Western Australian Government Gazette
ISSN 2204-4264 (online)
2565
PERTH, FRIDAY, 6 NOVEMBER 2026 No. 142 SPECIAL
PUBLISHED BY AUTHORITY OF THE GOVERNMENT PRINTER
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LOCAL GOVERNMENT ACT 1995

SHIRE OF WAROONA

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2026

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LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2026

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LOCAL GOVERNMENT ACT 1995

SHIRE OF WAROONA

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2026

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the council of the Shire of Waroona resolved on 27 October 2026 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Waroona Local Government Property and Public Places Local Law 2026*.

1.2 Commencement

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

1.3 Purpose and effect

(1) The purpose of this local law is to provide regulation for the care, control and management of property of the local government and public places, in particular being swimming pools, recreation reserves, parks and gardens.

(2) The effect of this local law is intended to result in—

(a) Supervision and regulation of local government property;

(b) Prevention and mitigation of nuisances on local government property; and

(c) Regulation of conduct on local government property to enhance environmental conservation, public safety, convenience and amenity.

1.4 Interpretation

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

Act means the *Local Government Act 1995 (WA)*;

advertising sign means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

aircraft means unmanned aircraft capable of flight that is propelled by electronic, mechanic, hydraulic, combustion or pyrotechnic means, whether operated by remote control or otherwise and includes helicopters, blimps, rockets, drones, remotely piloted aircraft and other similar devices;

alfresco dining area means an area in which tables, chairs and other temporary structures are provided for the purpose of the supply of food or beverages or both by the public or the consumption of food or beverages or both by the public;

animal means any animal other than a dog;

aperture means a man-made opening;

attendant means an employee of the local government with responsibility for the control and management of persons in a public swimming pool or recreation facility which is local government property;

authorised activities means any activity authorised by the Chief Executive Officer or authorised person.

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;

bathing appliance means a float of any material, including surf skis, surf boards, sea kayaks, kickboards, Malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of being used for bathing or surf riding but does not include a boat or personal watercraft;

beach means the area of land within Reserve 41776 that lies between the low water mark, being the edge of the ocean, and either the toe of the sand dune, the commencement of vegetation or a man-made structure;

blackwater has the meaning given to it in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

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

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

(a) a hall or room;

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

(c) a stand alone structure; or

(d) a jetty;

Building Act means the *Building Act 2011*;

Building Code Australia means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

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

camera device means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

carriageway has the meaning given to it in the *Road Traffic Code 2000*;

change room means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

charitable organisation means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

Chief Executive Officer (or CEO) means the Chief Executive Officer of the local government;

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

closed thoroughfare means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

collection bin means a receptacle for the collection of clothing or goods;

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

Commissioner of Main Roads WA means the person appointed under section 7 of the *Main Roads Act 1930* to be the Commissioner;

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

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;

designated swimming area means that part of the beach extending 210 metres north and 130 metres south of the respective outer extremities of the pedestrian access way where it meets the beach that is used for swimming and recreation purposes;

determination means a determination made under clause 2.1;

detrimental to the property includes—

(a) removing any thing from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;

(b) destroying, defacing or damaging a building or any thing on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and

(c) causing environmental harm or nuisance on the local government property;

development approval means an approval issued under the local government's planning scheme;

display home sign means a portable sign erected and displayed to advertise that a display home is open for inspection;

district means the district of the Shire of Waroona;

drone means a remotely piloted aircraft system that—

(a) has three or more propellers;

(b) is capable of vertical take-off and landing;

drunk has the meaning provided in the *Liquor Control Act 1988*;

election advertising means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

election date means the date on which a federal, state or local government election is held;

electoral officer has the meaning given to it in the Act;

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 members;

(b) the eggs or larvae; or

(c) the carcass, skin, plumage or fur;

fence means an artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;

firework means a device like a Catherine wheel, roman candle, or rocket made from combustible materials which may be ignited to produce coloured flames, smoke or a loud bang;

fireworks display means a show of a number of fireworks set off over a prearranged time period, for the purpose of providing enjoyment to those persons able to view them;

fishing means to use any line, lure, rod, pot or other method for the purposes of catching marine life; flora means all vascular plants other than plants recognised as weeds;

Food Act means the *Food Act 2008*;

food business has the meaning given in the Food Act;

footpath has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

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

(a) formal gathering, organisation and preparation;

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

(c) organised by or on behalf of a club, association, or organisation or any other group of persons with a common interest;

(d) payment of a fee to attend it; or

(e) systematic recurrence in relation to the day, time and place;

gaming has the meaning given in the *Gaming and Wagering Commission Act 1987*;

garage sale means the sale of second hand domestic goods, not being part of a business, trade or profession and being held on no more than 2 occasions for the same lot in each 6 month period;

garage sale sign means a portable sign erected and displayed to advertise goods for sale at residential premises on a one-off or occasional basis;

garden means any part of a thoroughfare which is planted, developed or treated, otherwise than as a lawn, with one or more plants but does not include the planting of a tree;

green waste means biodegradable waste that decays naturally in a way that is not harmful to the environment, and may be composed of garden or park waste such as grass or flower cuttings, hedge trimmings and branches, but excludes domestic and commercial food waste;

green waste area means the area adjacent to the beach car park set aside for the disposal of green waste;

greywater has the meaning given to it in the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

home open sign means a portable sign erected and displayed to advertise that a home for sale is open;

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

intersection has the meaning given to it by the *Road Traffic Code 2000*;

kerb includes the edge of a carriageway;

lawn means any part of a thoroughfare which—

(a) is planted, by any person, only with grass, or with a similar plant; or

(b) is planted, by the local government, with any other plant;

licenced in the case of a vehicle, means a current licence issued pursuant to the *Road Traffic (Vehicles) Act 2012;*

life saving equipment means any equipment, gear or appliance for the use in the provision of life saving or for training of members of a life saving club in their duties;

liquor has the meaning given in the Liquor Act;

Liquor Act means the *Liquor Control Act 1988*;

local government means the Shire of Waroona;

local government policy means a policy or standard adopted by the local government;

local government property means any land or other thing—

(a) which belongs to, is owned by or is under the care, control and management of the local government; or

(b) which is an "otherwise unvested facility" within section 3.53 of the Act; or

(c) of which the local government is the management body under the *Land Administration Act 1997*;

but does not include a private thoroughfare.

local public notice means notice given in accordance with the procedure set out in section 1.7 of the Act;

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

major event means any event where—

(a) the audience and/or participation is more than 5,000 people;

(b) significant economic and social benefits are brought to the Waroona and Peel Region; and

(c) there are significant social or community issues which require consideration (e.g. noise, road closures, safety impacts);

major event day means a date on which one of the major events is held;

major event location means a location where a major event is held;

manager means the person for the time being employed, contracted or appointed by the local government to manage any swimming pool or recreation facility, and includes any assistant or deputy;

nature strip has the meaning given to it in the *Road Traffic Code 2000*;

nuisance means—

(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at common law;

(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or

(c) interference which causes material damage to land or other property on the land affected by the interference;

obstruct means to hinder in passing and obstruction has correlative meaning;

occupier has the meaning given to it by the Act, but does not include the local government;

off-road vehicle has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978*;

other portable sign means a portable sign other than a home open sign, display home sign or garage sale sign;

owner has the meaning given to it by the Act;

permissible verge treatment has the meaning given to it in clause 7.8 and includes reticulation pipes and sprinklers installed for the purposes of the treatment;

perform includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

permission means written consent other than a permit;

permit means a permit issued under this local law or written permission from the Local Government;

permit holder means a person who holds a valid permit granted under this local law;

permitted area means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

permitted time means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

person responsible for the works in the context of Part 7, Division 2 means—

(a) the applicant named on a building approval certificate, building permit or demolition permit issued under the Building Act; or

(b) the owner or occupier of the lot, if no building approval certificate, building permit or demolition permit has been issued under the Building Act;

personal watercraft means any vessel designed for the transport of 1 to 3 persons, other than a bathing appliance, that—

(a) is propelled by means of an inboard motor powering a water jet pump; and

(b) is designed to be steered by means of handlebars by a person sitting, standing or kneeling on the vessel and not within it;

planning scheme has the same meaning as "local planning scheme" given in the *Planning and Development Act 2005*;

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

portable sign means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a 'A' frame sign;

premises for the purposes of clauses 2.8(1)(a) and 4.6 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;

prohibited drug has the meaning given in section 4 of the *Misuse of Drugs Act 1981*;

promotional activity means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

public interest sign means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

public place includes a thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

(a) premises on private property from which trading is lawfully conducted under a written law; or

(b) local government property;

recreational vehicle means purpose-built vehicles, such as recreational vehicles, caravans, buses, coaches or similar vehicles used, designed or constructed for the purposes of habitation;

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

reserve means any land of which the local government is the owner or management body under the *Land Administration Act 1997*.

