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# **SHIRE OF GNOWANGERUP**

**LOCAL LAWS**

**ANIMALS, ENVIRONMENT AND NUISANCE  
LOCAL LAW 2016**

**BUSH FIRE BRIGADES LOCAL LAW 2016**

**DOGS LOCAL LAW 2016**

**HEALTH LOCAL LAW 2016**

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016**

**STANDING ORDERS LOCAL LAW 2016**



**LOCAL GOVERNMENT ACT 1995  
HEALTH ACT 1911  
CAT ACT 2011**

SHIRE OF GNOWANGERUP

**ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016**

CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Interpretation

**PART 2—KEEPING OF ANIMALS**

*Division 1—Animals*

- 2.1 Interpretation
- 2.2 Cleanliness
- 2.3 Animal enclosures
- 2.4 Cats

*Division 2—Keeping of birds*

- 2.5 Keeping of poultry and pigeons in a residential zone
- 2.6 Conditions for keeping of poultry
- 2.7 Roosters, geese, turkeys and peafowl
- 2.8 Conditions for keeping of pigeons
- 2.9 Restrictions on pigeon nesting and perching
- 2.10 Conditions of keeping aviary birds
- 2.11 Nuisance caused by birds

*Division 3—Keeping of farm animals*

- 2.12 Keeping of farm animals
- 2.13 Conditions for keeping farm animals
- 2.14 Keeping a miniature horse
- 2.15 Keeping a miniature pig

*Division 4—Livestock*

- 2.16 Livestock not to stray
- 2.17 Impounding of livestock
- 2.18 Property to be fenced

*Division 5—Keeping of bees*

- 2.19 Permit required to keep bees
- 2.20 Application for a permit
- 2.21 Determination of application
- 2.22 Conditions of approval
- 2.23 Variation or cancellation of permit and conditions
- 2.24 Permit holder to notify cessation of registration or keeping of bees
- 2.25 Permit not transferable
- 2.26 Nuisance
- 2.27 Notice to remove bees

**PART 3—BUILDING, DEVELOPMENT AND LAND CARE**

*Division 1—Litter and refuse on building sites*

- 3.1 Provision of refuse receptacles

- 3.2 Control of refuse
- 3.3 Unauthorised storage of materials

*Division 2—Prevention of dust and liquid waste*

- 3.4 Prohibited activities

*Division 3—Smoke*

- 3.5 Burning of cleared vegetation prohibited

*Division 4—Unsightly land and disused materials*

- 3.6 Storage of vehicles, vessels and machinery
- 3.7 Disposing of disused refrigerators or similar containers

*Division 5—Hazardous materials*

- 3.8 Hazardous trees

## PART 4—NUISANCES AND DANGEROUS THINGS

*Division 1—Light*

- 4.1 Use of exterior lights
- 4.2 Emission or reflection of light
- 4.3 Notice may require specified action to prevent emission or reflection of light

*Division 2—Smoke, fumes, odours and other emissions*

- 4.4 Burning rubbish, refuse or other material
- 4.5 Escape of smoke, fumes, odours and other emissions

*Division 3—Trucks*

- 4.6 Livestock vehicles
- 4.7 Truck noise from residential land

*Division 4—Swimming pool backwash management*

- 4.8 Containment and disposal of swimming pool and other wastewater

*Division 5—Stormwater management*

- 4.9 Containment of stormwater
- 4.10 Guttering and downpipes
- 4.11 Stormwater disposal systems

*Division 6—Amusement activities*

- 4.12 Nuisance
- 4.13 Abatement by authorised person

*Division 7—Advertising, bill posting and junk mail*

- 4.14 Placement of advertisement, bill posting or junk mail
- 4.15 Exemptions

*Division 8—Bird nuisance*

- 4.16 Restrictions on feeding of birds

## PART 5—OBJECTIONS AND APPEALS

- 5.1 Objections and appeals

## PART 6—ENFORCEMENT

*Division 1—Notice of breach*

- 6.1 Notice of breach
- 6.2 Form of notices
- 6.3 When local government may undertake work required by notice

*Division 2—Offences and penalties*

Subdivision 1—General

- 6.4 Offences and penalties

Subdivision 2—Infringement notices and modified penalties

- 6.5 Modified penalties
- 6.6 Form of infringement notices

LOCAL GOVERNMENT ACT 1995  
HEALTH ACT 1911  
CAT ACT 2011

SHIRE OF GNOWANGERUP

**ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2016**

Under the powers conferred by the *Local Government Act 1995*, *Health Act 1911*, *Cat Act 2011* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Gnowangerup Animals, Environment and Nuisance Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Interpretation**

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

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

**affiliated person** means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

**amusement** means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

**AS/NZS 3500** means the Australian/New Zealand standard called "*Plumbing and Drainage*" published by the Standard Association of Australia;

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

**aviary bird** means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;

**beekeeper** has the meaning given to it in Regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*;

**birds** includes poultry;

**builder** means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

**Building Code** means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Building Code;

**building permit** has the meaning given to it by the *Building Act 2011*;

**building site** means any lot for which a building permit is current;

**cat** has the meaning given in the *Cat Act 2011*;

**Class 6 building** means any Class 6 building as defined by the Building Code;

**Class 9 building** means any Class 9 building as defined by the Building Code;

**Code of Practice—Pigeon Keeping** means the document entitled A Code of Practice—for Pigeon Keeping and Pigeon Racing in Western Australia published by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

**cow** includes an ox, calf or bull;

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

**development approval** means a development approval under a local planning scheme;

**development site** includes any lot or lots for which there is currently a development or subdivision approval, and any lot or lots upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place;

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

**disused** means, in relation to any thing whatsoever, that the thing—

(a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or

(b) has been stored or left stationary on land in the district for more than 1 month;

**dust** means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

**dwelling** has the meaning given to it in the Residential Design Codes of Western Australia as amended;

**EHO** means an Environmental Health Officer appointed by the local government under the *Health Act 1911* and includes any acting or Assistant Environmental Health Officer;

**farm animal** includes a sheep, cow, goat, horse (excluding a miniature horse), deer, alpaca, pig (excluding a miniature pig);

**food** has the meaning given in section 9 of the *Food Act 2008*;

**food business** has the meaning given under section 10 of the *Food Act 2008*;

**food premises** means any premises which is used to prepare food or to conduct a food business;

**horse** means a stallion, mare, gelding, shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

**land** includes any building or structure on the land;

**liquid waste** means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

**livestock** means any horse, cow, sheep, goat, swine, buffalo, deer, camel, llama or alpaca;

**livestock vehicle** means a vehicle that contains livestock or previously has been used for the carriage of livestock;

**local government** means the Shire of Gnowangerup;

**local planning scheme** has the meaning given to it by the *Planning and Development Act 2005*;

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

**manure receptacle** means a receptacle of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

**miniature horse** means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

**miniature pig** means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

**nuisance** means—

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

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

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

**occupier** means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

**owner** has the meaning given in the Act;

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

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

**pigeon** includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment Regulation;

**pound** means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the *Dog Act 1976*;

**poultry** includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

**refuse** means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

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

**residential building** has the meaning given to it in the Residential Design Codes of Western Australia as amended;

**residential zone** includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

**rural zone** means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

**sand** means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material including dust and gravel;

**stormwater** means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

**subdivision approval** means a subdivision approval under the *Planning and Development Act 2005*;

**thoroughfare** means any highway or thoroughfare which the public is entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

**townsite** includes the townsites within the 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;

**truck** means a motor vehicle having a tare weight in excess of 3,000 kilograms;

**unreasonable noise** has the meaning given to it by the *Environmental Protection Act 1986*; and

**vermin** includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where, in this local law, a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where, under this local law, the local government is authorised to carry out actions, or cause to be undertaken works, as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, subdivision 3 of the Act.

## PART 2—KEEPING OF ANIMALS

### *Division 1—Animals*

#### 2.1 Interpretation

In this Division, unless the context otherwise requires—

**animal** includes cats, dogs, rabbits and ferrets;

**cattery** is a premise registered for the breeding or caring of cats;

**member of a cat organisation** means a person referred to in the *Cat Regulations 2012* regulation 23(c); and

**vectors of disease** means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

#### 2.2 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal is kept shall—

(a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or to attract rats or other vectors of disease;

(b) when so directed by an EHO, clean and disinfect the premises; and

(c) keep the premises, so far as possible, free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means.

#### 2.3 Animal enclosures

(1) A person shall not keep or cause, or permit to be kept, any animals on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.

(2) The owner or occupier of premises where animals are kept shall, when directed by an EHO, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals.

#### 2.4 Cats

(1) Subject to subclauses (6) and (7), a person shall not, without an exemption in writing from the local government, keep more than 3 cats over the age of 6 months on premises on any land within the district.

- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
- (3) The local government shall not grant an exemption under subclause (2) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this clause shall specify—
- the owner or occupier to whom the exemption applies;
  - the premises to which the exemption applies; and
  - the maximum number of cats which may be kept on the premises.
- (5) A person who is granted an exemption under subclause (2) may be required by the local government to house, or keep cats in such manner as directed by an EHO.
- (6) Subject to regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013* a person may keep more than 3 cats, over the age of 6 months, on premises used for veterinary purposes or as a pet shop, or if the person is a member of a cat organisation.
- (7) The occupier of any premises shall not keep a cattery on those premises, unless the cattery is registered with the local government and the occupier has complied with the following conditions—
- the occupier shall obtain approval from the local government to establish a cattery;
  - upon receiving approval to establish a cattery, the occupier shall apply for registration of the cattery in the form approved by the local government;
  - the occupier shall have paid, to the local government, the annual registration fee as determined from time to time by the local government under sections 6.16 to 6.19 of the Act;
  - the occupier shall provide, for every cat, a properly constructed shelter with an enclosure, which shall comply with the following conditions—
    - every shelter shall have a floor area of not less than 0.50 square metres for every cat over the age of 3 months old that may be kept therein; and
    - the area of the enclosure appurtenant to any shelter or group of shelters forming a cattery shall not be less than 3 times the area of the shelter or group of shelters to which it is appurtenant;
  - every shelter or enclosure shall be at least 10 metres from the boundary of any land not in the same ownership or possession, or at least 10 metres from any dwelling, church, schoolroom, hall, factory, dairy or premises wherein food is manufactured, packed or prepared for human consumption; and
  - all enclosures, yards, runs and shelters within which cats are kept shall be maintained at all times in a clean condition and free from vectors of disease and shall at any time be cleaned, disinfected or otherwise dealt with as an EHO may direct.
- (8) A certificate of registration of a cattery issued by the local government shall—
- be in the form approved by local government; and
  - expire on 30 June next after the date of its issue.

#### *Division 2—Keeping of birds*

### **2.5 Keeping of poultry and pigeons in a residential zone**

An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises—

- more than 12 poultry unless with the approval of the local government in which case the maximum number of poultry shall be 20; or
- more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.

### **2.6 Conditions for keeping of poultry**

- (1) A person who keeps poultry or permits poultry to be kept shall ensure that—
- no poultry shall be kept less than 9 metres from any residential building;
  - no poultry is able to approach within 15 metres of a public thoroughfare, public building, commercial premises or food premises;
  - all poultry is kept in a properly constructed and securely fastened structure;
  - the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
  - all structures or enclosures within which poultry are kept are maintained at all times in a clean condition; and
  - all poultry is kept continually confined.
- (2) An owner or occupier of a premises who keeps poultry or permits poultry to be kept may apply in writing to the local government to vary the requirements of subclauses (1)(d) and (f).

