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SHIRE OF DALWALLINU

LOCAL GOVERNMENT ACT 1995

GENERAL AMENDMENT LOCAL LAW 2014

LOCAL GOVERNMENT (COUNCIL MEETINGS) LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

DOGS LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

GENERAL AMENDMENT LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995*, the *Cemeteries Act 1986*, the *Dividing Fences Act 1961* and all other powers enabling it, the Council of the Shire of Dalwallinu resolved on 27 May 2014 to make the *Shire of Dalwallinu General Amendment Local Law 2014* as follows—

1. This local law may be cited as the *Shire of Dalwallinu General Amendment Local Law 2014*.
2. This local law commences on the 14th day after its publication in the *Government Gazette*.
3. The *Shire of Dalwallinu Local Government Property Local Law* as published in the *Government Gazette* of 17 January 2000 is amended as follows—
 - 3.1 In Part 1 in the definition of “Liquor” delete the words “*Liquor Licensing Act 1988*” and insert “*Liquor Control Act 1988*”.
 - 3.2 In sub-clause 3.4(2)(h) delete the words “*Liquor Licensing Act 1988*” and insert “*Liquor Control Act 1988*”.
 - 3.3 In sub-clause 3.15(1)(a) delete the words “*Liquor Licensing Act 1988*” and insert “*Liquor Control Act 1988*”.
 - 3.4 In sub-clause 3.16(d) delete the words “*Liquor Licensing Act 1988*” and insert “*Liquor Control Act 1988*”.
 - 3.5 Bold the heading “No prohibited drugs” of clause 4.5.
 - 3.6 Delete the existing Schedule 1 and insert the following—

“SCHEDULE 1

PRESCRIBED OFFENCES

Local Government Property Local Law

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	125
3.6	Failure to comply with conditions of permit	125
3.13(1)	Failure to obtain a permit	125
3.14(3)	Failure to obtain permit to camp outside a facility	125
3.15(1)	Failure to obtain permit for liquor	125
3.16	Failure of permit holder to comply with responsibilities	125
4.2(1)	Behaviour detrimental to property	125
4.4	Under influence of liquor or prohibited drug	125
4.6(2)	Failure to comply with sign on local government property	125
5.2	Unauthorized entry to fenced or closed local government property	125
5.3	Gender not specified using entry of toilet block or change room	125
5.4(1)	Unauthorised presence of animal on aerodrome	500
5.4(2)	Animal wandering at large on aerodrome—person in charge	500
5.4(3)	Animal wandering at large on aerodrome—owner	500
6.1(1)	Unauthorized entry to function on local government property	125
9.1	Failure to comply with notice	250

”

