steps specified in the suspension notice have been taken.
- (2) The local government may, by written notice given to the licensee, revoke the suspension of the licence if it is appropriate to do so in the circumstances of a particular case.

12.26 Cancellation of licence

Grounds for the cancellation of the licence exists if—

- (a) the licence was obtained improperly; or
- (b) the local government can no longer be satisfied as to a matter referred to in clause 12.10 or 12.11 that was relevant to the decision to grant the licence; or
- (c) the licensee has persistently or frequently contravened a term or condition of the licence or a provision of this local law, whether or not the licence is or has been suspended on the grounds of a contravention; or
- (d) there are reasonable grounds for believing that the continued provision of the commercial activity constitutes or would constitute an unacceptable risk to the safety of the public whether or not the licence has been suspended on the grounds of that risk.

12.27 Surrender of licence

A licensee may at any time by notice in writing to the local government surrender the licence.

12.28 Licence not transferable

A licence is not transferable.

12.29 Amendment of licence

- (1) In this clause—
amend includes—
- (a) to impose any new condition; and
 - (b) to change or remove any existing condition (other than a condition referred to in clauses 12.12, 12.14, 12.15, 12.16 or 12.17).
- (2) The local government may, by written notice given to the licensee, amend a licence.
- (3) An amendment may be made on application made by the licensee or on the local government's initiative.

12.30 Licence document

If the local government grants a licence to a person the local government must issue to the person a licence document that contains the details required under this local law.

12.31 Production of licence document for amendment

If the local government amends or renews a licence, the licensee must, if required by the local government, produce the licence document to the local government for amendment within the period specified by the local government.

12.32 Return of licence document if licence no longer in effect

If a licence—

- (a) has expired or has not been renewed; or
- (b) has been suspended or cancelled; or
- (c) has been surrendered,

the person who was the licensee must, as soon as practicable after the expiry, suspension, cancellation or surrender, return the licence document to the local government.

12.33 Advertising

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a licence authorising that commercial activity.

PART 13—OFFENCES AND PENALTIES**13.1 Offences**

(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) An offence against a clause specified in Schedule 5 is a prescribed offence for the purposes of section 9.16(1) of the Act.

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

13.2 Infringement and infringement withdrawal notices

For the purpose of this local law—

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

13.3 Offence description and modified penalty

The amount appearing in the final column of Schedule 5 directly opposite an offence described in that Schedule is the modified penalty for that offence.

13.4 Prosecution for offences

A penalty for an offence against this local law (not being a modified penalty) may be recovered by the local government by taking proceedings against the alleged offender in the Magistrates Court.

13.5 Offence to fail to comply with notice

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

13.6 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 13.5, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

PART 14—REPEAL AND TRANSITIONAL PROVISIONS**14.1 Repeal**

The *Shire of Carnamah (Local Government Act) Local Laws* published in the *Government Gazette* on 1 October 1997; is repealed.

14.2 Application for licence or renewal of licence

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

14.3 Licences

A licence under the repealed local law that is in force immediately before the commencement day is to be regarded on and after that day as a licence under this local law and may be dealt with accordingly.

Schedule 1**CONDITIONS OF EVERY TRADING LICENCE**

[Clause 12.14]

1. The licensee must—

- (a) display a sign with letters and numerals not less than 5cm in height in a conspicuous place in the licensed area indicating the name of the licensee and the licence number;
- (b) ensure that the licensed area is attended by either the licensee or an assistant at all times when trading is being undertaken;
- (c) keep any store, table, structure or vehicle specified in the licence in a clean and safe condition and in good repair;
- (d) ensure a minimum width of 2m is kept clear for pedestrian access;
- (e) keep the location specified in the licence free from refuse and rubbish;
- (f) have the licence available at operation times and produce the licence to any authorised person or any Police Officer when requested; and

- (g) remove any store, merchandise and signs from the location to which the licence applies and leave the location clean and vacant—
 - (i) at the conclusion of the permitted hours of operation specified in the licence; and
 - (ii) whenever the trading is not taking place on the location to which the licence applies.
2. The licensee must not—
- (a) engage in or permit any trading in any goods, wares, merchandise or services other than those specified in the licence;
 - (b) cause, permit or suffer any nuisance to exist, arise or continue on from the location to which the licence applies;
 - (c) cause, permit or store any goods, wares, merchandise on any public place, other than on the location to which the licence applies;
 - (d) obstruct the free passage of pedestrians on any footpath or pedestrian access way;
 - (e) use or display or permit to be used or displayed any advertisement, placard, poster, sign or sign board on or about the location specified in the licence other than price tickets or labels on the permitted place not exceeding a total of 0.25m² of the licensed area;
 - (f) erect and maintain signs so as to obscure any other signage on or adjacent to the licensed area;
 - (g) cry out, shout about or permit any other person to cry out or shout about any goods, wares, merchandise or services in any thoroughfare or public place;
 - (h) use or permit to be used any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound, on or from the permitted place specified in the licence, unless approved by the local government;
 - (i) use or permit to be used any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the permitted place specified in the licence unless approved by the local government;
 - (j) use or permit to be used any flashing or intermittent lighting apparatus or device on or from the permitted place specified in the licence; or
 - (k) use or permit to be used apparatus or device including flap or shelf where the dimensions of the stall area are increased beyond that specified in the licence.

