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LOCAL GOVERNMENT ACT 1995

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**SHIRE OF LAKE GRACE**

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**LOCAL GOVERNMENT  
PROPERTY LOCAL LAW 2015**

**STANDING ORDERS  
LOCAL LAW 2015**



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF LAKE GRACE

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2015**

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## LOCAL GOVERNMENT ACT 1995

## SHIRE OF LAKE GRACE

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2015

Under the powers conferred by *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Lake Grace resolved on the 18 November 2015 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Lake Grace Local Government Property Local Law 2015*.

**1.2 Commencement**

This local law comes into operation 14 days after the date on which it is published in the *Government Gazette*.

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Shire of Lake Grace Local Government Property Local Law* published in the *Government Gazette* of 27 March 2001 is repealed.

**1.5 Definitions**

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

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

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

**assistance animal** means an animal who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth);

**authorised person** means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

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

(a) hall or room; and

(b) corridor, stairway or annexe of any hall or room.

**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 white sand or other form of soft fall surface;

**Code** means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities, as published by the Executive Director Public Health, from time to time, in accordance with the provisions of section 344A(2) of the *Health Act 1911*;

**costs** of the local government include its administrative costs;

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

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

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

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

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

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

(a) formal organisation and preparation;

(b) its occurrence is generally advertised or notified in writing to particular persons;

(c) organisation by or on behalf of a club;

- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

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

**local government** means the Shire of Lake Grace;

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

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

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

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

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

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

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

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

**prohibited drug** is given its meaning under section 4 of the *Misuse of Drugs Act 1981*;

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

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

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

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

**vehicle** includes—

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

but excludes—

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

## 1.6 Interpretation

In this local law a reference to local government property includes a reference to any part of that local government property.

## 1.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the local government may—

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

## 1.8 Application as to assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

# PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

## Division 1—Determinations

### 2.1 Determinations as to use of local government property

The local government may make a determination in accordance with clause 2.2—

- (a) Setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;

- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

## **2.2 Procedure for making a determination**

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

## **2.3 Discretion to erect sign**

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

## **2.4 Determination to be complied with**

A person shall comply with a determination.

## **2.5 Register of determinations**

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

## **2.6 Amendment or revocation of a determination**

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

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

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

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
  - (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;

- (f) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
  - (g) ride a bicycle, a skateboard, rollerblades, a sand board or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

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

(1) In this clause—

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

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

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
- (e) the playing or practice of—
  - (i) golf, archery, pistol shooting or rifle shooting; or
  - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
- (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property.

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

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

### *Division 3—Transitional*

## 2.9 Signs taken to be determinations

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

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

## **PART 3—PERMITS**

### *Division 1—Preliminary*

## 3.1 Application of Part

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



*Division 2—Applying for a permit***3.2 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall—
  - (a) be in the form determined by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

**3.3 Decision on application for permit**

- (1) The local government may—
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

*Division 3—Conditions***3.4 Conditions which may be imposed on a permit**

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

any property which may occur in connection with the hire of the local government property by the hirer; and

- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### 3.5 Imposing conditions under a policy

(1) In this clause—

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

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

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

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

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

### 3.6 Compliance with and variation of conditions

Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions including any conditions as varied by the local government under clause 3.3(4).

#### *Division 4—General*

### 3.7 Duration of permit

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

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

### 3.8 Renewal of permit

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

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

### 3.9 Transfer of permit

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

- (a) be made in writing;
- (b) be signed by the permit holder and the proposed transferee of the permit;
- (c) provide such information as the local government may require to enable the application to be determined; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### 3.10 Production of permit

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

### 3.11 Cancellation of permit

(1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

- (a) condition of the permit; or
- (b) determination or a provision of any written law which may relate to the activity regulated by the permit.

(2) On the cancellation of a permit the permit holder—

- (a) shall return the permit as soon as practicable to the CEO; and
- (b) is to be taken to have forfeited any fees paid in respect of the permit.