Reserve 41776 means the area defined in Schedule 2

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

sand dune means the established or insipient ridge(s) and depressions of sand and coastal vegetation adjacent to the beach, that extend inland to include the low-lying land depressions behind the ridges;

sand board means a board designed to be used for sliding down a slope of land and sand boarding has correlative meaning;

Schedule means a schedule in this local law;

shopping trolley means a container or receptacle on wheels provided by a retailer to enable a person to transport goods;

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

smoke has the meaning given to it in the *Tobacco Products Control Act 2006*;

solicit in relation to money, means actively seeking or calling for a donation from another person, but does not include a non-verbal invitation by a holder of a permit approved under clause 13.4 to place a donation in a receptacle within the permitted area;

stall means a movable or temporarily fixed structure, stand or table in, on or from which trading is conducted;

street entertaining means any form of theatrical, artistic, musical, audio or visual performance and includes busking;

street market means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

street numbering means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

street tree means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

surfing means the use of any flotation device that is propelled by the motion of ocean waves at any point during its use, but does not include any device being used in surf lifesaving operations, training or competition;

surf life saving club means a life saving club affiliated with Surf Lifesaving WA Inc. or any branch thereof;

synthetic grass refers to artificial fibres made to look like natural grass;

temporary accommodation area means the area adjacent to the beach car park set aside for overnight camping;

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

tobacco product has the meaning given to it in the *Tobacco Products Control Act 2006*;

toilet block means a toilet block or toilet facility, with or without change room facilities which is local government property;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader;

trading means—

(a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;

(b) displaying goods in a public place or local government property for the purpose of—

(i) offering them for sale or hire;

(ii) inviting offers for their sale or hire;

(iii) soliciting orders for them; or

(iv) carrying out any other transaction in relation to them,

and includes the setting up of a stall, or the conducting of a business at a stall;

tree means woody perennial plant generally having a single stem or trunk which will grow to a height of approximately 4 metres or higher;

tree protection zone has the meaning given in AS 4970:2025 Protection of trees on development sites, as amended from time to time, published by Standards Australia;

utility means any public or private body which provides an essential service, such as electricity, gas, water, drainage, sewerage, telecommunications or traffic control, and has equipment on, in or under a public place for that purpose;

valid, in relation to a permit issued under this local law, means current and for which all the associated fees have either been paid in full or have been waived by the local government;

vehicle includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, including an off-road vehicle; and

(b) an animal being ridden or driven;

but excludes—

(c) a wheelchair or any device designed for use by a physically impaired person on a footpath;

(d) a pram, stroller or similar device;

(e) a bicycle or wheeled recreational device;

(f) a shopping trolley; and

(g) a boat;

verge means that part of a thoroughfare that is between the carriageway and a lot which abuts the thoroughfare and includes a nature strip;

vessel means a boat that is mechanically powered by any means or that is propelled by wind and travels on or upon the water;

watercraft means any bathing appliance or boat as defined above.

Western Power means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* or such other entity established or constituted in its place or by which its functions have become exercisable;

wheeled recreational device means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

(a) in-line skaters, roller skates, a skateboard or similar wheeled device;

(b) a scooter being used by a person 12 years of age or older; and

(c) a unicycle,

but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy;

wheeled toy means a child's pedal car, a tricycle, a scooter or a similar toy, but only if it is being used by a child under 12 years of age.

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

1.5 Application

(1) Unless the contrary is expressly provided, this local law shall apply—

(a) throughout the district; and

(b) in the sea adjoining the district for a distance of 200 metres seawards from the low water mark at ordinary spring tides, as approved by the Governor under section 3.6 of the *Local Government Act 1995* as published in the *Government Gazette* on 6 October 2026, gazette number 127, page 2262.

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

(3) 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 persons regarding the use of any local government property.

1.6 Repeal

(1) The following local laws are repealed—

(a) *Shire of Waroona Local Government Property Local Law 2014* published in the *Government Gazette* on 16 January 2015; and

(b) *Shire of Waroona Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001* published in the *Government Gazette* on 27 August 2001.

(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 date.

(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 date.

1.7 Transitional

A permit or licence issued in accordance with a local law listed in clause 1.6—

(a) is to be taken to be a permit granted under this local law;

(b) is to be valid for the period specified on the licence or permit; and

(c) may be earlier cancelled or suspended under this local law.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

2.1 Determinations as to use of local government property

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

(a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;

(b) prohibiting a person to pursue all or any of the activities referred to in clause 2.8 on specified local government property;

(c) as to the matters in clauses 2.7(2) and 2.8(2); and

(d) as to any matter ancillary or necessary to give effect to a determination.

2.2 Procedure for making a determination

(1) The local government is to give local public notice of its intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that—

(a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;

(b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and

(c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—

(a) give local public notice that the proposed determination has effect as a determination on and from the date of that publication; or

(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 to amend the proposed determination; or

(ii) whether or not to continue with the proposed determination.

(5) If the Council decides to amend the proposed determination, the local government is to give local public notice—

(a) of the effects of an amendment; and

(b) that the proposed determination has effect as a determination on and from the date of that publication.

(6) If the Council decides not to amend the proposed determination, the local government is to give local public notice that the proposed determination has effect as a determination on and from the date of that 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)(a), (5) and (6) respectively.

(8) A decision under subclauses (3) or (4) is not to be delegated by Council.

2.3 Erection of signs

The local government can erect a sign on local government property to give notice of the effect of a determination which applies to that property if Council deems it appropriate. If such a sign is to be erected, it should be erected by the date the determination is to take effect. The sign is to be erected in a conspicuous place on the property. More than one sign is to be erected if a single sign would not be conspicuous on all parts of the property.

2.4 Determination to be complied with

A person using local government property must comply with a determination of which notice has been given in accordance with this local law.

2.5 Register of determinations

(1) The local government is to keep a register of determinations made under clause 2.1, and of any amendment to or revocation under clause 2.6, of any determination.

(2) The register is to be kept available for public inspection free of charge at the office of the local government as if it was an item in section 5.94 of the Act.

2.6 Amendment or revocation of a determination

(1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a determination.

(3) If the Council revokes a determination the local government is to give local public notice of the revocation and the determination will cease to have effect on the date of publication of that notice.

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

2.7 Activities which may be pursued on specified local government property

(1) A determination may provide that specified local government property is set aside as an area on which a person may do any one or more of the following—

(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, car, ship, glider or rocket;

(d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;

(e) launch, beach, retrieve or leave a boat;

(f) take or use a boat, or a particular class of boat;

(g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;

(h) play or practice—

(i) golf or archery;

(ii) pistol or rifle shooting, but subject to compliance of that person with the *Firearms Act 2024*; 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 and damage to a person or property;

(i) ride a bicycle, a skateboard, rollerblades, a sand board or a device similar to any of the foregoing;

(j) wear no clothing;

(k) launch, fly or land a drone with or without an attached camera or recording device; or

(l) any other matter that Council deems appropriate or that is consistent with the Act and other local government regulatory instruments.

(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 may deal with any one or more of the following—

(a) the days and times during which the activity may be pursued;

(b) that the activity may be pursued on specified local government property or on a class or type of local government property, or on all local government property;

(c) that an activity is taken to be prohibited on all local government property other than that specified in the determination;

(d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;

(e) may specify that the activity can be pursued by a class of persons or all persons; and

(f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

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

(a) smoking on premises;

(b) riding a bicycle, a skateboard, rollerblades, a sand board or a device similar to any of the foregoing;

(c) taking, riding or driving a vehicle on the property or a particular class of vehicle;

(d) taking, riding or driving a vehicle unless licenced or registered in accordance with the legislation applying to the relevant class of vehicle;

(e) taking, riding or driving a vehicle of any class or type unless the person is the holder of a valid licence or permit required by any written law to be held by a person taking, riding or driving such a vehicle on a public road.

(f) riding or driving a vehicle of a particular class or any vehicle above a specified speed;

(g) taking or using a boat, or a particular class of boat;

(h) the playing or practice of—

(i) golf, archery, pistol 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;

(i) the playing or practice of any ball game which may cause detriment to the property or any fauna or flora on the property;

(j) the traversing of sand dunes or other land which in the opinion of the local government has a value warranting such protection, either absolutely or except by paths provided for that purpose;

(k) the placing or maintaining of a collection bin; and

(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 permitted;

(b) that an activity is permitted on a class of local government property, specified local government property or all local government property;

(c) that an activity is permitted in respect of all or any class of vehicles, boats, equipment or other like things;

(d) that an activity is permitted in respect of a class of persons or all persons; and

(e) may distinguish between different classes of the activity.

(3) In this clause—

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

Division 3—Transitional

2.9 Signs taken to be determinations

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

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

PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY

Division 1—When a permit is required

3.1 Activities on local government property requiring a permit

(1) A person must not without a permit—

(a) subject to subclause (3) hire local government property;

(b) advertise anything by any means on local government property;

(c) erect 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, animal or dog in any facility which is local government property;

(e) on or over local government property, fly or operate, whether remotely controlled or not, any mechanically operated model vehicle, model boat or model aeroplane or drone, or similar such device;

(f) cut, break, injure, deface, pull up, pick, remove, damage, or destroy any tree, shrub, flower, grass or plant of any kind on local government property;

(g) plant any plant or sow any seed on local government property, unless doing so with or under the effective supervision of an authorised person;

(h) 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;

(i) unless the person is an employee of the local government in the course of her or his duties or on an area set aside for that purpose, or is acting in accordance with a determination applying to the property—

(i) drive or ride or take any vehicle on to local government property; or

(ii) park or stop any vehicle on local government property;

(j) conduct a function on local government property;

(k) 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;

(l) light a fire on local government property except in a facility provided for that purpose;

(m) light or set off any fireworks or conduct a fireworks display on local government property;

(n) parachute, hang glide, abseil or base jump from or on to local government property;

(o) launch an aircraft including a drone from, or land an aircraft onto, local government property;

(p) erect a building or a refuelling site on local government property;

(q) erect or remove any fence on local government property;

(r) make any excavation on or carry out any earthworks or alter the surface of the land or undertake other works that result in erosion, sedimentation, siltation, or alter the surface water flow of local government property;

(s) erect or install any structure above or below ground, which is local government property, including for the purpose of supplying any water, power, sewerage, communication, television or similar service to a person;

(t) deposit or store any thing on local government property;

(u) depasture any animal or livestock on local government property;

(v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or

(w) erect, install, operate or use any broadcasting, public address system, loud speaker or other device for the amplification of sound on local government property, other than those used by an authorised person or a surf life saving club in the performance of its functions.

(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).

(4) This clause does not apply to an authorised person acting in the course of his or her duties.

3.2 Permit required to camp outside a facility

(1) In this clause—

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

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

(3) A person must not without a permit—

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

(b) unless within a designated overnight recreational vehicle stay area, park a vehicle on local government property where that vehicle is being used, by that person or any other person, for purposes of camping or sleeping on local government property; or

(c) 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), (b) or (c) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.3 Permit required for possession and consumption of liquor on local government property

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

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

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

(2) Subclause (1) in regard to possession or control does not apply where the liquor is, and remains in a sealed container.

Division 2—Hiring local government property

3.4 Application for a permit to hire local government property

(1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 13 and who pays the hire fee determined by the local government.

