



**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

ISSN 1448-949X (print) ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



PERTH, WEDNESDAY, 12 DECEMBER 2018 No. 188 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, GOVERNMENT PRINTER AT 12.00 NOON
© STATE OF WESTERN AUSTRALIA

**SHIRE OF DOWERIN
LOCAL LAWS**

	Page
Dogs Local Law 2018	4737
Local Government Property Local Law 2018.....	4745
Parking and Parking Facilities Local Law 2018	4759
Waste Local Law 2018.....	4773

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

DOGS LOCAL LAW 2018

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dowerin resolved on 26 June 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dowerin Dogs Local Law 2018*.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Dowerin Dogs Local Law 2008* published in the *Government Gazette* on 29th February 2008 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires—

Act means the *Dog Act 1976*;

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

CEO means the Chief Executive Officer of the local government;

dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;

district means the district of the local government;

local government means the Shire of Dowerin;

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

town planning scheme means a town planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district.

PART 2—IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following are to be imposed and determined by the local government under sections 6.16 to 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.

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 (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog is a dangerous dog, \$4,000; otherwise \$2,000.

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 of this local law—

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;
- (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 town 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 town 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.

4.9 Compliance with conditions of approval

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

Penalty: Where a dog involved in the contravention is a dangerous dog, \$4,000 and a daily penalty of \$400; otherwise \$2,000 and a daily penalty of \$200.

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 to 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 license 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 license 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 license.
- (4) Where the local government approves an application for the transfer of a valid license, 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 license 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**

Designation of places where dogs are prohibited absolutely is dealt with in the Act.

5.2 Places which are dog exercise areas

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

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.

Penalty: \$1000

(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 6.3 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—APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 4.2)

Shire of Dowerin Dog Local Law 2018

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/...../.....

SCHEDULE 2—CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

(clause 4.8(1))

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 upstand 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—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

(clause 6.2)

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
3.1	Failing to provide means for effectively confining a dog	200	400
4.9	Failing to comply with the conditions of a licence	200	400
6.1(2)	Dog excreting in prohibited place	200	

Dated 19 November 2018.

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

DARREL HUDSON, Shire President.
REBECCA McCALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018

TABLE OF CONTENTS

PART 1—PRELIMINARY

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

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

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

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property

Division 3—Transitional

- 2.9 Signs taken to be determinations

PART 3—PERMITS*Division 1—Preliminary*

- 3.1 Application of Part

Division 2—Applying for a permit

- 3.2 Application for permit
- 3.3 Decision on application for permit

Division 3—Conditions

- 3.4 Conditions which may be imposed on a permit
- 3.5 Imposing conditions under a policy
- 3.6 Compliance with and variation of conditions

Division 4—General

- 3.7 Agreement for building
- 3.8 Duration of permit
- 3.9 Renewal of permit
- 3.10 Transfer of permit
- 3.11 Production of permit
- 3.12 Cancellation of permit

Division 5—When a permit is required

- 3.13 Activities needing a permit
- 3.14 Permit required to camp outside a facility
- 3.15 Permit required for possession and consumption of liquor

Division 6—Responsibilities of permit holder

3.16 Responsibilities of permit holder

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

Division 2—Signs

- 4.6 Signs

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

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

Division 2—Fenced or closed property

- 5.3 No entry to fenced or closed local government property

Division 3—Toilet blocks and change rooms

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

Division 4—Aerodrome (airport)

- 5.5 Access of animals restricted

Division 5—Golf course

- 5.6 Interpretation
- 5.7 Observance of special conditions of play

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

- 6.1 No unauthorised entry to function

PART 7—OBJECTIONS AND APPEALS

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

PART 8—MISCELLANEOUS

- 8.1 Authorised person to be obeyed
- 8.2 Persons may be directed to leave local government property
- 8.3 Disposal of lost property
- 8.4 Liability for damage to local government property

PART 9—ENFORCEMENT*Division 1—Notices given under this local law*

- 9.1 Offence to fail to comply with notice
- 9.2 Local government may undertake requirements of notice

Division 2—Offences and penalties

Subdivision 1—General

- 9.3 Offences and general penalty

Subdivision 2—Infringement notices and modified penalties

- 9.4 Prescribed offences
- 9.5 Form of notices

Division 3—Evidence in legal proceedings

- 9.6 Evidence of a determination

SCHEDULE 1—PRESCRIBED OFFENCES**SCHEDULE 2—DETERMINATIONS****SCHEDULE 3—GOLF COURSE RESERVE**

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dowerin resolved on 21 August 2018 to make the following local law.