### **2.7 Roosters, geese, turkeys and peafowl**

Except on land with an area of one hectare or more or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following—

- roosters;
- geese;

- (c) turkeys; or
- (d) peafowls.

### **2.8 Conditions for keeping of pigeons**

(1) An owner or occupier of premises who keeps pigeons, or permits pigeons to be kept, shall ensure that—

- (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
- (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
- (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building; and
- (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.

(2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

### **2.9 Restrictions on pigeon nesting and perching**

The local government may order an owner or occupier of a house on or in which pigeons are, or are in the habit of nesting or perching, to take adequate steps to prevent them from continuing to do so.

### **2.10 Conditions of keeping aviary birds**

A person who keeps, or permits to be kept, aviary birds shall ensure that the aviary or cage is kept in clean condition and good repair at all times.

### **2.11 Nuisance caused by birds**

An owner or occupier of land shall not keep any bird or birds which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

## *Division 3—Keeping of farm animals*

### **2.12 Keeping of farm animals**

Subject to clause 2.13, an owner or occupier of land shall not keep, or allow to be kept, unless with the approval of the local government, any farm animal unless in a rural zone.

### **2.13 Conditions for keeping farm animals**

An owner or occupier of premises upon which a farm animal or farm animals are kept, shall maintain the place or places where the animals are kept in clean condition and good repair at all times.

### **2.14 Keeping a miniature horse**

(1) An owner or occupier of a premises may keep only a sterilised miniature horse on land of not less than 1 000 square metres in area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.

(2) An owner or occupier of premises shall—

- (a) not keep more than one miniature horse on land zoned residential or special rural without the written approval of the local government or an authorised person; and
- (b) not permit a miniature horse to come within 9 metres of any house.

(3) The local government or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

### **2.15 Keeping a miniature pig**

(1) Except for a miniature pig, and subject to subclause (2) no person shall keep a pig or pigs, in any residential zone or on any land zoned commercial or industrial under the local planning scheme.

(2) Except for premises registered by the local government as an abattoir or a piggery under the provisions of section 191 of the *Health Act 1911*, and except in the case of a miniature pig, the keeping of pigs is forbidden.

(3) The local government or an authorised person may prohibit the keeping of a miniature pig on any land, or state the conditions under which the miniature pig may be kept.

(4) A person may keep 1 miniature pig in any residential or rural or special rural zone provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.

(5) An owner or occupier of premises where a miniature pig is kept shall—

- (a) only keep a sterilised animal and retain written proof of its sterilisation;
- (b) confine the animal on the property at all times;
- (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust, or odour; and
- (d) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

*Division 4—Livestock***2.16 Livestock not to stray**

The owner or person in charge of livestock shall not permit that livestock to stray or to be at large in a thoroughfare, public place or upon private property without the consent of the property owner.

**2.17 Impounding of livestock**

(1) An authorised person or a member of the Police Service may impound livestock found straying in contravention of clause 2.16.

(2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

**2.18 Property to be fenced**

(1) The owner or occupier of property on which livestock is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock, to that portion where the livestock is kept.

(2) The minimum fencing requirements to confine livestock in a rural or special rural zone shall be a fence of post and wire construction.

*Division 5—Keeping of bees***2.19 Permit required to keep bees**

(1) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.

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

(a) the land is outside the townsite; and

(b) the bees are kept—

(i) at least 500 metres from a thoroughfare; or

(ii) less than 500 metres from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.

(3) Subclause (1) does not apply where an occupier of land keeps bees on the land—

(a) for a continuous period not exceeding 8 weeks; and

(b) for the purpose of pollinating a crop on the land.

(4) An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.

(5) Subclause (1) does not apply where a person keeps bees on Crown land.

**2.20 Application for a permit**

An applicant for a permit shall—

(a) be a person registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;

(b) provide such details as may be required by the local government;

(c) apply in the form approved by the local government; and

(d) pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.

**2.21 Determination of application**

(1) The local government may—

(a) refuse to determine an application for a permit which does not comply with clause 2.20;

(b) approve an application for a permit subject to the conditions referred to in clause 2.22(1) and to such other conditions as it considers appropriate; or

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

(2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.

(3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government.

(4) A permit is valid from the date of issue unless, and until, it is cancelled under this local law.

**2.22 Conditions of approval**

(1) Without limiting the generality of clause 2.21(1)(b) an application for a permit may be approved by the local government subject to the following conditions—

(a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;

(b) each bee hive shall be—

(i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or

- (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
- (iii) no more than 2 bee hives are to be kept on land of less than 2 000 square metres in area; and
- (iv) no more than 15 bee hives are to be kept on land between 2 000 square metres and 20 000 square metres in area.

(2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

### **2.23 Variation or cancellation of permit and conditions**

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 2.27, a permit shall be cancelled on—
  - (a) the permit holder ceasing to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
  - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.

### **2.24 Permit holder to notify cessation of registration or keeping of bees**

- (1) In this clause a **permit holder** includes the holder of a permit cancelled by clause 2.23(3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
  - (a) the permit holder ceases to be registered as a beekeeper under regulation 13(7) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*; or
  - (b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.
- (3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—
  - (a) written proof of her or his registration as a beekeeper under regulation 13(7) *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;
  - (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
  - (c) both.

### **2.25 Permit not transferable**

A permit is personal to the permit holder, is not transferable and applies only to the land described in the permit.

### **2.26 Nuisance**

A person shall not keep, or allow to be kept, bees or bee hives, or both, on land so as to create a nuisance.

### **2.27 Notice to remove bees**

- (1) Whenever, in the opinion of the local government, a person has contravened any provision of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder, in relation to that land, or if there is no valid permit in relation to that land, an owner or occupier of the land, a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.
- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.
- (3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both, in such manner as it sees fit and recover the costs of so doing from the permit holder, or an owner or occupier, as the case may be, as a debt due to it.

## **PART 3—BUILDING, DEVELOPMENT AND LAND CARE**

### *Division 1—Litter and refuse on building sites*

#### **3.1 Provision of refuse receptacles**

The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

### 3.2 Control of refuse

(1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall take all reasonable steps to—

- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
- (b) keep the site as free as is reasonably practicable from any refuse;
- (c) keep the thoroughfare verge, and any other reserve, immediately adjacent to the site, free of refuse generated or originating from the building or development site; and
- (d) ensure the refuse receptacle is emptied when full.

(2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site—

- (a) the site and the thoroughfare verge immediately adjacent to it, is cleared of all refuse generated or originating from the building or development site; and
- (b) that all refuse receptacles are removed from the site.

### 3.3 Unauthorised storage of materials

(1) All construction materials must be stored on the building site or development site under construction unless written approval of the local government to store materials on another property.

(2) Written approval must be obtained from the local government prior to any proposal to store construction material on any thoroughfare verge.

#### *Division 2—Prevention of dust and liquid waste*

### 3.4 Prohibited activities

(1) An owner and or occupier of land shall take all reasonable steps to—

- (a) stabilise dust on the land;
- (b) contain all liquid waste on the land; and
- (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.

(2) Where the local government forms the opinion that that an owner or occupier has not complied with subclause (1), the local government may serve on the owner and/or occupier of the land a notice requiring the owner and/or occupier to do one or more of the following the owner and or occupier to—

- (a) comply with subclause (1)(a) or (1)(b);
- (b) clean up and properly dispose of any released or escaped dust or liquid waste;
- (c) clean up and make good any damage resulting from the released or escaped dust or liquid waste;
- (d) take effective measures to stop any further release or escape of dust or liquid waste.

(3) Where a notice is issued under subclause (2), the requirements set out in the notice must be complied with in the period as is specified in the notice.

(4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried on from any land, the local government may give to the owner and/or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

#### *Division 3—Smoke*

### 3.5 Burning of cleared vegetation prohibited

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorisation in writing is given by the local government.

#### *Division 4—Unsightly land and disused materials*

### 3.6 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not—

- (a) store, or allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
- (b) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
- (c) store, or allow to remain in public view on any lot, any vehicle parts, vessel parts or machinery parts (including tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed—
  - (i) inside a building; or
  - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the thoroughfare and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

### 3.7 Disposing of disused refrigerators or similar containers

A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first—

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants as per requirements of the *Environment Protection (Ozone Protection) Policy 2000*.

#### *Division 5—Hazardous materials*

### 3.8 Hazardous trees

(1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.

(2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).

(3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

## PART 4—NUISANCES AND DANGEROUS THINGS

### *Division 1—Light*

#### 4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used, shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

#### 4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

#### 4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights shine directly onto any other premises;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as an authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

### *Division 2—Smoke, fumes, odours and other emissions*

#### 4.4 Burning rubbish, refuse or other material

(1) A person shall not on any land of an area 2000 square metres or less, set fire to rubbish, refuse or other materials on rural residential zoned property unless—

- (a) written approval has first been obtained from the local government;
- (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
- (c) the material does not include any plastic, rubber, food scraps other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
- (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
- (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.

(2) Subclause (1) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

(3) Subclause (1) is subject to any fire danger rating as determined by the Bureau of Meteorology.

#### **4.5 Escape of smoke, fumes, odours and other emissions**

An owner or occupier of land or premises shall take all reasonable steps to not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

#### *Division 3—Trucks*

##### **4.6 Livestock vehicles**

(1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.

(2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

(3) If a person parks a vehicle containing livestock in a townsite in accordance with subclause (1), then the person does not contravene subclause (2).

##### **4.7 Truck noise from residential land**

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 12.00am and 5.00am on the following day without first obtaining the written consent of the local government.

#### *Division 4—Swimming pool backwash management*

##### **4.8 Containment and disposal of swimming pool and other wastewater**

(1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of swimming pool backwash from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

#### *Division 5—Stormwater management*

##### **4.9 Containment of stormwater**

(1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.

(2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road.

##### **4.10 Guttering and downpipes**

(1) The owner or occupier of a lot shall ensure that each building or house on the lot is provided with adequate guttering and downpipes sufficient to receive, without overflow, all stormwater from the roof of the building or house, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all guttering and downpipes to each building or house on the lot are maintained in a good state of repair and free from obstruction.

##### **4.11 Stormwater disposal systems**

(1) The owner or occupier of a lot shall ensure that all stormwater from the roof of each building or house on the lot, or the overflow from rainwater storage tanks, is discharged into stormwater drainage system, or discharged by other methods approved by the local government, in accordance with AS/NZS 3500.

(2) The owner or occupier of a lot shall ensure that all stormwater from paved areas or other surfaced areas including any vehicle access ways of the lot is discharged into a stormwater drainage system of adequate capacity in accordance with AS/NZS 3500.

#### *Division 6—Amusement activities*

##### **4.12 Nuisance**

A person shall not, without written authorisation from the local government, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

##### **4.13 Abatement by authorised person**

Subject to subdivision 3 of Division 3 of Part 3 of the Act, an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.12.

#### *Division 7—Advertising, bill posting and junk mail*

##### **4.14 Placement of advertisement, bill posting or junk mail**

(1) A person shall not, without written authorisation from the local government, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.

(2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.

#### **4.15 Exemptions**

Clause 4.14 does not apply to—

- (a) delivery of articles by Australia Post;
- (b) documents issued under or for the purposes of an Act of Parliament;
- (c) an authorised person or member of the Police Service acting in the course of their duties;
- (d) electoral materials; or
- (e) legal process.

#### *Division 8—Bird nuisance*

#### **4.16 Restrictions on feeding of birds**

(1) A person shall not feed a bird—

- (a) so as to cause a nuisance, or
- (b) with a food or substance that is not a natural food of a bird.

(2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

### **PART 5—OBJECTIONS AND APPEALS**

#### **5.1 Objections and appeals**

When the local government makes a decision under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

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

### **PART 6—ENFORCEMENT**

#### *Division 1—Notice of breach*

#### **6.1 Notice of breach**

(1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.