(2) The local government may—

(a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and

(b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

3.5 Decision on application where two or more applicants

In the event of two (2) or more applications being made for the hire of the same local government property for the same date and time, the local government may decide, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

3.6 Responsibilities of a permit holder

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

(a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;

(b) 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;

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

(d) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety throughout the duration of any function for which the local government property has been hired;

(e) report any damage or defacement of the local government property that occurred under a permit, to the local government;

(f) 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 Act for that purpose; and

(g) comply with any other direction or condition imposed by the local government.

3.7 Conditions on use or hire permit

In addition to the conditions described in clause 13.6, the local government may impose conditions on the hire of local government property relating to—

(a) the purpose for which the local government property may be hired;

(b) the use of furniture, plants and effects;

(c) restrictions on the erection of decorations inside and outside any building which is local government property;

(d) the number of persons that may attend any function in or on local government property;

(e) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;

(f) securing and locking up local government property at the end of each hire period;

(g) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987*;

(h) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997*; or

(i) any other matter that the local government considers fit or appropriate.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

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

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

(b) causes or is likely to cause a disturbance to nearby residents or other property occupiers;

(c) otherwise creates a nuisance; or

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

(2) Subclause (1) shall also apply to the use of language which is offensive to the reasonable susceptibilities of persons who ordinarily inhabit or resort to the relevant authority.

4.2 Behaviour detrimental to property

(1) Subject to clause 3.7(b), a person must not behave in or on local government property in a way which is or might be detrimental to the property.

(2) In subclause (1)—

detrimental to the property includes—

(a) removing any thing from the local government property such as a rock, a plant, a fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and

(b) destroying, defacing or damaging any thing on the local government property, such as a building, a plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person.

4.3 Taking or injuring any fauna

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

(2) In this clause—

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

(a) any class of animal or individual member;

(b) the eggs or larvae; or

(c) the carcass, skin, plumage or fur.

4.4 Removing or damaging any flora

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

(2) In this clause—

flora means all vascular plants other than plants recognised as weeds.

4.5 Intoxicated persons not to enter local government property

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

4.6 No prohibited drugs

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

4.7 No smoking

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

4.8 Appropriate behaviour

(1) A person shall not on or in any local government property—

(a) loiter outside any portion of a toilet block or changeroom facility set aside for another gender in an inappropriate manner which could reasonably be regarded as a nuisance; or

(b) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.

(2) Where an authorised person, an attendant or a manager considers that the clothing of any person on local government property is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

4.9 Entry to local government property

A person, other than an authorised person performing an authorised function or a contractor of the local government carrying out a contracted duty, shall not—

(a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;

(b) enter or remain on any local government property except on those days and during those times when access is available to the public; or

(c) enter any place that has been fenced off or closed to the public.

4.10 Refusal of entry to local government property

(1) Subject to clauses 5.3 and 5.4, an authorised person may refuse to allow entry, or suspend admission, to any local government property to any person who the authorised person believes has behaved in a manner contrary to the provisions of this Part.

(2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.

(3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

Division 2—Signs

4.11 Signs

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

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

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

(a) not to be inconsistent with any provision of this local law or any determination; and

(b) to be for the purpose of giving notice of the effect of a provision of this local law;

(c) to be for the purpose of restricting activities, whether temporarily or permanently.

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Public swimming pools and other recreation facilities

5.1 General prohibitions

A person shall not—

(a) obstruct an authorised person, manager or attendant in carrying out his or her duties;

(b) fail to comply with a direction given by an authorised person, manager or attendant—

(i) refusing admission to a person;

(ii) directing a person to leave the public swimming pool or recreational facility; or

(iii) directing a person in relation to his or her use of the public swimming pool or recreation facility;

(c) fail to comply with a direction given by an authorised person or manager suspending admission to a person;

(d) permit an animal to enter or remain in or about a public swimming pool or recreational facility where such entry is prohibited by a sign;

(e) consume any food or drink in an area where consumption is prohibited by a sign; or

(f) foul or pollute the water in a public swimming pool.

5.2 Use of all or part of a public swimming pool or recreation facility

An authorised person, manager or attendant may—

(a) direct that all or part of a public swimming pool or recreation facility is for the use of certain persons to the exclusion of others; and

(b) direct a person as to that person's use of the public swimming pool or recreation facility.

5.3 When entry and use may be refused

(1) An authorised person, manager or attendant may—

(a) refuse admission to;

(b) direct to leave; or

(c) cause to be removed from,

a public swimming pool, the water at a public swimming pool or recreation facility any person where any of the requirements set out in subclause (2) are not being complied with or for any reason set out in subclause (3).

(2) For the purposes of subclause (1), the requirements are—

(a) children under the age of 5 years must be accompanied into the public swimming pool or recreation facility by a responsible adult who is at least 16 years of age, and must be supervised by that responsible adult within arms' length at all times while within the public swimming pool or recreation facility;

(b) a responsible adult can only be responsible for a maximum of 3 children under the age of 5 years at any one time; and

(c) subject to paragraph(a), children under the age of 12 years must be accompanied into the public swimming pool or recreation facility by a responsible adult who is at least 16 years of age, and must be supervised by that responsible adult within line of sight at all times while within the public swimming pool or recreation facility.

(3) For the purposes of subclause (1), the reasons are—

(a) where the authorised person, manager or attendant reasonably suspects the person is—

(i) suffering from any gastrointestinal disease, contagious, infectious or cutaneous disease or complaint or has unhealed wounds;

(ii) in an unclean condition;

(iii) wearing unclean clothes; or

(iv) under the influence of liquor or a prohibited drug; or

(b) if in the opinion of the authorised person, manager or attendant—

(i) such action is necessary or desirable to prevent a contravention of this local law; or

(ii) the person is committing a breach of any provision of this local law; or

(c) by reason of his or her past or present conduct within or about the public swimming pool or recreation facility, has created or is creating a nuisance.

5.4 Suspension of admission

An authorised person or manager may suspend admission for a minimum period of one day and a maximum period of 12 months to any person who has committed a breach of any provision of this local law in relation to the public swimming pool or recreation facility.

5.5 Carnivals

(1) A person, club, organisation or association shall not conduct controlled swimming or other sporting events, carnivals or competitions without the prior consent of the manager.

(2) The manager may grant such consent subject to any conditions considered fit by the manager and may withdraw that consent at any time.

(3) A person, club, organisation or association conducting a carnival or event at a public swimming pool or recreation facility must take reasonable steps to—

(a) ensure that no damage is done to the buildings or fencing or any other portion of the public swimming pool or recreation facility; and

(b) ensure that this local law is observed by all competitors, officials and spectators.

Division 2—Beaches

5.6 Prohibited activities on any beach or sand dune

(1) In this clause—

Designated Swimming Area has the meaning given to it in clause 1.4(1).

(2) A person shall not at any place, whether fishing is permitted or not—

(a) use blood or unprocessed offal for the purpose of attracting marine life;

(b) fish for sharks using set or buoyed lines for the purpose of attracting sharks within two kilometres of the northern and southern extremities of the Designated Swimming Area.

5.7 Powers of appointed volunteer rangers and authorised persons

A volunteer ranger appointed by the local government, or an authorised person may perform any of the following functions in relation to a beach or sand dune—

(a) patrol any beach or sand dune;

(b) undertake only those activities specified in this clause 5.7 or any other activity expressly permitted under this local law, on any beach or sand dune;

(c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;

(d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of authorised activities; and

(e) direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.

5.8 Beach safety

(1) The local government may set aside specific areas where all or any of the following things are prohibited on any beach or sand dune—

(a) entry by persons;

(b) bathing;

(c) the use of bathing appliances or any particular kind of bathing appliance;

(d) the playing of games;

(e) commercial activities including the selling or displaying for sale or hiring of goods, services and merchandise;

(f) fishing; or

(g) surfing.

(2) The local government may set aside specified areas for the purpose of subclause (1) for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the specified area.

(3) In an emergency, or if conditions warrant, an authorised person may set aside a specified area for the purposes of subclause (1)—

(a) with immediate effect;

(b) where any number or combination of the things listed in subclause (1) are prohibited; and

(c) which is noted by way of signs, flags and other markings, or by instruction by an authorised person.

5.9 All persons to remain clothed

(1) Any person using a beach or sand dune for any activity in public view shall, in order to prevent indecent exposure, be properly and adequately clothed.

(2) Where in the opinion of an authorised person, a person is in contravention of this clause, the authorised person may direct that person to comply with this clause and the person will comply with that direction immediately.

5.10 Persons to comply with directions and signs

(1) A person must—

(a) not act in contravention of a sign under clause 5.7(c);

(b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of authorised activities, unless he or she has obtained permission to enter from an authorised person;

(c) comply with any direction given under clause 5.7(c) or 5.7(e); and

(d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item installed by an appointed volunteer ranger or authorised person.

(2) A person must not smoke in contravention of a sign which prohibits the act of smoking.

5.11 Behaviour on the beach and sand dunes

(1) In addition to the activities described in clause 3.1, a person shall not, without the permission of the local government—

(a) drive or ride any vehicle;

For the purposes of this subclause, a vehicle does not include—

(i) a wheel-chair or any device designed for use, by a physically impaired person, to allow access to and use of the beach; or

(ii) a pram, stroller or similar device.

(b) play sport or games in such a way as to cause inconvenience or annoyance to other persons;

(c) create or take part in any nuisance or disturbance or behave in a disorderly or offensive manner;

(d) throw or release any stone, arrow or other object used as a missile;

(e) carry or discharge any firearm, air-gun, or other missile discharging device, or throw or discharge any explosive device, firework, spear or missile;

(f) use or operate any siren, starting gun or other device which causes noise which in the opinion of an authorised person, likely to cause a nuisance or annoyance to any person in the vicinity;

(g) hire, or offer for hire, any vehicle, bicycle, watercraft, kite, or other item of equipment for sport, entertainment, or amusement;

(h) operate a commercial activity including selling or offering for sale any goods or services of any description without a permit approved under clause 11.1;

(i) set aside, to the exclusion of others, an area for a function or event;

(j) break or permit to be broken any glass, metal, bottle or utensil or deposit or leave any rubbish, refuse, bottle, can, tin, paper, broken glass, ceramic ware or litter of any kind other than in receptacles provided for that purpose;

(k) play or practice the game of golf, archery, or any similar game or activity, unless otherwise approved by the Local Government;

(l) occupy any part of the beach or sand dunes after dusk and before dawn without providing adequate lighting or illumination of vehicles and structures;

(m) camp in a recreational vehicle other than in the temporary accommodation area that the local government has designated for camping and in accordance with the following conditions;

(i) the maximum period of stay by the same recreational vehicle is the period determined by Council;

(ii) the time frame between one period of stay and the next, by the same recreational vehicle, is 5 consecutive nights;

(iii) the number of recreational vehicles permitted at one time, shall not exceed the number of marked bays set aside for such a use;

(iv) recreational vehicles are to be contained within the marked bays;

(v) erecting a fixed annex is prohibited;

(vi) clothes lines external to a recreational vehicle are prohibited;

(vii) recreational vehicles must be fitted with an operable integrated blackwater waste system with a holding tank within the recreational vehicle;

(viii) recreational vehicles must have a greywater waste system fitted with the system being capable of capturing greywater without it being deposited on the ground (an integrated holding tank is not required);

(ix) greywater captured must be disposed of offsite;

(x) recreational vehicles are not to access any power outlet; and

(xi) camp or cooking fires are prohibited at all times.

