

LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND
TRADING LOCAL LAW 2020**

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LOCAL GOVERNMENT ACT 1995

SHIRE OF AUGUSTA MARGARET RIVER

ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Augusta Margaret River resolved on 12 February 2020 to make this local law.

PART 1— PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2020.

1.2 Commencement

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

1.3 Application

This local law applies throughout the district.

1.4 Repeal

This local law repeals the *Shire of Augusta Margaret River Activities in Thoroughfares and Public Places and Trading Local Law 2010* as published in the *Government Gazette* on 5 March 2010 and as amended in the *Government Gazette* on 6 September 2011 and 23 December 2013.

1.5 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

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

built-up area has the meaning given to it in the *Road Traffic Code 2000*;

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;

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

CEO means the chief executive officer of the local government;

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

Council means the council of the local government;

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

(a) private land; or

(b) private thoroughfare serving private land;

district means the district of the local government;

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

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

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

kerb includes the edge of a carriageway;

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

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

local government means the Shire of Augusta Margaret River;

local government property means anything except a thoroughfare—

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

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

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

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

permissible verge treatment means any one of the 4 treatments described in clause 2.8(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

public place includes any 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; and
- (b) local government property;

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

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

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

town planning scheme means a town planning scheme of the local government made under the *Planning and Development Act 2005*;

townsite means the townsites within the Shire of Augusta Margaret River district which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

vehicle includes—

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

but excludes—

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

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

written law has the same meaning given to it by section 5 of *Interpretation Act 1984* and includes this local law.

PART 2—ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

(1) A person shall not—

- (a) plant any plant (except grasses or a similar plant) within 6 meters of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 1m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;

- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
 - (b) subject to Division 3 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
 - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
 - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
 - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
 - (f) damage a thoroughfare;
 - (g) light any fire or burn anything on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
 - (h) prune or fell any tree on or onto a thoroughfare;
 - (i) unless installing, or in order to maintain, a permissible verge treatment—
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
 - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
 - (k) on a public place use anything or do anything so as to create a nuisance;
 - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
 - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Vehicle crossing

Subdivision 1—Temporary crossings

2.4 Permit required

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where—
- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The “person responsible for the works” in subclause (1) is to be taken to be—
- (a) the builder named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

Subdivision 2—Redundant vehicle crossings

2.5 Removal of redundant crossing

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

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

- (a) remove any part of or all of a crossing which does not give access to the lot; and
- (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3—Verge treatments

Subdivision 1—Preliminary

2.6 Application

This Division only applies to the townsite.

Subdivision 2—Permissible verge treatments

2.7 Permissible verge treatments

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

(2) The permissible verge treatments are—

- (a) the planting and maintenance of a lawn;
- (b) the planting and maintenance of a garden provided that—
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (iii) it does not include a wall or built structure; and
 - (iv) it is not of a thorny or poisonous nature.

2.8 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment unless they have obtained—

- (a) a permit issued under this local law where the verge treatment will be in place for less than 12 months or does not involve any type of construction; or
- (b) in any other case, a permission issued under regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

2.9 Obligations of owner or occupier

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

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

2.10 Notice to owner or occupier

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

Subdivision 3—Existing verge treatments

2.11 Transitional provision

(1) In this clause—

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

(2) A verge treatment which—

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

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

Subdivision 4—Public works

2.12 Power to carry out public works on verge

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

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 4—Property numbers

Subdivision 1—Preliminary

2.13 Interpretation

In this Division, unless the context requires otherwise—

number means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

2.14 Assignment of numbers

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

Division 5—Fencing

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

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

- (a) a public place, as that term is defined in clause 1.2; and
- (b) local government property.

Division 6—Signs erected by the local government

2.16 Signs

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

2.17 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 2.17 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.

Division 7—Driving on a closed thoroughfare

2.18 No driving on closed thoroughfare

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

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

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement and includes an “election sign”;

direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;

portable direction sign means a portable free standing direction sign; and

portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

(1) A person shall not, without a permit—

- (a) erect or place an advertising sign on a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
- (b) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (c) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare;
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant; and
- (f) any other matters it considers relevant.

Division 3—Conditions on permit

3.4 Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
 - (i) not exceed 0.8m in height;
 - (ii) not exceed 0.6m in width;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;

- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

3.6 Exemption

(1) The local government may exempt the holder of a valid stallholders permit, traders permit, facility permit or other event authorisation issued by the local government, from all or part of the prohibitions in clause 3.2 in relation to an advertisement that directly relates to the goods and services which are the subject of the permit or authorisation.