4. The *Shire of Dalwallinu Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* as published in the *Government Gazette* of 9 May 2000 is amended as follows—
- 4.1 In clause 1.2, in the definition of “built up area” delete “1975” and insert “2000”;
 - 4.2 In clause 1.2, delete the definition of “carriageway” and insert a new definition ““carriageway” has the meaning given to it in the *Road Traffic Code 2000*”;
 - 4.3 In clause 1.2, delete the definition of “footpath” and insert a new definition ““footpath” has the meaning given to it in the *Road Traffic Code 2000*”;
 - 4.4 In clause 1.2, in the definition of “intersection” delete “1975” and insert “2000”;
 - 4.5 At the end of sub-clause 6.8(1)(b) delete “; and” and insert a full stop and delete sub-clause 6.8(1)(c);
 - 4.6 In clause 6.17(b) delete “*Health Act 1911*” and insert “*Food Act 2008*”;
 - 4.7 Delete clause 6.17(c);
 - 4.8 In clause 6.18(1)(a) delete the words “and any local law made under section 172 of the *Health Act 1911*”;
5. The *Shire of Dalwallinu Parking and Parking Facilities Local Law* as published in the *Government Gazette* of 17 January 2000 is amended as follows—
- 5.1 In clause 1.2(1) in the appropriate alphabetical order, insert the following definition “‘ACROD sticker’ has the meaning given to it by the Code;”
 - 5.2 In clause 1.2(1) delete the definition of “bicycle” and insert “‘bicycle’ has the meaning given to it by the Code;”
 - 5.3 In clause 1.2(1) in the definition of “Code” delete “1975” and insert “2000”;
 - 5.4 In clause 1.2(1) delete the definition of “footpath” and insert “‘footpath’ has the meaning given to it by the Code;”
 - 5.5 In clause 1.2(1) delete the definition of “motorcycle” and insert “‘motorcycle’ has the meaning given to it by the Code;”
 - 5.6 In clause 1.2(1) delete the definition of “no parking area” and insert “‘no parking area’ has the meaning given to it by the Code;”
 - 5.7 In clause 1.2(1) after the definition of “no parking area” insert the following definitions—
 - “‘no parking sign’ means a sign with the words ‘no parking’ in red letters on a white background, or the letter ‘P’ within a red annulus and a red diagonal line across it on a white background;
 - ‘no stopping area’ has the meaning given to it by the Code;
 - ‘no stopping sign’ means a sign with the words ‘no stopping’ or ‘no standing’ in red letters on a white background or the letter ‘S’ within a red annulus and a red diagonal line across it on a white background;”
 - 5.8 In clause 1.2(1) in the definition of “park” insert a part (c) as follows—
 - “(c) taking up or setting down persons or goods (*maximum of 2 minutes*);”
 - 5.9 In clause 1.2(1) delete the definition of “parking area” and insert “‘parking area’ has the meaning given to it by the Code;”
 - 5.10 In clause 1.2(1) after the definition of “Schedule” insert the following, “‘shared zone’ has the meaning given to it by the Code;”
 - 5.11 In clause 1.2(1) after the definition of “special purpose vehicle” insert the following, “‘stop’ in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;”
 - 5.12 In clause 1.2(1) in the definition of “symbol” delete “AS 1742.11-1989” and insert “AS 1742.11-1999;”
 - 5.13 In clause 1.2(1) delete the definition of “taxi” and insert the following, “‘taxi’ means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;”
 - 5.14 In clause 1.2(1) delete the definition of “vehicle” and insert “‘vehicle’ has the meaning given to it by the Code;”
 - 5.15 In clause 1.3 in sub-clause (6) replace the full stop at the end of that clause with a semi-colon and insert a sub-clause, “(7) The provisions of Parts (2), (3), (4) and (5) do not apply to a bicycle parked at a bicycle rail or bicycle rack.”
 - 5.16 In clause 2.4 insert an additional sub-clause 3 as follows—
 - “(3) Notwithstanding the provisions of subclause (1)(b) a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that—
 - (a) the driver’s vehicle displays an ACROD sticker; and
 - (b) a person with disabilities to which that ACROD sticker relates is either the driver of or a passenger in the vehicle.”

5.17 Delete clause 3.2 and insert the following—

“3.2 Restrictions on parking in particular areas

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station—
 - (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) (a) This subclause applies to a driver if—
 - (i) the driver’s vehicle displays an ACROD sticker; and
 - (ii) a disabled person to which the ACROD sticker relates is either the driver of the vehicle or a passenger in the vehicle.
- (b) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign.
- (3) A person shall not park a vehicle—
 - (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this Local Law;
 - (c) in a stall marked ‘M/C’ unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked ‘M/C’.
- (5) A person shall not, without the prior permission of the local government, the CEO, or an Authorized Person, park a vehicle in an area designated by a sign stating ‘Authorized Vehicles Only’.”

5.18 In sub-clause 3.7(2)(e) delete “9” and insert “10”;

5.19 In sub-clause 3.7(2)(l) delete “6” and insert “10” and remove the full stop at the end of the sub-clause with and insert the following “, unless a sign or markings on the carriageway indicate otherwise.”

5.20 In sub-clause 3.7(3) delete “9” and insert “10”;

5.21 In sub-clause 3.7(4) delete “18” and insert “20”;

5.22 After clause 3.17 insert a new clause 3.18 as follows—

“3.18 No stopping and no parking signs, and yellow edge lines

- (1) No stopping

A driver shall not stop on a length of carriageway, or in an area, to which a ‘no stopping’ sign applies.

- (2) No parking

A driver shall not stop on a length of carriageway or in an area to which a ‘no parking’ sign applies, unless the driver is—

- (a) dropping off, or picking up, passengers or goods;
- (b) does not leave the vehicle unattended; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

‘unattended’, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

- (3) No stopping on a carriageway with yellow edge lines

A driver shall not stop at the side of a carriageway marked with a continuous yellow edge line.”