(2) A notice issued pursuant to subclause (1) shall—

- (a) specify the provision of this local law which has been breached;
- (b) specify the particulars of the breach; and
- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.

(3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

#### **6.2 Form of notices**

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving adequate details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

#### **6.3 When local government may undertake work required by notice**

(1) This clause applies only in respect of a notice issued under clauses 3.8(1) and 4.3(1) of this local law.

(2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

(3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

*Division 2—Offences and penalties*

## Subdivision 1—General

**6.4 Offences and penalties**

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law;
  - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
  - (c) does anything which under this local law that person is prohibited from doing,
- commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

## Subdivision 2—Infringement notices and modified penalties

**6.5 Modified penalties**

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$150.
- (3) An authorised person should be satisfied that—
- (a) commission of the 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,
- before giving an infringement notice to a person in respect of the commission of an offence.

**6.6 Form of infringement notices**

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 given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.

This Local Law was made by the Shire of Gnowangerup at an Ordinary Meeting held on 27 of July 2016.

Dated 10 August 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.

Consented to—

Professor TARUN WEERAMANTHRI, Executive Director, Public Health.

Dated this 22nd day of August 2016.

**BUSH FIRES ACT 1954  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**BUSH FIRE BRIGADES LOCAL LAW 2016**

CONTENTS

**PART 1—PRELIMINARY**

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

**PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADE**

*Division 1—Establishment of a bush fire brigade*

- 2.1 Establishment of a bush fire brigade
- 2.2 Name and officers of bush fire brigade

*Division 2—Command at a fire*

- 2.3 Ranks within the bush fire brigade

*Division 3—Application of Rules to a bush fire brigade*

- 2.4 Rules

*Division 4—Transitional*

- 2.5 Existing bush fire brigades

*Division 5—Dissolution of bush fire brigade*

- 2.6 Dissolution of bush fire brigade
- 2.7 New arrangement after dissolution

**PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES**

*Division 1—Local government responsibility*

- 3.1 Local government responsible for structure
- 3.2 Officers to be supplied with Act

*Division 2—Chief Bush Fire Control Officer*

- 3.3 Managerial role of Chief Bush Fire Control Officer
- 3.4 Chief Bush Fire Control Officer may attend meetings
- 3.5 Duties of Chief Bush Fire Control Officer

*Division 3—Annual general meetings of bush fire brigades*

- 3.6 Holding of annual general meeting
- 3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee
- 3.8 Nomination of bush fire control officer to the local government
- 3.9 Minutes to be tabled before the Bush Fire Advisory Committee

*Division 4—Bush Fire Advisory Committee*

- 3.10 Functions of Bush Fire Advisory Committee
- 3.11 Bush Fire Advisory Committee to nominate bush fire control officers
- 3.12 Local government to have regard to nominees
- 3.13 Bush Fire Advisory Committee to consider bush fire brigade motions

**PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**

- 4.1 Types of membership of bush fire brigade
- 4.2 Fire fighting members
- 4.3 Cadet members
- 4.4 Honorary life member
- 4.5 Notification of membership

**PART 5—APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS**

- 5.1 Rules to govern

**PART 6—EQUIPMENT OF BUSH FIRES BRIGADES**

- 6.1 Policies of local government
- 6.2 Equipment in brigade area
- 6.3 Funding from local government budget
- 6.4 Consideration in the local government budget

**Schedule 1—Rules governing the operation of bush fire brigades**

**BUSH FIRES ACT 1954  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**BUSH FIRE BRIGADES LOCAL LAW 2016**

Under the powers conferred by section 62 of the *Bush Fires Act 1954*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Gnowangerup Bush Fire Brigades Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *By-laws of the Gnowangerup Road Board relating to the Establishment, Maintenance and Equipment of Bush Fire Brigades for the Road District of Gnowangerup* published in the *Government Gazette* of the 13 February 1942 is repealed.

**1.5 Interpretation**

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

*Act* means the *Bush Fires Act 1954*;

*brigade area* is defined in clause 2.2(1)(b);

*brigade member* means a fire fighting member or a cadet member of a bush fire brigade;

*brigade officer* means a person holding a position referred to in clause 2.2 (1)(c), whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

*Bush Fire Advisory Committee* means the persons appointed to a bush fire advisory committee under and in accordance with section 67 of the Act;

*bush fire brigade* is defined in section 7 of the Act;

*bush fire control officer* means a bush fire control officer appointed under the Act;

*Bush Fire Operating Procedures* means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

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

*Chief Bush Fire Control Officer* means the Chief Bush Fire Control Officer appointed under the Act;

*Council* means the Council of the local government;

*Department* has the meaning given by section 3 of the *Fire and Emergency Services Act 1998*;

*district* means the district of the local government;

*fire fighting activities* means all normal brigade activities relating to a live bush fire which is active in the district, and includes burning off, creating fire breaks and other methods for the control of bush fires;

*fire fighting member* is defined in clause 4.2;

*local government* means the Shire of Gnowangerup;

*normal brigade activities* has the meaning given in the Act;

*Regulations* means Regulations made under the Act; and

*Rules* means the Rules Governing the Operation of Bush Fire Brigades set out in the Schedule 1.

- (2) In this local law, unless the context otherwise requires, a reference to—
- (a) a Captain;
  - (b) a First Lieutenant;
  - (c) a Second Lieutenant;
  - (d) any additional Lieutenants;
  - (e) an Equipment Officer;
  - (f) a Secretary; and
  - (g) a Treasurer; or
  - (h) a Secretary / Treasurer combined,
- means a person holding that position in a bush fire brigade.

## PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADE

### *Division 1—Establishment of a bush fire brigade*

#### **2.1 Establishment of a bush fire brigade**

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

#### **2.2 Name and officers of bush fire brigade**

- (1) On establishing a bush fire brigade under clause 2.1(1) the local government is to—
- (a) give a name to the bush fire brigade;
  - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities; and
  - (c) appoint—
    - (i) a Captain;
    - (ii) a First Lieutenant;
    - (iii) a Second Lieutenant;
    - (iv) additional Lieutenants if the local government considers it necessary;
    - (v) an Equipment Officer;
    - (vi) a Secretary; and
    - (vii) a Treasurer; or
    - (viii) a Secretary/Treasurer combined.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the conclusion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the conclusion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2).

### *Division 2—Command at a fire*

#### **2.3 Ranks within the bush fire brigade**

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters.
- (2) In the absence of the Captain, the bush fire control officer, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (3) Where a bush fire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior bush fire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the firefighters.

### *Division 3—Application of Rules to a bush fire brigade*

#### **2.4 Rules**

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules.

*Division 4—Transitional***2.5 Existing bush fire brigades**

(1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
- (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
- (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.

(2) In this clause—

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

*Division 5—Dissolution of bush fire brigade***2.6 Dissolution of bush fire brigade**

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

**2.7 New arrangement after dissolution**

If the local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

**PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES***Division 1—Local government responsibility***3.1 Local government responsible for structure**

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

**3.2 Bush fire brigade to be supplied with Act**

The local government is to supply each bush fire brigade officer with 2 copies of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made from time to time.

*Division 2—Chief Bush Fire Control Officer***3.3 Managerial role of Chief Bush Fire Control Officer**

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

**3.4 Chief Bush Fire Control Officer may attend meetings**

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

**3.5 Duties of Chief Bush Fire Control Officer**

The duties of the Chief Bush Fire Control Officer include—

- (a) providing leadership to the bush fire brigades;
- (b) monitoring bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report, with recommendations, to the local government at least once a year;
- (c) liaising with the local government concerning fire prevention/suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn), bush fire brigades or brigade officers; and
- (d) ensuring that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

*Division 3—Annual general meetings of bush fire brigades***3.6 Holding of annual general meeting**

A bush fire brigade is to hold its annual general meeting during the months of June and July each year.

**3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee**

At the annual general meeting of a bush fire brigade, one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next annual general meeting.

### **3.8 Nomination of bush fire control officer to the local government**

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

### **3.9 Minutes to be tabled before the Bush Fire Advisory Committee**

(1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer within one month after the meeting.

(2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the—

- (a) Bush Fire Advisory Committee; or
- (b) Council, if there is no Bush Fire Advisory Committee,

following their receipt under subclause (1).

#### *Division 4—Bush Fire Advisory Committee*

### **3.10 Functions of Bush Fire Advisory Committee**

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

### **3.11 Bush Fire Advisory Committee to nominate bush fire control officers**

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government, from the persons nominated by each bush fire brigade, a person for the position of a bush fire control officer for the brigade area.

### **3.12 Local government to have regard to nominees**

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

### **3.13 Bush Fire Advisory Committee to consider bush fire brigade motions**

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

## **PART 4—TYPES OF BUSH FIRE BRIGADE MEMBERSHIP**

### **4.1 Types of membership of bush fire brigade**

The membership of a bush fire brigade consists of the following—

- (a) fire fighting members;
- (b) cadet members; and
- (c) honorary life members.

### **4.2 Fire fighting members**

Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities.

### **4.3 Cadet members**

Cadet members are—

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings; and
- (f) not to be assigned ranks under the Department's rank structure.

### **4.4 Honorary life member**

(1) The bush fire brigade may by a simple majority resolution, of the brigade members who are present in person or by proxy at the meeting, appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.

(2) No membership fees are to be payable by an honorary life member.

### **4.5 Notification of membership**

No later than 31 July in each year, the bush fire brigade is to report to the Chief Bush Fire Control Officer the name, contact details and type of membership of each brigade member.

**PART 5—APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS****5.1 Rules to govern**

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

**PART 6—EQUIPMENT OF BUSH FIRES BRIGADES****6.1 Policies of local government**

The local government may make policies under which it—

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

**6.2 Equipment in brigade area**

No later than 28 February in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

**6.3 Funding from local government budget**

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 28 February in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

**6.4 Consideration in the local government budget**

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

**SCHEDULE 1—RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES**

[Clause 5.1]

**Part 1—Preliminary****1.1 Interpretation**

(1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.

(2) In these Rules, unless the context otherwise requires—

**absolute majority** means a majority of more than 50% of the number of—

- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
- (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee;

**Committee** means the Committee of the bush fire brigade;

**local law** means the *Shire of Gnowangerup Bush Fire Brigades Local Law 2016*; and

**normal brigade activities** is defined by section 35A of the Act.

(3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.

(4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

**Part 2—Objects and membership of bush fire brigade****2.1 Objectives of bush fire brigade**

The objectives of the bush fire brigade are to carry out—

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

**2.2 Applications for membership**

Applications for membership of a bush fire brigade shall—

- (a) be submitted to the Captain or Secretary of the relevant bush fire brigade, who shall forward a copy of the application to the Chief Bush Fire Control Officer within one week of the application being submitted; and

- (b) be determined by the Committee of the bush fire brigade, having regard to any advice received from the Chief Bush Fire Control Officer in relation to the application.

### **2.3 Conditions of membership**

(1) Members of a bush fire brigade shall comply with the Bush Fire Operating Procedures in carrying out normal brigade activities.

(2) In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to—

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period; and
- (d) procedures to be employed by the Committee, in assessing an application for membership,

and the Committee is to determine applications for membership in accordance with any such policy.

### **2.4 Decision on application for membership**

(1) The Committee may—

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

(2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

### **2.5 Department to be notified of registrations**

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the Department within 14 days of a person being admitted to membership in the form required by the Department from time to time.