Schedule 2

CONDITIONS OF EVERY MARKET LICENCE

[Clause 12.15]

1. Prior to commencing operations of the market, the licensee must—
- (a) obtain approval from the local government and the Western Australian Police Service for the closure of public thoroughfares to vehicular traffic, where the market is to be held and during the hours of operation of the market;
 - (b) lodge a copy of the approved plans of the market with the Fire and Rescue Service of WA;
 - (c) ensure adequate refuse collection arrangements have been made to the satisfaction of the local government;
 - (d) where appropriate, have the necessary local government approval in accordance with the *Health (Public Building) Regulations 1992*, including a maximum occupation certificate and electrical compliance certificate; and
 - (e) obtain approval from the local government in relation to entertainment aspects of the market.
2. During the operation of the market, including setting up and dismantling times, the licensee must—
- (a) maintain pedestrian access through and beyond the market area;
 - (b) maintain access to adjacent building entries;
 - (c) retain access to areas the subject of approved food service licences;
 - (d) maintain adequate access for emergency vehicles through the thoroughfares of the licensed area;
 - (e) stabilise all structures and furniture provided and used in the operation of the market at all times and removal of such structures and furniture when not in use;
 - (f) maintain noise levels from any associated music announcements, and the like, in accordance with any licence condition, so as not to cause a nuisance;
 - (g) maintain the area of the market clean and free from rubbish; and
 - (h) provide separate sanitary facilities for food stall staff.
3. At the conclusion of each market, the licensee must ensure that all structures and equipment used in the operation of the market are removed and the area returned to the condition it was before the commencement of the market and to the satisfaction of the local government.

Schedule 3**CONDITIONS OF EVERY ENTERTAINMENT LICENCE**

[Clause 12.16]

1. The licensee must not permit the entertainment to extend beyond the specified portion of the public place approved in the licence.
2. The licensee must ensure that the entertainment—
 - (a) does not prevent or impede pedestrian flow or access to and along footpaths, entries or exits to shops and other buildings;
 - (b) does not prevent or impede vehicular flow or access to and along any thoroughfare, entry or exit to any service delivery area;
 - (c) does not cause a nuisance to any other entertainment or activity approved by the local government;
 - (d) unless otherwise approved, does not include any person under the age of 14 years—
 - (i) during school hours, on school days; or
 - (ii) between 7pm and 6am; and
 - (e) does not include, involve or permit—
 - (i) anything that is offensive or obscene;
 - (ii) the use of fire;
 - (iii) any weapon or object with sharp edges including knives and swords;
 - (iv) any motorised machinery that omits a loud noise in its operation or is not suitable in the location;
 - (v) any other activity, object or matter whatsoever that endangers the safety of the public or the performance; or
 - (vi) cruelty to any animal;
 - (f) does not include any amplification unless specifically approved and endorsed on the licence and in any event will not be permitted in any location between Monday to Saturday, 10pm to 7am and Sundays between 10pm and 9am;
 - (g) complies at all times with the *Environmental Protection (Noise) Regulations 1997*.
3. The licensee must—
 - (a) use the allocated space and location to perform during the days and times specified in the licence or vacate the location;
 - (b) produce the licence when requested to do so by an authorised person;
 - (c) ensure a valid licence number is visibly displayed during each performance;
 - (d) comply at all times with the direction of an authorised person; and
 - (e) must not perform at the same site for longer than 2 hours and must not return to the same site unless 2 hours after the previous performance of that day, unless otherwise approved.
4. A licensee must not—
 - (a) reserve or attempt to reserve a location or leave equipment at a location used for performances unless immediately before, during and immediately after a performance;
 - (b) sell any goods or services without written approval or licence issued for that purpose; or
 - (c) perform in any one location for more than 30 minutes unless specifically authorised by endorsement on the licence, or the performance is by a pavement or visual artist.
5. A licensee who is performing pavement or visual art—
 - (a) must not use spray paint, crayons, textures or inedible materials; and
 - (b) must return the location, including the pavement surface, to its former condition.

Schedule 4**CONDITIONS OF EVERY FOOD SALES LICENCE**

[Clause 12.17]

1. The licensee must not permit the operation of the food sales area to extend beyond the specified portion of the public place detailed in the plans approved as part of the licence.
2. The licensee must—
 - (a) keep the area in a clean and tidy condition at all times;
 - (b) ensure a minimum width of 2m is kept clear for pedestrian access;
 - (c) maintain the chairs, tables and other structures set out on the area in good and serviceable condition at all times;
 - (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of the public place arising from the conduct of the area or the actions of persons in that area and the council may recover such costs from the proprietor in a court of competent jurisdiction as a debt owing to it;

- (e) be solely responsible for payment of all rates and taxes levied upon the land occupied by the area; and
- (f) display the licence in a conspicuous place in the adjoining registered food business and whether requested by an Environmental Health Officer to do so, must produce the licence to that officer.

Schedule 5
MODIFIED PENALTIES

Clause	Description	Modified Penalty \$
2.4	Failure to comply with determination	100
3.2	Failure to obtain licence to camp outside a facility	100
3.3(1)	Failure to obtain licence for liquor	200
4.2	Behaviour detrimental to property	300
4.3	Taking or injuring any fauna	200
4.4	Under influence of liquor or prohibited drug	200
4.6(2)	Failure to comply with sign on local government property	100
5.3	Unauthorised entry to fenced or closed local government property	200
5.4	Gender not specified using entry of toilet block or change room	100
5.5	Unauthorised entry to function on local government property	200
6.1(a)	Plant creating a sightline hazard	100
6.1(b)	Damaging lawn or garden	200
6.1(c)	Remove or damage a thoroughfare tree	300
6.1(d)	Placing hazardous substance on footpath	100
6.1(e)	Damaging or interfering with signpost or structure on thoroughfare	300
6.1(f)	Riding a bicycle, skateboard, roller-blades or similar device, playing or participating in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.	100
6.2(1)(a)	Digging a trench through a kerb or footpath without a licence	100
6.2(1)(b)	Throwing or placing anything on a verge without a licence	200
6.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a licence	100
6.2(1)(d)	Causing obstruction to water channel on thoroughfare without a licence	200
6.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a licence	200
6.2(1)(f)	Damage a thoroughfare without a licence	300
6.2(1)(g)	Felling or damaging any thoroughfare tree without a licence	200
6.2(1)(h)	Felling tree onto thoroughfare without a licence	200
6.2(1)(i)	Installing pipes or stone on thoroughfare without a licence	100
6.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a licence	300
6.2(1)(k)	Creating a nuisance on a thoroughfare without a licence	200
6.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a licence	200
6.2(1)(m)	Interfering with anything on a thoroughfare without a licence	200
6.4	Failure to obtain licence for temporary crossing	200
6.5	Failure to comply with notice to remove crossing and reinstate kerb	300
6.7	Installation of verge treatment other than permissible verge treatment	200
6.8	Failure to maintain permissible verge treatment or placement of obstruction on verge	100
6.9	Failure to comply with notice to rectify default	300
6.14	Failure to comply with sign on public place	200
6.16	Driving or taking a vehicle on a closed thoroughfare	300
7.1(1)	Animal or vehicle obstructing a public place or local government property	200