5.23 After Part 3 insert a new Part 4 as follows—

“PART 4—STOPPING IN ZONES FOR PARTICULAR VEHICLES

4.1 Stopping in a loading zone

A person shall not stop a vehicle in a loading zone unless it is—

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,

but, in any event, shall not remain in that loading zone—

- (c) for longer than a time indicated on the ‘loading zone’ sign; or
- (d) longer than 30 minutes (if no time is indicated on the sign).

4.2 Stopping in a taxi zone or a bus zone

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

4.3 Stopping in a mail zone

A person shall not stop a vehicle in a mail zone.

4.4 Other limitations in zones

A person shall not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone."

5.24 After new Part 4 insert a new Part 5 as follows—

"PART 5—OTHER PLACES WHERE STOPPING IS RESTRICTED**5.1 Stopping In A Shared Zone**

A driver shall not stop in a shared zone unless—

- (1) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws;
- (2) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under these Local Laws;
- (3) the driver is dropping off, or picking up, passengers or goods; or
- (4) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

5.2 Double parking

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to—
 - (a) a driver stopped in traffic; or
 - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with these Local Laws.

5.3 Stopping near an obstruction

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

5.4 Stopping on a bridge etc.

- (1) A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless—
 - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws.

5.5 Stopping on crests, curves, etc.

- (1) Subject to subclause (2), a driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws.

5.6 Stopping near a fire hydrant etc

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within one metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless—
 - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
 - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

5.7 Stopping at or near a bus stop

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10m of the departure side of a bus stop, unless—
 - (a) the vehicle is a public bus stopped to take up or set down passengers; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws.
- (2) In this clause—
 - (a) distances are measured in the direction in which the driver is driving; and
 - (b) a trailer attached to a public bus is deemed to be a part of the public bus.

5.8 Stopping on a path, median strip, or traffic island

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws.

5.9 Stopping on verge

- (1) A person shall not—
 - (a) stop a vehicle (other than a bicycle);
 - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
 - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,so that any portion of it is on a verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

5.10 Obstructing access to and from a path, driveway, etc.

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless—
 - (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under these Local Laws.
- (2) A driver shall not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless—
 - (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under these Local Laws.

5.11 Stopping near a letter box

A driver shall not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver—

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under these Local Laws.

5.12 Stopping on a carriageway—heavy and long vehicles

- (1) A person shall not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes—
 - (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or

- (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or traffic sign relating to the parking or stopping of vehicles.

5.13 Stopping on a carriageway with a bicycle parking sign

The driver of a vehicle (other than a bicycle) shall not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

5.14 Stopping on a carriageway with motor cycle parking sign

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless—

- (a) the vehicle is a motor cycle; or
 (b) the driver is dropping off, or picking up, passengers.

5.15 Stopping in a parking stall for people with disabilities

- (1) A driver shall not stop in a parking area for people with disabilities unless—
- (a) the driver's vehicle displays an ACROD sticker; and
 (b) either the driver or the passenger in that vehicle is a person with disabilities.
- (2) In this clause a 'parking area for people with disabilities' is a length or area—
- (a) to which a 'permissive parking' sign displaying a people with disabilities symbol applies;
 (b) to which a 'people with disabilities parking' sign applies;
 (c) indicated by a road marking (a 'people with disabilities road marking') that consists of, or includes, a people with disabilities symbol; or
 (d) set aside within a parking region as a 'parking stall for use of a disabled person' under the *Local Government (Parking for Disabled Persons) Regulations 1988*."