(2) Camping on the beach or sand dunes in a car, tent, sleeping bag, swags or any other device, as camping, other than in a recreational vehicle in a designated area, is strictly prohibited at all times.

5.12 Activities to preserve the environment along the beach and sand dunes

(1) Subject to the provisions of the *Fish Resources Management Act 1994* and the *Wildlife Conservation Act 1950*, a person must not destroy, damage, injure, cause harm to, catch, snare, or take any animal or marine life ordinarily found on the beach and in the sand dunes.

(2) This clause does not apply to recreational line or net fishing which is not otherwise prohibited under or by these local laws or other State or Federal legislation.

(3) A person shall not, without the permission of the local government—

(a) cause any damage to any sand dune or dune system, or remove or damage any fence or structure or thing placed on or in the vicinity of a sand dune for the purpose of restricting or controlling access or avoiding damage to the dune, or (without limiting the generality of the foregoing) remove sand from any sand dune;

(b) climb over, under or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;

(c) use any board or other object to traverse or slide down the sand dune system;

(d) erect any tent, camp, hut or other structure on the beach or in the sand dunes;

(e) cause or allow to be ridden or driven any vehicle;

(f) traverse the sand dune system except on designated access ways;

(g) cut, collect or remove any timber, firewood, stone, sand, seaweed or other material; or

(h) add any dye or chemical to the water.

(4) A person may dispose of green waste in the green waste area that the local government has designated for this use unless the local government has closed this area.

Division 3—Fenced or closed property

5.13 No entry to fenced or closed local government property

(1) A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise unless authorised by the local government.

(2) This person shall not apply to an authorised person acting in the course of their duties.

Division 4—Toilet blocks and change rooms

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

(1) No person shall enter or attempt to enter any toilet or compartment that is already occupied, without the consent of the occupier.

(2) 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) persons of a stipulated gender, then persons of a different gender must not use that entry; or

(b) families, then where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.

(3) Paragraph (a) of subclause (2) does not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is—

(a) under the age of 7 years; or

(b) otherwise permitted by an authorised person to use the relevant entry.

(4) Any person, who acts in a way that causes an authorised person to reasonably believe they are contravening subclause (1) and (2) of clause 5.14 may be directed by the authorised person to leave the area and that person shall comply with that direction immediately.

5.15 Use of showers

A person may use a shower in a change room provided that—

(a) the facilities must only be used by the person for the purpose of cleansing, bathing and washing themselves; and

(b) the facilities must not be used for the purposes of laundering or washing any clothing or other item.

(c) the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant.

PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function

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

(a) through the proper entrance for that purpose; and

(b) on payment of the applicable admission charge.

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

PART 7—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

7.1 General prohibitions

A person shall not—

(a) plant any plant on a thoroughfare or verge—

(i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or

(ii) within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;

(b) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;

(c) damage, a street tree or remove a street tree or part of a street tree on a thoroughfare or verge irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the street or by the local government, unless—

(i) the removal of the street tree is authorised by the local government in writing; or

(ii) the person is acting under authority of a written law;

(d) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden that is not a street tree unless—

(i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or

(ii) the person is acting under the authority of a written law;

(e) on a verge, repair or service any vehicle;

(f) place, or allow to be placed or allow to remain on a thoroughfare, verge or public place, any thing that—

(i) obstructs the thoroughfare, verge pr public place; or

(ii) results in a hazard for any person using the thoroughfare, verge or public place;

(g) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;

(h) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare or public place by the local government or a person acting under the authority of a written law;

(i) play or participate in any game or sport so as to cause danger to any person on a thoroughfare or public place or impede the movement of vehicles or persons on a thoroughfare or public place; or

(j) within a mall, arcade or veranda of a shopping centre, ride any bicycle, wheeled recreational device or similar device.

7.2 Activities in thoroughfares and public places requiring a permit

(1) Subject to subclause (2), a person must not without a permit—

(a) dig or otherwise create a trench through or under a kerb or footpath;

(b) fell any tree onto a street or thoroughfare;

(c) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for the purpose of removal by the local government under a bulk rubbish collection and then only in accordance with the terms and conditions and during the period of time advertised by the local government in connection with that collection;

(d) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;

(e) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;

(f) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;

(g) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;

(h) light any fire or burn any thing on a thoroughfare or verge;

(i) unless installing, or in order to maintain, a permissible verge treatment—

(i) lay pipes under or provide taps on any verge; or

(ii) place or install, on any part of a thoroughfare, any thing such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage of stockpiling;

(j) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;

(k) on a street use any thing or do any thing so as to create a nuisance;

(l) place or cause to be placed on a thoroughfare a bulk rubbish container;

(m) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;

(n) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;

(o) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath;

(p) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act; and

(q) prune or lop a tree on a verge or in a thoroughfare unless that person is—

(i) a local government employee or contractor engaged by the local government to undertake work in relation to a particular tree or trees on thoroughfares in the district or on local government property generally; or

(ii) acting under authority of a written law

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

7.3 Permit required for possession and consumption of liquor on a thoroughfare or public place

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

(a) it 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 and remains in a sealed container.

7.4 Obstructions

Where any thing is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

(a) remove or cause to be removed such deposit or obstruction; and

(b) recover the costs of doing so as a debt due to it.

Division 2—Vehicle crossings

7.5 Vehicle crossings

Regulations providing for Vehicle crossings are dealt with under the *Local Government (Uniform Local Provisions) Regulations 1996*.

7.6 Removal of a redundant crossing

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

(2) The local government may give written notice to the owner or occupier of a lot requiring him or her to—

(a) remove any part of or all of a crossing which does not give access to the lot; and

(b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal, within the period of time stated in the notice, and the owner or occupier of the lot must comply with that notice.

Division 3—Verge treatments

7.7 Interpretation

In this Division 3, unless the context otherwise requires—

(a) ***acceptable material*** means any of the following—

(i) organic mulch of a particle size not greater than 25 millimetres;

(ii) semi-permeable materials such as—

(A) compacted limestone with particle size not greater than 10 millimetres;

(B) compacted gravel with particle size not greater than 10 millimetres;

(C) synthetic grass onto a compacted aggregate or road base which has a particle size no greater than 10 millimetres with the synthetic grass being pegged down or held in place in such a manner that that there are no protrusions or trip hazards;

(iii) impermeable materials such as—

(A) coloured concrete of earthy tones and which is not grey to a minimum thickness of 75 millimetres and maximum thickness of 100 millimetres; or

(B) brick paving installed to the manufacturer's specifications including recommended compacted subgrade and edge restraints, provided that—

(C) the semi-permeable materials set out in (A) to (C) shall be compacted to such a degree that there are no loose stones on the verge surface;

(D) materials such as compacted gravel, crushed compacted rock or stabilised limestone cannot cover more than 50% of the verge area including the crossover and footpath without—

(I) having one or more street trees planted by or approved in writing by the local government; or

(II) some reasonable planting installed, within that gravel, crushed rock or limestone area; and

(E) the finished level of the compacted gravel, rock or limestone material is to be between 5 millimetres and 15 millimetres below the adjacent concrete edge;

(b) ***hardstand*** includes concrete, asphalt and paving;

(c) ***small format pavers*** include cobblestones, brick sized pavers and pavers up to 300 millimetres x 300 millimetres; and

(d) ***verge treatment*** means any of the 3 treatments permitted by this local law and shall include any reticulation, pipes and sprinklers.

7.8 Permissible verge treatments

(1) The owner or occupier of land abutting a street may, on the verge in front of such land, install any one of the following 3 verge treatments—

(a) **Treatment One**

Plant and maintain a natural lawn that is not made of synthetic grass.

(b) **Treatment Two**

Plant and maintain a garden provided that—

(i) clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway, and landscaping inhibiting visibility may be removed at the discretion of the local government;

(ii) no plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard;

(iii) unobstructed pedestrian access of a stable material along the full length of the verge and to a minimum width of 2 metres adjacent to the kerb line where no footpaths or alternative pathways exist is maintained;

(iv) unobstructed access around signs, water meters, telecommunication pits, fire hydrants and manhole covers is maintained; and

(v) there is adequate access to the letterbox for mail delivery.

(c) **Treatment Three**

Install hardstand over no more than 50% of the area of the verge, including any cross-over or footpath, with an acceptable material and plant and maintain either a lawn or garden on the balance provided that—

(i) the lawn is a natural lawn and is not synthetic grass;

(ii) semi permeable or impermeable paved areas are not to provide formal verge parking, unless approved in writing by the local government;

(iii) clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway, and landscaping inhibiting visibility may be removed at the discretion of the local government;

(iv) no plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard;

(v) unobstructed pedestrian access of a stable material along the full length of the verge and to a minimum of 2 metres adjacent to the kerb line where no footpaths or alternative pathways exist is maintained;

(vi) unobstructed access around signs, water meters, telecommunications pits, fire hydrants and manhole covers must be maintained; and

(vii) there is adequate access to the letterbox for mail delivery.