### **2.6 Termination of membership**

(1) Membership of the bush fire brigade terminates if the member—

- (a) dies;
- (b) gives written notice of resignation to the Secretary;
- (c) is dismissed by the Committee by reason of—
  - (i) failing to comply with the aims and objectives of the bush fire brigade;
  - (ii) failing to comply with the Act, Regulations, the Bush Fire Operating Procedures, this local law or the bush fire brigade policies;
  - (iii) displaying conduct detrimental to the interests of the bush fire brigade;
  - (iv) being convicted of a criminal offence that in the opinion of the Committee would ordinarily exclude the member from joining a brigade; or
  - (v) acting in such a manner as to cause harm or distress to other brigade members; or
- (d) ceases to be a member or is taken to have resigned under subclause (2).

(2) A brigade member who in the opinion of the Committee has not adequately fulfilled his or her role within the bush fire brigade and has not responded to any written correspondence requesting that he or she state their intentions, within 21 days, shall be deemed to have resigned from the bush fire brigade.

### **2.7 Suspension of membership**

(1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.

(2) The period of suspension shall be up to a maximum of 3 consecutive calendar months and shall be determined at the discretion of the Committee.

(3) Upon the expiry of the period of suspension the Committee may—

- (a) extend the period of suspension;
- (b) terminate the membership; or
- (c) reinstate the membership.

### **2.8 Existing liabilities to continue**

The resignation or dismissal of a member under clause 2.6 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

### **2.9 Member has right of defence**

A brigade member is not to be dismissed under clause 2.6(1)(c) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

### **2.10 Objection Rights**

A person whose—

- (a) application for membership is refused under clause 2.4(1)(b);
- (b) membership is terminated under clause 2.6(1)(c), clause 2.6(1)(d) or clause 2.7(3)(b); or
- (c) membership is suspended under clause 2.7(1) or clause 2.7(3)(a),

has the right of objection to the local government which may dispose of the objection by—

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without—
  - (i) substituting for it another decision; or
  - (ii) referring the matter, with or without directions, for another decision by the Committee.

### **Part 3—Functions of brigade officers**

#### **3.1 Chain of command during fire fighting activities**

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

#### **3.2 Duties of Captain**

- (1) Subject to subclause (2), the Captain is to preside at all meetings.
- (2) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

#### **3.3 Duties of Secretary**

- (1) The Secretary is to—
  - (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a book which shall be open for inspection by brigade members at any reasonable time;
  - (b) answer and keep a record of all correspondence or direct it appropriately;
  - (c) prepare and send out all necessary notices of meetings;
  - (d) receive donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;
  - (e) complete and forward an incident report form in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident;
  - (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership; and
  - (g) provide no later than 31 May in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.
- (2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

#### **3.4 Duties of Treasurer**

The Treasurer is to—

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorised by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade; and
- (e) report on the financial position at meetings of the bush fire brigade or Committee.

#### **3.5 Duties of Equipment Officer**

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

#### **3.6 Storage of equipment**

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station").
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

#### **3.7 Equipment Officer to report**

The Equipment Officer is to provide, no later than 28 February of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

### **Part 4—Committee**

#### **4.1 Management of bush fire brigade**

- (1) Subject to the provisions of these Rules, the administration and affairs of the bush fire brigade shall be managed by the Committee.

(2) Without limiting the generality of subclause (1), the Committee is to have the following functions—

- (a) to recommend to the local government amendments to these Rules;
- (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
- (c) to propose a motion for consideration at any meeting of the bush fire brigade;
- (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
- (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
- (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
- (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
- (h) deal with membership applications, grievances, disputes and disciplinary matters.

#### **4.2 Constitution of Committee**

(1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Equipment Officer and the Lieutenants of the bush fire brigade.

(2) The brigade officers are to—

- (a) be elected at the annual general meeting of the bush fire brigade;
- (b) hold office until the conclusion of the next annual general meeting; and
- (c) be eligible for re-election at the next annual general meeting.

(3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.

(4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

### **Part 5—Meetings of bush fire brigade**

#### **5.1 Ordinary meetings**

(1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days notice to all brigade members and to the Chief Bush Fire Control Officer, for the purpose of—

- (a) organising and checking equipment;
- (b) requisitioning new or replacement equipment;
- (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of firebreaks;
- (d) establishing new procedures in respect of any of the normal brigade activities; and
- (e) dealing with any general business.

(2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.

(3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

#### **5.2 Special meetings**

(1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.

(2) At least 2 days notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.

(3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.

(4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

#### **5.3 Annual general meeting**

(1) At least 7 days notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.

(2) At the annual general meeting the bush fire brigade is to—

- (a) elect the brigade officers from among the brigade members;
- (b) consider the Captain's report on the year's activities;
- (c) adopt the annual financial statements;
- (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6 of this Schedule; and
- (e) deal with any general business.

(3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.

(4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

#### **5.4 Quorum**

(1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of officers (whether vacant or not) or members of the bush fire brigade.

(2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

#### **5.5 Voting**

(1) Each brigade member has only one vote at meetings of the bush fire brigade.

(2) In the case of an equality of votes, a question shall be decided in the negative.

#### **5.6 Auditor**

(1) At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.

(2) The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.

### **Part 6—Meetings of committee**

#### **6.1 Meetings of Committee**

(1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.

(2) The Captain or Secretary may convene a meeting of the Committee at any time.

#### **6.2 Quorum**

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers is present in person.

#### **6.3 Voting**

Each brigade officer has only one vote at meetings of the Committee, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

### **Part 7—General administration matters**

#### **7.1 Funds**

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

#### **7.2 Financial year**

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

#### **7.3 Banking**

(1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn by whatever means is considered by the Bush Fire Brigade to be the most convenient including the use of electronic fund transfers.

(2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer or such other person designated by the bush fire brigade, are to authorise payments referred to in subclause (1).

#### **7.4 Disclosure of interests**

(1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.

(2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.

(3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

(4) Every disclosure made under subclause (1) shall be recorded in the minutes of the meeting of the bush fire brigade or Committee at which the disclosure was made.

#### **7.5 Disagreements**

(1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.

(2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.

(3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

### Part 8—Notices and proxies

#### 8.1 Notices

(1) Where any notice, including a notice of meeting, is to be given under these Rules, the notice is to be—

- (a) in writing;
- (b) given by—
  - (i) personal delivery to the nominated address of the addressee;
  - (ii) post to the nominated postal address of the addressee;
  - (iii) facsimile transmission to the nominated facsimile number of the addressee; or
  - (iv) e-mail to the nominated electronic address of the addressee.
- (c) taken to have been received, as the case may be—
  - (i) at the time of personal delivery;
  - (ii) three business days after posting;
  - (iii) subject to paragraph (d), at the time of transmission by facsimile or e-mail if before 5.00 pm on a business day or otherwise at 9.00 am on the next business day; or
  - (iv) at the time when the electronic communication becomes capable of being retrieved by the addressee.
- (d) A facsimile transmission or e-mail is not given or received if—
  - (i) at the conclusion of a facsimile transmission the sender's facsimile machine issues an error transmission report which indicates that the relevant number of pages comprised in the notice has not been sent; or
  - (ii) at the conclusion of an e-mail the sender receives an automated message stating that the e-mail was undeliverable.

(2) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.

#### 8.2 Proxies

(1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form, as determined by the local government, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.

(2) A proxy is valid for the meeting for which it is given and for any adjournments of that meeting.

(3) A proxy shall be valid for the number of votes to which the brigade member is entitled.

(4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.

(5) A proxy shall be entitled to speak on behalf of the donor of the proxy.

(6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.

(7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form, as determined by the local government.

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Dated 10 August 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.

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**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**DOGS LOCAL LAW 2016**

CONTENTS

**PART 1—PRELIMINARY**

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

**PART 2—IMPOUNDING OF DOGS**

- 2.1 Charges and costs
- 2.2 Attendance of authorised person at pound
- 2.3 Release of impounded dog

**PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS**

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

**PART 4—APPROVED KENNEL ESTABLISHMENTS**

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

**PART 5—MISCELLANEOUS**

- 5.1 Offence to excrete

**PART 6—ENFORCEMENT**

- 6.1 Interpretation
- 6.2 Modified penalties
- 6.3 Issue of infringement notice
- 6.4 Failure to pay modified penalty
- 6.5 Payment of modified penalty
- 6.6 Withdrawal of infringement notice
- 6.7 Service

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

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

**Schedule 3—Offences in respect of which modified penalty applies**

**DOG ACT 1976  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**DOGS LOCAL LAW 2016**

Under the powers conferred by section 49 of the *Dog Act 1976*, Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Gnowangerup Dogs Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Shire of Gnowangerup Dog Local Law 2007* published in the *Government Gazette* on 4 December 2007 and as amended on 10 November 2009 is repealed.

**1.5 Interpretation**

In this local law unless the context otherwise requires—

**Act** means the *Dog Act 1976*;

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

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

**dangerous dog** has the meaning given in the Act;

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

**kennel** means any structure or land used for the boarding or breeding of dogs;

**local government** means the Shire of Gnowangerup;

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

**owner** has the meaning given in the Act;

**person liable for the control of the dog** has the meaning given in the Act;

**pound** means a pound established under section 11 of the Act;

**premises** has the meaning given in the Act;

**public place** has the meaning given in the Act;

**Regulations** means the *Dog Regulations 2013*;

**Schedule** means a schedule to this local law;

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

**townsite** has the meaning given in the Act.

**PART 2—IMPOUNDING OF DOGS**

**2.1 Charges and costs**

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

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;

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

### 2.2 Attendance of authorised person at pound

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

### 2.3 Release of impounded dog

- (1) A claim for the release of a dog seized and impounded is to be made to the authorised person or in the absence of the authorised person, to the CEO.
- (2) The authorised person is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the authorised person, satisfactory evidence of her or his ownership of the dog or of her or his authority to take delivery of it.

## PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

### 3.1 Dogs to be confined

- (1) An occupier of premises within a townsite on which a dog is kept must—
  - (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
  - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
  - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures that the dog remains confined) and is fitted with a proper latch or other means of fastening it;
  - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
  - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) Where an occupier fails to comply with subclause (1), he or she commits an offence.
- (3) Notwithstanding subclause (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

### 3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
  - (a) licensed under Part 4 as an approved kennel establishment; or
  - (b) granted an exemption under section 26(3) of the Act.
- (2) On land within a townsite, or zoned “rural residential” under a local planning scheme, the limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs.
- (3) On land zoned “rural” under a local planning scheme, the limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 6 dogs over the age of 3 months and the young of those dogs.

## PART 4—APPROVED KENNEL ESTABLISHMENTS

### 4.1 Interpretation

In this Part and in Schedule 2—

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

*licensee* means the holder of a licence;

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

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

### 4.2 Application for licence for approved kennel establishment

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

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government;

- (e) the fee for the application for a licence referred to in clause 4.10(1); and
- (f) such other information as the local government requires.

#### **4.3 Notice of proposed use**

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

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

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

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

(3) Where—

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

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

#### **4.4 Exemption from notice requirements**

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

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

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

#### **4.5 When application can be determined**

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

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

#### **4.6 Determination of application**

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

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

#### **4.7 Where application cannot be approved**

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

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

#### **4.8 Conditions of approval**

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

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

**4.9 Fees**

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

**4.10 Form of licence**

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

**4.11 Period of licence**

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

**4.12 Variation or cancellation of licence**

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

**4.13 Transfer of licence**

- (1) An application for the transfer of a valid licence from the licensee to another person must be—
  - (a) made in the form determined by the local government;
  - (b) made by the transferee;
  - (c) made with the written consent of the licensee; and
  - (d) lodged with the local government together with—
    - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
    - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

**4.14 Notification**

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

**4.15 Inspection of kennel**

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

**PART 5—MISCELLANEOUS****5.1 Offence to excrete**

(1) A dog must not excrete on—

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

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

Penalty: \$1,000.