5.25 Renumber Part 4 to Part 6 and the corresponding clauses accordingly;

5.26 Renumber Part 5 to Part 7 and the corresponding clauses accordingly;

5.27 Delete the Second Schedule and insert a new second schedule as follows—

"SECOND SCHEDULE PRESCRIBED OFFENCES

Parking and Parking Facilities Local Law

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.2	Failure to park wholly within parking stall	40
2	2.2(4)	Failure to park within parking stall in the direction of the movement of traffic	40
3	2.4(1)(a)	Causing obstruction in parking station	50
4	2.4(1)(b)	Parking contrary to sign in parking station	50
5	2.4(1)(c)	Parking contrary to directions of Authorized Person	50
6	2.4(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	40
7	3.2(1)(a)	Parking wrong class of vehicle	40
8	3.2(1)(b)	Parking by persons of a different class	45
9	3.2(1)(c)	Parking during prohibited period	45
10	3.2(2)(a)	Parking in no parking area	50
11	3.2(2)(b)	Parking contrary to signs or limitations	40
12	3.2(2)(c)	Parking vehicle in motor cycle only area	40
13	3.2(3)	Parking motor cycle in stall not marked 'M/C'	40
14	3.2(4)	Parking without permission in an area designated for 'Authorised Vehicles Only'	45
15	3.3(a)	Failure to park on the left of two-way carriageway	40
16	3.3(b)	Failure to park on boundary of one-way carriageway	40

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
17	3.3(a) or 3.3(b)	Parking against the flow of traffic	45
18	3.3(c)	Parking when distance from farther boundary less than 3 metres	45
19	3.3(d)	Parking closer than 1.2 metre from another vehicle	40
20	3.3(e)	Causing obstruction	50
21	3.5(b)	Failure to park at approximate right angle	40
22	3.6(2)	Failure to park at an appropriate angle	40
23	3.7(2)(a) and 5.2	Double parking	45
24	3.7(2)(b)	Parking on or adjacent to a median strip	40
25	3.7(2)(c)	Denying access to private drive or right of way	45
26	3.7(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	50
27	3.7(2)(e)	Parking within 10 metres of traffic island	45
28	3.7(2)(f)	Parking on footpath/pedestrian crossing	50
29	3.7(2)(h)	Parking contrary to continuous line markings	45
30	3.7(2)(i)	Parking on intersection	45
31	3.7(2)(j)	Parking within 1 metre of fire hydrant or fire plug	50
32	3.7(2)(k)	Parking within 3 metres of public letter box	45
33	3.7(2)(l)	Parking within 10 metres of intersection	45
34	3.7(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	50
35	3.7(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	50
36	3.7(4)(c)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	50
37	3.11	Parking contrary to direction of Authorized Person	50
38	3.12(2)	Removing mark of Authorized Person	55
39	3.13	Moving vehicle to avoid time limitation	40
40	3.14(a)	Parking in thoroughfare for purpose of sale	40
41	3.14(b)	Parking unlicensed vehicle in thoroughfare	40
42	3.14(c)	Parking a trailer/caravan on a thoroughfare	40
43	3.14(d)	Parking in thoroughfare for purpose of repairs	40
44	3.15(2)	Parking on land that is not a parking facility without consent	55
45	3.15(3)	Parking on land not in accordance with consent	40
46	3.16	Driving or parking on reserve	40
47	3.18(1)	Stopping contrary to a 'no stopping' sign	40
48	3.18(2)	Parking contrary to a 'no parking' sign	40
49	3.18(3)	Stopping within continuous yellow lines	40
50	4.1	Stopping unlawfully in a loading zone	40
51	4.2	Stopping unlawfully in a taxi zone or bus zone	40
52	4.3	Stopping unlawfully in a mail zone	40
53	4.4	Stopping in a zone contrary to a sign	40
54	5.1	Stopping in a shared zone	40
55	5.3	Stopping near an obstruction	45
56	5.5	Stopping on crests/curves etc	55
57	5.6	Stopping near fire hydrant	55
58	5.7	Stopping near bus stop	45
59	5.8	Stopping on path, median strip or traffic island	40
60	5.9	Stopping on verge	40
61	5.10	Obstructing path, a driveway etc	40
62	5.11	Stopping near letter box	40

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
63	5.12	Stopping heavy or long vehicles on carriageway	45
64	5.13	Stopping in bicycle parking area	40
65	5.14	Stopping in motorcycle parking area	40
66	5.15	Stopping in disabled parking area	120
67	6.6	Leaving vehicle so as to obstruct a public place	50

5.28 Amend the "Arrangement" in accordance with the amendments to the Local Law.

6. *Management and Control of Dalwallinu Cemetery 1999* local law amended

The local law relating to the *Management and Control of Dalwallinu Cemetery 1999* as published in the *Government Gazette* of 31 March 2000 is amended as follows—