Clause	Description	Modified Penalty \$
7.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	200
7.2(2)(b)	Animal on public place with infectious disease	300
7.2(2)(c)	Training or racing animal on thoroughfare in built-up area	200
7.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
7.4	Person leaving shopping trolley in public place other than trolley bay	100
7.5(2)	Failure to remove shopping trolley upon being advised of location	200
8.1	Trading in a thoroughfare or local government property without a licence	100
9.1	Set up or conduct market without a licence	100
10.1	Set up or entertain without a licence	100
11.1	Set up or conduct food sales without a licence	100
12.18	Failing to comply with conditions of a licence	100

Dated: 20th February 2013.

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

M. ISBISTER, President.
W. T. ATKINSON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

STANDING ORDERS LOCAL LAW 2013

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application and intent
- 1.4 Interpretation
- 1.5 Repeal

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

- 2.1 Establishment of committees
- 2.2 Types of committees
- 2.3 Delegation of some powers and duties to certain committees
- 2.4 Limits on delegation of powers and duties to certain committees
- 2.5 Appointment of committee Members
- 2.6 Tenure of committee membership
- 2.7 Resignation of committee Members
- 2.8 Register of delegations to committees
- 2.9 Committees to report

PART 3—CALLING AND CONVENING MEETINGS

- 3.1 Ordinary and special Council meetings
- 3.2 Calling Council meetings
- 3.3 Convening Council meetings
- 3.4 Calling committee meetings
- 3.5 Public notice of meetings

PART 4—PRESIDING MEMBER AND QUORUM*Division 1: Who presides*

- 4.1 Who presides
- 4.2 When the Deputy President can act
- 4.3 Who acts if no President
- 4.4 Election of Presiding Members of committees
- 4.5 Election of Deputy Presiding Members of committees
- 4.6 Functions of Deputy Presiding Members
- 4.7 Who acts if no Presiding Member

Division 2—Quorum

- 4.8 Quorum for meetings
- 4.9 Reduction of quorum for Council meetings
- 4.10 Reduction of quorum for committee meetings
- 4.11 Procedure where no quorum to begin a meeting
- 4.12 Procedure where quorum not present during a meeting
- 4.13 Names to be recorded

PART 5—BUSINESS OF A MEETING

- 5.1 Business to be specified
- 5.2 Order of business
- 5.3 Motions of which previous notice has been given
- 5.4 New business of an urgent nature
- 5.5 Adoption by exception resolution

PART 6—PUBLIC PARTICIPATION

- 6.1 Meetings generally open to the public
- 6.2 Meetings not open to the public
- 6.3 Question time for the public
- 6.4 Question time for the public at certain meetings
- 6.5 Minimum question time for the public
- 6.6 Procedures for question time for the public
- 6.7 Other procedures for question time for the public
- 6.8 Distinguished visitors
- 6.9 Deputations
- 6.10 Petitions
- 6.11 Presentations
- 6.12 Participation at committee meetings
- 6.13 Council may meet to hear public submissions
- 6.14 Public Inspection of agenda materials
- 6.15 Confidentiality of information withheld
- 6.16 Recording of proceedings
- 6.17 Prevention of disturbance

PART 7—QUESTIONS BY MEMBERS**PART 8—CONDUCT OF MEMBERS**

- 8.1 Members to be in their proper places
- 8.2 Respect to the Presiding Member
- 8.3 Titles to be used
- 8.4 Advice of entry or departure
- 8.5 Members to indicate their intention to speak
- 8.6 Priority of speaking
- 8.7 Presiding Member may take part in debates
- 8.8 Relevance
- 8.9 Speaking twice
- 8.10 Duration of speeches
- 8.11 No speaking after conclusion of debate
- 8.12 No interruption
- 8.13 Personal explanations
- 8.14 No reopening of discussion
- 8.15 Adverse reflection
- 8.16 Withdrawal of offensive language

PART 9—PRESERVING ORDER

- 9.1 Presiding Member to preserve order
- 9.2 Point of order
- 9.3 Procedures on a point of order
- 9.4 Calling attention to breach
- 9.5 Ruling by the Presiding Member
- 9.6 Continued breach of order
- 9.7 Right of Presiding Member to adjourn

PART 10—DEBATE OF SUBSTANTIVE MOTIONS

- 10.1 Motions to be stated and in writing
- 10.2 Motions to be supported
- 10.3 Unopposed business
- 10.4 Only one substantive motion at a time
- 10.5 Order of call in debate
- 10.6 Limit of debate
- 10.7 Member may require question to be read
- 10.8 Consent of seconder required for alteration
- 10.9 Order of amendments
- 10.10 Form of an amendment
- 10.11 Amendment must not negate original motion
- 10.12 Relevance of amendments
- 10.13 Mover of motion may speak on amendment
- 10.14 Effect of an amendment
- 10.15 Withdrawal of motion or amendment
- 10.16 Right of reply

PART 11—PROCEDURAL MOTIONS

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

- 11.5 Meeting to proceed to the next business
- 11.6 Debate to be adjourned
- 11.7 Meeting now adjourn
- 11.8 Question to be put
- 11.9 Member to be no longer heard
- 11.10 Ruling of the Presiding Member to be disagreed with