PART 1—PRELIMINARY

Citation

1.1 This local law may be cited as the *Shire of Dowerin Local Government Property Local Law 2018*.

Definitions

1.2 In this local law unless the context otherwise requires—

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

“**aircraft**” has the meaning given to it in the *Civil Aviation Act 1988* (Cth);

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

“**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;
- (b) corridor, stairway or annexe of any hall or room; and

“**CEO**” means the chief executive officer of the local government;

“**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 Dowerin;

“**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;

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

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

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

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

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

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

“**sign**” includes a notice, flag, mark, structure or device approved by the 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; and

“**vehicle**” includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) an animal being ridden or driven,
- but excludes—
- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
 - (d) a pram, a stroller or a similar device; and
 - (e) a boat.

Interpretation

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

Application

1.4 (1) This local law applies throughout the district.

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

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

Repeal

1.5 (1) The following local laws are repealed—

Swimming Pool Local Law (Gazetted 19/02/1969)

Local Government Property Local Law (Gazetted 08/01/2002)

(2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.

(3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

2.1 (1) The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in Schedule 2—

- (a) are to be taken to have been made in accordance with clause 2.2;
- (b) may be amended or revoked in accordance with clause 2.6; and
- (c) have effect on the commencement day.

Procedure for making a determination

2.2 (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.

Discretion to erect sign

2.3 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.

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

- 2.5 (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.

Amendment or revocation of a determination

- 2.6 (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

Activities which may be pursued on specified local government property

- 2.7 (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 aircraft;
 - (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;
 - (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (h) wear no clothing.

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

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

Activities which may be prohibited on specified local government property

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

- (a) smoking on premises;
- (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
- (c) taking, riding or driving a vehicle or a particular class of vehicle on the property;
- (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;
- (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
- (g) the traversing of or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

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

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

(3) In this clause—

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

Division 3—Transitional

Signs taken to be determinations

2.9 (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

Application of Part

3.1 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

Application for permit

3.2 (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).

Decision on application for permit

3.3 (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.

Division 3—Conditions

Conditions which may be imposed on a permit

3.4 (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.

Imposing conditions under a policy

3.5 (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.

Compliance with and variation of conditions

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

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

Division 4—General

Agreement for building

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

Duration of permit

3.8 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.

Renewal of permit

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

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

Transfer of permit

3.10 (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.

Production of permit

3.11 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.

Cancellation of permit

3.12 (1) Subject to clause 9.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

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

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

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

Division 5—When a permit is required

Activities needing a permit

3.13 (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) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property; or
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

Permit required to camp outside a facility

3.14 (1) In this clause—

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

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

(3) A person shall not without a permit—

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

(4) The maximum period for which the local government may approve an application for a 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*.

Permit required for possession and consumption of liquor

3.15 (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

Responsibilities of permit holder

3.16 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***Behaviour which interferes with others**

- 4.1 A person shall not in or on any local government property behave in a manner which—
- (a) is likely to interfere with the enjoyment of a person who might use the property; or
 - (b) interferes with the enjoyment of a person using the property.

Behaviour detrimental to property

4.2 (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.

Taking or injuring any fauna

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

(2) In this clause—

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

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

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

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

*Division 2—Signs***Signs**

4.6 (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***When entry must be refused**

5.1 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) is—
 - (i) under the age of 10 years and who is unaccompanied by a responsible person over the age of 16 years;
 - (ii) suffering from any gastrointestinal disease, skin infection or other disease that is communicable in an aquatic environment; or
 - (iii) in an unclean condition; or
 - (iv) wearing unclean clothes; or
 - (v) under the apparent influence of alcohol, drugs or alcohol and drugs.
- (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.

Consumption of food or drink may be prohibited

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

*Division 3—Fenced or closed property***No entry to fenced or closed local government property**

5.3 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 4—Toilet blocks and change rooms***Only specified gender to use entry of toilet block or change room**

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

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

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

*Division 5—Aerodrome (airport)***Access of animals restricted**

5.5 (1) A person shall not bring an animal on to an aerodrome unless—

- (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;
- (b) the animal is being air freighted from the aerodrome;
- (c) the animal has been air freighted to the aerodrome; or
- (d) the person is authorised to do so by the local government.