6.1 In Clause 3.2 before the word death delete "or" and insert "of";

6.2 In Clause 3.2 delete "3.4" and insert "3.3";

6.3 Delete the Fourth Schedule in its entirety.

7. The *Shire of Dalwallinu Local Law Relating to Fencing* as published in the *Government Gazette* of 17 January 2000 is amended as follows—

7.1 In clause 3(1) in the definition of "height" in sub-clause (b) delete the word "ear" and insert "each";

7.2 In clause 4(4) after the word "boundary" insert the word "between";

7.3 In clause 4(5) after the word "be" insert the word "a";

7.4 In clause 13(2)(b) delete "AS/NZA3016:1994" and insert "AS/NZS3016:2002";

7.5 In clause 13(2)(c) delete the word "house" and insert "hours";

7.6 In Form 1 delete "AS/NZS3016:1994" wherever it appears and insert "AS/NZS3016:2002".

Dated: 9 December 2014.

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

R. S. NIXON, Shire President.
P. J. CRISPIN, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DALWALLINU

LOCAL GOVERNMENT (COUNCIL MEETINGS) LOCAL LAW 2014

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Interpretation
- 1.4 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

- 7.1 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 do 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 DALWALLINU

LOCAL GOVERNMENT (COUNCIL MEETINGS) LOCAL LAW 2014

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Shire of Dalwallinu resolved on 27 May 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dalwallinu Local Government (Council Meetings) Local Law 2014*.

1.2 Commencement

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

1.3 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 Local Government;

Local Government means the Shire of Dalwallinu;

President means the President of the Local Government or other Presiding Member at a Council meeting under section 5.6 of the Act;

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

Member has the meaning given to it in the Act;

Minister means the Minister for Local Government;

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.

1.4 Repeal

The *Shire of Dalwallinu Standing Orders Local Law* published in the *Government Gazette* on 30 October 1998 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, 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 Act.

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 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/Announcement of Visitors
2. Announcements from the Presiding Member
3. Attendance
 - 3.1 Apologies
 - 3.2 Approved leave of absence
4. Declaration of interest
5. Public Question Time
 - 5.1 Response to previous public questions taken on notice
 - 5.2 Public question time
6. Confirmation of minutes

7. Presentations
 - 7.1 Petitions
 - 7.2 Presentations
 - 7.3 Deputations
 - 7.4 Delegates' reports
8. Method of dealing with agenda business
9. Reports
10. Applications for leave of absence
11. Motions of which previous notice has been given
12. Questions from Members without notice
13. New business of an urgent nature introduced by decision of the meeting
14. Meeting closed to public
 - 14.1 Matters for which the meeting may be closed
 - 14.2 Public reading of resolutions that may be made public
15. Closure

(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 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 two 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 CEO.

6.12 Participation at committee meetings

- (1) In this clause a reference to a person is to a person who—
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) 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 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 Dalwallinu offices at 58 Johnston Street, Dalwallinu 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 audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member;
- (2) If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the Council, 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

7.1 Questions by Members

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A Member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.

(3) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that—

- (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 a position at the Council table to each Member.

(2) The President will then determine the permanent position of the Council Members.

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

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

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

8.7 Presiding Member may take part in debates

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

8.8 Relevance

(1) 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.

(2) The Presiding Member, at any time, may—

- (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (ii) any breach of order or decorum by a Member; and
- (b) direct that Member, if speaking, to discontinue his or her speech.

(3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

8.9 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.

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 on a motion that the decision be revoked or changed.

(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—
 - (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 refuse to hear the Member further on the matter then under discussion and call on the next speaker.

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

(1) The Presiding Member is to preserve order, and, whenever 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) 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, carry a motion that the ruling of the Presiding Member be disagreed with, and moved immediately after the initial 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 (see Part 16).

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 five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (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 item of business”, if carried, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the 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 this local law, the Presiding Member is to decide questions relating to the conduct of the meeting.

(2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

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 \$100.00.

19.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: 9 December 2014.