(2) The following requirements also apply—

(a) verges cannot consist of more than 50% of hardstand area, including crossovers and footpaths, except in the case of verges which are less than 1.5 metres wide not including the width of footpath where it is not possible to maintain a natural lawn or garden;

(b) a street tree is required where—

(i) a footpath abuts a property boundary and the remaining verge area width is sufficient to accommodate the tree; and

(ii) where hardstand is installed on the verge;

(c) pavers used on the verge must be heavy duty and at least 60 millimetres thick; and

(d) depending on tree species, a minimum distance of 1.5 metres between the trunk of a street tree and the installation of paving is required.

(3) For the purposes of subclause (2)(d), a person developing a verge may request the local government to assess the Tree Protection Zone for a thoroughfare.

(4) An owner or occupier who installs and maintains a verge treatment shall—

(a) be responsible for all or any damage or injury caused to any person or thing, including any street, pavement, footpath or crossing of any pipe or cable, and shall make good at such owner's or occupier's expense all such damage caused;

(b) keep the permissible verge treatment in good and tidy condition and ensure where the verge treatment is a garden or a lawn that no obstruction of any sort is caused to any footpath, pavement or street;

(c) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree; and

(d) lay, install or pave a hard surface with an acceptable material only;

(e) not place any obstruction on or around any verge treatment; and

(f) not water or maintain a verge treatment in such a manner as to cause a nuisance or inconvenience to any other person and in particular any person using any street or footpath or access way adjoining the verge.

(5) If an owner or occupier fails to install or maintain a verge treatment in accordance with subclause (4), the local government may issue the owner or occupier with a notice requiring that person to make good any breach of subclause (4).

7.9 Powers to carry out public works on verges

(1) If the owner or occupier does not comply with a notice issued in accordance with clause 7.8(5), the local government may carry out any works to make good any breach of this local law, and the local government or any other authority empowered by law to dig up a street may, without being liable to compensate any person, dig up all or any part of a street and disturb any verge treatment placed thereon by an owner or occupier.

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

(a) is not liable to compensate any person for that disturbance;

(b) may backfill with sand, if necessary, any garden or lawn; and

(c) is not liable to replace or restore any—

(i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or

(ii) sprinklers, pipes or other reticulation equipment.

Division 4—Property numbers

7.10 Assignment of street numbering

(1) The local government or an authorised person shall assign a street number to each property in a street, thoroughfare or way in the district having regard to its policy on street numbering so as to ensure unambiguous and easy identification of every individual property.

(2) The local government or an authorised person may from time to time assign another street number to a property instead of that which was previously assigned.

7.11 Street number to be displayed

(1) The owner or occupier of each property must display and maintain the current street number assigned by the local government in a conspicuous place on the front of the building, letterbox, fence or gate adjacent to the street fronting the property.

(2) A sign painted on the kerb adjacent to a property depicting the street number is satisfactory for the purposes of subclause (1).

7.12 Location of number not to be misleading

(1) A person shall not place or display the street number of the property in such a location as to cause confusion or be misleading.

(2) A person shall not adopt, use or display a street number other than that street number assigned by the local government.

(3) Where the location of a street number causes confusion or is misleading, or an unauthorised street number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

Division 5—Fencing

7.13 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

(a) a public place, as that term is defined in clause 1.4; and

(b) local government property.

Division 6—Signs erected by the local government

7.14 Signs

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

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of the provision of a local law.

7.15 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.14 if—

(a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and

(b) the condition of use specified is not inconsistent with any provision of this local law

PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES

8.1 Relationship with planning scheme

The provisions of the local government's planning scheme and the terms of any development approval issued pursuant to that planning scheme will prevail over the provisions of Part 8 of this local law in the event of any inconsistency.

8.2 General prohibitions

(1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place or a thoroughfare or a verge other than in accordance with this local law.

(2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place—

(a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;

(b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;

(c) on any roundabout;

(d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;

(e) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—

(i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;

(ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or

(iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.

(3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

8.3 Public interest signage

(1) Public interest signage is subject to the general prohibitions outlined in clause 8.2.

(2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.

(3) A permit holder must not erect or display on or in local government property or a public place—

(a) subject to subclause (3)(b), more than 6 public interest signs for one event at any one time within the district;

(b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;

(c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;

(d) subject to subclause (3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;

(e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;

(f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;

(g) a public interest sign in a position which—

(i) creates a hazard for pedestrians; or

(ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic,

unless permitted by the terms and conditions of a permit;

(h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;

(i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;

(j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;

(k) on a verge, a public interest sign which is—

(i) less than 3 metres from the kerb line;

(ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and

(iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or

(l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.

(4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.

8.4 Home open signs, display home signs and garage sale signs

(1) Home open signs, display home signs and garage sale signs are subject to the general prohibitions outlined in clause 8.2.

(2) A person must not erect or display a home open sign, display home sign or garage sale sign—

(a) which is constructed from a hard or sharp material that may create a hazard to pedestrians or road users should the sign be hit, knocked or blown over in the wind;

(b) which exceeds 0.6 square metres in area per sign face;

(c) which contains more than 2 sign faces;

(d) which exceeds 0.9 metres in height above the surrounding ground level or pavement;

(e) within 10 metres from any intersection;

(f) within 2 metres of any vehicle crossover;

(g) which exceeds 3 signs per individual home open, display home or garage sale, including the sign placed on the property on which the sale is being conducted or displayed;

(h) which is not free-standing and is affixed to any existing sign, post, power or light pole, or other structure;

(i) at a time other than—

(i) when the relevant home is open for inspection or garage sale is manned and goods are being offered for sale; and

(ii) one hour before and after the home is open for inspection of garage sale is manned and goods are being offered for sale;

(j) on a constructed footpath or within one metre of the road edge;

(k) which is more than 1 kilometre away from the property which is open for inspection or which is holding the garage sale; or

(l) in the centre of a road where the road is divided by a traffic island.

(3) The local government may exempt a person from the requirements of subclause (1) on the application of that person.

8.5 Other portable signs

(1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.

(2) Subject to clause 8.6 any other portable sign shall—

(a) not exceed 1.2 metres in height above the finished ground or pavement level;

(b) not contain more than 2 sign faces;

(c) not exceed 1 square metre total area on any single sign face;

(d) not be illuminated or incorporate reflective or fluorescent materials;

(e) not have moving parts once the sign is in place;

(f) contain writing that is of a professional standard and quality, and is appropriately maintained;

(g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;

(h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;

(i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;

(j) in the case of an other portable sign relating to a business—

(i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and

(ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;

(k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;

(l) not be erected or displayed within 1.8 metres of an intersection or crossover;

(m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and

(n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.

(3) A person can only erect one other portable sign per business.

(4) A person can only erect an other portable sign on a verge of a road which is under the care, control and management of the local government if—

(a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than $10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;

(b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;

(c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and

(d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

8.6 Election advertising

(1) Election advertising on local government property is not prohibited but is subject to provisions outlined in any adopted policy of the local government on election advertising.

(2) A person who fails to comply with any adopted policy of the local government on election advertising, commits an offence under this local law.

8.7 Notification regarding removal and impounding of advertising signs

(1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.

(2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

8.8 Advertising sign to be marked

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

8.9 Person or business taken to own advertising sign

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person, organisation or business whose name is marked on the advertising sign.

8.10 Insurance

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

PART 9—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES

Division 1—Animals

9.1 Leaving an animal on local government property or in a public place

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

(a) has first obtained a permit; or

(b) is authorised to do so under a written law or a determination made under this local law.

9.2 Prohibitions relating to animals

(1) In this clause, ***owner*** in relation to an animal includes—

(a) am owner of the animal;

(b) a person who has the animal in his or her possession or under his or her control; or

(c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.

(2) An owner of an animal must not—

(a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare and unless it is led, ridden or driven;

(b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in or on local government or a public place;

(c) train or race the animal on a thoroughfare; or

(d) subject to subclause (4), allow the animal to defecate on local government property or in a public place.

(3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.

(4) An owner of an animal does not commit an offence if the defecation is immediately removed.

9.3 Removal of animals

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

Division 2—Vehicles

9.4 Leaving a vehicle in a public place

A person must 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, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

Division 3—Shopping trolleys

9.5 Shopping trolley to be marked

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

9.6 Person not to leave shopping trolley in a public place

A person shall not leave or discard a shopping trolley on local government property or in a public place other than in an area designated for the storage of shopping trolleys.

9.7 Abandoned shopping trolley

If a shopping trolley is found discarded on local government property or in a public place, other than in an area designated for the storage of shopping trolleys, the local government may assume that the shopping trolley has been abandoned.

9.8 Retailer taken to own shopping trolley

For the purposes of clauses 9.9 to 9.11, and in the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the shopping trolley.

9.9 Shopping trolley to be removed by retailer

Where a shopping trolley is found abandoned on local government property or in a public place and the retailer has been advised verbally or in writing of its location by the local government, the retailer shall remove the shopping trolley from the public place within 3 hours of being advised.

9.10 Impounding of abandoned shopping trolley

An authorised person may impound a shopping trolley that is—

(a) left on a thoroughfare, verge or local government property that is found to be abandoned in accordance with clause 9.7; and

(b) marked in accordance with clause 9.5.

9.11 Retailer to be notified

The retailer shall be notified in writing prior to the disposal of the shopping trolley.

PART 10—ROADSIDE CONSERVATION

Division 1—Flora roads

10.1 Declaration of flora road

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

10.2 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the Handbook of Environmental Practice for Road Construction and Road Maintenance Works.

10.3 Signposting of flora roads

The local government may signpost flora roads with the standard MRWA flora road sign.

10.4 Driving only on carriageway of flora roads

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

(a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;

(b) there is no carriageway; or

(c) an exemption from the application of subclause (1) has been obtained from the local government.

PART 11—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY

Division 1—Traders and street markets

11.1 Restrictions and requirement to obtain a permit

(1) A person must not carry on trading on local government property or in a public place unless—

(a) subject to subclause (2), that person is—

(i) the holder of a permit for that purpose; or

(ii) an assistant specified in a permit for trading; and

(b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and

(c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of waste water.

(2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.

(3) In determining whether to grant an exemption under subclause (2), the local government may have regard to the matters set out in any local government policy.