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

**PART 6—ENFORCEMENT****6.1 Interpretation**

In this Part—

*infringement notice* means the notice referred to in clause 6.3; and

*notice of withdrawal* means the notice referred to in clause 6.6(1).

**6.2 Modified penalties**

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

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

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

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

**6.3 Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of the forms prescribed by regulation 26 of the *Local Government (Functions and General Regulations) 1996*.

**6.4 Failure to pay modified penalty**

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

**6.5 Payment of modified penalty**

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

**6.6 Withdrawal of infringement notice**

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of the forms prescribed by regulation 27 of the *Local Government (Functions and General Regulations) 1996*.

(2) A person authorised to issue an infringement notice under clause 6.3 cannot sign or send a notice of withdrawal.

**6.7 Service**

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

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**SCHEDULE 1—APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

[Clause 4.2]

I/we (full name) .....

of (postal address) .....

Telephone number .....

Facsimile number .....

E-mail address .....

Apply for a licence for an approved kennel establishment at (address of premises) .....  
 ..... for (number and breed of dogs) .....

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

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

Attached are—

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

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

Signature of applicant ..... Date .....

\* *delete where not applicable*

Note: A licence if issued will have effect for a period of 12 months—section 27(5) of the *Dog Act 1976*.

OFFICE USE ONLY

Application fee paid (*insert date*) .....

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

[Clause 4.8(1)]

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

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
  - (i) 25 metres from the front boundary of the premises and 5 metres from any other boundary of the premises;
  - (ii) 10 metres from any dwelling; and
  - (iii) 25 metres from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government to a height of no less than 2 metres;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
  - (i) at least 100 millimetres above the surface of the surrounding ground;
  - (ii) smooth so as to facilitate cleaning;
  - (iii) rigid;
  - (iv) durable;
  - (v) slip resistant;
  - (vi) resistant to corrosion;
  - (vii) non-toxic;
  - (viii) impervious;

- (ix) free from cracks, crevices and other defects; and
- (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75 millimetres above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50 millimetres from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
  - (i) 2 metres; or
  - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
  - (i) at the premises; or
  - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

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**SCHEDULE 3—OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES**

[Clause 6.2]

Offence	Nature of Offence	Modified Penalty	Dangerous Dog Modified Penalty
3.1	Failing to provide means for effectively confining a dog	\$200	\$400
5.1(2)	Dog excreting in prohibited place	\$100	

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Dated 10 August 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.

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**HEALTH ACT 1911  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**HEALTH LOCAL LAW 2016**

CONTENTS

**PART 1—PRELIMINARY**

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

**PART 2—SANITATION**

*Division 1—Sanitary conveniences*

- 2.1 Interpretation
- 2.2 Dwelling house
- 2.3 Premises other than a dwelling house
- 2.4 Outdoor festivals
- 2.5 Temporary works
- 2.6 Maintenance of sanitary conveniences and fittings
- 2.7 Toilets
- 2.8 Ventilation of toilet
- 2.9 Public sanitary conveniences
- 2.10 Lighting
- 2.11 Installation

*Division 2—Bathroom, laundries and kitchens*

- 2.12 Bathrooms
- 2.13 Laundries
- 2.14 Washing or keeping of clothes in kitchens
- 2.15 Kitchens

**PART 3—HOUSING AND GENERAL**

*Division 1—Maintenance of houses*

- 3.1 Dwelling house maintenance

*Division 2—Ventilation of houses*

- 3.2 Exemption for short term hostels and recreational campsites
- 3.3 Overcrowding
- 3.4 Calculate sufficient space
- 3.5 Ventilation
- 3.6 Subfloor ventilation

*Division 3—Water supply*

- 3.7 Water supply
- 3.8 Rain water tanks
- 3.9 Wells
- 3.10 Pollution

*Division 4—Second-hand furniture, bedding and clothing*

- 3.11 Prohibition on sale
- 3.12 Prohibition of possession

*Division 5—Morgues*

- 3.13 Licensing of morgues

**PART 4—WASTE FOOD AND LIQUID REFUSE***Division 1—Liquid refuse*

- 4.1 Interpretation  
4.2 Deposit of liquid refuse  
4.3 Disposal of liquid waste  
4.4 Approval for septic tank pump outs and removal of liquid waste

*Division 2—Transport of butchers' waste*

- 4.5 Interpretation  
4.6 Restriction of vehicles  
4.7 Transport of butchers waste

**PART 5—NUISANCES AND GENERAL***Division 1—Nuisances*

- 5.1 Interpretation  
5.2 Footpaths etc, to be kept clean  
5.3 Public vehicles to be kept clean  
5.4 Transportation, use and storage of offal or blood  
5.5 Use or storage of fertiliser  
5.6 Storage and dispatch of artificial fertiliser  
5.7 Storage of fertiliser in a house

*Division 2—Keeping of animals*

- 5.8 Slaughter of animals  
5.9 Disposal of dead animals

*Division 3—Feedlots*

- 5.10 Interpretation  
5.11 Premises to be approved  
5.12 Site conditions

*Division 4—Piggeries*

- 5.13 Interpretation  
5.14 Piggeries to be approved  
5.15 Site conditions  
5.16 Prevention of nuisances

**PART 6—PEST CONTROL***Division 1—Flies*

- 6.1 Interpretation  
6.2 Fly breeding matter not to be left on premises unless covered or treated  
6.3 Measures to be taken by an occupier  
6.4 EHO may give notice directing measures to be taken  
6.5 Local government may execute work and recover costs

*Division 2—Mosquitoes*

- 6.6 Interpretation  
6.7 Measures to be taken to prevent mosquitoes breeding  
6.8 Local government may execute work and recover costs

*Division 3—Rodents*

- 6.9 Interpretation  
6.10 Measures to be taken to eradicate rodents  
6.11 Food and wastes to be kept in rodent proof receptacles  
6.12 Restrictions on keeping of rodents

*Division 4—Cockroaches*

- 6.13 Interpretation  
6.14 Measures to be taken to eradicate cockroaches

*Division 5—Argentine Ants*

- 6.15 Interpretation  
6.16 Measures to be taken to keep premises free from Argentine Ants

*Division 6—European Wasps*

- 6.17 Interpretation
- 6.18 Measures to be taken to keep premises free from European Wasp nests

*Division 7—Arthropod vectors of disease*

- 6.19 Interpretation
- 6.20 Responsibility of the owner or occupier

**PART 7—INFECTIOUS DISEASES***Division 1—General provisions*

- 7.1 Requirements on owner or occupier to clean, disinfect and disinfect
- 7.2 EHO may disinfect or disinfect premises
- 7.3 Insanitary houses, premises and things
- 7.4 Persons in contact with an infectious disease sufferer
- 7.5 Declaration of infected house or premises
- 7.6 Destruction of infected animals
- 7.7 Disposal of a body
- 7.8 Local government may carry out work and recover costs

*Division 2—Disposal of used condoms and needles*

- 7.9 Disposal of used condoms
- 7.10 Disposal of used needles

**PART 8—LODGING HOUSES***Division 1—Registration*

- 8.1 Interpretation
- 8.2 Lodging house not to be kept unless registered
- 8.3 Application for registration
- 8.4 Approval of application
- 8.5 Renewal of registration
- 8.6 Notification upon sale or transfer
- 8.7 Revocation of registration

*Division 2—Construction and use requirements*

- 8.8 General construction requirements
- 8.9 Sanitary conveniences
- 8.10 Laundry
- 8.11 Kitchen
- 8.12 Dining room
- 8.13 Lounge room
- 8.14 Fire prevention and control
- 8.15 Obstruction of passages and stairways
- 8.16 Fitting of locks
- 8.17 Restriction on use of rooms for sleeping
- 8.18 Sleeping accommodation—short term hostels and recreational campsites
- 8.19 Furnishing of rooms
- 8.20 Ventilation
- 8.21 Numbers to be placed on doors

*Division 3—Management and care*

- 8.22 Keeper or lodging house manager to reside in the lodging house
- 8.23 Register of lodgers
- 8.24 Keeper report
- 8.25 Certificate in respect of sleeping accommodation
- 8.26 Duplicate keys and inspection
- 8.27 Room occupancy
- 8.28 Maintenance of a room by a lodger or resident
- 8.29 Cleaning and maintenance requirements
- 8.30 Responsibilities of lodgers and residents
- 8.31 Approval for storage of food

**PART 9—OFFENSIVE TRADES***Division 1—General*

- 9.1 Interpretation
- 9.2 Consent to establish an offensive trade
- 9.3 False statement
- 9.4 Registration of premises
- 9.5 Certificate of registration
- 9.6 Change of occupier
- 9.7 Alterations to premises

*Division 2—General duties of an occupier*

- 9.8 Interpretation
- 9.9 Cleanliness
- 9.10 Rats and other vectors of disease
- 9.11 Sanitary conveniences and hand wash basins
- 9.12 Painting of walls etc
- 9.13 Effluvia, vapours, gases or dust
- 9.14 Offensive material
- 9.15 Storage of materials
- 9.16 Specified offensive trades
- 9.17 Directions
- 9.18 Other duties of occupier

*Division 3—Fish premises*

- 9.19 Interpretation
- 9.20 Duties of an occupier
- 9.21 Disposal of waste
- 9.22 Fish containers

*Division 4—Laundries, dry cleaning establishments and dye works*

- 9.23 Interpretation
- 9.24 Receiving depot
- 9.25 Reception room
- 9.26 Walls and floors
- 9.27 Laundry floor
- 9.28 Escape of dust
- 9.29 Precautions against combustion
- 9.30 Trolleys
- 9.31 Sleeping on premises

**PART 10—OFFENCES AND PENALTIES***Division 1—General*

- 10.1 Offences and penalties

**HEALTH ACT 1911  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF GNOWANGERUP

**HEALTH LOCAL LAW 2016**

Under the powers conferred by section 342 of the *Health Act 1911*, subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Gnowangerup Health Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Shire of Gnowangerup Health Local Laws 2002* published in the *Government Gazette* on 27 September 2002 is repealed.