(2) Signs erected by the local government or an authority empowered to do so under a written law are exempted from the requirement to obtain a permit.

3.7 Impounding advertising signs

Any sign which contravenes clause 3.2 may be removed, impounded or disposed of in accordance with Subdivision 4 of Division 3 of Part 3 of the Act and regulation 29 of the Regulations.

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

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

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

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

4.2 Prohibitions relating to animals

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

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

(2) An owner of an animal shall not—

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

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

Division 2—Shopping trolleys

4.3 Interpretation

In this Division—

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

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

4.4 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.

4.5 Person not to leave trolley in public place

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

4.6 Retailer to remove abandoned trolley

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

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

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

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

MRWA means Main Roads Western Australia;

specially protected flora has the meaning given to it in section 5(1) of the *Biodiversity Conservation Act 2016*;

threatened flora has the meaning given to it in section 5(1) of the *Biodiversity Conservation Act 2016*; and

special environmental area means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsite.

Division 2—Flora roads

5.3 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.

5.4 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”.

5.5 Signposting of flora roads

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

5.6 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.

Division 3—Special environmental areas

5.7 Designation of special environmental areas

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) has specially protected flora or threatened flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

5.8 Marking of special environmental areas

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

Division 4—Planting in thoroughfares

5.9 Permit to plant

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5—Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or
- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

5.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

- (a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or
- (b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

5.18 When application for permit cannot be approved

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.

- (2) The local government may approve an application for a permit under subclause (1) only where—
 - (a) the seed is required for a revegetation project in any part of the district; and
 - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
 - (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
 - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

Competition Principles Agreement means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

public place includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law.

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire, funds are solicited, or information displayed or provided;

stallholder means a person in charge of a stall;

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

trader means a person who carries on trading;

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

trading includes—

- (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;
- (b) displaying goods in any public place 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;
- (c) the going from place to place, whether or not public places, and—
 - (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services;
- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,
 which are only sold directly to consumers and not through a shop.

Subdivision 2—Permits

6.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is—
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
 - (a) state the full name and address of the applicant;

- (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
- (c) specify the proposed location of the stall;
- (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

6.3 Trader's permit

- (1) A person shall not carry on trading unless that person is—
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

6.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

6.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to—
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and
 - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds—
 - (a) that the applicant is not a desirable or suitable person to hold a permit;
 - (b) that—
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or
 - (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

6.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the—
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;

- (iii) the use of signs; and
- (iv) the use of any lighting apparatus or device;
- (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;
- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
- (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
- (l) the acquisition by the stallholder or trader of public risk insurance;
- (m) the period for which the permit is valid; and
- (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) 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 that 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 shall apply to the nominee as if he or she was the permit holder.

6.7 Exemptions from requirement to pay fee or to obtain a permit

(1) In this clause—

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

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

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

Subdivision 3—Conduct of stallholders and traders

6.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (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 a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960 (Cth)*.

(2) A stallholder or trader shall not—

- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (b) act in an offensive manner; or
- (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit.

Division 2—Street entertainers

Subdivision 1—Preliminary

6.9 Interpretation

In this Division, unless the context otherwise requires—

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

permit means a permit issued for the purpose of clause 6.10;

permitted area means the area or areas, specified in a permit, in which the permit holder may perform; and

permitted time means the time or times, specified in a permit, during which the permit holder may perform.

Subdivision 2—Permits

6.10 Permit required to perform

A person shall not perform in a public place without a permit.

6.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary—

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time, shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

6.12 Duration of permit

A permit is valid for a period determined by the local government unless it is sooner cancelled under this local law.

6.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

6.14 Obligations of permit holder

A permit holder shall not in a public place—

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) 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.

Division 3—Outdoor eating facilities on public places

6.15 Interpretation

In this Division—

Facility means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

permit holder means the person to whom a permit has been issued for the purpose of clause 6.16; and

public place has the meaning given to it in clause 6.1.

6.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

6.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.16, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the Facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the local planning scheme;
- (c) the Facility will comply with any other local law made by the local government;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the Facility would—
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.18 Obligations of permit holder

(1) The permit holder for a Facility shall—

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law and any local law made by the local government;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and

- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

6.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.20 Use of Facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.

(2) A person shall leave a Facility when requested to do so by the permit holder.

6.21 Temporary removal of Facility may be requested

(1) The permit holder for a Facility is to temporarily remove the Facility 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 permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

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

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form; and
- (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

7.2 Decision on application for permit

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

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

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2—Conditions

7.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (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 approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) 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 by the permit holder.