11.2 Exemptions from requirement to pay a fee

(1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—

(a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or

(b) by a charitable organisation that—

(i) does not sublet space to commercial participants;

(ii) does not involve commercial participants in the conduct of the stall or trading; and

(iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.

(2) In this clause—

commercial participant means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

11.3 Insurance

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.

11.4 Conduct of traders

(1) A trader while trading, must—

(a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or, if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting the stall or trading; and

(b) not display a permit unless it is a valid permit.

(2) A trader must not—

(a) sell or provide goods or services other than those specified in the permit;

(b) deposit or store any goods or things on any part of a public place so as to obstruct or hinder the movement of pedestrians or vehicles;

(c) act in an offensive manner or cause a nuisance;

(d) use, or cause to be used, any apparatus or device including any flap or shelf, so that the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit;

(e) use or display, or permit to be used or displayed, any advertisement, placard, poster, streamer, sign or signboard on or about the location specified on the permit other than—

(i) price tickets or labels; or

(ii) in the case of a stall providing information services, public information signs, but in either case not exceeding 0.25 square metres in area on the stall or any part of the area specified in the permit;

(f) cry out or shout about, or permit any other person to cry out or shout about, any goods or services in any public place or local government property;

(g) use, or permit to be used, any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound in any thoroughfare or public place, unless approved by the local government;

(h) use, or permit to be used, any record, tape, radio, bell, musical instrument or other instrument or device capable of being heard beyond the boundaries of the area specified in the permit, unless approved by the local government; or

(i) use or permit to be used any flashing or intermittent lighting apparatus or device, unless approved by the local government.

11.5 When a permit is required for a street market

A person must not conduct a street market on a public place or on local government property—

(a) without a valid permit for that purpose; and

(b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

Division 2—Street entertainers

11.6 When a permit is required

A person must not perform on or in local government property or a public place without a permit for the purpose of street entertaining.

11.7 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a person holding a permit for the purpose of street entertaining vary—

(a) the permitted area;

(b) the permitted time; or

(c) both the permitted area and the permitted time.

(2) The local government or an authorised person may direct a holder of a permit for street entertaining to move from one permitted area to another permitted area if more than one area is specified in the permit.

11.8 Duration of a permit for street entertaining

A permit for street entertaining is valid for the period of time specified in the permit, unless it is cancelled earlier in accordance with this local law.

11.9 Cancellation of a permit for street entertaining

The local government may cancel a permit for street entertaining if, in its opinion or in the opinion of an authorised person—

(a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons or businesses in a public place; or

(b) the performance otherwise constitutes a nuisance.

11.10 Obligations of a permit for street entertaining

A person holding a permit for street entertaining shall not, except with the written approval of the local government, in a public place or on local government property—

(a) perform wearing dirty or ragged clothing;

(b) use or fire any weapon or object with sharp edges;

(c) perform any act that endangers the safety of the public;

(d) perform any act of cruelty to an animal or dog;

(e) have more than 4 people perform, unless otherwise authorised by the permit;

(f) unless otherwise authorised by the permit, allow any person under the age of 14 years to perform—

(i) during school hours on school days; and

(ii) between 7.00pm and 6.00am;

(g) sell or permit the sale of any music tapes, recordings, compact discs or merchandise unless authorised by the local government;

(h) act in an offensive or obscene manner;

(i) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—

(i) other than in the permitted area; and

(ii) unless the musical instrument or device is specified in the permit; or

(j) solicit money from members of the public.

PART 12—ALFRESCO DINING ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES

12.1 Permit required for alfresco dining area

(1) In subclause (2)(c)(ii), ***private property*** means any property which is not local government property or a public place.

(2) Subject to subclause (3), a person must not establish or conduct an alfresco dining area in or on local government property or a public place—

(a) unless the person has a permit for that purpose;

(b) unless the person is the proprietor of a food business or is acting on behalf of the proprietor of a food business;

(c) other than in a portion of local government property or a public place which—

(i) adjoins a food business; or

(ii) is adjacent to or in the immediate vicinity of a food business, provided that if the portion of local government property or public place is adjacent to private property, the person has the permission of the owner and occupier of that private property to establish and conduct an alfresco dining area on that adjacent portion of local government property or public place; and

(d) unless the person has public liability insurance in respect of the establishment and conduct of the alfresco dining area; and

(e) other than in accordance with a permit.

(3) The local government may exempt a person from any requirements in this clause 12.1 on the application of that person.

12.2 Matters to be considered in determining an application

In determining an application for a permit to establish or conduct an alfresco dining area, the local government may consider, in addition to the relevant considerations described in clause 13.3, whether or not—

(a) the abutting food businesses are registered in accordance with the Food Act and whether the use of the food premises is permitted under the planning scheme;

(b) the alfresco dining area will comply with any other local law made by the local government under the Act;

(c) users of the alfresco dining area will have access to proper and sufficient sanitary and ablutionary conveniences in accordance with the Building Code;

(d) the alfresco dining area would—

(i) obstruct the visibility or clear sight lines for pedestrians and motorists at an intersection of thoroughfares; or

(ii) impede pedestrian access;

(e) the proposed furniture is unsuitable, including whether or not the tables, chairs and other equipment to be used may obstruct or impede the use of the local government property or public place for the purposes for which it was designed;

(f) any abutting food businesses provide sufficient car parking bays for customers of the alfresco dining area; and

(g) the applicant is a fit and proper person.

12.3 Obligations of a permit holder for an alfresco dining area

(1) A holder of a permit for an alfresco dining area must—

(a) display the permit in a conspicuous place in the alfresco dining area or in the abutting food business and when requested by an authorised person or employee of the local government, produce the permit to him or her;

(b) ensure that the alfresco dining area is conducted at all times in accordance with the provisions of—

(i) this local law;

(ii) any other local law made under the Act; and

(iii) the Food Act;

(c) ensure that the alfresco dining area is kept in a clean and tidy condition, including by maintaining the chairs, tables and other structures in the alfresco dining area in a good, clean and serviceable condition at all times;

(d) on the cancellation of the permit, the permit holder shall at his or her cost, reinstate or restore the local government property or public place on which the alfresco dining area is established or conducted, to a condition consistent with the condition prior to the commencement of the alfresco dining area; and

(e) present an authorised person with a copy of a current certificate of public liability insurance upon the request of the authorised person.

(2) If, at the absolute discretion of the local government, any work is required to be carried out to an alfresco dining area, the local government may give notice to the permit holder to carry out that work specified within the notice within the time specified in the notice.

(3) In this part, "work" includes the removal, alteration, repair, reinstatement or construction of a street or footpath or any part of a street or footpath arising from or in connection with the setting up or conduct of an alfresco dining area.

12.4 Conditions on an alfresco dining area

In addition to the conditions described in clause 13.6, the local government may impose conditions or grant an exemption on the grant of a permit for an alfresco dining area relating to—

(a) the permit holder having non-exclusive rights to establish and conduct an alfresco dining area in the relevant area;

(b) the colour, number, type, form and construction, as the case may be, of any furniture which may be used in the alfresco dining area;

(c) the care, maintenance and cleaning of any furniture used in the alfresco dining area;

(d) the removal and storage of all furniture used in the alfresco dining area prior to the close of business of the abutting food business on any day that the alfresco dining area is operating;

(e) the removal of all furniture used in the alfresco dining area for the purposes of events or other activities of the local government;

(f) the requirement to maintain pedestrian access between the alfresco dining area and an abutting food business;

(g) the alfresco dining area not impeding or obstructing any local government property or public place used by either pedestrians or vehicles;

(h) the obtaining of public liability insurance in an amount and or terms reasonably required by the local government;

(i) the requirement to maintain clear sight lines for vehicles entering or leaving local government property, a thoroughfare or a vehicle crossing; and

(j) the payment of costs associated with the local government preparing the local government property or public place for use as an alfresco dining area including the reshaping of footpaths and marking the boundaries of the alfresco dining area.

12.5 No smoking areas

Subject to this local law if a permit is granted under this local law in respect of an alfresco dining area—

(a) the alfresco dining area is deemed to be a no smoking area; and

(b) a person shall not smoke a tobacco product while in the alfresco dining area.

12.6 Removal of an unlawfully conducted alfresco dining area

(1) Where an alfresco dining area is conducted without a permit or in contravention of the terms or condition of a permit—

(a) an authorised person may direct a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment; and

(b) any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

(2) If an authorised person directs a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment, that person must comply with the direction of the authorised person.

12.7 Temporary removal of an alfresco dining area

(1) The holder of a permit for an alfresco dining area must temporarily remove the alfresco dining area when requested to do so on reasonable grounds by an authorised person or a member of the police service or an emergency service.

(2) The holder of a permit for an alfresco dining area may replace the alfresco dining area removed under subclause (1) as soon as the person who directed him or her to remove it allows it to be replaced.

12.8 Change of ownership of an alfresco dining area

Where the ownership of a food business subject to an alfresco dining permit changes, the new owner must notify the local government within 2 weeks of the change of ownership.

12.9 Terms and validity of an alfresco dining permit

Except where otherwise stated in the local law or on the permit an alfresco dining permit remains valid until—

(a) the proprietor of the food business changes;

(b) approved changes are made to an existing licence, including increase or reduction in area subject of the licence, or conditions under which the licence was granted;

(c) the public liability insurance policy required in accordance with 12.4(h) lapses, is cancelled or is no longer in operation;

(d) the permit is cancelled by the local government.

PART 13—PERMITS

Division 1—Applying for a permit

13.1 Application for a permit

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

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

(a) be in the form determined by the local government;

(b) state the full name and address of the applicant;

(c) be signed by the applicant;

(d) contain the information required by the form;

(e) in the case of an application for a permit for an alfresco dining area, be signed by the proprietor of the abutting food business adjacent to the portion of the local government property or public place to which the application relates;

(f) contain any other information required for that particular type of permit under this local law; and

(g) be forwarded to the local government 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 the permit.

(5) The local government may refuse to consider an application for a permit which does not satisfy the requirements within subclause (2).

13.2 Additional Information required for trading or street market permit application

An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—

(a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;

(b) details of any location in which the applicant proposes to trade or conduct a street market;

(c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;

(d) the proposed goods and services which will be traded or sold by the trader or at a street market; and

(e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.