**1.5 Interpretation**

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

*Act* means the *Health Act 1911*;

*adequate supply of water* means a flow of water of not less than 0.076 litres per second;

*approved* means approved by the local government;

*AS* or *AS/NZS* means an Australian Standard or Australian/New Zealand Standard published by Standards Association of Australia;

*AS 1530.2—1993* means the standard published by Standards Australia as AS 1530.2—1993 and called “Methods for fire tests on building materials, components and structures—Part 2: Test for flammability of materials”, as amended from time to time;

*AS/NZS 1530.3:1999* means the standard published by Standards Australia as AS/NZS 1530.3:1999 and called “Methods for fire tests on building materials, components and structures—Part 3: Simultaneous determination of ignitability, flame propagation, heat release and smoke release”, as amended from time to time;

*AS 1668.2—2012* means the standard published by Standards Australia as AS 1668.2—2012 and called “The use of ventilation and air-conditioning in buildings—Part 2: Ventilation design for indoor-air contaminant control (excluding requirements for the health aspects of tobacco smoke exposure)”, as amended from time to time;

*AS 2001.5.4—2005* means the standard published by Standards Australia as AS 2001.5.4—2005 and called “Methods of test for textiles—Method 5.4: Dimensional change—Domestic washing and drying procedures for textile testing (ISO 6330:2000, MOD)”, as amended from time to time;

*AS/NZS 3666.2:2011* means the standard published by Standards Australia as AS/NZS 3666.2:2011 and called “Air-handling and water systems of buildings—Microbial control—Operation and maintenance”, as amended from time to time ;

*Building Code* means the latest edition of the Building Code of Australia published from time to time by, or on behalf of, the Australian Building Codes Board as amended from time to time, but not including explanatory information published with that Code;

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

*district* means the district of the local government;

**dwelling house** means a place of residence containing at least one sleeping room and includes a room or outbuilding separate from, but ancillary to, the building in which the sleeping room is located;

**EHO** means an Environmental Health Officer appointed by the local government under the Act and includes any acting or Assistant Environmental Health Officer;

**Energy Safety WA** means the EnergySafety division of the Department of Commerce;

**habitable room** means a room used for normal domestic activities, and—

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, play-room, family room and sun-room or the like; but
- (b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, lobby, photographic dark room, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods;

**hot water** means water at a temperature of at least 65 degrees Celsius;

**local government** means the Shire of Gnowangerup;

**local planning scheme** has the meaning given to it by the *Planning and Development Act 2005*;

**medical officer** means the medical officer appointed by the local government under the Act and includes an acting medical officer so appointed;

**nuisance** has the meaning given in Section 182 of the *Health Act 1911*;

**offensive matter** means and includes dust, mud, ashes, rubbish, filth, blood, offal, manure, soil or any other material which is offensive and which is placed or found in or about any house, stable, cowhouse, pigsty, lane, yard, street or place whatsoever;

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

**sanitary convenience** includes urinals, water-closets, earth-closets, privies, sinks, baths, wash troughs, apparatus for the treatment of sewage, ash-pits, ash-tubs, or other receptacle for the deposit of ashes, faecal matter or refuse and all similar conveniences;

**sewage** means any kind of sewage, nightsoil, faecal matter or urine, and any waste composed wholly or in part of liquid;

**sewer** includes sewers and drains of every description, except drains to which the word “drain” as defined in the Act applies, including water channels constructed of stone, brick, concrete, or any other material, including the property of the local government;

**street** includes any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

**toilet** means a water closet, earth closet, privy or urinal and includes a room or cubicle in which one or more of these is located;

**townsite** means all townsites within the 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 *Local Government Act 1995*;

**vectors of disease** means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice;

**water** means drinking water within the meaning of the *Australian Drinking Water Guidelines 2011* as published by the National Health and Medical Research Council and as amended from time to time; and

**window** means a glass panel, roof light, glass brick, glass louvre, glazed sash, glazed door or other device which transmits natural light directly from outside a building to the room concerned when in the closed position.

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

(3) Where under this local law, an act is required to be done or forbidden to be done in relation to any premises, the owner or occupier of those premises has, unless the contrary intention appears, the duty of causing to be done the act so required to be done, or of preventing from being done the act so forbidden to be done, as the case may be.

## PART 2—SANITATION

### *Division 1—Sanitary conveniences*

#### 2.1 Interpretation

In this Part, unless the context otherwise requires—

**festival** includes a fair, function or event;

**organiser** means a person—

- (a) to whom approval has been granted by the local government to conduct the festival; or
- (b) responsible for the conduct of the festival;

**public sanitary convenience** means a sanitary convenience to which the public ordinarily has access, whether by payment of a fee or not;

**temporary sanitary convenience** means a sanitary convenience, temporarily placed for use by—

- (a) patrons in conjunction with a festival; or
- (b) employees at construction sites or the like; and

**urinal** may be—

- (i) an individual stall or wall-hung urinal; or
- (ii) each 600mm length of a continuous urinal trough; or
- (iii) a closet pan used in place of a urinal

## 2.2 Dwelling house

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house unless it has at least one toilet.

(2) A room in which a toilet is located must have adequate lighting.

## 2.3 Premises other than a dwelling house

(1) The owner of premises other than a dwelling house shall not use or occupy, or permit to be used or occupied, the premises unless—

- (a) the premises have toilets in accordance with the Building Code and this Part, including disabled facilities;
- (b) the toilets required by this clause are situated within a reasonable distance of the premises and are easily accessible to the persons for whom they are provided; and
- (c) the premises have hand wash basins that are—
  - (i) in accordance with the Building Code;
  - (ii) for the use of persons employed or engaged on the premises;
  - (iii) provided with an adequate supply of water supplied by taps located over each hand wash basin;
  - (iv) separate from any trough, sink or hand wash basin used in connection with any process carried out on the premises; and
  - (v) situated within a reasonable distance of the sanitary conveniences and easily accessible to the person for whom they are provided.

(2) The occupier of premises other than a dwelling house shall ensure that—

- (a) clean toilet paper is available at all times in each cubicle;
- (b) a sanitary napkin disposal facility is provided in each toilet set aside for the use of females; and
- (c) each hand wash basin is provided with—
  - (i) an adequate supply of soap or other hand cleaning substances; and
  - (ii) hand drying facilities, situated adjacent to, and visible from, the hand wash basin.

(3) Where more than one toilet is provided on premises other than a dwelling house, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

## 2.4 Outdoor festivals

(1) The organiser of an outdoor event must provide sanitary conveniences in accordance with the recommendations contained within the Department of Health's *Guidelines for concerts, events and organised gatherings*; and

(2) Where, under subclause (1), the number of a particular sanitary convenience to be provided is not a whole number, that number shall be rounded up to the next higher whole number.

## 2.5 Temporary works

A person who undertakes temporary work at any place shall ensure every temporary sanitary convenience is installed and maintained in accordance with the requirements of the *Health (Temporary Sanitary Conveniences) Regulations 1997*.

## 2.6 Maintenance of sanitary conveniences and fittings

(1) The occupier of any premises shall—

- (a) keep clean, in good condition and repair; and
- (b) whenever required by an EHO, effectively disinfect and clean,

all sanitary conveniences including sanitary fittings, in or on the premises.

(2) The owner of any of premises shall—

- (a) keep or cause to be kept in good repair; and
- (b) maintain an adequate supply of water to,

all sanitary conveniences, including sanitary fittings in or on the premises.

## 2.7 Toilets

(1) Toilets on a premises shall be maintained in accordance with the following requirements—

- (a) the door to a toilet, other than an internal door, shall be properly screened to a continuous height of 1.8 metres from the floor; and
- (b) a toilet or its entrance, which is visible from overlooking windows, shall be properly screened.

(2) Toilets on premises other than a dwelling house shall be maintained in accordance with the following additional requirements—

- (a) a toilet for the exclusive use of males shall not adjoin any toilet for the exclusive use of females unless the toilets are separated by a wall extending from the floor to the ceiling and of sufficient density to have a sound transmission class of not less than 50 as required by AS/NZS ISO 717.1 :2004; and
- (b) where more than one toilet is provided on the premises, the entrance to each toilet shall bear a suitable sign indicating for which sex its use is intended.

### **2.8 Ventilation of toilet**

A toilet in any premises shall be ventilated in accordance with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971* and the Building Code.

### **2.9 Public sanitary conveniences**

(1) A person shall not—

- (a) foul;
- (b) damage or vandalise; or
- (c) write on or otherwise deface,

a public sanitary convenience or sanitary fixtures or fittings or the premises in or on which the sanitary convenience is located.

(2) A person shall not live or sleep in or on the premises in which a public sanitary convenience is located or use it for a purpose other than that for which it was intended.

### **2.10 Lighting**

The owner and occupier of premises in which a sanitary convenience or a public sanitary convenience is located shall provide and maintain adequate electric lighting for persons using the convenience.

### **2.11 Installation**

Every sanitary convenience shall be installed in accordance with the requirements of the *Country Areas Water Supply Act 1947* and the *Water Services Act 2012* and shall have an adequate supply of water.

## *Division 2—Bathroom, laundries and kitchens*

### **2.12 Bathrooms**

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a bathroom that—

- (a) is adequately lined with an impervious material and has an adequate ceiling;
- (b) complies with the *Health Act (Laundries and Bathrooms) Regulations*; and
- (c) is equipped with—
  - (i) a hand wash basin; and
  - (ii) either a shower in a shower recess or a bath.

(2) All baths, showers, hand wash basins and similar fittings shall be provided with an adequate supply of hot and cold water.

### **2.13 Laundries**

(1) A laundry must conform to the provisions of the Building Code.

(2) Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen or room where food is stored or consumed by a wall extending from the floor to the roof or ceiling.

(3) Where there is an opening in a wall between a laundry and a kitchen or room where food is stored or consumed, the opening shall—

- (a) not be more than 1220 millimetres wide; and
- (b) have a door which when closed shall completely fill the opening.

### **2.14 Washing or keeping of clothes in kitchens**

A person shall not, in any kitchen or other place where food is kept—

- (a) wash or permit to be washed any clothing or bedding; or
- (b) keep or permit to be kept any soiled clothing or bedding.

### **2.15 Kitchens**

(1) A person shall not use or occupy, or permit to be used or occupied, a dwelling house without a kitchen equipped with—

- (a) a cooking facility which is adequate in the opinion of an EHO; and
- (b) a sink which shall—
  - (i) be at least 380 millimetres long, 300 millimetres wide and 150 millimetres deep; and
  - (ii) have an adequate supply of hot and cold water.

(2) The occupier of a dwelling house shall ensure that the cooking facility and sink are kept clean, in good order and repair and fit for use.

- (3) A cooking facility shall—
- (a) be installed in accordance with the requirements of Energy Safety WA and the manufacturer's written specifications of the product; and
  - (b) not be installed or used in any room other than a kitchen.
- (4) Mechanical ventilation is to be provided in a kitchen and the exhaust air shall be—
- (a) carried to the outside air as directly as practicable unless adequately filtered for recirculation; and
  - (b) boxed throughout.
- (5) In this clause, a **cooking facility** includes a stove, oven, facility or appliance used for or in connection with the cooking of food.

### PART 3—HOUSING AND GENERAL

#### *Division 1—Maintenance of houses*

##### **3.1 Dwelling house maintenance**

The owner or occupier of a dwelling house shall maintain the dwelling house and any adjacent buildings in sound condition and fit for use and, in particular, shall—

- (a) maintain all roofs, guttering and downpipes in sound weatherproof condition;
- (b) maintain any footings, foundations and walls, either external or internal, in a sound condition;
- (c) replace any missing, broken, decayed or termite-eaten timber or other deteriorated material in any verandah, roof, walls, steps, handrails, floors or their supports with material of sound quality;
- (d) comply with the directions of an EHO to treat the premises for the purpose of controlling any termites;
- (e) maintain any brick, stone, mortar or cement work in a sound condition;
- (f) maintain, repair or replace any flashings or ant caps which are missing or defective;
- (g) maintain all ventilators in good order and repair;
- (h) maintain all floors even and level in surface and free from cracks and gaps;
- (i) maintain all ceilings, internal wall finishes, skirtings, architraves and other fixtures and fittings complete and with smooth unbroken surfaces;
- (j) maintain all doors and windows in good working order and weatherproof condition;
- (k) retain all natural lighting free from any obstruction which would reduce the natural lighting, below the ratio of 10 per cent of the floor area;
- (l) maintain all pipes, fittings and fixtures connected with water supply, drainage or sewage so that they comply in all respects with the provisions of the *Water Services Act 2012* and any other legal requirements to which they are subject; and
- (m) maintain all electric wiring, gas services and fittings to comply in all respects with the requirements of all relevant public authorities.

#### *Division 2—Ventilation of houses*

##### **3.2 Exemption for short term hostels and recreational campsites**

This Division shall not apply to short term hostels and recreational campsites referred to in Part 8.