7.4 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 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

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

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

7.5 Compliance with and variation of conditions

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

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

Division 3—General

7.6 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.10.

7.7 Renewal of permit

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

(2) The provisions of—

- (a) this Part; 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 necessary changes as required.

7.8 Transfer of permit

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

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

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

(3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—

- (a) an endorsement on the permit signed by the CEO; or
- (b) issuing to the transferee a permit in the form determined by the local government.

(4) 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.

7.9 Production of permit

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

7.10 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

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

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

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

PART 8—OBJECTIONS AND APPEALS

8.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) under clause 7.8; or
- (c) as to whether it will renew, vary, or cancel a permit,

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

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

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

9.2 Hazardous plants

(1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

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

9.4 Notice to remove thing unlawfully placed on thoroughfare

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

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

10.3 Power of entry into private property

This local law is subject to sections 3.25, 3.27 and Schedules 3.1 and 3.2 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3, Subdivision 3 of the Act.

Division 2—Offences and penalties

Subdivision 1—General

10.4 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

10.5 Prescribed offences

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

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

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

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

10.6 Forms

Unless otherwise specified, for the purposes of this local law—

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

Schedule 1

PRESCRIBED OFFENCES

(Clause 10.5)

Item No.	Clause	Description	Modified Penalty \$
1	2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection	125
2	2.1(b)	Damaging lawn or garden	125
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
4	2.1(d)	Placing hazardous substance on footpath	250
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
7	2.1(g)	Riding of skateboard or similar device on mall or verandah of shopping centre	125
8	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	125
9	2.2(1)(b)	Throwing or placing anything on a verge without a permit	125
10	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	250
11	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
12	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
13	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
14	2.2(1)(h)	Felling tree onto thoroughfare without a permit	300
15	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	300

Item No.	Clause	Description	Modified Penalty \$
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
17	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	250
18	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	125
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	125
20	2.3(1)	Consumption or possession of liquor on thoroughfare	125
21	2.4(1)	Failure to obtain permit for temporary crossing	250
22	2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	350
23	2.9(1)	Installation of verge treatment other than permissible verge treatment	250
24	2.10	Failure to maintain permissible verge treatment or placement of obstruction on verge	125
25	2.11	Failure to comply with notice to rectify default	125
26	2.17(2)	Failure to comply with sign on public place	125
27	2.19(1)	Driving or taking a vehicle on a closed thoroughfare	350
28	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	125
29	3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
30	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
31	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
32	4.2(2)(b)	Animal on public place with infectious disease	125
33	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
34	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
35	4.5	Person leaving shopping trolley in public place other than trolley bay	125
36	4.6(2)	Failure to remove shopping trolley upon being advised of location	125
37	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	250
38	5.9	Planting in thoroughfare without a permit	250
39	5.11	Failure to obtain permit to clear a thoroughfare	500
40	5.13	Burning of thoroughfare without a permit	500
41	5.17	Construction of firebreak on thoroughfare without a permit	500
42	5.19	Commercial harvesting of native flora on thoroughfare	500
43	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
44	6.2(1)	Conducting of stall in public place without a permit	350
45	6.3(1)	Trading without a permit	350
46	6.8(1)(a)	Failure of stallholder or trader to display or carry permit	125
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48	6.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
49	6.8(2)	Stallholder or trader engaged in prohibited conduct	125
50	6.10	Performing in a public place without a permit	125
51	6.11(2)	Failure of performer to move onto another area when directed	125
52	6.14	Failure of performer to comply with obligations	125
53	6.16	Establishment or conduct of outdoor eating facility without a permit	350
54	6.18	Failure of permit holder of outdoor eating facility to comply with obligations	125
55	6.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	60

Item No.	Clause	Description	Modified Penalty \$
56	6.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	60
57	7.5	Failure to comply with a condition of a permit	125
58	7.9	Failure to produce permit on request of authorised person	125
59	10.1	Failure to comply with notice given under local law	500

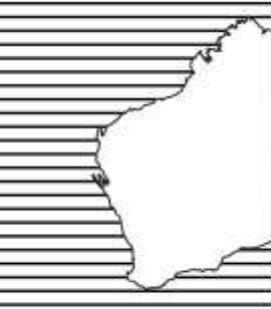
Dated: 26 February, 2020.

The Common Seal of the Shire of Augusta Margaret River was affixed under the authority of a resolution of the Council in the presence of—

Cr IAN EARL, Shire President.

STEPHANIE ADDISON-BROWN, Chief Executive Officer.