*Division 5—When a permit is required***3.12 Activities needing a permit**

- (1) A person shall not without a permit—
- (a) subject to subclause 3, hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted—
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (h) conduct a function on local government property;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang-glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (o) de-pasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (p) deposit or store any thing on local government property;
  - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

**3.13 Permit required to camp outside a facility**

- (1) In this clause—
- facility* has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) Except in accordance with a determination or a permit, a person must not—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
  - (b) erect any tent, camp, hut or similar structure on local government property.
- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

**3.14 Permit required for possession and consumption of liquor**

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless—
- (a) that is permitted under the *Liquor Control Act 1988*; and
  - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

*Division 6—Responsibilities of permit holder***3.15 Responsibilities of permit holder**

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

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

- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

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

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

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

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

- (a) interferes with the enjoyment of a person who might use the property;
- (b) causes a disturbance to nearby residents; or
- (c) creates a nuisance.

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

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

(2) In subclause (1)—

*detrimental to the property* includes—

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

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

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

(2) In subclause (1)—

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

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

#### **4.4 Intoxicated persons not to enter local government property**

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

#### **4.5 No prohibited drugs**

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

#### **4.6 No smoking**

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

##### *Division 2—Signs*

#### **4.7 Signs**

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

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

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

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

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

##### *Division 1—Swimming pool areas*

#### **5.1 When entry must be refused**

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

- (a) in her or his opinion is—
  - (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;

- (ii) under the minimum age that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;
  - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iv) under the influence of liquor or a prohibited drug.
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.
- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—
- (a) direct the person to leave;
  - (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

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

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

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

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

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

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

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

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—
- (a) females—then a person of the male gender shall not use that entry of the toilet block or change room;
  - (b) males—then a person of the female gender shall not use that entry of the toilet block or change room; or
  - (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry or the toilet block or change room.
- (2) Paragraphs (a) and (b) of subclause (1) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—
- (a) under the age of 8 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

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

### **6.1 No unauthorised entry to function**

- (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—
- (a) through the proper entrance for that purpose; and
  - (b) on payment of the fee chargeable for admission at the time.
- (2) The local government may exempt a person from compliance with subclause (1)(b).

## **PART 7—OBJECTIONS AND APPEALS**

### **7.1 Objections and review**

Division 1 of Part 9 of the Act and regulation 33 of the Regulations applies to a decision under this local law—

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

## **PART 8—MISCELLANEOUS**

### **8.1 Authorised person to be obeyed**

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

### **8.2 Persons may be directed to leave local government property**

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

### 8.3 Disposal of lost property

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

### 8.4 Liability for damage to local government property

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

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

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

## PART 9—ENFORCEMENT

### *Division 1—Notices given under this local law*

#### 9.1 Offence to fail to comply with notice

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

#### 9.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

### *Division 2—Offences and penalties*

#### *Subdivision 1—General*

#### 9.3 Offences and general penalty

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

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

#### *Subdivision 2—Infringement notices and modified penalties*

#### 9.4 Prescribed offences

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

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

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

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

#### 9.5 Form of notices

(1) For the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (a) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

### *Division 3—Evidence in legal proceedings*

#### 9.6 Evidence of a determination

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

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

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

**Schedule 1  
PRESCRIBED OFFENCES**

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
1	2.4	Failure to comply with determination	125
2	3.6	Failure to comply with conditions of permit	125
3	3.12(1)	Failure to obtain a permit	125
4	3.13(3)	Failure to obtain permit to camp outside a facility	125
5	3.14(1)	Failure to obtain permit for liquor	125
6	3.15	Failure of permit holder to comply with responsibilities	125
7	4.2(1)	Behaviour detrimental to property	125
8	4.3(1)	Taking or injuring any fauna	250
9	4.4	Under influence of liquor	125
10	4.5	Under influence of a prohibited drug	125
11	4.6	Smoking within a 5 metre radius of any entrance, exit or aperture of premises on local government property	125
12	4.7(2)	Failure to comply with sign on local government property	125
13	5.2	Consuming food or drink in prohibited area	125
14	5.3	Unauthorised entry to fenced or closed local government property	125
15	5.4	Gender not specified using entry of toilet block or change room	125
16	6.1(1)	Unauthorised entry to function on local government property	125
17	9.1	Failure to comply with notice	250
18		All other offences not specified	125

Dated: 24 February 2016.

The Common Seal of the Shire of Lake Grace was hereunto affixed by authority of its Council in the presence of—

ANDREW WALKER, President.  
NEVILLE HALE, Chief Executive Officer.