13.3 Additional Information required for an alfresco dining area

An application for a permit for the purposes of a permanent or temporary alfresco dining area must contain the following additional information—

(a) two copies of a plan and specifications of the proposed alfresco dining area on a scale of 1:50 showing—

(i) the location and dimensions of the proposed alfresco dining area and the means by which the alfresco dining area is to be separated from the balance of the local government property or public place; and

(ii) the position of all tables, chairs and other structures proposed to be provided in the alfresco dining area and which of such items, if any, are to be retained within the alfresco dining area at all times;

(b) a colour photograph(s) or brochure(s) of the tables, chairs and other structures to be set up in the alfresco dining area;

(c) a description of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within, the alfresco dining area; and

(d) details regarding the public liability insurance taken out or to be taken out by the applicant in respect of the alfresco dining area.

13.4 Decision on application for permit

(1) The local government may—

(a) approve an application for a permit;

(b) approve an application for a permit subject to conditions; or

(c) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form determined by the local government.

(3) Where the local government approves an application for a permit for an alfresco dining area with or without conditions, the local government must attach to the permit a plan showing the area where the alfresco dining area may be conducted, which will then form part of the permit.

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

(5) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

13.5 Relevant considerations in determining application for granting a permit

(1) In determining an application for a permit, the local government is to have regard to—

(a) any relevant local government policies;

(b) the desirability of the proposed activity;

(c) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and

(d) such other matters as the local government considers relevant.

(2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—

(a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;

(b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;

(c) the applicant is insolvent or under administration;

(d) the activity may result in traffic and pedestrian safety being adversely impacted;

(e) the activity is not in keeping with the surrounding land uses; or

(f) such other grounds as the local government considers relevant.

(3) The local government must not approve an application for a permit unless the local government is satisfied that—

(a) the applicant is a fit and proper person to carry out the activity;

(b) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit;

(c) the public place at which the activity is to be provided is suitable for that purpose; and

(d) a licence or equivalent authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made.

Division 2—Conditions which may be imposed on a permit

13.6 Examples of conditions

(1) The local government may impose conditions on a permit relating to—

(a) the payment of a fee as decided by the council pursuant to section 6.16 of the Act;

(b) the duration and commencement of the permit, including the days and hours within which the activity or the subject of the permit may be carried out or is prohibited;

(c) the commencement of the permit being contingent on the happening of an event;

(d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;

(e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;

(f) the payment of a bond against possible damage, cleaning or other expenses;

(g) the obtaining and maintaining of public liability insurance in an amount and on terms reasonably required by the local government;

(h) the provision of an indemnity from the permit holder 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 use of the public place or local government property by the permit holder;

(i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and

(j) any other matter that the local government considers fit or appropriate.

(2) The Local Government may impose conditions on a permit to hire local government property relating to—

(a) the amount of any fees and charges and when they are to be paid;

(b) payment of a bond against possible damage or cleaning expenses or both;

(c) restrictions on the erection of materials or external decorations;

(d) rules about the use of furniture, plants 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 for good cause 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.

13.7 Imposing conditions under a policy

(1) In this clause—

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 13.4(1)(a).

(2) Under clause 13.4(1)(b) the local government may approve an application subject to conditions by reference to a policy, or a determination under this local law.

(3) The local government having approved an application for a permit must give to the applicant a copy of the policy or determination, or the part thereof which is relevant to the application, with the form of permit referred to in clause 13.4(2).

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

(5) The provisions of sections 5.94 and 5.95 of the Act shall apply to any policy or determination relevant or claimed by the local government to be relevant to any condition imposed on a permit pursuant to clause 3.4 of this local law.

13.8 Compliance with and variations to terms and conditions

(1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.

(2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.

(3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

Division 3—General

13.9 Duration of permit

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

(a) otherwise stated in this local law or in the terms and conditions of the permit; or

(b) cancelled under clause 13.13.

13.10 Renewal of permit

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

(2) The provisions of—

(a) this Part 13; and

(b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit with all the necessary changes as required.

13.11 Transfer of permit

(1) An application may be made to the local government to transfer a valid permit.

(2) An application to transfer a permit must—

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee for 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 local government 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—

(a) approve an application for the transfer of a permit;

(b) approve an application for the transfer of a permit subject to conditions; or

(c) refuse an application to transfer a permit.

(4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

(a) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or

(b) issuing to the transferee a permit in the form determined by the local government.

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

(6) Alfresco dining permits are non-transferable.

13.12 Production of permit

A permit holder must produce to an authorised person his or her permit immediately on being directed to do so by that authorised person.

13.13 Cancellation or suspension of permit

(1) Subject to clause 14.1, a permit may be cancelled by the local government if—

(a) the permit holder has not complied with a condition of the permit; or

(b) the permit holder has not complied with a determination or a provision of any written law which may relate to the activity regulated by the permit and of which the permit holder has notice; or

(c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or

(d) an authorised person deems the permit holder to have a permit which was granted on the basis of false, misleading or incomplete information; or

(e) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.

(2) If a permit is cancelled under subclause (1), the permit holder—

(a) must return the permit to the local government as soon as practicable; and

(b) is to be taken to have forfeited any fees paid in respect of the permit.

(3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.

(4) On the cancellation or suspension of a permit under subclause (3), the permit holder is, subject to subclause (5), to be taken to have forfeited any fees paid in respect of the permit.

(5) Where a permit is cancelled or suspended under subclause (3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

13.14 Nominee of permit holder

Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may, at the request of the permit holder, authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit apply to the nominee as if he or she was the permit holder.

PART 14—OBJECTIONS AND APPEALS

14.1 Objection and appeal rights

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

(a) grant a person a permit or consent; or

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

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

PART 15—MISCELLANEOUS

Division 1—Authorised person

15.1 Authorised person to be obeyed

A person in or on local government property or a public place must—

(a) obey any lawful direction of an authorised person; and

(b) not in any way obstruct or hinder an authorised person in the execution of his or her duties.

15.2 Persons may be directed to leave local government property or a public place

(1) An authorised person may direct a person to leave, or temporarily suspend a person from, access to or use of local government property or a public place where the authorised person reasonably suspects that the person has contravened a provision of this local law.

(2) A person directed by an authorised person to leave local government property or a public place, or whose access to local government property or public place is suspended by an authorised person, and who fails forthwith to leave, commits an offence.

Division 2—Notices

15.3 Liability for damage to local government property or a public place

(1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the local government, pay the cost 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 cost referred to in the notice as a debt due to it in a court of competent jurisdiction.

15.4 Notice to redirect or repair sprinklers

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

15.5 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government or an authorised person may give a notice in writing to—

(a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or

(b) such other person who may be responsible for the thing being so placed,

requiring the relevant person to remove the thing.

15.6 Notice to repair damage to thoroughfare

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

15.7 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove that hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

Division 3—Lost property

15.8 Lost property and unclaimed property in a locker

(1) A person who finds an article which may have been left on or lost by another person on local government property must immediately deliver that article to a manager, attendant or other employee of the local government.

(2) In respect of any article left on local government property, an authorised person, manager or attendant must record in the unclaimed property register—

(a) a description of the relevant article; and

(b) the time and date when the article was identified.

(3) An authorised person, manager or attendant must ensure that an article left on local government property is stored at a place for storing lost property determined by the local government.

(4) An authorised person, manager or attendant may deliver to a person an article recorded in the unclaimed property *register* provided that the attendant or authorised person has received—

(a) satisfactory evidence of the person's right to obtain the article;

(b) an accurate description of the article being claimed; and

(c) payment of any outstanding fees or storage charges.

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

(6) Subject to compliance with the Act, if an article is not claimed or collected within a period of 1 month the local government may dispose of the article in any manner that the local government sees fit.

(7) This clause will not apply where a local government considers an item left on local government property or a public place to be, in its absolute discretion, suspicious or dangerous.

PART 16—ENFORCEMENT

Division 1—Notices given under this local law

16.1 Offence of failing to comply with a notice

A person who—

(a) fails to comply with a notice issued under this local law; or

(b) fails to comply with any condition specified in a notice issued under this local law,

commits an offence.

16.2 Local government may undertake requirements of a notice

If a person fails to comply with a notice given to them under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the cost incurred in doing so.

Division 2—Offences and penalties

16.3 Offences and general penalty

(1) A person who fails to do anything required or directed to be done under this local law or does an act or omits to do an act contrary to this local law, commits an offence.

(2) A person who commits an offence under this local law is liable, upon conviction to—

(a) a penalty of at least $2,500 but not exceeding $5,000; and

(b) if the offence is a continuing offence, an additional penalty not exceeding $500 for each day or part of a day during which the offence has continued.

16.4 Prescribed offences

(1) An offence against an item 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 item in Schedule 1.

16.5 Form of notices

(1) For the purposes of this local law—

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

(b) the form of the infringement notice give 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.

16.6 Impounding of goods

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

16.7 Evidence of a determination

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

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

(3) Subclause (2) does not make valid a determination that is proven on the balance of probabilities to have not been properly made.

Division 3—Person to give name and address on demand

16.8 Requirement to give name and address on demand

(1) An authorised person may—

(a) upon finding a person committing or having committed; or

(b) on reasonable grounds suspecting a person of having committed,

an offence against this local law, demand from the person the person's name, place of residence and date of birth.

(2) A person from whom information is demanded in accordance with subclause (1) commits an offence if the person—

(a) refuses without lawful excuse to give the information; or

(b) gives information that is false or misleading in any material particular.