!2020039GG!



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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

**COUNCIL MEETING
PROCEDURES
LOCAL LAW 2020**

LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

COUNCIL MEETING PROCEDURES LOCAL LAW 2020

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LOCAL GOVERNMENT ACT 1995

TOWN OF BASSENDEAN

COUNCIL MEETING PROCEDURES LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Bassendean resolved on 25 February 2020 to make the following Local Law.

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the *Town of Bassendean Council Meeting Procedures Local Law 2020*.

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) This Local Law is to provide the rules for the conduct of meetings of the Council, Committees and Electors.
- (2) The effect of this Local Law is intended to result in—
 - (a) better decision making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Application

All meetings of the Council, Committees and the electors are to be conducted in accordance with the Act, the Regulations and the Local Law.

1.5 Interpretation

- (1) Unless otherwise defined in this Local Law, the terms and expressions used in this Local Law are to have the meaning given to them in the Act and Regulations.
- (2) In this Local Law unless the context otherwise requires—
 - 75% majority** has the meaning given to it in the Act;
 - absolute majority** has the meaning given to it in the Act;
 - Act** means the *Local Government Act 1995*;
 - CEO** means the Chief Executive Officer of the Town of Bassendean;
 - committee** means a committee of the Council established under section 5.8 of the Act;
 - committee meeting** means a meeting of a committee;
 - council** means the Council of the Town of Bassendean;
 - district** means the District of the Local Government;
 - local government** means the Town of Bassendean;
 - mayor** means the mayor of the Town or other presiding member at a Council meeting under section 5.6 of the Act;
 - meeting** means a meeting of the Council or a committee, as the context requires;
 - member** has the meaning given to it in the Act;
 - presiding member** means—
 - (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
 - (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;
 - regulations** means the *Local Government (Administration) Regulations 1996* unless otherwise specified;

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

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

1.6 Repeal

The *Town of Bassendean Standing Orders Local Law 2011*, published in the *Government Gazette* on 21 April 2011, is repealed.

PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

2.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.
- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
 - (a) the terms of reference of the committee;
 - (b) the number of council members, officers and other persons to be appointed to the committee;
 - (c) the names or titles of the council members and officers to be appointed to the committee;
 - (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
 - (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

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

2.4 Limits on delegation of powers and duties to certain committees

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

2.5 Appointment of committee members

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

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Resignation of committee members

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

2.8 Register of delegations to committees

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

2.9 Committees to report

A committee—

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

PART 3—CALLING AND CONVENING MEETINGS

3.1 Ordinary and Special Council meetings

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

3.2 Calling Council meetings

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

3.3 Convening Council meetings

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

3.4 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the mayor, the presiding member of a committee or any two (2) members of that committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

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

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

4.2 When the deputy mayor can act

When the deputy mayor can act is dealt with in the Act.

4.3 Who acts if no mayor

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

4.4 Election of Presiding members of committees

The election of presiding members of committees and their deputies is dealt with in the Act.

4.5 Election of deputy presiding members of committees

The election of Deputy presiding members of committees is dealt with in the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

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

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

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

4.10 Reduction of quorum for committee meetings

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

4.11 Procedure where no quorum to begin a meeting

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

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the presiding member is—

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

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum, the names of the members then present are to be recorded in the minutes.

At the resumption of an adjourned meeting the only business to be transacted is that which remains outstanding on the agenda of the adjourned meeting.

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

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

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

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

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

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

5.2 Order of business

(1) Unless otherwise decided by the presiding member, the order of business at any Ordinary Meeting of Council is to be as follows—

- (a) Declaration of opening; acknowledgement of country; acknowledgement of visitors; disclaimer

- (b) Announcements by the presiding person without discussion
 - (c) Attendances, apologies and applications for leave of absence
 - (d) Declarations of interest
 - (e) Presentations or deputations
 - (f) Statements by members of the public on agenda items
 - (g) Questions from members of the public
 - (h) Petitions
 - (i) Confirmation of minutes
 - (j) Business deferred from previous meeting
 - (k) External committee reports/updates
 - (l) Reports
 - (m) Motions of which previous notice has been given
 - (n) Announcements of notices of motion for the next meeting
 - (o) Urgent business
 - (p) Confidential business
 - (q) Closure.
- (2) The items of business to be dealt with at an Ordinary Meeting of a Committee are—
- (a) Declaration of opening; announcement of visitors; acknowledgement of country
 - (b) Announcements by the presiding person without discussion
 - (c) Attendances, apologies and applications for leave of absence
 - (d) Declarations of interest
 - (e) Presentations or deputations
 - (f) Public question time and statement by members of the public
 - (g) Confirmation of minutes
 - (h) Business deferred from previous meeting
 - (i) Reports
 - (j) Motions of which previous notice has been given
 - (k) Announcements of notices of motion for the next meeting
 - (l) Confidential business
 - (m) Closure.
- (3) The order of business at any Special Meeting of Council or of a Committee shall be in the order in which it appears in the agenda.