(2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

(3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

*Division 6—Golf course***Interpretation**

5.6 In this Division—

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

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

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

Observance of special conditions of play

5.7 While on a golf course, every player shall observe and comply with a—

- (a) direction of a controller in respect of any special conditions of play; and
- (b) requirement of any notice erected to direct or control play.

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

6.1 (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**Application of Division 1, Part 9 of the Act**

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

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

the provisions of Division 1 of Part 9 of the Act and regulations 32A and 33 of the Regulations apply to that decision.

PART 8—MISCELLANEOUS**Authorised person to be obeyed**

8.1 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.

Persons may be directed to leave local government property

8.2 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.

Disposal of lost property

8.3 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.

Liability for damage to local government property

8.4 (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***Offence to fail to comply with notice**

9.1 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.

Local government may undertake requirements of notice

9.2 Where a person fails to comply with a notice referred to in clause 11.1, 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***Offences and general penalty**

9.3 (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***Prescribed offences**

9.4 (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.

Form of notices

9.5 (1) For the purposes of this local law—

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

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

*Division 3—Evidence in legal proceedings***Evidence of a determination**

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

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

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

SCHEDULE 1—PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
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	Consuming food or drink in prohibited area	125
5.6	Unauthorised entry to fenced or closed local government property	125
5.7	Gender not specified using entry of toilet block or change room	125
5.8	Failure to comply with direction of controller or notice on golf course	125
6.1(1)	Unauthorised entry to function on local government property	125
11.1	Failure to comply with notice	250

SCHEDULE 2—DETERMINATIONS

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

PART 1—PRELIMINARY**Definitions**

1.1 In these determinations unless the context otherwise requires—

“**local law**” means the *Local Government Property Local Law* made by the local government;

Interpretation

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

SCHEDULE 3—GOLF COURSE RESERVE

Dated 19 November 2018.

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

DARREL HUDSON, Shire President.
REBECCA McCALL, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

PARKING AND PARKING FACILITIES LOCAL LAW 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Dowerin resolved on 21 August 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Dowerin Parking and Parking Facilities Local Law 2018*.

1.2 Commencement

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

1.3 Interpretation

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

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

authorised vehicle means a vehicle authorised by the local government, CEO, authorised person or by any written law to park on a thoroughfare or parking facility;

bicycle has the meaning given to it by the Code;

bicycle path has the meaning given to it by the Code;

bus has the meaning given to it by the Code;

bus embayment has the meaning given to it by the Code;

bus stop has the meaning given to it by the Code;

bus zone has the meaning given to it by the Code;

caravan means a vehicle that is fitted or designed to allow human habitation, and which is drawn by another vehicle, or which is capable of self-propulsion;

carriageway means a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayment's, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and where a thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

centre in relation to a carriageway, means a line or a series of lines, marks or other indications—

(a) for a two-way carriageway—placed so as to delineate vehicular traffic travelling in different directions; or

(b) in the absence of any such lines, marks or other indications—the middle of the main, travelled portion of the carriageway;

children's crossing has the meaning given to it by the Code;

CEO means the Chief Executive Officer of the local government;

Code means the *Road Traffic Code 2000*;

commercial vehicle means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

disability parking permit means a current document issued by the National Disability Service (ACN 008 445 485), consisting of—

(a) an Australian Disability Parking Permit; and

(b) an ACROD Parking Program Card;

- district** means the district of the local government;
- driver** means any person driving or in control of a vehicle;
- edge line** for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;
- emergency vehicle** has the meaning given to it by the Code;
- footpath** has the meaning given to it by the Code;
- GVM** (which stands for gross vehicle mass) has the meaning given to it by the Code;
- Loading Zone** means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked "Loading Zone";
- local government** means the Shire of Dowerin;
- mail zone** has the meaning given to it by the Code;
- median strip** has the meaning given to it by the Code;
- motorcycle** has the meaning given to it by the Code;
- motor vehicle** means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;
- no parking area** has the meaning given to it by the Code;
- 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;
- occupier** has the meaning given to it by the Act;
- owner**—
- where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under that Road Traffic Act;
 - where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
 - where used in relation to land, has the meaning given to it by the Act;
- park**, in relation to a vehicle, means to permit a vehicle, whether attended or not by any person, to remain stationary except for the purpose of—
- avoiding conflict with other traffic; or
 - complying with the provisions of any law; or
 - taking up or setting down persons or goods (maximum of 2 minutes);
- parking area** has the meaning given to it by the Code;
- parking facilities** includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles and signs, notices and facilities used in connection with the parking of vehicles;
- parking region** means the area described in Schedule 1;
- parking stall** means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;
- parking station** means any land, or structure provided for the purpose of accommodating vehicles;
- pedestrian crossing** has the meaning given to it by the Code;
- public place** means any place to which the public has access whether or not that place is on private property;
- reserve** means any land—
- which belongs to the local government;
 - of which the local government is the management body under the *Land Administration Act 1997*; or
 - which is an "otherwise unvested facility" within section 3.53 of the Act;
- Road Traffic Act** means the *Road Traffic Act 1974*;
- Schedule** means a Schedule to this local law;
- shared zone** has the meaning given to it by the Code;
- sign** includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;
- special purpose vehicle** has the meaning given to it by the Code;
- 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;