##### **3.3 Overcrowding**

The owner or occupier of a house shall not permit—

- (a) a room in the house that is not a habitable room to be used for sleeping purposes;
- (b) a habitable room in the house to be used for sleeping purposes unless—
  - (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
  - (ii) for every person up to, and including the age of 10 years, there is at least 8 cubic metres of air space per person; or
- (c) any garage or shed to be used for sleeping purposes.

##### **3.4 Calculate sufficient space**

For the purpose of clause 3.3, in calculating the space required for each person—

- (a) each room is to be considered separately and sufficient space is to be allowed in each room for the number of persons present in the room at any one time; and
- (b) a deduction is to be made for the space occupied by furniture, fittings and projections of the walls into a room.

##### **3.5 Ventilation**

(1) A person shall not use or occupy, or permit to be used or occupied, a house unless the house is properly ventilated.

(2) For the purpose of subclause (1) a house shall be deemed to be properly ventilated if it complies with the Building Code, including the provision of—

- (a) natural ventilation; or
- (b) a mechanical ventilation or air-conditioning system complying with AS 1668.2—2012.

(3) The owner of a house provided with a mechanical ventilation or air-conditioning system shall ensure that the system is—

- (a) maintained in good working condition and in accordance with AS/NZS 3666.2:2011; and
- (b) in use at all times the building is occupied, if it is a building without approved natural ventilation.

(4) If, in the opinion of an EHO, a house is not properly ventilated, the local government may, by notice, require the owner of the house to—

- (a) provide a different, or additional method of ventilation; or
- (b) cease using the house until it is properly ventilated.

### 3.6 Subfloor ventilation

The owner or occupier of a house shall make provision for subfloor ventilation by ensuring that air bricks and other openings are kept clear of refuse, vegetation, building materials, dirt and the like.

#### *Division 3—Water supply*

### 3.7 Water supply

(1) The owner of a dwelling house shall ensure that it is connected with a separate and independent water supply from the mains of a licensed water service operator or a water supply to the satisfaction of the local government.

(2) The water supply shall at all times be capable of delivering an adequate supply of water to each tap in the house.

(3) The water supply to toilets or for garden use may be from a source other than drinking water.

### 3.8 Rain water tanks

(1) The owner or occupier of a dwelling house for which part of the water supply is drawn from a rain water tank shall—

- (a) maintain in a clean condition—
  - (i) the roof, guttering and downpipes forming the catchment for the tank; and
  - (ii) the guttering and downpipes appurtenant to the roof;
- (b) ensure that each rain water tank is fitted with a tight-fitting mosquito proof cover which shall not be removed at any time except for the purpose of cleaning, repairing or maintaining the tank; and
- (c) thoroughly clean and disinfect such tank, at least once in each year, or whenever directed by an EHO to do so.

(2) The owner or occupier of a house for which its entire water supply is drawn from a rain water tank shall ensure that the storage capacity of the tank is not less than 90 000 litres.

(3) The owner or occupier of any non-residential premises on which rainwater and/or borewater is used for human consumption shall—

- (a) once every calendar month, have the bacterial quality of each individual water source tested in accordance with the Australian Drinking Water Guidelines 2011, published by the National Health and Medical Research Council;
- (b) disinfect the water supply prior to entry into the premises and monitor and record the level of disinfection and pH of the water on a daily basis;
- (c) where chlorine is used as the method of disinfection, ensure a free residual chlorine level of between 0.2 milligrams per litre and 0.5 milligrams per litre in the water received from any outlet used for drinking purposes; and
- (d) ensure the pH of the water received from any outlet used for drinking purposes is maintained between 7.2 and 7.8.

### 3.9 Wells

The owner or occupier of any premises must not use, or permit for human consumption, the use of the water of any bore or well unless the bore or well is—

- (a) at least 30 metres from any soak well or other possible source of pollution unless otherwise approved by the Executive Director, Public Health; and
- (b) covered with a tight-fitting cover without openings of any sort other than those essential for the insertion of a pump.

### 3.10 Pollution

A person must not deposit on or under any land, any sewage, offensive matter or any other thing, which may pollute or render unfit for human consumption, water from a well or other underground source.

*Division 4—Second-hand furniture, bedding and clothing***3.11 Prohibition on sale**

A person shall not offer for sale or sell any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

**3.12 Prohibition of possession**

A dealer in second-hand furniture, bedding or clothing shall not have on any premises used for the operation of the business, any second-hand furniture, bedding or clothing which is filthy or infested with vectors of disease.

*Division 5—Morgues***3.13 Licensing of morgues**

(1) All morgues, other than those of any public hospital or any local government morgues or police morgue, shall be licensed annually in accordance with the requirements of this Division.

(2) The annual fee for a licence for a place for the temporary reception and keeping of the bodies of the dead awaiting burial or cremation shall be the fee as fixed from time to time by the local government under section 344C of the Act.

(3) An application for a morgue licence shall be in the form approved by the local government from time to time.

(4) A licence shall—

- (a) be in the form as determined by the local government from time to time; and
- (b) expire on 30 June after the date of its issue.

(5) A licence shall not be granted in respect of any premises unless—

- (a) provision has been made for the keeping of the bodies of the dead at a temperature not exceeding zero degrees Celsius;
- (b) the walls are constructed of stone or brickwork or other approved material;
- (c) the interior surface of all walls is covered with glazed tiles or is rendered impervious so as to be non-absorbent and washable;
- (d) all floors are constructed of impervious material, having a fall to an outlet discharging over a trapped gully; and
- (e) the premises are adequately ventilated by direct communication with the outside air.

**PART 4—WASTE FOOD AND LIQUID REFUSE***Division 1—Liquid refuse***4.1 Interpretation**

In this Division, unless the context otherwise requires—

**approved carrier** means a carrier licensed under the *Environmental Protection (Controlled Waste) Regulations 2004*;

**liquid refuse** includes all washings from windows and vehicles, overflow, bleed off, condensate and drainage from air-conditioning equipment including cooling towers and evaporative coolers and other liquid used for cooling purposes and swimming pool discharges; and

**liquid waste** means bathroom, kitchen, scullery and laundry wastes, all washings from animal and poultry pens and any other domestic or trade wastes that are discharged by means of a drain to a receptacle for drainage.

**4.2 Deposit of liquid refuse**

(1) A person shall not deposit, or cause, or permit to be deposited, liquid refuse or liquid waste—

- (a) on a street;
- (b) in a stormwater disposal system; or
- (c) on any land or place other than a place or depot duly authorised for that purpose.

(2) Subclause (1) shall not prevent the discharge of swimming pool backwash or stormwater from land into a local government approved stormwater drain or road.

**4.3 Disposal of liquid waste**

(1) The owner or occupier of premises shall—

- (a) provide, by one of the methods prescribed in this clause, for the disposal of all liquid waste produced on the premises; and
- (b) at all times maintain in good working order and condition any apparatus used for the disposal of liquid waste.

(2) Liquid waste shall be disposed of by one of the following methods—

- (a) discharging it into the sewerage system of a licensed water service operator in a manner approved by the licensed water service operator;
- (b) discharging it into an apparatus for the treatment of sewage and disposal of effluent and liquid waste approved by the Executive Director, Public Health or the local government; or

- (c) collection and disposal at an approved liquid waste disposal site in a manner approved by the Executive Director, Public Health.

#### 4.4 Approval for septic tank pump outs and removal of liquid waste

A person shall not—

- (a) unless he or she is an approved carrier;
- (b) without the written approval of the local government; and
- (c) except in accordance with any terms and conditions imposed by the local government or the Executive Director, Public Health in connection with the approval under paragraph (b),

collect, remove or dispose of the contents of a septic tank, the pump outs from holding tanks or an apparatus for the treatment of sewage and other liquid wastes.

#### *Division 2—Transport of butchers' waste*

#### 4.5 Interpretation

In this Division, unless the context otherwise requires—

**butchers' waste** includes animal skeletons and rib cages from a boning room and the inedible products of an abattoir.

#### 4.6 Restriction of vehicles

A person shall not use, for the transport of butchers' waste—

- (a) a vehicle used for the transport of food or drugs; or
- (b) anything intended to be used for the packing or handling of food or drugs.

#### 4.7 Transport of butchers waste

(1) A person shall not transport butchers' waste other than in—

- (a) a compartment complying with the following specifications—
  - (i) the floor and 4 walls to be made of an approved impervious material and the walls to be not less than 910 millimetres high;
  - (ii) all joints to be sealed, welded, soldered or brazed and made watertight;
  - (iii) the loading doors, if any, to be watertight and kept closed at all times except when loading; and
  - (iv) the top to be completely covered by a tarpaulin or other impervious sheet material approved by an EHO, carried over, and secured to the outside of the walls at least 300 millimetres from the top so as to keep the load out of sight of the public; or
  - (v) a watertight durable and impervious container fitted with a lid which can be tightly closed.

(2) A person shall not transport any butchers' waste in a vehicle unless the vehicle and its fittings, including the compartment or container referred to in this clause, are—

- (a) maintained in good order and condition; and
- (b) thoroughly cleaned at the conclusion of each day's work.

(3) A person shall not load, transport, or unload butchers' waste in a manner that is or may be offensive due to—

- (a) the sight of animal skeletons, bones, offal or waste matter;
- (b) the odour of putrefaction, offal or waste matter; or
- (c) the presence of blood and particles of flesh or fat dropping onto the surface of the street pavement or ground.

### PART 5—NUISANCES AND GENERAL

#### *Division 1—Nuisances*

#### 5.1 Interpretation

In this Part, unless the context otherwise requires—

**fertiliser** includes manure; and

**public vehicle** means any vehicle to which the public ordinarily has access, whether by payment of a fee or not and includes a taxi or bus.

#### 5.2 Footpaths etc, to be kept clean

An owner or occupier of premises shall take reasonable steps to keep any footpath, pavement, area or right of way immediately adjacent to the premises, clear of any rubbish, matter or other things coming from or belonging to the premises.

#### 5.3 Public vehicles to be kept clean

The owner or person in control of a public vehicle must—

- (a) maintain the vehicle at all times—
  - (i) in a clean condition; and
  - (ii) free from vectors of disease; and
- (b) whenever directed to do so by an EHO, thoroughly clean and disinfect the vehicle as directed.

#### 5.4 Transportation, use and storage of offal or blood

A person must not transport or store offal or blood, for the purpose of being used as manure, unless it has been sterilised by steam and properly dried.

#### 5.5 Use or storage of fertiliser

An owner or occupier of premises must not use, or keep for the purpose of use, as fertiliser any—

- (a) pig manure;
- (b) human faeces; or
- (c) urine.

#### 5.6 Storage and dispatch of artificial fertiliser

An owner or occupier of premises where artificial fertiliser is stored in bulk for sale must—

- (a) keep all artificial fertiliser in a building—
  - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
  - (ii) free from damp and properly ventilated;
- (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building; and
- (c) ensure that all artificial fertiliser dispatched from the premises is packed in a manner that prevents any nuisance arising during transit.

#### 5.7 Storage of fertiliser in a house

The owner or occupier of a house where fertiliser or compost is stored or used shall take reasonable steps to—

- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
- (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
- (c) store only such amounts of fertiliser or compost—
  - (i) that can be readily used within a reasonable period; or
  - (ii) as may be directed by the EHO.

### *Division 2—Keeping of animals*

#### 5.8 Slaughter of animals

(1) Subject to subclause (2), a person, unless exempted under Regulation 20 of the *Food Regulations 2009*, shall not slaughter any animal within the district.

(2) Subclause (1) does not apply to—

- (a) euthanasia of animals by veterinarians or other duly authorised persons;
- (b) slaughter of animals for the purposes of pet meat and game meat operations; and
- (c) slaughter of animals for human consumption in abattoirs approved by the local government.