5.3 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or this Local Law otherwise provide, a member may raise at a meeting—
- (a) such business as he or she considers appropriate;
 - (b) in the form of a motion;
 - (c) of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least ten (10) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the Local Government.
- (4) The CEO—
- (a) may, with the concurrence of the mayor, exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of this Local Law or any other written law;
 - (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form, but not the substance, as will bring the notice of motion into due form; and
 - (d) provide an officer report to accompany the notice of motion that has relevant and material facts and circumstances pertaining to the notice of motion on such matters as strategic direction within the Council's adopted Strategic Plan, policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
 - (b) the Council on a motion determines to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lost under subclause (5), a notice of a motion in substantially the same terms or of substantially the same effect is not to be given again for at least three months from the date of such lapse.

5.4 Adoption by En Bloc Voting

- (1) In this clause *adoption by en bloc voting* means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), Council may pass an adoption by en bloc voting.
- (3) An adoption by en bloc voting may not be used for a matter—
- that requires a 75% majority or a special majority;
 - in which an interest has been disclosed;
 - that has been the subject of a petition or deputation;
 - that is a matter on which a member wishes to make a statement; or
 - that is a matter on which a member wishes to move a motion that is different to the recommendation.

5.5 Urgent business

- (1) In accordance with clause 5.2(1)(o) a member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—
- the presiding member has first consented to the urgent business being raised;
 - the presiding member considers that either—
 - the urgency of the business cannot wait for inclusion in the agenda for the next Ordinary Meeting of Council; or
 - the delay caused by referring the business to the next Ordinary Meeting of Council may have adverse legal, reputational or financial implications for the local government; and
 - other than a motion to revoke a decision, the item of urgent business is presented in the form of a report generated by an officer or the CEO, a copy of which is to be provided to members prior to the commencement of the meeting.
- (2) Where Council agrees to consider such item of urgent business, then it is to be dealt with in accordance with the order of business at clause 5.2(1)(o).
- (3) In this clause, urgent business includes—
- matters that have arisen after the preparation of the agenda; and
 - that are considered by the Presiding Officer, or the CEO, or a member moving a motion referred in clause 5.3, to be of such urgency that the matters cannot be dealt with administratively by the Local Government, and must be considered and dealt with by Council before the next meeting.

PART 6—PUBLIC PARTICIPATION

6.1 Meetings generally open to the public

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

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one (1) or more of the circumstances dealt with in the Act, may at any time by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
- the presiding member is to direct everyone to leave the meeting except—
 - the members;
 - the CEO; and
 - any officer or other person specified by the presiding member.
 - the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 7.9 (speaking twice) is to be suspended unless the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under subclause (5) may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is re-opened to members of the public, the presiding member is to ensure that any resolution of the Council, made while the meeting was closed, is to be read out, including a vote of a Member to be included in the minutes.

6.3 Question time for the public

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

6.4 Question time for the public at certain meetings

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

6.5 Minimum question time for the public

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

6.6 Procedures for question time for the public

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

6.7 Other procedures for question time for the public

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

6.8 Statements by members of the public

- (1) Each person wishing to make a statement to the Council on items listed on the agenda, will be invited by the presiding member to do so, stating their name and address, and to which item(s) listed on the agenda.
- (2) The presiding member may rule that the subject matter does not relate to the current agenda, and that the statement not be heard.
- (3) The presiding member will determine the order of speakers to address the Council.
- (4) The public statement session will be restricted to 15 minutes unless the Council, by resolution, decides otherwise.
- (5) Each person is restricted to one (1) statement of up to two (2) minutes unless the Council, by decision, determines that they may speak for no more than a further two (2) minutes.
- (6) Statements to be considered by Council are to be respectful and temperate in language.
- (7) The presiding member may suspend or adjourn the statement session, at any time, and any person addressing the Council will resume their seat when called upon to do so by the presiding member.
- (8) The presiding member shall suspend the public address session if the person making the statement resorts to personal denigration of any person or persons.
- (9) The presiding member may—
 - (a) comment on the statement given; or
 - (b) call upon a Councillor or Officer to comment.
- (10) The Councillor or Officer may decline to comment.
- (11) If the subject matter of the statement has not been considered by the Council, no substantive comment shall be offered.
- (12) Any comments shall not exceed three (3) minutes.
- (13) Any breach of the Council Meeting Procedures Local Law 2020 may result in the person being prohibited from addressing the meeting at which the breach occurs.