symbol includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;

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*;

taxi zone has the meaning given to it by the Code;

thoroughfare has the meaning given to it by the Act;

traffic island has the meaning given to it by the Code;

trailer means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, but does not include the rear portion of an articulated vehicle, or a side car;

vehicle has the meaning given to it by the Code; and

verge means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

1.4 Application of Particular Definitions

(1) For the purposes of the application of the definitions 'no parking area' and 'parking area' an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.

(2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.5 Application and pre-existing signs

(1) Subject to subclause (2), this local law applies to the parking region.

(2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.

(3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

(4) Where a parking facility or a parking station is identified in Schedule 4, then the facility or station shall be deemed to be a parking station to which this local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).

(5) A sign that—

(a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and

(b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.

(6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.

(7) The provisions of Parts 2, 3, and 4 do not apply to a bicycle parked at a bicycle rail or bicycle rack.

1.6 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows—

(a) buses;

(b) caravans;

(c) commercial vehicles;

(d) motorcycles and bicycles;

(e) tractors

(f) taxis; and

(g) all other vehicles.

1.7 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which—

(a) lies beyond the sign;

(b) lies between the sign and the next sign beyond that sign; and

(c) is on that side of the thoroughfare nearest to the sign.

1.8 Powers of the local government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

PART 2—PARKING STALLS AND PARKING STATIONS**2.1 Determination of parking stalls and parking stations**

- (1) The local government may by resolution constitute, determine and vary—
- (a) parking stalls;
 - (b) parking stations;
 - (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
 - (d) permitted classes of vehicles which may park in parking stalls and parking stations;
 - (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
 - (f) the manner of parking in parking stalls and parking stations.
- (2) Where the local government makes a determination under subsection (1) it shall erect signs to give effect to the determination.

2.2 Vehicles to be within parking stall on thoroughfare

- (1) Subject to subclause (2), (3) and (4), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than—
- (a) parallel to and as close to the kerb as is practicable;
 - (b) wholly within the stall; and
 - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3) where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle shall do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person shall not park a vehicle partly within and partly outside a parking area.

2.3 Parking prohibitions and restrictions

- (1) A person shall not—
- (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
 - (b) except with the permission of the local government or an authorised person park a vehicle on any part of a parking station contrary to a sign referable to that part;
 - (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or
 - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked “M/C”, if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle—
- (a) in a parking stall other than in a stall marked “M/C”; and
 - (b) in such stall other than against the kerb.
- (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 persons with a disability) for twice the length of time allowed, provided that—
- (a) the driver’s vehicle displays a disability parking permit; and
 - (b) a person with a disability to which that disability parking permit relates is either the driver of or a passenger in the vehicle.

PART 3—PARKING GENERALLY**3.1 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 a disability parking permit; and
 - (ii) a person with a disability to which the disability parking permit 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—
- in a no parking area;
 - in a parking area, except in accordance with both the signs associated with the parking area and with this local law;
 - 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 authorised person, park a vehicle in an area designated by a sign stating, “Authorised Vehicles Only”.

3.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall shall park it—
- in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
 - so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
 - so that it does not obstruct any vehicle on the carriageway,

unless otherwise indicated on a parking regulation sign or markings on the roadway.

- (2) In this clause, ‘continuous dividing line’ means—

- a single continuous dividing line only;
- a single continuous dividing line to the left or right of a broken dividing line; or
- 2 parallel continuous dividing lines.

3.3 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is—

- adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

3.4 When angle parking applies

- (1) This clause does not apply to—

- a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
- a person parking either a motor cycle without a trailer or a bicycle.