**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF LAKE GRACE

**STANDING ORDERS LOCAL LAW 2015**

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF LAKE GRACE

**STANDING ORDERS LOCAL LAW 2015**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Lake Grace resolved on the 18 November 2015 to make the following local law.

**PART 1—PRELIMINARY****1.1 Citation**

This local law is the *Shire of Lake Grace Standing Orders Local Law 2015*.

**1.2 Commencement**

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

**1.3 Application**

All meetings of the Council, Committees and electors are to be conducted in accordance with the Act, the Regulations and this local law.

**1.4 Repeal**

The *Shire of Lake Grace Standing Orders Local Law 1998* published in the *Government Gazette* on 16 March 1999 is repealed.

**1.5 Interpretation**

(1) In these this local law, unless the contrary intention appears—

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

**absolute majority** has the same meaning as given to it in the Act;

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

**Committee** means a Committee of the Council established under the Act;

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

**Councillor** has the same meaning as is given to it in the Act;

**deputation** means a verbal submission at a Council or Committee meeting on an agenda item made by a person who has a direct interest in the agenda item;

**employee** means an employee of the local government;

**implement** in relation to a decision, includes—

(a) communicate notice of the decision to a person affected by, or with an interest in, the decision; and

(b) take other action to give effect to the decision;

**local government** means the Shire of Lake Grace;

**member—**

(a) in relation to the Council means the President or a Councillor; and

(b) in relation to a Committee, means a member of the Committee;

**Minister** means the Minister responsible for administering the Act;

**motion** means a proposition presented to the Council for its deliberation;

**President** means the President of the local government;

**Presiding Member** means—

(a) in respect of the Council, the Presiding Member in accordance with the Act; and

(b) in respect of a Committee, the Presiding Member in accordance with the Act;

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

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

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

*urgent business* means business dealt with in accordance with clause 3.10.

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

## PART 2—CALLING MEETINGS

### 2.1 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.

### 2.2 Calling Council meetings

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

### 2.3 Convening Council meetings

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

### 2.4 Calling Committee meetings

The CEO is to call a meeting of any Committee when requested to do so verbally or in writing by—

- (a) the President or the Presiding Member of a Committee; or
- (b) any two members of the Committee; or
- (c) if so decided by the Council.

### 2.5 Public notice of meeting

Public notice of meetings is dealt with in the Regulations.

### 2.6 Production of documents

(1) In this clause the term “document” means a deed, book, report, paper or any other written material whatsoever or any other recorded or stored information.

(2) Upon the request of a member, made at least 8 hours before a meeting, the CEO is to make available by the commencement of the meeting, any document of the local government that relates to an item on the agenda for the meeting.

(3) Any document requested may be made available in the Council Chamber or in a place to which members have reasonable access within the Council’s administration building.

(4) Notwithstanding subclause (1), (2) and (3), if the CEO considers that any document requested is confidential, the CEO may make it available in any circumstances necessary to protect the integrity of that document.

### 2.7 Conference of Committees

Any two or more Committees may confer together by mutual agreement on any matter of joint interest.

## PART 3—BUSINESS OF THE MEETING

### 3.1 Business to be specified in the agenda

(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 a decision of the Council or Committee.

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

(3) No business is to be transacted at a Committee meeting other than that specified in the agenda of the meeting, without the approval of the Presiding Member or a decision of the Committee.

(4) No business is to be transacted at an adjourned meeting of the Council or a Committee other than that—

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

except in the case of an adjournment to the next ordinary meeting of the Council or the Committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

### 3.2 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. Disclaimer reading

3. Record of attendance/Apologies/Leave of Absence (previously approved)
4. Response to previous public questions taken on notice
5. Public question time
6. Petitions/Deputations/Presentations
7. Notations of interest
8. Applications for leave of absence
9. Announcements by the Presiding Member without discussion
10. Confirmation of minutes
11. Motions of which previous notice has been given
12. Urgent business approved by the Presiding Member or by decision of Council
13. Reports of Committees
14. Reports of officers
15. Questions of which due notice has been given
16. Information bulletin
17. Confidential items
18. Date of next meeting
19. Closure.