6.9 Distinguished visitors

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

6.10 Deputations

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

6.11 Petitions

- (1) A petition is to—
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the legible names, addresses and signatures of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
 - (g) be respectful and temperate in language; and
 - (h) comply with any prescribed form pursuant to the Act or any other written law.
- (2) On presentation of a petition, the petition is to be received and referred for CEO report.
- (3) At any meeting, the Council is not to vote on a matter the subject of a petition, unless—
 - (a) the matter is the subject of a CEO report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.12 Presentations

- (1) In this clause, a **presentation** means the acceptance of a gift or an award by the Council on behalf of the Town or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the CEO.

6.13 Participation at committee meetings

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

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with the regulation 14, of the Regulations may be exercised at the Town of Bassendean—

- (a) Administration Office, 35 Old Perth Road, Bassendean;
- (b) Memorial Library; and
- (c) Website.

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from members of the public under the Regulations is to be—
 - (a) identified in the agenda of a Council or committee meeting under item *confidential business*;

- (b) marked as *confidential* in the agenda; and
 - (c) kept confidential by members and employees until the Council or Committee resolves otherwise.
- (2) A member or an employee who has—
- (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed for the purpose of or during a meeting, or part of a meeting, that is closed to the public,
- is not to disclose any of that information to any person, other than another member or an employee, to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not prevent a member or an employee from disclosing information—
- (a) at a closed meeting;
 - (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
 - (c) that is already in the public domain;
 - (d) to an officer of the Department;
 - (e) to the Minister;
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

6.16 Recording of proceedings

- (1) A person is not to use any form of audio, visual or other recording device to record the proceedings of Council, without the expressed permission of the presiding member.
- (2) Council will record the meeting for minute taking purposes.
- (3) Council cannot guarantee the accuracy or the quality of recordings.
- (4) Recordings of a Council meeting cannot be assumed to be a complete record of proceedings.

6.17 Prevention of disturbance

- (1) A reference in this clause to a *person* is to a person other than a member.
- (2) A person addressing the Council must extend due courtesy and respect to the Council or the Committee, and the processes under which it operates.
- (3) A person present at or observing a meeting must not create a disturbance at a meeting by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person addressing or present at a meeting must comply with any direction by the presiding member.
- (5) A person shall ensure that his or her mobile telephone, or any other audible device, is switched off and is not used during any meeting of the Council.
- (6) The presiding member may warn a person who fails to comply with this clause.
- (7) If, after being warned, the person—
 - (a) acts contrary to this clause, or to this Local Law; or
 - (b) refuses or fails to comply with a direction by the presiding member,
 the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (8) A person who is ordered to leave the meeting room, and fails to do so may, by order of the presiding member—
 - (a) be removed from the meeting room; and
 - (b) from the premises, by further order of the presiding member.

PART 7—CONDUCT OF MEMBERS

7.1 Members to be in their proper places

- (1) At the first meeting held after each Election Day, the CEO is to draw lots for the seating arrangements of the Councillors in the Chamber.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

7.2 Respect to the presiding member

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

7.3 Titles to be used

A speaker, when referring to the mayor, deputy mayor or presiding member, or a member or officer, is to use the title of that person's office.

7.4 Advice of entry or departure

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member.
- (2) The time of entry or departure is to be recorded in the minutes.

7.5 Members to indicate their intention to speak

A member of the Council who wishes to speak is to indicate his or her intention to speak by—

- (a) raising his or her hand; or
- (b) by another method agreed by Council.

7.6 Priority of speaking

(1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.

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

(3) A member must cease speaking immediately after being asked to do so by the presiding member.

7.7 Presiding member may take part in debates

The presiding member may take part in a discussion of any matter before the Council, subject to compliance with this Local Law.

7.8 Relevance

(1) A member is to restrict his or her remarks to—

- (a) the motion or amendment under discussion; or
- (b) to a personal explanation or point of order.

(2) The presiding member, at any time, may call the attention of the meeting to—

- (a) any irrelevant, repetitious, offensive or insulting language by a member; or
- (b) any breach of order by a member; and

direct that member, if speaking, to discontinue his or her speech.