(2) Where a sign associated with a parking area is inscribed with the words “angle parking” (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

3.5 General prohibitions on parking

- (1) (a) This clause does not apply to a vehicle parked in a parking stall nor to a bicycle in a bicycle rack.
- (b) Subclauses (2)(c), (e) and (g) do not apply to a vehicle which parks in a bus embayment.
- (2) Subject to any law relating to intersections with traffic control signals a person shall not park a vehicle so that any portion of the vehicle is—
- between any other stationary vehicles and the centre of the carriageway;
 - on or adjacent to a median strip;
 - obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
 - on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - on any footpath or pedestrian crossing;

- (g) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
- (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

(3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
- (b) a children’s crossing or pedestrian crossing.

(4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of—

- (a) a sign inscribed with the words “Bus Stop” or “Hail Bus Here” (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
- (b) a children’s crossing or pedestrian crossing.

(5) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

3.6 Authorised person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

3.7 Authorised person may mark tyres

(1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.

(2) A person shall not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

3.8 No movement of vehicles to avoid time limitation

(1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.

(2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

3.9 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare—

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.10 Parking on private land

(1) In this clause a reference to “land” does not include land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*;
- (c) which is an “otherwise unvested facility” within section 3.53 of the Act;
- (d) which is the subject of an agreement referred to in clause 1.5(2); or
- (e) which is identified in Schedule 4.

(2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

(3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

3.11 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

3.12 Suspension of parking limitations for urgent, essential or official duties

(1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

(2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

PART 4—PARKING AND STOPPING GENERALLY

4.1 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.

PART 5—STOPPING IN ZONES FOR PARTICULAR VEHICLES

5.1 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).

5.2 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.

5.3 Stopping in a mail zone

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

5.4 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.

PART 6—OTHER PLACES WHERE STOPPING IS RESTRICTED

6.1 Stopping in a shared zone

A driver shall not stop in a shared zone unless—

- (a) 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 this local law;
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

6.2 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 this local law.

6.3 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.

6.4 Stopping on a bridge

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 this local law.

6.5 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 this local law.

6.6 Stopping near a fire hydrant etc

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 1 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.

6.7 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 10 metres 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 this local law.
- (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.

6.8 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 this local law.

6.9 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)(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.

6.10 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 this local law.
- (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 this local law.

6.11 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 this local law.

6.12 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 1 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.

6.13 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.

6.14 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.

6.15 Stopping on a parking area for people with disabilities

A driver shall not stop in a parking area for people with disabilities unless—

- (a) the vehicle displays an ACROD sticker; and
- (b) either the driver or a passenger in that vehicle is a person with disabilities.

PART 7—MISCELLANEOUS

7.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an authorised person.

7.2 Unauthorised signs and defacing of signs

A person shall not without the authority of the local government—

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

7.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

7.4 General provisions about signs

(1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.

(2) The first three letters of any day of the week when used on a sign indicate that day of the week.

7.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of—

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and

- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

7.6 Vehicles not to obstruct a public place

(1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.

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

PART 8—PENALTIES

8.1 Offences and penalties

(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) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$1,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of a day during which the offence has continued.

(4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

8.2 Form of notices

For the purposes of this local law—

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 3;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 3;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in Schedule 3; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in Schedule 3.

SCHEDULE 1—PARKING REGION

The parking region is the whole of the district, but excludes the following portions of the district—

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

SCHEDULE 2—PRESCRIBED OFFENCES

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.2	Failure to park wholly within parking stall	60
2	2.2(4)	Failure to park wholly within parking area	60
3	2.3(1)(a)	Causing obstruction in parking station	70
4	2.3(1)(b)	Parking contrary to sign in parking station	70
5	2.3(1)(c)	Parking contrary to directions of authorised person	70
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	60
7	3.1(1)(a)	Parking wrong class of vehicle	60
8	3.1(1)(b)	Parking by persons of a different class	65
9	3.1(1)(c)	Parking during prohibited period	65
10	3.1(3)(a)	Parking in no parking area	70
11	3.1(3)(b)	Parking contrary to signs or limitations	60
12	3.1(3)(c)	Parking vehicle in motor cycle only area	60
13	3.1(4)	Parking motor cycle in stall not marked "M/C"	60