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a Committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a Committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

(4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or Committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

### **3.3 Public question time**

(1) Procedures for public question time are dealt with in the Act and Regulations.

(2) A member of the public who raises a question during question time is to state his or her name and address.

(3) Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any member or employee.

### **3.4 Petitions**

(1) A petition, in order to be effective, 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 names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and *Local Government (Constitution) Regulations 1998* if it is—
  - (i) a proposal to change the method of filling the office of President; or
  - (ii) a submission about changes to wards, the name of a district or ward or the number of Councillors for a district or ward.

(2) Following the presentation of a petition a member may move that the Council receive the petition and refer it to an appropriate Committee for consideration.

### **3.5 Confirmation of minutes**

(1) When minutes of a meeting are submitted to an ordinary meeting of the Council or Committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to—

- (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.

(2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

### **3.6 Announcements by the Presiding Member without discussion**

(1) At any meeting of the Council or a Committee the Presiding Member may announce or raise any matter of interest or relevance to the business of the Council or Committee, or propose a change to the order of business.

(2) Any member may move that a change in order of business proposed by the Presiding Member not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

**3.7 Matters for which meeting may be closed to members of the public**

For the convenience of members of the public, the Council or Committee may identify by decision any matter on the agenda of the meeting requiring confidential consideration and that matter is to be deferred for consideration as the last item of the meeting.

**3.8 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 in 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 government of persons in the district.
- (4) The CEO—
  - (a) with the concurrence of the President, may exclude from the agenda any notice of motion deemed to be out of order or likely to involve, a breach of this local law or any other written law; or
  - (b) may after consultation with the member who gave notice of the motion make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
  - (c) may under his or her name provide 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 thereof, or some other member authorised by him or her 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 in the circumstances referred to in subclause (5)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

**3.9 Questions by members of which due notice has been given.**

- (1) A question on notice is to be given by a member in writing to the CEO at least 4 clear working days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the Presiding Member.

**3.10 Urgent business approved by the Presiding Member or by decision**

- (1) Subject to subclauses (2) and (3), in cases of extreme urgency or other special circumstance, matters may, with the consent of the Presiding Member, or by decision of the members present, be raised without notice and decided by the meeting.
- (2) Before a matter may be raised under subclause (1) the Presiding Member or a member otherwise seeking to raise the matter is to state why the matter is considered to be of extreme urgency or other special circumstance.
- (3) If a member of the Council or Committee as the case requires, objects to a matter being raised without notice, any decision of the Council or Committee in regard to that matter does not have effect unless it has been made by an absolute majority.

**3.11 Deputations**

- (1) A deputation wishing to be received by the Council or a Committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.
- (2) The President, if the request is to attend a Council meeting, or the Presiding Member of the Committee, if the request is to attend a meeting of a Committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or Committee as the case may be, or may instruct the CEO to refer the request to the Council or Committee to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council or Committee meeting—
  - (a) is not to exceed 3 persons, all of whom may address or respond to specific questions from the members of the Council or Committee; and
  - (b) is not to address the Council or Committee for a period exceeding 15 minutes without the agreement of the Council or the Committee as the case requires.
- (4) Any matter which is the subject of a deputation to the Council or a Committee is not to be decided by the Council or that Committee until the deputation has completed its presentation.

**3.12 Attending Committee meetings as an observer**

- (1) The President or a Councillor may attend any meeting of a Committee as an observer, even if the President or Councillor is not a member of that Committee.



(2) A deputy to a member of a Committee appointed under clause 17.2 may attend a meeting of that Committee as an observer, even if the deputy is not acting in the capacity of the member.

(3) The President or Councillor in the case of subclause (1), or deputy to a member attending a Committee meeting as an observer in the case of subclause (2) may, with the consent of the Presiding Member, speak, but cannot vote on any motion before the Committee.

#### **PART 4—PUBLIC ACCESS TO AGENDA MATERIAL**

##### **4.1 Inspection entitlement**

Members of the public have access to agenda material in the terms set out in the Regulations.