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

7.9 Speaking twice

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

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

7.10 Duration of speeches

(1) A member is not to speak on any matter for more than three (3) minutes without the consent of the Council which, if given, is to be given without debate.

(2) An extension under this clause cannot be given to allow a member's total speaking time to exceed five (5) minutes.

7.11 No speaking after conclusion of debate

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

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

7.12 No interruption

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

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 7.13; or
- (d) to move a procedural motion that the member be no longer heard (see clause 10.9).

7.13 Personal explanations

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

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

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

7.14 No re-opening of discussion

A member is not to re-open discussion on any Council decision, except to move that the decision be revoked or changed.

7.15 Adverse reflection

(1) A member is not to reflect adversely on a decision of Council or of a committee except on a motion that the decision be revoked or changed.

(2) A member must not—

- (a) reflect adversely on the character or actions of another member or of an officer; or

- (b) impute any motive to a member or an officer

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

7.16 Offensive Language

- (1) A member must not use offensive or insulting expressions in reference to any member, officer or other person.
- (2) If a member or the CEO specifically requests, immediately after the use, that—
- (a) any particular words used by a member, that are in breach of this clause, be recorded in the minutes;
 - (b) the member making the request is to provide the words to the meeting for verification; and
 - (c) the presiding member is to cause the words used to be taken down and recorded in the minutes.

7.17 Withdrawal of offensive language

- (1) A member who, in the opinion of the presiding member, uses an expression which—
- (a) reflects adversely on the character or actions of another member or an officer;
 - (b) imputes any motive to a member or officer; or
 - (c) uses an expression that is offensive

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter under discussion, and call on the next speaker.

PART 8—PRESERVING ORDER

8.1 Presiding member to preserve order

- (1) The presiding member is to preserve order and, whenever he or she considers it is necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every member present is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member, to exercise the right provided in clause 7.7, but to preserve order.

8.2 Point of order

- (1) A member may only object, by way of a point of order, to a breach of—
- (a) this Local Law; or
 - (b) any other written law.
- (2) Despite anything in this Local Law to the contrary, a point of order—
- (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

8.3 Procedures on a point of order

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

8.4 Calling attention to breach

A member may, at any time, draw the attention of the presiding member to any breach of this Local Law.

8.5 Ruling by the presiding member

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

8.6 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the presiding member under clause 8.5(3)(b),

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

8.7 Right of presiding member to adjourn

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

PART 9—DEBATE OF SUBSTANTIVE MOTIONS**9.1 Motions to be stated and in writing**

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the presiding member, is to put the motion or amendment in writing.

9.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

9.3 Unopposed business

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

9.4 Only one (1) substantive motion at a time

- (1) When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted.
- (2) The Council is not to consider more than 1 substantive motion at any time.

9.5 Order of call in debate

The presiding member is to call speakers to a substantive motion in the following order—

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

9.6 Limit of debate

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

9.7 Member may require motion to be read

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

9.8 Consent of seconder required for alteration

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

9.9 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

9.10 Form of an amendment

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

9.11 Amendment must not negate original motion

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

9.12 Relevance of amendments

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

9.13 Mover of motion may speak on amendment

Any member may speak during debate on an amendment.

9.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

9.15 Withdrawal of motion or amendment

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

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

9.16 Right of reply

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

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

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

(a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or

(b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.

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

(a) no other member is to speak on the motion;

(b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

PART 10—PROCEDURAL MOTIONS**10.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion (under Part 9), a member may move the following procedural motions—

(a) that the meeting proceed to the next item of business;

(b) that the debate be adjourned;

(c) that the meeting now adjourn;

(d) that the motion be now put;

(e) that the member be no longer heard;

(f) that the ruling of the presiding member be disagreed with;

(g) that the meeting be closed to the public (see clause 6.2);

(h) that the motion be deferred.

10.2 No debate

(1) The mover of a motion specified in paragraph (a), (b), (c), (f), (g) or (h) of clause 10.1 may speak to the motion for not more than three minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion specified in paragraph (d) or (e) of clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

10.3 Who may move

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

10.4 Procedural motions—right of reply on substantive motion

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

10.5 Meeting to proceed to the next business

The motion ‘that the meeting proceed to the next item of business’, if carried, has the effect that—

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

10.6 Debate to be adjourned

A motion ‘that the debate be adjourned’—

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

10.7 Meeting now adjourn

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

(2) Before putting the motion for the adjournment of the Council, the presiding member may seek leave of the Council to deal first with matters that may be the subject of an adoption by en bloc voting (see clause 5.4).