PART 12—DISCLOSURE OF INTERESTS

- 12.1 Disclosure of interests

PART 13—VOTING

- 13.1 Question—when put
- 13.2 Voting
- 13.3 Majorities required for decisions
- 13.4 Method of taking vote

PART 14—MINUTES OF MEETINGS

- 14.1 Keeping of minutes
- 14.2 Content of minutes
- 14.3 Public inspection of unconfirmed minutes
- 14.4 Confirmation of minutes

PART 15—ADJOURNMENT OF MEETING

- 15.1 Meeting may be adjourned
- 15.2 Effect of adjournment

PART 16—REVOKING OR CHANGING DECISIONS

- 16.1 Requirements to revoke or change decisions
- 16.2 Limitations on powers to revoke or change decisions
- 16.3 Implementing a decision

PART 17—SUSPENSION OF LOCAL LAW

- 17.1 Suspension of Local Law
- 17.2 Where Local Law does not apply
- 17.3 Cases not provided for in Local Law

PART 18—MEETINGS OF ELECTORS

- 18.1 Electors' general meetings
- 18.2 Matters for discussion at general electors' meeting
- 18.3 Electors' special meetings
- 18.4 Requests for electors' special meetings
- 18.5 Convening electors' meetings
- 18.6 Who presides at electors' meetings
- 18.7 Procedure for electors' meetings
- 18.8 Participation of non-electors
- 18.9 Voting at electors' meetings
- 18.10 Minutes of electors' meetings
- 18.11 Decisions made at electors' meetings

PART 19—ENFORCEMENT

- 19.1 Penalty for breach
- 19.2 Who can prosecute

LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

STANDING ORDERS LOCAL LAW 2013

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Shire of Carnamah resolved on 20th February 2013 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Carnamah Standing Orders Local Law 2013*.

1.2 Commencement

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

1.3 Application and intent

- (1) This local law provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and this Local law.
- (3) This local law is intended to result in—
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Interpretation

- (1) In this Local law unless the context otherwise requires—
 - absolute majority** has the meaning given to it in the Act;
 - 75% majority** has the meaning given to it in the Act;
 - Act** means the *Local Government Act 1995*;
 - CEO** means the Chief Executive Officer of the Local Government;
 - committee** means a committee of the Council established under section 5.8 of the Act;
 - committee meeting** means a meeting of a committee;
 - Council** means the Council of the Shire of Carnamah;
 - Local Government** means the Shire of Carnamah;
 - meeting** means a meeting of the Council or a committee, as the context requires;
 - Member** has the meaning given to it in the Act;
 - President** means the President of the Local Government or other Presiding Member at a Council meeting under section 5.6 of the Act;
 - Presiding Member** means—
 - (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
 - (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;
 - Regulations** means the *Local Government (Administration) Regulations 1996*;
 - simple majority** means more than 50% of the members present and voting; and
 - substantive motion** means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.
- (2) Unless otherwise defined in this local law, the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

1.5 Repeal

The *Shire of Carnamah Local Laws Relating to Standing Orders* as published in the *Government Gazette* on 1 October 1997 is repealed.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**2.1 Establishment of committees**

- (1) The establishment of committees is dealt with in the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
 - (a) the terms of reference of the committee;
 - (b) the number of council members, 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.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

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

2.4 Limits on delegation of powers and duties to certain committees

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

2.5 Appointment of committee members

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

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

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

2.8 Register of delegations to committees

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

2.9 Committees to report

A committee—

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

PART 3—CALLING AND CONVENING MEETINGS**3.1 Ordinary and special Council meetings**

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

3.2 Calling Council meetings

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

3.3 Convening Council meetings

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

3.4 Calling committee meetings

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

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

PART 4—PRESIDING MEMBER AND QUORUM*Division 1—Who presides***4.1 Who presides**

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

4.2 When the Deputy President can act

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

4.3 Who acts if no President

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

4.4 Election of Presiding Members of committees

The election of Presiding Members of committees and their deputies is dealt with in the Act.

4.5 Election of Deputy Presiding Members of committees

The election of Deputy Presiding Members of committees is dealt with in the Act.

4.6 Functions of Deputy Presiding Members

The functions of Deputy Presiding Members are dealt with in the Act.

4.7 Who acts if no Presiding Member

Who acts if no Presiding Member is dealt with in the Act.

*Division 2—Quorum***4.8 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the Presiding Member is—

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

4.13 Names to be recorded

At any meeting—

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

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

PART 5—BUSINESS OF A MEETING**5.1 Business to be specified**

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

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

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

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

(4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports (Item 10) at that ordinary meeting.

5.2 Order of business

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

1. Declaration of Opening
2. Record of Attendance
 - (i) Present
 - (ii) Apologies
 - (iii) Leave Of Absence (Previously Approved)
3. Response To Previous Public Questions Taken On Notice

4. Public Question Time
5. Applications for Leave of Absence
6. Disclosure of Interest
7. Petitions, Deputations and Presentations
8. Announcements by the Presiding Person Without Discussion
9. Confirmation of Minutes
10. Management Reports
 - 10.1 Manager Regulatory Services
 - 10.2 Works Administration Report
 - 10.3 Finance Reports
 - 10.4 Administration Reports
 - 10.5 Confidential Reports
11. Ordering the Common Seal
12. Reports of Committees and Members
13. Motions of Which Previous Notice Has Been Given
14. Notice of Motions (for consideration at the following meeting, if given during the meeting.)
15. New Business Of An Urgent Nature Admitted By Council
16. Closure of Meeting.

(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 7 clear working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good governance of the district.

(4) The CEO—

- (a) may, 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) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
- (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.4 New business of an urgent nature

(1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.

(2) In subclause (1), ‘cases of extreme urgency or other special circumstances’ means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the Local Government and must be considered and dealt with by the Council before the next meeting.