##### **4.2 Confidentiality of information withheld**

- (1) Information withheld by the CEO from members of the public under the Regulations, is to be—
- (a) identified in the agenda of a Council or Committee meeting under the item “Matters for which meeting may be closed to members of the public”; and
  - (b) marked “confidential” in the agenda; and
  - (c) kept confidential by members and employees until the Council or Committee resolves otherwise.

(2) A member or an employee who has—

- (a) confidential information under subclause (1); or
- (b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public,

is not to disclose such information to any person other than a member or an employee to the extent necessary for the purpose of carrying out his or her duties.

(3) Subclause (2) does not prevent a member or employee from disclosing information—

- (a) at a closed meeting;
- (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
- (c) that is already in the public domain;
- (d) to an officer of the Department;
- (e) to the Minister;
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

**Penalty:** \$1,000

##### **4.3 Media attendance**

Media persons are to be permitted to attend meetings of the Council or Committees that are open to the public, in such part of the Council Chamber or meeting room as may be set aside for their accommodation, but must withdraw during any period when the meeting is closed to the public.

##### **4.4 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council or a Committee, the Presiding Member may—

- (a) invite the person to sit beside the Presiding Member or at the meeting table;
- (b) acknowledge the presence of the distinguished visitor at an appropriate time during the meeting;
- (c) direct that the presence of the distinguished visitor be recorded in the minutes.

#### **PART 5—DISCLOSURE OF INTERESTS**

##### **5.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

#### **PART 6—QUORUM**

##### **6.1 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

##### **6.2 Loss of quorum during a meeting**

(1) If at any time during the course of a meeting of the Council or a Committee a quorum is not present—

- (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—
  - (i) a quorum is present to decide the matter; or
  - (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under the Act; or

- (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the Presiding Member is to suspend the proceedings of the meeting for a period of ten minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the Presiding Member is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or this local law when calling a meeting of that type.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)(b)—
- (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
- (b) in the case of a Council meeting—
- (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
- (ii) the provisions of clause 9.5 of this local law apply when the debate is resumed.

## PART 7—KEEPING OF MINUTES

### 7.1 Content of minutes

The content of minutes is dealt with in the Regulations.

### 7.2 Preservation of minutes

Minutes including the agenda of each Council and Committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the Public Records Office, being a directorate of the Library and Information Service of Western Australia, in accordance with the retention and disposal policy determined by that office from time to time.

## PART 8—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

### 8.1 Official titles to be used

Members of the Council are to speak of each other in the Council or Committee by their respective titles of President or Councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

### 8.2 Members to occupy own seats

- (1) At the first meeting held after each election day, the CEO is to allot by random draw, a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

### 8.3 Leaving meetings

During the course of a meeting of the Council or a Committee no member is to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time of entry or departure.

### 8.4 Adverse reflection

No member of the Council or a Committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.

**Penalty:** \$1,000

### 8.5 Recording of proceedings

- (1) No person is to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or a Committee without the written permission of the Council.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or Committee.
- (3) If a member of the Council or Committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

### 8.6 Prevention of disturbance

- (1) Any member of the public addressing the Council or a Committee is to extend due courtesy and respect to the Council or Committee and the processes under which they operate and must take direction from the Presiding Member whenever called upon to do so.

**Penalty:** \$1,000

- (2) No person observing a meeting, is to 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.

**Penalty:** \$1,000

### 8.7 Protection of employees

- (1) For the purpose of this clause, “complaint” means any expression of censure or dissatisfaction raised with the object, whether expressed or implied, of having remedial or disciplinary action taken against the employee concerned.

(2) If at a meeting of the Council or a Committee, a complaint is received from a member of the Council or any other person about the ability, character or integrity of any employee or of any act or omission of an employee, and the person making the complaint has provided or is prepared to provide details of the complaint in writing and sign the complaint, the Council or Committee may—

- (a) if the complaint is about the CEO, direct the signed written complaint to the President who is to refer the complaint to the Committee deemed most appropriate by the President to investigate and report upon the matter; or
- (b) if the complaint is about any other employee, refer the signed written complaint to the CEO, who is to investigate the matter and report any action taken by him or her to the Council or Committee.

(3) Where a complaint is received by the Council or a Committee and becomes the subject of an investigation and report under subclause (2), the employee about whom the complaint is made, is to be given the opportunity to answer the complaint in writing.