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
14	3.1(5)	Parking without permission in an area designated for "Authorised Vehicles Only"	70
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	60
16	3.2(1)(b)	Failure to park on boundary of one-way carriageway	60
17	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	65
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	65
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	60
20	3.2(1)(e)	Causing obstruction	70
21	3.3(b)	Failure to park at approximate right angle	60
22	3.4(2)	Failure to park at an appropriate angle	60
23	3.5(2)(a) and 6.2	Double parking	65
24	3.5(2)(b)	Parking on or adjacent to a median strip	60
25	3.5(2)(c)	Denying access to private drive or right of way	70
26	3.5(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	70
27	3.5(2)(e)	Parking within 10 metres of traffic island	65
28	3.5(2)(f)	Parking on footpath/pedestrian crossing	70
29	3.5(2)(g)	Parking contrary to continuous line markings	65
30	3.5(2)(h)	Parking on intersection	65
31	3.5(2)(i)	Parking within 1 metre of fire hydrant or fire plug	70
32	3.5(2)(j)	Parking within 3 metres of public letter box	65
33	3.5(2)(k)	Parking within 10 metres of intersection	65
34	3.5(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	70
35	3.5(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	70
36	3.5(5)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	70
37	3.6	Parking contrary to direction of authorised person	70
38	3.7(2)	Removing mark of authorised person	65
39	3.8	Moving vehicle to avoid time limitation	70
40	3.9(a)	Parking in thoroughfare for purpose of sale	60
41	3.9(b)	Parking unlicensed vehicle in thoroughfare	60
42	3.9(c)	Parking a trailer/caravan on a thoroughfare	60
43	3.9(d)	Parking in thoroughfare for purpose of repairs	60
44	3.10(1) or (2)	Parking on land that is not a parking facility without consent	70
45	3.10(3)	Parking on land not in accordance with consent	60
46	3.11	Driving or parking on reserve	60
47	4.1(1)	Stopping contrary to a "no stopping" sign	70
48	4.1(2)	Parking contrary to a "no parking" sign	70
49	4.1(3)	Stopping within continuous yellow lines	60
50	5.1	Stopping unlawfully in a loading zone	60
51	5.2	Stopping unlawfully in a taxi zone or bus zone	60
52	5.3	Stopping unlawfully in a mail zone	60
53	5.4	Stopping in a zone contrary to a sign	60
54	6.1	Stopping in a shared zone	60
55	6.3	Stopping near an obstruction	65
56	6.4	Stopping on a bridge	65
57	6.5	Stopping on crests/curves etc	65
58	6.6	Stopping near fire hydrant	65
59	6.7	Stopping near bus stop	65
60	6.8	Stopping on path, median strip or traffic island	60
61	6.9	Stopping on verge	60
62	6.10	Obstructing path, a driveway etc	60

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
63	6.11	Stopping near letter box	60
64	6.12	Stopping heavy or long vehicles on carriageway	65
65	6.13	Stopping in bicycle parking area	60
66	6.14	Stopping in motorcycle parking area	60
67	6.15	Stopping on a parking area for people with disabilities	120
68	7.6	Leaving vehicle so as to obstruct a public place	70
69		All other offences not specified	50

SCHEDULE 3—FORMS
LOCAL GOVERNMENT ACT 1995

FORM 1

PARKING AND PARKING FACILITIES LOCAL LAW 2018
NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)

at (4) your vehicle—

make:

model:

registration:

was involved in the commission of the following offence:

.....

contrary to clause of the **Parking and Parking Facilities Local Law 2018**.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless:

(a) within 28 days after being served with this notice:

(i) you inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and

(ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or

(b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5)

(6)

Insert—

(1) Name of owner or 'the owner'

(2) Address of owner (not required if owner not named)

(3) Time of alleged offence

(4) Location of alleged offence

(5) Signature of authorised person

(6) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995

FORM 2

PARKING AND PARKING FACILITIES LOCAL LAW 2018
INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)
at (4)
in respect of vehicle:

make: ;
model: ;
registration: ,
you committed the following offence:

.....
.....

contrary to clause of the **Parking and Parking Facilities Local Law 2018**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at the Shire of Dowerin within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(5)

(6)

Insert—

- (1) Name of alleged offender or 'the owner'
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorised person
- (6) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995

FORM 3

PARKING AND PARKING FACILITIES LOCAL LAW 2018

INFRINGEMENT NOTICE

Serial No

Date / /

To: (1).....
of: (2).....