SCHEDULE 1—PRESCRIBED OFFENCES

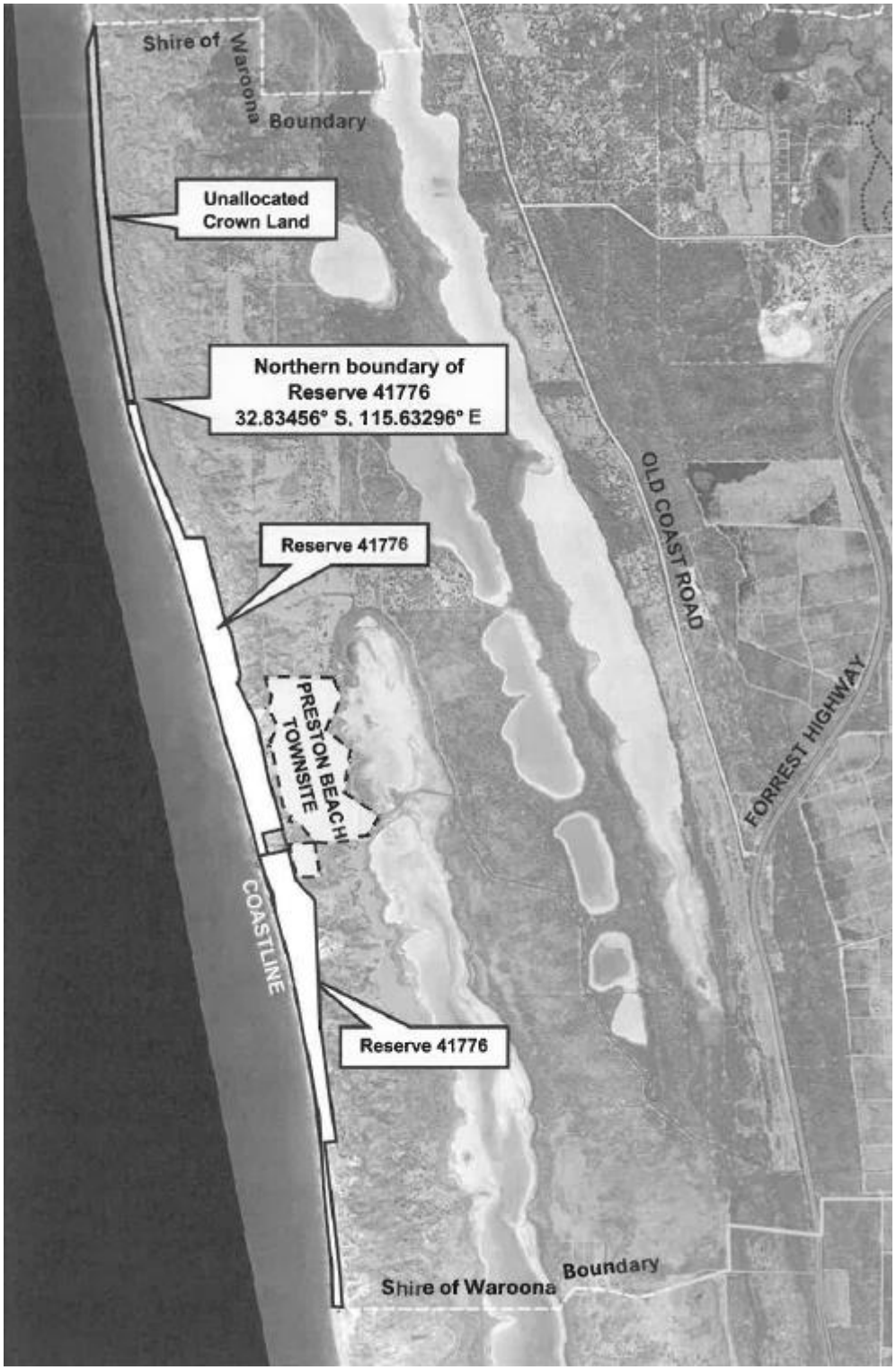
[clause 16.4]

Item	Clause	Nature of Offence	Modified Penalty
1	2.4	Failing to comply with a determination	$500
2	3.1(1)	Carrying out an activity listed under clause 3.1(1) without a permit	$500
3	3.2(3)	Camping outside a facility without a permit	$500
4	3.3(1)	Consuming, possessing, or controlling liquor on local government property without a permit	$500
5	3.7	Failing of permit holder to comply with conditions imposed on the hire of local government property	$500
6	4.1	Behaving in a manner on local government property which interferes with others	$500
7	4.2	Behaving in a way which is detrimental to local government property	$500
8	4.3	Taking, injuring or killing or attempting to take, injure or kill any fauna on or above local government property without authorisation under a written law	$500
9	4.4	Removing or damaging any flora on or above local government property without authorisation under a written law	$500
10	4.5	Entering or remaining on local government property while intoxicated or under the influence of a prohibited drug	$500
11	4.6	Taking, consuming or using a prohibited drug on local government property	$500
12	4.7	Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property	$500
13	4.8(1)(a)	Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property	$500
14	4.8(1)(b)	Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier	$500
15	4.8(2)	Failing to comply with a direction to put on adequate clothing	$500
16	4.9	Unauthorised entry to local government property	$500
17	4.10	Unauthorised entry to local government property after refusal or under suspension	$500
18	4.11(2)	Failing to comply with a sign on local government property regarding conditions of use	$500
19	5.1	Carrying out a prohibited activity at a public swimming pool or recreation facility	$500
20	5.5(1)	Conducting a controlled swimming or other sporting event, or carnival or competition without consent at a public swimming pool or recreation facility	$500
21	5.6(2)	Carrying out a prohibited activity on a beach or sand dune	$500
22	5.8	Undertaking an activity in an area where that activity is prohibited	$500
23	5.9	Failing to remain properly and adequately clothed	$500
24	5.10(1)(a)	Failing to comply with a sign erected on a beach or sand dunes by an authorised person	$500
25	5.10(1)(c)	Failure to comply with a direction given on a beach or sand dunes by an authorised person	$500
26	5.10(1)(d)	Interfering, obscuring, obstructing or hanging any item of clothing or towel on a flag, sign, notice, notice or item of life saving equipment on a beach or sand dunes.	$500
27	5.10(2)	Smoking in contravention of a sign on a beach or sand dunes	$500
28	5.11	Behaving in a prohibited manner on the beach or sand dunes without permission from the local government	$500
29	5.12	Undertaking a prohibited activity on the beach or sand dunes without permission from the local government.	$500
30	5.13	Unauthorised entry to fenced off or closed local government property	$500
31	5.14(2)	A person using an entry of a toilet block or change room that is not specified for their gender	$500

Item	Clause	Nature of Offence	Modified Penalty
32	5.14(4)	Failing to leave a toilet block or change room area when directed to do so	$500
33	5.15	Using a shower in a prohibited manner	$500
34	6.1(1)	Entering local government property when an admission charge is authorised without paying the required fee	$500
35	7.1	Undertaking a prohibited activity in a thoroughfare or public place	$500
36	7.2	Undertaking an activity requiring a permit in a thoroughfare or public place without a permit	$500
37	7.3	Consuming, possessing or controlling liquor on a thoroughfare or public property without a permit	$500
38	7.4	Depositing any thing or causing an obstruction to a thoroughfare, kerb or footpath	$500
39	7.8(1)	Installing a verge treatment other than a permissible verge treatment	$500
40	7.8(4)	Failing to properly maintain a verge treatment	$500
41	7.11(1)	Failing to properly display and maintain street number	$500
42	7.12(1)	Placing or displaying a street number in a location which causes confusion or is misleading	$500
43	7.12(2)	Adopting, using or displaying a street number other than the street number assigned	$500
44	7.14(2)	Failing to comply with a sign on a public place	$500
45	8.2(2)	Erecting or placing an advertising sign on or in local government property or a public place in a prohibited manner without authorisation.	$500
46	8.3(2)	Erecting or displaying a public interest sign without a permit	$500
47	8.3(3)	Permit holder erecting or displaying a public interest sign in a prohibited manner	$500
48	8.4(2)	Erecting or displaying a home open sign, display home sign or garage sale sign in a prohibited manner	$500
49	8.5(2)	Erecting or displaying any other portable sign contrary to local law	$500
50	8.5(3)	Erecting or displaying more than one other portable sign per business	$500
51	8.5(4)	Erecting or displaying an other portable sign on a local government verge contrary to local law	$500
52	8.6	Failing to comply with any adopted policy of the local government on election advertising.	$500
53	9.1	Leaving an animal in a public place or local government property which causes an obstruction to the use of any part of that local government property or public place, without a permit or authorisation	$500
54	9.2	Leading, driving or riding an animal to act in a prohibited manner in a thoroughfare or public place	$500
55	9.4	Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation	$500
56	9.5	Failing to mark a shopping trolley with the name of its retailer	$500
57	9.6	Leaving or discarding a shopping trolley in a public place other than an area set aside for shopping trolleys	$500
58	9.9	Failing to remove shopping trolley within 3 hours of being notified of its location	$500
59	10.4	Failing to drive or ride a vehicle on the carriageway only of a flora road	$500
60	11.1(1)	Carrying on trading in a public place or on local government property contrary to local law	$500
61	11.4(1)	Failing to properly display trading permit	$500
62	11.4(2)	Carrying out a prohibited activity while trading	$500
63	11.5	Conducting a street market on or in a public place without a permit	$500
64	11.6	Engaging in street entertaining on or in a public place without a permit	$500

Item	Clause	Nature of Offence	Modified Penalty
65	11.10	Failing of a holder of a permit for street entertaining to comply with obligations under local law	$500
66	12.1(2)	Establishing or conducting an alfresco dining area contrary to local law	$500
67	12.3(1)	Failing of a permit holder for an alfresco dining area to comply with obligations	$500
68	12.5(b)	Smoking a tobacco product in an alfresco dining area	$500
69	12.6(2)	Failing to comply with direction of authorised person to remove tables, chairs, umbrellas or other equipment in an alfresco dining area	$500
70	12.8	Failing to notify the local government of a change of ownership of an alfresco dining area	$500
71	13.8(1)	Failing to comply with terms and conditions of a permit	$500
72	13.12	Failing to produce permit upon request by an authorised person	$500
73	15.1(a)	Failing to obey a lawful direction of an authorised person	$500
74	15.1(b)	Obstructing or hindering an authorised persons in the execution of his or her duties	$500
75	16.1	Failing to comply with a notice	$500
76	16.8(2)(a)	Refusing to give name and address contrary to local law	$500
77	16.8(2)(b)	Giving false or misleading information regarding name and address	$500

SCHEDULE 2—RESERVE R41776



Dated the 27th day of October 2026.

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

CR JOHN MICHAEL SCOTT WALMSLEY, Shire President.
MARK ANDREW GOODLET, Chief Executive Officer.