5.5 Adoption by exception resolution

(1) In this clause “adoption by exception resolution” means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the 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) that requires a 75% majority or a special majority;
- (b) in which an interest has been disclosed;
- (c) that has been the subject of a petition or deputation;

- (d) that is a matter on which a Member wishes to make a statement; or
- (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

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

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the Presiding Member is to direct everyone to leave the meeting except—
 - (i) the Members;
 - (ii) the CEO; and
 - (iii) any 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 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the Presiding Member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a Member to be included in the minutes.

6.3 Question time for the public

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

6.4 Question time for the public at certain meetings

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

6.5 Minimum question time for the public

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

6.6 Procedures for question time for the public

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

6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.

- (8) A member of the public shall have 2 minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.8 Distinguished visitors

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

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting—
 - (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and,
 - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
- (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.10 Petitions

- (1) A petition is to—
 - (a) be addressed to the President;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the Local Government is to submit the petition to the 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, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the Local Government or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the Chief Executive Officer.

6.12 Participation at committee meetings

- (1) In this clause a reference to a **person** is to a person who—
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (4) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (5) A person who fails to comply with a direction of the Presiding Member under subclause (4) may, by order of the Presiding Member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

6.13 Council may meet to hear public submissions

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall—
 - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
 - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
 - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The Council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
- (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Shire of Carnamah offices in Carnamah and Eneabba and on the Local Government's website.

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be—
 - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
 - (b) marked "*Confidential*" in the agenda; and
 - (c) kept confidential by Officers and Members until the Council resolves 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.

6.16 Recording of proceedings

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

6.17 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.
- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

PART 7—QUESTIONS BY MEMBERS

- (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—

- (i) the question be placed on notice for the next meeting of Council; and
- (ii) the answer to the question be given to the Member who asked it within 14 days.

(4) Every question and answer—

- (i) is to be brief and concise; and
- (ii) 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, the CEO is to allot, alphabetically by ward, a position at the Council table to each Member.

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

8.2 Respect to the Presiding Member

After the business of a Council has been commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member.

8.3 Titles to be used

A speaker, when referring to the President, Deputy President or Presiding Member, or a Member or Officer, is to use the title of that person's office.

8.4 Advice of entry or departure

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

8.5 Members to indicate their intention to speak

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

8.6 Priority of speaking

(1) Where 2 or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.

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

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

8.7 Presiding Member may take part in debates

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

8.8 Relevance

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

8.9 Speaking twice

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

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

8.10 Duration of speeches

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

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

8.11 No speaking after conclusion of debate

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

- (a) after the mover has replied; or
- (b) after the question has been put.

8.12 No interruption

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the Member be no longer heard (see clause 11(1)(e)).

8.13 Personal explanations

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

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

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

8.14 No reopening of discussion

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

8.15 Adverse reflection

(1) A Member is not to reflect adversely on a decision of the Council except—

- (a) on a motion that the decision be revoked or changed; or
- (b) where the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(2) A Member is not—

- (a) to reflect adversely on the character or actions of another Member or Officer; or
- (b) to impute any motive to a Member or Officer,

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

(3) A Member is not to use offensive 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.

8.16 Withdrawal of offensive language

(1) A Member who, in the opinion of the Presiding Member, uses an expression which—

- (a) in the absence of a resolution under clause 8.15(2)—
 - (i) reflects adversely on the character or actions of another Member or Officer; or
 - (ii) imputes any motive to a Member or Officer; or
- (b) is offensive or insulting,

must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.

(2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may direct the Member to refrain from taking any further part in the debate of that item, other than by voting, and the Member must comply with that direction.

PART 9—PRESERVING ORDER**9.1 Presiding Member to preserve order**

(1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.

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

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

9.2 Point of order

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

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

- (2) Despite anything in this local law to the contrary, a point of order—
- (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until—
- (a) the Member raising the point of order has been heard; and
 - (b) the Presiding Member has ruled on the point of order,
- and, if permitted, the Member who has been interrupted may then proceed.

9.4 Calling attention to breach

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

9.5 Ruling by the Presiding Member

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

9.6 Continued breach of order

If a Member—

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

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

9.7 Right of Presiding Member to adjourn

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

PART 10—DEBATE OF 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) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting.

10.4 Only one substantive motion at a time

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

10.5 Order of call in debate

The Presiding Member is to call speakers to a substantive motion in the following order—

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

10.6 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.

10.7 Member may require question to be read

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

10.8 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.

10.9 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.

10.10 Form of an amendment

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

10.11 Amendment must not negate original motion

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

10.12 Relevance of amendments

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

10.13 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

10.14 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.

10.15 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.

10.16 Right of reply

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

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

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

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

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

- (a) no other Member is to speak on the question;
- (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;
- (g) that the meeting be closed to the public.

11.2 No debate

(1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

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

11.3 Who may move

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

11.4 Procedural motions—right of reply on substantive motion

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

11.5 Meeting to proceed to the next business

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

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

11.6 Debate to be adjourned

A motion “that the debate be adjourned”—

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

11.7 Meeting now adjourn

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

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

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

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

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

11.8 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 question be now put” is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.

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

11.9 Member to be no longer heard

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

11.10 Ruling of the Presiding Member to be disagreed with

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

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

Disclosure of interests is dealt with in the Act .

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

(1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member—

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

(2) A Member is not to leave the meeting when the Presiding Member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

13.3 Majorities required for decisions

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

13.4 Method of taking vote

(1) In taking the vote on any motion or amendment the Presiding Member—

- (a) is to put the question, first in the affirmative, and then in the negative;
- (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and
- (d) is, subject to this clause, to declare the result.

(2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

(3) If a member of council or a committee specifically requests that there be recorded—

- (a) his or her vote; or
- (b) the vote of all members present,

on a matter voted on at a meeting of the council or committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

(4) If a Member calls for a division—

- (a) those voting in the affirmative are to pass to the right of the Chair; and
- (b) those voting in the negative are to pass to the left of the Chair.

(5) For every division, the CEO is to record—

- (a) the name of each member who voted; and
- (b) whether he or she voted in the affirmative or negative.