It is alleged that on / / at (3)
at (4)
in respect of vehicle:

make: ;
model: ;
registration: ,
you committed the following offence:

.....
.....

contrary to clause of the **Parking and Parking Facilities Local Law 2018**.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at the Shire of Dowerin within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice:

- (a) you pay the modified penalty; or
- (b) you—
 - (i) inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
 - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver’s licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver’s licence or any vehicle licence you hold being suspended without your knowledge.

- (5)
- (6)

Insert—

- (1) Name of owner or ‘the owner’
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorised person
- (6) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995
FORM 4
PARKING AND PARKING FACILITIES LOCAL LAW 2018
WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date / /

To: (1).....

of: (2).....

Infringement Notice No. dated / /
in respect of vehicle:

make: ;

model: ;

registration: ;

for the alleged offence of

.....

.....

.....

has been withdrawn.

The modified penalty of \$

- has been paid and a refund is enclosed.
- has not been paid and should not be paid.
- delete as appropriate.

(3)

(4)

Insert—

- (1) Name of alleged offender to whom infringement notice was given or ‘the owner’.
- (2) Address of alleged offender.
- (3) Signature of authorised person
- (4) Name and title of authorised person giving notice

SCHEDULE 4—DEEMED PARKING STATIONS

Dated 19 November 2018.

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

DARREL HUDSON, Shire President.
REBECCA McCALL, Chief Executive Officer.

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995

SHIRE OF DOWERIN

WASTE LOCAL LAW 2018

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007*, the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Dowerin resolved on 26 June 2018 to make the following local law.

PART 1—PRELIMINARY

1.1 Short title

This is the *Shire of Dowerin Waste Local Law 2018*.

1.2 Commencement

This local law commences 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

Shire of Dowerin Refuse Disposal Facility Local Law, published in the *Government Gazette* on 3 July 2007 and the *Shire of Dowerin Waste Local Law 2010* are repealed.

1.5 Meaning of terms used in this local law

(1) In this local law—

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

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection, when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

Council means the council of the local government;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

LG Act means the *Local Government Act 1995*;

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

local government means Shire of Dowerin;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the same meaning as in the LG Act;

public place includes a place to which the public ordinarily have access, whether or not by payment of a fee;

receptacle, means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and
- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

WARR Regulations means the *Waste Avoidance and Resource Recovery Regulations 2008*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

(2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.6 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;
- (c) the determination remains in force for the period of one year after the date that local public notice has been given under subclause (a);
- (d) after the period referred to in subclause (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.7 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and sections 6.16 and 6.17 of the LG Act.

1.8 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of, waste services is dealt with in section 50 of the WARR Act.

PART 2—LOCAL GOVERNMENT WASTE

2.1 Supply of receptacles

(1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.

(2) The owner of premises to which subclause (1) applies must—

- (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and

- (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—
- (a) where the receptacle has a capacity of 240 litres—more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity—more than the weight determined by the local government.
- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises—
- (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within 1 metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).

- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
- (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply—
- (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- (a) damage, destroy or interfere with a receptacle; or
- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

- (1) Where the local government has advertised a verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person—
- (a) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
 - (b) must otherwise comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

PART 3—GENERAL DUTIES

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- (a) take reasonable steps to ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to—
 - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
 - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and
- (d) whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is—
- (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of—
- (a) the local government or an authorised person; or
 - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

PART 4—OPERATION OF WASTE FACILITIES**4.1 Operation of this Part**

This Part applies to a person who enters a waste facility.

4.2 Hours of operation

The local government may from time to time determine the hours of operation of a waste facility.

4.3 Signs and directions

- (1) The local government or an authorised person may regulate the use of a waste facility—
 - (a) by means of a sign; or
 - (b) by giving a direction to a person within a waste facility.
- (2) A person within a waste facility must comply with a sign or direction under subclause (1).
- (3) The local government or an authorised person may direct a person who commits, or is reasonably suspected by the local government or the authorised person of having committed, an offence under this clause to leave the waste facility immediately.
- (4) A person must comply with a direction under subclause (3).

4.4 Fees and charges

- (1) Unless subclause (3) applies, a person must, on or before entering a waste facility or on demand by the local government or an authorised person, pay the fee or charge as assessed by an authorised person.
- (2) An authorised person may assess the fee or charge in respect of a particular load of waste at a rate that applies to any part of that load, even if that rate is higher than the rate that would apply to any other part of the load.
- (3) Subclause (1) does not apply—
 - (a) to a person who disposes of waste in accordance with the terms of—
 - (i) a credit arrangement with the local government; or
 - (ii) any other arrangement with the local government to pay the fee or charge at a different time or in a different manner; and
 - (b) to the deposit of waste owned by the local government, or in the possession of an employee on behalf of the local government.