## **PART 9—CONDUCT OF MEMBERS DURING DEBATE**

### **9.1 Members to rise**

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the Presiding Member to speak, members may rise and address the Council through the Presiding Member.

### **9.2 Priority**

In the event of two or more members of the Council or a Committee wishing to speak at the same time, the Presiding Member is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

### **9.3 The Presiding Member to take part in debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in this local law, the Presiding Member may take part in a discussion of any matter before the Council or Committee as the case may be.

### **9.4 Relevance**

Every member of the Council or a Committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **9.5 Limitation of number of speeches**

No member of the Council is to address the Council more than once on any motion or amendment before the Council unless they are, the mover of a substantive motion in reply, raising a point of order or making a personal explanation.

### **9.6 Duration of speeches**

All addresses are to be limited to a maximum of 5 minutes. Extension of time is permissible only with the agreement of a simple majority of members present, which is to be given without debate.

### **9.7 Members not to speak after conclusion of debate**

No member of the Council or a Committee is to speak to any question after it has been put by the Presiding Member.

### **9.8 Members not to interrupt**

No member of the Council or a Committee is to interrupt another member of the Council or Committee whilst 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 10.17; or
- (d) to move a motion under clause 11(1)(e).

### **9.9 Re-opening discussion on decisions**

No member of the Council or a Committee is to re-open discussion on any decision of the Council or Committee, except for the purpose of moving that the decision be revoked or changed.

## **PART 10—PROCEDURES FOR DEBATE OF MOTIONS**

### **10.1 Permissible motions on report recommendations**

A recommendation contained in a report to Council may be adopted without amendment or modification, failing which, it may be—

- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to a Committee or Council for further consideration.

### **10.2 Motions to be stated**

Any member of the Council or a Committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

**10.3 Motions to be supported**

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a Committee meeting, unless the motion has the support required under the Regulations.

**10.4 Unopposed business**

- (1) Upon a motion being moved and seconded, the Presiding Member may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the Presiding Member may declare the motion in subclause (1) carried without debate and without taking a vote on it.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or Committee.
- (4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.
- (5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or Committee meeting.

**10.5 Only one substantive motion considered**

When a substantive motion is under debate at any meeting of the Council or a Committee, no further substantive motion is to be accepted.

**10.6 Breaking down of complex questions**

The Presiding Member may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

**10.7 Order of call in debate**

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

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any; and
- (h) Mover takes right of reply which closes debate.

**10.8 Limit of debate**

The Presiding Member may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

**10.9 Member may require questions to be read**

Any 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 whilst speaking.

**10.10 Consent of seconder required to accept alteration of wording**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

**10.11 Order of amendments**

Any number of amendments may be proposed to a 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 or lost.

**10.12 Amendments must not negate original motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

**10.13 Mover of motion may speak on amendment**

Any Member may speak during debate on an amendment.

**10.14 Substantive motion**

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 (subject to 10.12).

**10.15 Withdrawal of motion or amendments**

Council or a Committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

**10.16 Limitation of withdrawal**

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

**10.17 Personal explanation**

No member is to speak at any meeting of the Council or a Committee, except upon the matter before the Council or Committee, unless it is to make a personal explanation. Any member of the Council or Committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or Committee rises to explain, no reference is to be made to matters unnecessary for that purpose.

**10.18 Personal explanation—when heard**

A member of the Council or a Committee wishing to make a personal explanation of matters referred to by any member of the Council or Committee then speaking, is entitled to be heard immediately, if the member of the Council or Committee then speaking consents at the time, but if the member of the Council or Committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

**10.19 Ruling on questions of personal explanation**

The ruling of the Presiding Member on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

**10.20 Right of reply**

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

**10.21 Right of reply provisions**

The right of reply is governed by the following provisions—

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) if an amendment is moved to the substantive motion, the mover of the substantive motion is to take the right of reply subject to 10.12, at the conclusion of the vote on any amendments;
- (c) the mover of any amendment does not have a right of reply; and,
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

**PART 11—PROCEDURAL MOTIONS****11.1 Permissible procedural motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions—

- (a) that the Council or Committee proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council or Committee 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; and
- (g) that the Council or Committee meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under the Act.