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

R. S. NIXON, Shire President.
P. J. CRISPIN, Chief Executive Officer.

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF DALWALLINU

DOGS LOCAL LAW 2014

CONTENTS

PART 1—PRELIMINARY

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

PART 2—IMPOUNDING OF DOGS

- 2.1 Charges and costs
- 2.2 Attendance of pound keeper at pound
- 2.3 Release of impounded dog
- 2.4 No breaking into or destruction of pound

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

- 3.1 Dogs to be confined
- 3.2 Limitation on the number of dogs

PART 4—APPROVED KENNEL ESTABLISHMENTS

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

PART 5—DOGS IN PUBLIC PLACES

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

PART 6—MISCELLANEOUS

- 6.1 Offence to excrete

PART 7—ENFORCEMENT

- 7.1 Interpretation
- 7.2 Modified penalties
- 7.3 Issue of infringement notice
- 7.4 Failure to pay modified penalty
- 7.5 Payment of modified penalty
- 7.6 Withdrawal of infringement notice
- 7.7 Service

Schedule 1—Application for a licence for an approved kennel establishment

Schedule 2—Conditions of a licence for an approved kennel establishment

Schedule 3—Offences in respect of which modified penalty applies

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

SHIRE OF DALWALLINU

DOGS LOCAL LAW 2014

Under the powers conferred by the *Dog Act 1976* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dalwallinu resolved on 27 May 2014 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dalwallinu Dogs Local Law 2014*.

1.2 Repeal

The *Shire of Dalwallinu By-laws Relating to Dogs* published in the *Government Gazette* on 31 October 1986 are repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

district means the district of the local government;

food premises means any premises or vehicle used by a "food business" as defined by section 10 of the *Food Act 2008*;

food transport vehicle has the meaning given to it in the *Food Act 2008*;

local government means the Shire of Dalwallinu;

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

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law;

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

1.4 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

2.1 Charges and costs

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

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

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence—

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,commits an offence.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

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

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

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

transferee means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;

- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

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

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

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

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

(3) Where—

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

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

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

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

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

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

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

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

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

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

4.8 Conditions of approval

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

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

4.9 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

4.10 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16—6.19 of the *Local Government Act 1995*.

4.11 Form of licence

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

4.12 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.13 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence—
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of—
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

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

PART 5—DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

(1) Subject to section 8 of the Act and section 66J of the *Equal Opportunity Act 1984* dogs are prohibited absolutely from entering or being in any of the following places—

- (a) a public building, unless permitted by a sign;
- (b) a theatre or picture gardens;
- (c) a place of worship;
- (d) any shop, not being a pet shop or premises used for the practice of a registered veterinary surgeon;
- (e) all food premises and food transport vehicles; and
- (f) a public swimming pool, including all the area enclosed within the fencing of the pool grounds.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) This clause is subject to the *Disability Discrimination Act 1992 (Cth)*.

5.2 Places which are dog exercise areas

(1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the dog exercise area is located at Reserve 15242, Lot 105 Myers Street, Dalwallinu comprising the western portion of the reserve west of the external basketball courts.

(2) Subclause (1) does not apply to—

- (a) land which has been set apart as a children's playground;
- (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
- (c) a car park.

PART 6—MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on—

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

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

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

PART 7—ENFORCEMENT

7.1 Interpretation

In this Part—

“infringement notice” means the notice referred to in clause 7.3; and

“notice of withdrawal” means the notice referred to in clause 7.6(1).

7.2 Modified penalties

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

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

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

7.3 Issue of infringement notice

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

7.4 Failure to pay modified penalty

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

7.5 Payment of modified penalty

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

7.6 Withdrawal of infringement notice

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

(2) A person authorised to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

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

SCHEDULE 1

(clause 4.2)

*Shire of Dalwallinu***Dogs Local Law 2014****Application for a licence for an approved kennel establishment**

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date).

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant.....

Date

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months—section 27(5) of the Dog Act.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2

(clause 4.8(1))

Conditions of a licence for an approved kennel establishment

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable up-stand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

SCHEDULE 3

(clause 7.2)

Offences in respect of which modified penalty applies

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorised release of a dog from a pound	200	400
2.4(b)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	200	

Dated: 9 December 2014.

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

R. S. NIXON, Shire President.
P. J. CRISPIN, Chief Executive Officer.