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

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

14.2 Content of minutes

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

(2) In addition to the matters required by regulation 11, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

14.3 Public inspection of unconfirmed minutes

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

14.4 Confirmation of minutes

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member may provide the Local Government with a written copy of the alternative wording to amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.

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

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

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

PART 15—ADJOURNMENT OF MEETING

15.1 Meeting may be adjourned

The Council may adjourn any meeting—

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

15.2 Effect of adjournment

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

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

PART 16—REVOKING OR CHANGING DECISIONS

16.1 Requirements to revoke or change decisions

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

16.2 Limitations on powers to revoke or change decisions

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

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

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

16.3 Implementing a decision

(1) In this clause—

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

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

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

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

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

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

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

PART 17—SUSPENSION OF LOCAL LAW**17.1 Suspension of local law**

- (1) A Member may at any time move that the operation of one or more of the provisions of this local law be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is—
 - (a) seconded; and
 - (b) carried by an absolute majority,is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

17.2 Where local law does not apply

- (1) In situations where—
 - (a) one or more provisions of this local law have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders, the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

17.3 Cases not provided for in local law

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law, the Act or the Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

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

Electors' general meetings are dealt with in the Act.

18.2 Matters for discussion at electors' general meetings

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

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

18.4 Requests for electors' special meetings

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

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

18.6 Who presides at electors' meetings

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

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to this local law.

18.8 Participation of non-electors

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

18.9 Voting at electors' meetings

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

18.10 Minutes of electors' meetings

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

18.11 Decisions made at electors' meetings

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

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

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

Penalty: \$1,000.00 and a daily penalty of \$500.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: 20th February 2013.

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

M. ISBISTER, President.
W. T. ATKINSON, Chief Executive Officer.

AGRICULTURE AND RELATED RESOURCES PROTECTION ACT 1976

LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

PEST PLANTS LOCAL LAW 2013

Under the powers conferred by the *Agriculture And Related Resources Protection Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Carnamah resolved on 20th February 2013 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Carnamah Pest Plants Local Law 2013*.

2. Application

This local law applies throughout the district.

3. Definition

In this local law, unless the contrary intention appears—

district means the district of the local government;

local government means the Shire of Carnamah;

pest plants means a plant described as a pest plant by clause 5;

schedule means a Schedule under this local law.

4. Repeal

The *Shire of Carnamah Pest Plant By-laws, 1979* as published in the *Government Gazette* on 21 December 1979 is repealed.

5. Pest Plants

Every plant described in the Schedule 1 is a pest plant.

6. Serving of a Notice

(1) The local government may serve on the owner or occupier of private land within the district a duly completed notice in the form of the Schedule 2 requiring him to destroy, eradicate or otherwise control any pest plant on that land.

(2) A person served with a notice under subclause (1) of this clause shall comply with that notice within the time and in the manner specified therein.

7. Failure to comply with a Notice

Where a person fails to comply with a notice under clause 6 served upon him, the local government may—

(a) without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be any pest plant the destruction, eradication or control of which was required by the notice; and

(b) recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

—————
Schedule 1

PEST PLANTS

[Clause 5]

PEST PLANTS

Common Name

Scientific Name

Caltrop

Tribulus terrestris

Schedule 2
PEST PLANT NOTICE
Agriculture and Related Resources Protection Act 1976
 Shire of Carnamah
PEST PLANT NOTICE

{Clause 6(1)}

No. _____

To _____

(Full name)

of _____

(Address)

You are hereby given notice under the above local law that you are required to

_____ (here specify whether required to destroy, eradicate or otherwise control) the pest plant—

Caltrop "Tribulus terrestris" on ____/____/20____

(Common Name) *(Scientific Name)*

(here specify the land) of which you are the _____

(Owner or occupier)

This notice may be complied with by

_____ *(Here specify manner of achieving destruction, eradication or control)*

Such measures shall be commenced not later than _____

(date)

and shall be completed by _____ *(date)*

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a court of competent jurisdiction.

Date of service of notice ____/____/20____

Authorised Person

Dated: 20th February 2013.

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

M. ISBISTER, President.
W. T. ATKINSON, Chief Executive Officer.

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

WINCHESTER PUBLIC CEMETERY LOCAL LAW 2013

CONTENTS

PART 1—PRELIMINARY

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

PART 2—ADMINISTRATION

- 2.1 Powers and functions of Chief Executive Officer.

PART 3—APPLICATION FOR FUNERALS

- 3.1 Application for burial
- 3.2 Applications to be accompanied by certificates etc
- 3.3 Certificate of identification
- 3.4 Minimum notice required

PART 4—FUNERAL DIRECTORS

- 4.1 Funeral director's licence expiry
- 4.2 Single funeral permits
- 4.3 Application refusal

PART 5—FUNERALS

Division 1—General

- 5.1 Requirements for funerals and coffins
- 5.2 Funeral processions
- 5.3 Vehicle entry restricted
- 5.4 Vehicle access and speed limitations
- 5.5 Offenders may be ordered to leave
- 5.6 Conduct of funeral by Board

Division 2—Cremation

- 5.7 Metal coffins prohibited
- 5.8 Polyvinyls, etc, prohibited
- 5.9 Depositing the coffin
- 5.10 Removal of the name plate and lead strip
- 5.11 Removal of metal fittings

Division 3—Placement of ashes

- 5.12 Disposal of ashes
- 5.13 Availability of ashes
- 5.14 Ashes held by the Board

PART 6—BURIALS

- 6.1 Depth of graves
- 6.2 Mausoleum, etc

PART 7—MEMORIALS AND OTHER WORK*Division 1—General*

- 7.1 Application for monumental work
- 7.2 Placement of monumental work
- 7.3 Removal of rubbish
- 7.4 Operation of work
- 7.5 Removal of sand, soil or loam
- 7.6 Hours of work
- 7.7 Unfinished work
- 7.8 Use of wood
- 7.9 Plants and trees
- 7.10 Supervision
- 7.11 Australian War Graves
- 7.12 Placing of glass domes and vases