**11.2 No debate on procedural motions**

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (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 stated in each of paragraphs (d) and (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 Procedural motions—closing debate—who may move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment 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.

**PART 12—EFFECT OF PROCEDURAL MOTIONS****12.1 Council or Committee to proceed to the next business—effect of motion**

The motion “that the Council or Committee proceed to the next business”, if carried, causes the debate to cease immediately and for the Council or Committee to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

**12.2 Question to be adjourned—effect of motion**

(1) The motion “that the question be adjourned”, if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.

(2) If the motion is carried at a meeting of the Council—

- (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
- (b) the provisions of clause 9.5 apply when the debate is resumed.

**12.3 Council or Committee to now adjourn—effect of motion**

(1) The motion “that the Council or Committee now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the Presiding Member or a simple majority of members upon vote, determine otherwise.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—

- (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
- (b) in the case of a Council meeting—
  - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
  - (ii) the provisions of clause 9.5 apply when the debate is resumed.

**12.4 Question to be put—effect of motion**

(1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the Presiding Member to offer the right of reply and then immediately put the matter under consideration without further debate.

(2) This motion, if carried during discussion of an amendment, causes the Presiding Member to put the amendment to the vote without further debate.

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

**12.5 Member to be no longer heard—effect of motion**

The motion “that the member be no longer heard”, if carried, causes the Presiding Member to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

**12.6 Ruling of the Presiding Member disagreed with—effect of motion**

The motion “that the ruling of the Presiding Member be disagreed with”, if carried, causes the ruling of the Presiding Member about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

**12.7 Council or Committee to meet behind closed doors—effect of motion**

(1) Subject to any deferral under clause 3.7 or other decision of the Council or Committee, this motion, if carried, causes the general public and any officer or employee the Council or Committee determines, to leave the room.

(2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.

(3) Upon the public again being admitted to the meeting, the Presiding Member, unless the Council or Committee decides otherwise, is to cause the motions passed by the Council or Committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes in accordance with the Act.

(4) A person who is a Council member, a Committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

**Penalty:** \$1,000

**PART 13—MAKING DECISIONS****13.1 Question—when put**

When the debate upon any question is concluded and the right of reply has been exercised the Presiding Member shall immediately put the question to the Council or the Committee, and, if so desired by any member of the Council or Committee, shall again state it.

**13.2 Question—method of putting**

If a decision of the Council or a Committee is unclear or in doubt, the Presiding Member shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision.

**PART 14—IMPLEMENTING DECISIONS****14.1 Implementation of a decision**

(1) If a notice of motion to revoke or change a decision of the Council or a Committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that—

- (a) if a notice of motion to revoke or change a decision of the Council or a Committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under the Regulations indicate their support for the notice of motion at that meeting; and
- (b) if a notice of motion to revoke or change a decision of the Council or a Committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under the Regulations.

(2) Implementation of a decision is only to be withheld under subclause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(3) The Council or a Committee shall not vote on a motion to revoke or change a decision of the Council or Committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given—

- (a) action has been taken to implement the decision; or
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so; without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

**PART 15—PRESERVING ORDER****15.1 The Presiding Member to preserve order**

The Presiding Member is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

**15.2 Demand for withdrawal**

A member at a meeting of the Council or a Committee may be required by the Presiding Member, or by a decision of the Council or Committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the Presiding Member may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

**15.3 Points of order—when to raise—procedure**

(1) Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker.

(2) Any member, who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the Presiding Member listens to the point of order.

(3) A member raising a point of order is to specify one of the grounds of the breach of order before speaking further on the matter.

(4) A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.

**15.4 Points of order—when valid**

The following are to be recognised as valid points of order—

- (a) that the discussion is of a matter not before the Council or Committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

**15.5 Points of order—ruling**

(1) The Presiding Member is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

(2) If a member persists in any conduct that the Presiding Member had ruled out of order under this clause, the Presiding Member may direct the member to refrain from taking part in the debate of that item, other than by voting and the member must comply with that direction.