4.5 Depositing waste

- (1) A person must not deposit waste at a waste facility other than—
 - (a) at a location determined by a sign and in accordance with the sign; and
 - (b) in accordance with the direction of an authorised person.
- (2) The local government may determine the classification of any waste that may be deposited at a waste facility.

4.6 Prohibited activities

- (1) Unless authorised by the local government, a person must not—
 - (a) remove any waste or any other thing from a waste facility;
 - (b) deposit at a waste facility that is a landfill site any waste that is toxic, poisonous or hazardous, or the depositing of which is regulated or prohibited by any written law;
 - (c) light a fire in a waste facility;
 - (d) remove, damage or otherwise interfere with any flora in a waste facility;
 - (e) remove, injure or otherwise interfere with any fauna in a waste facility; or
 - (f) damage, deface or destroy any building, equipment, plant or property within a waste facility.
- (2) A person must not act in an abusive or threatening manner towards any person using, or engaged in the management or operation of, a waste facility.

PART 5—ENFORCEMENT**5.1 Objection and appeal rights**

Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel—

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an approval under clause 2.9(b);
- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

5.2 Offences and general penalty

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

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

5.3 Other costs and expenses

(1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 5.2, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as—

- (a) removing and lawfully disposing of toxic, hazardous or poisonous waste; or
- (b) making good any damage caused to a waste facility.

(2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

5.4 Prescribed offences

(1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.

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

5.5 Form of notices

(1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.

(2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.

(3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

SCHEDULE 1—MEANING OF ‘NON-COLLECTABLE WASTE’

[Clause 1.5(1)]

non-collectable waste means—

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) ‘controlled waste’ for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government to be non-collectable waste.

SCHEDULE 2—PRESCRIBED OFFENCES

Item No.	Clause No.	Description	Modified Penalty
1	2.1(2)(a)	Failing to pay fee or charge	\$350
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	\$350
3	2.2(1)	Depositing non-collectable waste in a receptacle	\$350
4	2.2(2)	Depositing waste in another receptacle without consent	\$350
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	\$350
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	\$350

Item No.	Clause No.	Description	Modified Penalty
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	\$350
8	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	\$250
9	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	\$350
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	\$350
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	\$250
12	2.7(a)	Failing to keep a receptacle in the required location	\$250
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	\$250
14	2.7(c)	Failing to provide a sufficient number of receptacles	\$250
15	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	\$50
16	2.9(a)	Damaging, destroying or interfering with a receptacle	\$400
17	2.9(b)	Removing a receptacle from premises	\$400
18	2.10(1)	Failing to comply with a term or condition of verge waste collection	\$400
19	2.10(2)	Removing waste for commercial purposes	\$350
20	2.10(3)	Disassembling or leaving in disarray waste deposited for collection	\$250
21	3.1(a)	Failing to provide a sufficient number of receptacles	\$250
22	3.1(b)	Failing to keep a receptacle clean and in a good condition and repair	\$250
23	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	\$350
24	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	\$350
25	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	\$350
26	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	\$300
27	3.2(1)	Unauthorised removal of waste from premises	\$250
28	3.2(2)	Removing waste from a receptacle without approval	\$250
29	4.3(2)	Failing to comply with a sign or direction	\$500
30	4.3(4)	Failing to comply with a direction to leave	\$500
31	4.4(1)	Disposing waste without payment of fee or charge	\$500
32	4.5(1)	Depositing waste contrary to sign or direction	\$500
33	4.6(1)(a)	Removing waste without authority in a waste facility	\$250
34	4.6(1)(b)	Depositing toxic, poisonous or hazardous waste at a waste facility	\$500
35	4.6(1)(c)	Lighting a fire in a waste facility	\$300
36	4.6(1)(d)	Removing or interfering with any flora in a waste facility	\$300
37	4.6(1)(e)	Removing or interfering with any fauna without approval in a waste facility	\$300
38	4.6(1)(f)	Damaging, defacing or destroying any building, equipment, plant or property within a waste facility	\$500
39	4.6(2)	Acting in an abusive or threatening manner	\$300

Dated 19 November 2018.

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

DARREL HUDSON, Shire President.
REBECCA McCALL, Chief Executive Officer.