Division 2—Licensing of monumental masons

- 7.13 Monumental mason's licence
- 7.14 Expiry date, non-transferability
- 7.15 Carrying out monumental work
- 7.16 Responsibilities of the holder of a monumental mason's licence
- 7.17 Cancellation of a monumental mason's licence

PART 8—GENERAL

- 8.1 Animals
- 8.2 Guide dogs
- 8.3 Damaging and removing of objects
- 8.4 Withered flowers
- 8.5 Littering and vandalism
- 8.6 Advertising
- 8.7 Obeying signs and directions
- 8.8 Removal from the cemetery

PART 9—OFFENCES AND MODIFIED PENALTY

- 9.1 General
- 9.2 Modified penalties

SCHEDULE 1—MODIFIED PENALTIES**SCHEDULE 2—INFRINGEMENT NOTICE****SCHEDULE 3—INFRINGEMENT WITHDRAWAL NOTICE**

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

WINCHESTER PUBLIC CEMETERY LOCAL LAW 2013

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 Carnamah resolved on 20th February to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Carnamah Winchester Public Cemetery Local Law 2013*.

1.2 Application

This local law applies to the Winchester Public Cemetery located in the district.

1.3 Commencement

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

1.4 Repeal

The *Shire of Carnamah Local Laws relating to the Winchester Public Cemetery* published in the *Government Gazette* on 1 October 1997 is repealed.

1.5 Interpretation

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

authorised officer means an employee of the Board appointed by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

Board means the Shire of Carnamah;

CEO means the Chief Executive Officer, for the time being, of the Board;

district means the district of the Local Government;

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

mausoleum means a building or construction 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;

monumental mason means a person holding a current monumental mason's licence;

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

single funeral permit means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit; and

vault means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

PART 2—ADMINISTRATION

2.1 Powers and functions of Chief Executive Officer.

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

PART 3—APPLICATION FOR FUNERALS

3.1 Application for burial

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of identification

- (1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—
 - (a) in the opinion of a funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.
- (2) A funeral director shall complete a certificate in the form determined by the Board from time to time, where—
 - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral director's licence expiry

A funeral director's licence shall expire on 30 June of each year.

4.2 Single funeral permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for funerals and coffins

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

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral processions

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

5.3 Vehicle entry restricted

- (1) Subject to subclause (2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the Chief Executive Officer.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 25km per hour, and shall comply with the signs and directions in the cemetery.

5.5 Offenders may be ordered to leave

- (1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised officer for the duration of the funeral.
- (2) A person who has been ordered to leave the cemetery by the CEO or an authorised officer is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

5.6 Conduct of funeral by Board

- (1) When conducting a funeral under section 22 of the Act the Board may—
- (a) require a written request for it to conduct a funeral to be lodged with it;
 - (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
 - (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
 - (d) specify an area in the cemetery where the dead body is to be buried;
 - (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
 - (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

PART 6—BURIALS**6.1 Depth of graves**

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—
- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
 - (b) in any circumstances less than 600mm,
- (2) The permission of the authorised officer in subclause (1)(a) will only be granted, where in the opinion of the authorised officer, exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

- (1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) A person shall not place a dead body in a mausoleum except—
- (a) in a closed coffin; and
 - (b) in a soundly constructed chamber; and
 - (c) in accordance with subclause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK*Division 1—General***7.1 Application for monumental work**

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 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 erection of any memorial or work except with the written approval of the Board.

7.6 Hours of work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

7.9 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 Chief Executive Officer.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

- (1) Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—
- (a) may place a 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.

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act.

Division 2—Licensing of Monumental Masons

7.13 Monumental mason's licence

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

7.14 Expiry date, non-transferability

- (1) A monumental mason's licence—
- (a) shall be valid from the date specified therein until 30 June next following; and
 - (b) is not transferable.

7.15 Carrying out monumental work

- (1) A person shall not carry out monumental work within the cemetery unless that person—
- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16; or
 - (b) is an employee of a person who holds such a licence; or
 - (c) is authorised by the Board to do so.

7.16 Responsibilities of the holder of a monumental mason's licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

7.17 Cancellation of a monumental mason's licence

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—
- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
 - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this section no part of any fee paid for the issue of that licence is refundable by the Board.

PART 8—GENERAL**8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and vandalism

(1) A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

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

(2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.8 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, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES**9.1 General**

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 \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 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 prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Schedule 2.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

Schedule 1
MODIFIED PENALTIES

[cl. 9.2(2)]

Item No.	Clause	Nature of offence	Modified penalty \$
1	5.4(1)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas	50
2	5.4(2)	Exceeding speed limit	50

Item No.	Clause	Nature of offence	Modified penalty \$
3	7.3	Not removing rubbish and surplus materials	50
4	7.5	Unauthorised use of sand, earth or other material taken from another part of the cemetery	50
5	7.7	Leaving uncompleted works in an untidy or unsafe condition	50
6	8.1	Unauthorised bringing in of animal into cemetery or permitting animal to remain in cemetery	50
7	8.3	Damaging and removing of objects	50
8	8.5	Littering and vandalism	50
9	8.6	Unauthorised advertising and/or trading	50
10	8.7	Disobeying sign or lawful direction	50

Schedule 2
INFRINGEMENT NOTICE

[cl. 9.2(3)]

INFRINGEMENT NOTICE

To: _____

(Name)

(Address)

It is alleged that at ____: ____ hours on _____ day of _____ 20____
at _____

you committed the offence indicated below by an (x) in breach of clause _____ of the
Shire of Carnamah Winchester Public Cemetery Local Law 2013

(Authorised Person)

Offence—

- Not driving vehicle on vehicular access way or designated areas
- Exceeding speed limit
- Not removing rubbish and surplus materials
- Unauthorised use of materials taken from another part of the cemetery
- Leaving uncompleted works in an untidy or unsafe condition
- Unauthorised animal in cemetery
- Damaging and removing of objects
- Littering and vandalism
- Unauthorised advertising and/or trading
- Disobeying sign or lawful direction
- Other Offence: _____ \$_____

You may dispose of this matter by payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Carnamah at MacPherson Street, Carnamah between the hours of 8.30am to 4.00pm, Monday to Friday.