**Penalty:** \$1,000

**15.6 Points of order—ruling conclusive, unless dissent motion is moved**

The ruling of the Presiding Member upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

**15.7 Points of order take precedence**

Notwithstanding anything contained in this local law to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

**15.8 Precedence of Presiding Member**

(1) When the Presiding Member rises during the progress of a debate, any member of the Council or Committee then speaking, or offering to speak, is to immediately sit down and every member of the Council or Committee present shall preserve strict silence so that the Presiding Member may be heard without interruption.

**Penalty:** \$500

(2) Subclause (1) is not to be used by the Presiding Member to exercise the right provided in clause 9.3, but to preserve order.

**15.9 Right of the Presiding Member to adjourn without explanation to regain order**

- (a) If a meeting ceases to operate in an orderly manner, the Presiding Member may use discretion to adjourn the meeting for a period of up to 15 minutes without explanation, for the purpose of regaining order.
- (b) Upon resumption, debate is to continue at the point at which the meeting was adjourned.
- (c) If, at any one meeting, the Presiding Member has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.
- (d) Where debate of a motion is interrupted by an adjournment under subclause (a), in the case of a Council meeting—
  - (i) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
  - (ii) the provisions of clause 9.5 apply when the debate is resumed.

**PART 16—ADJOURNMENT OF MEETING****16.1 Meeting may be adjourned**

The Council or a Committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

**16.2 Limit to moving adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or Committee.

**16.3 Unopposed business—motion for adjournment**

On a motion for the adjournment of the Council or Committee, the Presiding Member, before putting the motion, may seek leave of the Council or Committee to proceed to the transaction of unopposed business.

**16.4 Withdrawal of motion for adjournment**

A motion or an amendment relating to the adjournment of the Council or a Committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

**16.5 Time to which adjourned**

The time to which a meeting is adjourned for want of a quorum, by the Presiding Member to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

**PART 17—COMMITTEES OF THE COUNCIL****17.1 Establishment and appointment of Committees**

A Committee is not to be established except on a motion setting out the proposed functions of the Committee and either—

- (a) the names of the Council members, employees and other persons to be appointed to the Committee; or



- (b) the number of Council members, employees and other persons to be appointed to the Committee and a provision that they be appointed by a separate motion.

#### **17.2 Appointment of deputy Committee members**

(1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a Committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.

(2) Where a member of a Committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

#### **17.3 Presentation of Committee reports**

When the report or recommendations of a Committee are placed before the Council, the adoption of recommendations of the Committee is to be moved by—

- (a) the Presiding Member of the Committee if the Presiding Member is a Council Member and is in attendance; or
- (b) a Council member who is a member of the Committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the Committee.

#### **17.4 Reports of Committees—questions**

Subject to clause 10.1, when a recommendation of any Committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendations through the Presiding Member to the Presiding Member or to any member of the Committee in attendance.

#### **17.5 This local law applies to Committees**

Where not otherwise specifically provided, this local law applies generally to the proceedings of Committees, except that the following do not apply to the meeting of a Committee—

- (a) Clause 8.2, in regard to seating;
- (b) Clause 9.1, in respect of the requirement to rise; and
- (c) Clause 9.5, limitation on the number of speeches.

### **PART 18—ADMINISTRATIVE MATTERS**

#### **18.1 Suspension of this local law**

- (1) The Council or a Committee may decide, by simple majority vote, to suspend temporarily one or more clauses of this local law.
- (2) The mover of a motion to suspend temporarily any one or more clauses of this local law is to state the clause or clauses to be suspended, and the purpose of the suspension.

#### **18.2 Cases not provided for in this local law**

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law and the Act and Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.1(f).

### **PART 19—COMMON SEAL**

#### **19.1 The Council's common seal**

- (1) The CEO is to have charge of the common seal of the local government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the local government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by—
  - (a) the President and the CEO or an appropriate officer authorised;
  - (b) the Deputy President and the CEO or an appropriate officer authorised; or
  - (c) the CEO and an appropriate officer authorised.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) The CEO is to record in a register each date on which the common seal of the local government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) Any person who uses the common seal of the local government or a replica thereof without authority commits an offence.

**Penalty:** \$1,000

Dated: 24 February 2016.

The Common Seal of the Shire of Lake Grace was hereunto affixed by authority of its Council in the presence of—

ANDREW WALKER, President.  
NEVILLE HALE, Chief Executive Officer.