(3) A motion ‘that the meeting now adjourn’—

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

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

10.8 Motion to be put

(1) If the motion ‘that the motion be now put’, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.

(2) If the motion ‘that the motion be now put’ is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.

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

10.9 Member to be no longer heard

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

10.10 Ruling of the presiding member to be disagreed with

If the motion ‘that the ruling of the presiding member be disagreed with’, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

PART 11—DISCLOSURE OF INTERESTS**11.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

PART 12—VOTING**12.1 Motion—when put**

(1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—

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

(2) A member is not to leave the meeting when the presiding member is putting any motion.

12.2 Voting

Voting is dealt with in the Act and the Regulations.

12.3 Majorities required for decisions

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

12.4 Method of taking vote

- (1) In taking the vote on any motion or amendment the presiding member—
 - (a) is to put the motion, first in the affirmative, and then in the negative;
 - (b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and
 - (d) is, subject to this clause, to declare the result.
- (2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

PART 13—MINUTES OF MEETINGS**13.1 Keeping of minutes**

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

13.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.
- (2) In addition to the matters required by regulation 11, the minutes of a Council meeting is to include where—
 - (a) an application for approval is refused;
 - (b) the authorisation of a licence, permit or certificate is withheld; or
 - (c) is cancelled; and
 - (d) the reasons for the decision.

13.3 Public inspection of unconfirmed minutes

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

13.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of Council are distributed for consideration prior to their confirmation at the next meeting and a member is dissatisfied with the accuracy of the minutes—
 - (a) the member may provide the Town with a written copy of the alternative wording to amend the minutes;
 - (b) within 7 clear working days before the next Ordinary Meeting of Council.
- (2) At the next Ordinary Meeting of Council, the member who provided the alternative wording shall, at the time for confirmation of minutes—
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than as to the accuracy of the minutes as a record of the proceedings.

PART 14—ADJOURNMENT OF MEETING**14.1 Meeting may be adjourned**

The Council may adjourn any meeting—

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

14.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under this Local Law—

- (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 7.9 *speaking twice* apply when the debate is resumed.

PART 15—REVOKING OR CHANGING DECISIONS**15.1 Requirements to revoke or change decisions**

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

15.2 Limitations on powers to revoke or change decisions

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

- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 15.3 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

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

15.3 Implementing a decision

(1) In this clause—

- (a) **authorisation** means a licence, permit, approval or other means of authorising a person to do anything;
- (b) **implement**, in relation to a decision, includes—
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
- (c) **valid notice of revocation motion** means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Council Meeting Procedures Local Law 2020 and may be considered, but has not yet been considered, by the Council or a committee as the case may be.

(2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until after 10.00am of the first business day after the commencement of the meeting at which the decision was made.

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

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

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

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

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

PART 16—SUSPENSION OF COUNCIL MEETING PROCEDURES LOCAL LAW 2020**16.1 Suspension of Council Meeting Procedures Local Law 2020**

(1) A member may at any time move that the operation of 1 or more of the provisions of this Local Law be suspended.

(2) A member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.

(3) A motion under subclause (1) which is—

- (a) seconded; and
- (b) carried by an absolute majority, is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

16.2 Where standing orders do not apply

(1) In situations where—

- (a) One (1) or more provisions of this Local Law have been suspended; or
- (b) a matter is not provided for under the Act, the Regulations or this Local Law,

the presiding member is to decide questions relating to the conduct of the meeting.

(2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 10.10.

16.3 Cases not provided for in Council Meeting Procedures Local Law 2020

(1) The presiding member is to decide questions of order, procedure, debate, or otherwise in cases where this Local Law, the Act or Regulations are silent.

(2) The decision of the presiding member is final, except where a motion is moved and carried under clause 10.10.

PART 17—MEETINGS OF ELECTORS**17.1 Electors' general meetings**

Electors' general meetings are dealt with in the Act.

17.2 Matters for discussion at electors' general meetings

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

17.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

17.4 Requests for electors' special meetings

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

17.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

17.6 Who presides at electors' meetings

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

17.7 Procedure for electors' meetings

(1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this Local Law.

17.8 Participation of non-electors

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

17.9 Voting at electors' meetings

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

17.10 Minutes of electors' meetings

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

17.11 Decisions made at electors' meetings

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

PART 18—ENFORCEMENT**18.1 Penalty for breach**

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

Penalty—up to \$1,000.

18.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: 16 March 2020.

The Common Seal of the Town of Bassendean was affixed by resolution of the Council in the presence of—

RENEE McLENNAN, Mayor.
PETA MABBS, Chief Executive Officer.