Please make cheques payable to Shire of Carnamah. Payments by mail should be addressed to—

The Chief Executive Officer
Shire of Carnamah
PO Box 80
CARNAMAH WA 6517

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

Schedule 3
INFRINGEMENT WITHDRAWAL NOTICE

[cl. 9.2(4)]

WITHDRAWAL OF INFRINGEMENT NOTICE

No. _____

Date ____/____/____

To:[1] _____

Infringement Notice No. _____ dated ____/____/____ for the alleged offence of [2] _____

Penalty [3] \$_____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

(Authorised Person)

[1] Insert name and address of alleged offender.

[2] Insert short particulars of offence alleged.

[3] Insert amount of penalty prescribed.

Dated: 20th February 2013.

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

M. ISBISTER, President.
W. T. ATKINSON, Chief Executive Officer.

DIVIDING FENCES ACT 1961
LOCAL GOVERNMENT ACT 1995

SHIRE OF CARNAMAH

FENCING LOCAL LAW 2013

Under the powers conferred by the *Dividing Fences Act 1961*, the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Carnamah resolved on 20th February 2013 to make the following local law.

Citation

1. This local law may be cited as the *Shire of Carnamah Fencing Local Law 2012*.

Incorporation by Reference

2. The *Shire of East Pilbara Fencing Local Law 2011* as published in the *Government Gazette* on 26 March 2012 is adopted as the local law of the Shire of Carnamah, with such alterations as set out in Schedule 1.

Repeal

3. The *Shire of Carnamah Local Laws Relating to Fencing* published in the *Government Gazette* on 28 April 1998 is repealed.

Schedule 1

Modifications to the *Shire of East Pilbara Fencing Local Law 2011*

(Clause 2)

Item	Clauses Affected	Description
1	1.1	Delete clause 1.1
2	1.4	Delete clause 1.4
3	1.6	Delete “Shire of East Pilbara” wherever it occurs and substitute “Shire of Carnamah”
4	1.6	Delete the definition for licence and replace with “ licence means a razor wire fence licence”
5	1.6	Insert the following definition—“ Rural Residential Lot means a lot where a rural residential use- (a) is or may be permitted under the local planning scheme; and (b) is or will be the predominant use of the lot;”
6	1.6	Delete the definition for Special Rural Lot
7	2.1	Delete all references to “Special Rural Lot” and replace with “Rural Residential Lot”
8	2.11(1)	Amend to read “An owner or occupier of a lot, other than a Rural lot, shall not-”
9	2.11(1)(a)	Delete the words “in the form prescribed in Schedule 5;” and replace with “under subclause (2);”
10	2.11(1)(b)	Delete the words “in the form prescribed in Schedule 6;” and replace with “under subclause (3);”
11	2.11(2)(a)	Delete the words “is or which”
12	Schedule 4	Delete all references to “Special Rural Lot” and replace with “Rural Residential Lot”

Item	Clauses Affected	Description
13	Schedule 5	Delete Schedule 5
14	Schedule 6	Delete Schedule 6

This local law was made by the Shire of Carnamah at an Ordinary Meeting held on 20th February 2013.

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

M. ISBISTER, Shire President.
W. T. ATKINSON, Chief Executive Officer.

On this 20th day of February 2013.

HEALTH ACT 1911**LOCAL GOVERNMENT ACT 1995**

SHIRE OF CARNAMAH

HEALTH LOCAL LAW 2013

Under the powers conferred by section 342 of the *Health Act 1911*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Carnamah resolved on 20 February 2013 to make the following local law.

Citation

1. This local law may be cited as the *Shire of Carnamah Health Local Law 2013*.

Incorporation by Reference

2. (a) In this local law, the *Shire of East Pilbara Health Local Law 2011*;
 - (i) means the *Shire of East Pilbara Health Local Law 2011* published in the *Government Gazette*, special edition number 49, on the 26 March 2012; and
 - (ii) does not include any amendments that might be made to that Local Law.
- (b) Subject to the modifications set out in the Schedule, the *Shire of East Pilbara Health Local Law 2011* is incorporated with and forms part of this Local Law.

Repeal

3. The *Shire of Carnamah Health Local Laws 1998* published in the *Government Gazette* on 29 January 1999, is repealed.

Schedule 1

Modifications to the *Shire of East Pilbara Health Local Law 2011*

(Clause 2)

Item	Clauses Affected	Description
1	1.1	Delete clause 1.1
2	1.5(1)	Delete "Shire of East Pilbara" wherever it occurs and substitute "Shire of Carnamah"
3	1.6	Delete clause 1.6
4	7.22	Delete "Irdomyrmex humilis" and insert "Limepithema humile (formally Irdomyrmex humilis)"
5	9.31(c)	Delete "hand wash hand basin" and insert "hand wash basin"
6	10.1(d)	Delete clause 10.1(d)
7	10.18(1)(a)	Delete clause 10.18(1)(a)
8	10.21-10.24	Delete clauses 10.21-10.24
9	10.29-10.33	Delete clauses 10.29-10.33
10	Schedules 5,9 and 15	Delete "Shire of East Pilbara" wherever it occurs and substitute "Shire of Carnamah"

This local law was made by the Shire of Carnamah at an Ordinary Meeting held on 20 February 2013.
The Common Seal of the Shire of Carnamah was affixed by the authority of a resolution of Council in
the presence of—

M. ISBISTER, Shire President.
W. T. ATKINSON, Chief Executive Officer.

Dated on this 20th day of February 2013.

Consented to—

Dr TARUN WEERAMANTHRI, Executive Director,
Public Health.

Dated this 8th day of April 2013.