#### 5.9 Disposal of dead animals

(1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours shall refrigerate the carcasses prior to their removal and disposal, at an approved disposal site.

(2) An owner or occupier of premises, other than a veterinary practice, on which there is a dead animal, shall, remove the carcass as soon as possible, for its disposal at an approved disposal site.

(3) An owner, or a person having the care of any animal that dies or is killed in a public or private place, shall, as soon as possible, remove the carcass and arrange for its disposal at an approved disposal site, except where it may be buried on broadacre farmland by the owner.

### *Division 3—Feedlots*

#### 5.10 Interpretation

For the purpose of this division—

**animal** includes sheep, lambs, goats, deer, cattle and buffalo;

**birds** includes roosters, hens, geese, turkeys, ducks, poultry, emus and ostriches;

**feedlot** means a confined area with watering and feeding facilities where animals or birds are held and fed for the purpose of weight gain.

#### 5.11 Premises to be approved

(1) No premises shall be used as a feedlot unless approved by the local government.

(2) Subject to subclause (3), no premises shall be approved as a feedlot by the local government unless every portion of such feedlot complies with the minimum separation distances listed in Table 1.

(3) Sites unable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the feedlot will not give rise to a health nuisance.

**Table 1 Required buffer distances for feedlots**

<b>Buffer</b>	<b>Distance</b>
Townsite boundaries	5,000m
Isolated rural dwellings, dairies and industries	1,000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	50m
Major water course and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

**5.12 Site conditions**

- (1) The owner or occupier of the approved feedlot shall ensure the premises—
- is sited on gently sloping land, no greater than 1:20 but not less than 1:100;
  - is sited on soils composed of sandy loam soils with sufficient infiltration to avoid surface ponding and run-off;
  - has a minimum groundwater clearance of 3 metres;
  - drainage diverts all uncontaminated stormwater from the general waste stream;
  - has solid and liquid waste disposal arrangements that are not offensive or injurious to health.
- (2) The owner or occupier of the approved feedlot shall take effective measures to prevent the discharge of dust which may involve—
- reducing the stocking rate immediately to a level that does not cause the discharge of dust; or
  - stabilisation of the soil surface to a level that does not cause the discharge of dust; or
  - provision of adequate windbreaks to effectively prevent the discharge of dust.

*Division 4—Piggeries***5.13 Interpretation**

In this Division, unless the context otherwise requires—

*intensive piggery* means pigs are housed, fed and watered in breeding and growing sheds;

*piggery* in relation of premises shall include any portion of premises to which pigs have access.

**5.14 Premises to be approved**

- No premises shall be used as a piggery unless approved by the local government.
- Subject to subclause (3), no premises shall be approved as a piggery by the local government, unless every portion of such piggery complies with the minimum separation distances listed in Table 2, or if it is an intensive piggery, the minimum distances listed in Table 3; and
- Sites unsuitable to satisfy the separation requirements may be approved at the discretion of the local government, if the local government is satisfied that approving the piggery will not give rise to a health nuisance.

**Table 2 Required buffer distances for piggeries**

<b>Buffer</b>	<b>Distances</b>
Townsite boundaries	5000m
Isolated rural dwellings, dairies and industries	1000m
Public roads and recreation areas	100m
Neighbouring rural property boundaries	100m
Major water courses and water impoundments	300m
Bores, wells or soaks used for drinking, stock or irrigation	300m
Minor water courses	100m

**5.15 Site conditions**

The owner or occupier of premises shall take effective measures to prevent the discharge of dust which may involve—

- reducing stocking rate immediately to a level that does not cause the discharge of dust; or
- stabilisation of the soil surface to a level that does not cause the discharge of dust; or
- provision of adequate windbreaks to effectively prevent the discharge of dust.

**5.16 Prevention of nuisances**

In order to prevent dust, offensive fumes and effluent becoming a nuisance to the health of the inhabitants of the district, an intensive piggery shall comply with the minimum separation distances listed in Table 3.

**Table 3—Required buffer distances for intensive piggeries**

	Townsite boundaries	Isolated rural dwellings, dairies, industries	Public roads, recreation areas	Neighbouring rural property boundaries	Surface water supply catchments	Water courses/ rural water impoundments	Bores/ wells Soaks drinking water supply
Piggeries and facilities catering for more than 5000 pigs	5000m	1000m	200m	100m	Not permitted	300m	300m
500—5000 pigs	3500m	1000m	150m	100m	Not permitted	300m	300m
50—499 pigs	2000m	1000m	100m	100m	Not permitted	300m	300m
Less than 50 pigs	1000m	1000m	100m	100m	Not permitted	200m	300m
Land used to dispose of raw or partly treated wastes	1000m	1000m	100m	50m	Not permitted	300m	300m
Land used to dispose of effectively treated wastes	200m	50m	50m	20m	Not permitted	100m	100m

**PART 6—PEST CONTROL***Division 1—Flies***6.1 Interpretation**

In this Division, unless the context otherwise requires—

*flies* means any of the two-winged insects constituting the order Diptera commonly known as flies.

**6.2 Fly breeding matter not to be left on premises unless covered or treated**

An owner or occupier of premises shall not place, throw, leave, or permit or cause to be placed, thrown or left in, on or about the premises, any matter or thing which is liable to attract or be a breeding place for flies, unless that matter or thing is covered, protected, treated or dealt with in such a manner as to effectively prevent it from attracting or being a breeding place for flies.

**6.3 Measures to be taken by an occupier**

An owner or occupier of premises shall ensure that—

- (a) rubbish receptacles are kept clean and tightly sealed at all times except when refuse is being deposited or emptied;
- (b) food scraps and uneaten pet food are wrapped tightly and deposited in a rubbish receptacle without delay;
- (c) lawn clippings used on gardens as mulch are raked out thinly;
- (d) fertilisers are dug well into the soil;
- (e) compost heaps are kept well covered;
- (f) barbecues are kept clean and free from food scraps;
- (g) anything that is buried and may attract or be a breeding place for flies is covered with at least 100 millimetres of soil; and
- (h) excrement from pets is collected and properly disposed of without delay.

**6.4 EHO may give notice directing measures to be taken**

Where, in the opinion of an EHO, flies are prevalent or are breeding on any premises, an EHO may give to the owner or occupier of the premises notice in writing directing him or her to take, within the time specified in the notice, such measures as in the opinion of an EHO are necessary to—

- (a) control the prevalence;
- (b) effect the eradication; or
- (c) effectively prevent the breeding,

of flies.

**6.5 Local government may execute work and recover costs**

(1) Where—

- (a) a person is required under this Division or directed by a notice given under clause 6.4, to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the local government may execute the work and may recover from that person the cost of executing the work in addition to any penalty for which that person may be liable under this local law.

(2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from the person referred to in subclause (1).

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

#### *Division 2—Mosquitoes*

### **6.6 Interpretation**

In this Division, unless the context otherwise requires—

**mosquitoes** means any of the two winged insects constituting the family Diptera Culicidae commonly known as mosquitoes.

### **6.7 Measures to be taken to prevent mosquitoes breeding**

(1) An owner or occupier of premises shall ensure that the premises are kept free from possible mosquito breeding sites and shall—

- (a) follow any direction or notice of an EHO for the purpose of—
  - (i) controlling the prevalence of mosquitoes;
  - (ii) eradication of mosquitoes; or
  - (iii) effectively preventing the breeding of mosquitoes; and
- (b) assist an EHO to locate any possible mosquito breeding sites that may be present in or about the premises.

(2) An owner or occupier of any premises where water is kept in a horse trough, poultry drinking vessel or other receptacle shall—

- (a) frequently change the water; and
- (b) keep the water clean and free from vegetable matter and slime.

(3) An owner or occupier of premises, where a septic tank is installed, shall ensure the fixture is in a sound condition at all times, and mesh having openings no larger than 1.2 millimetres, covers any educt vent to the system.

(4) Where there is a swimming pool on any premises where the circulation system does not function, or has not been used such that the pool water is green or stagnant and suitable for breeding mosquitoes, the owner or occupier shall, when required by a notice issued by an EHO—

- (a) reactivate the pool circulation system within a time specified and operate it so that the water is filtered for as many hours as may be specified; and/or
- (b) chlorinate and adjust the pH of the pool to—
  - (i) 4 milligrams per litre free chlorine; and
  - (ii) pH within the range 7.2—7.6; or
- (c) empty or drain the pool; or
- (d) add a larvicide to the pool at the specified rate; and
- (e) maintain the pool water free of mosquito breeding.

(5) An owner or occupier of land shall cause all drains and channels in or on the land to be kept in good order and free from obstruction.

### **6.8 Local government may execute work and recover costs**

(1) Where—

- (a) a person is required under this Division or directed by a notice given under clause 6.7 to execute any work; and
- (b) that person fails or neglects to comply with the requirement,

the local government may execute the work and recover from that person the cost of executing the work, in addition to any penalty for which that person may be liable.

(2) The costs and expenses incurred by the local government in the execution of a power under subclause (1) may be recovered in a court of competent jurisdiction from that person.

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

#### *Division 3—Rodents*

### **6.9 Interpretation**

In this Division, unless the context otherwise requires—

**rodents** means those animals belonging to the order Rodentia and includes rats and mice but does not include native rodents, laboratory bred rats and mice, or those animals kept as pets in an enclosure designed for the purpose of keeping as pets, animals of that kind.

**6.10 Measures to be taken to eradicate rodents**

- (1) An owner or occupier of any premises, shall at all times take effective measures to eradicate any rodents and prevent the harbourage or potential harbourage of rodents in or on the premises.
- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action, in the opinion of an EHO, is necessary or desirable to prevent or deter the presence of rodents in or on the premises.
- (3) An owner or occupier shall, within the time specified, comply with any direction given by an EHO under this clause.

**6.11 Food and wastes to be kept in rodent proof receptacles**

A person must not store, or allow to be stored, on any premises, any food, refuse or other waste matter unless it is contained in a rodent proof receptacle or compartment, which is kept effectively protected against access by rodents.

**6.12 Restrictions on keeping of rodents**

A person or body who keeps rodents shall—

- (a) at all times ensure that all live rodents are kept in the effective control of a person or in locked cages; and
- (b) if a rodent escapes forthwith take all reasonable steps to destroy or recapture the rodent.

*Division 4—Cockroaches***6.13 Interpretation**

In this Division, unless the context otherwise requires—

**cockroach** means any of the various orthopterous insects commonly known as cockroaches.

**6.14 Measures to be taken to eradicate cockroaches**

- (1) An owner or occupier of premises shall take effective measures to eradicate any cockroaches in or on the premises.
- (2) An EHO may direct, orally or in writing, an owner or occupier of premises to take whatever action that, in the opinion of the EHO, is necessary or desirable to prevent or deter the presence of cockroaches in or on the premises.
- (3) An owner or occupier shall, within the time specified, comply with any direction given by an EHO under this clause.

*Division 5—Argentine Ants***6.15 Interpretation**

In this Division, unless the context otherwise requires—

**Argentine Ant** means an ant belonging to the species *Linepithema humile* (formally *Iridomyrmex humilis*).

**6.16 Measures to be taken to keep premises free from Argentine Ants**

An owner or occupier of premises shall ensure that the premises are kept free from Argentine Ant colonies and shall—

- (a) take all steps to locate any nests if Argentine Ants are noticed in, on or about the premises;
- (b) properly treat all nests of Argentine Ants with an approved residual based insecticide; and
- (c) whenever required by an EHO—
  - (i) treat any area or infestation with an insecticide referred to in paragraph (b); and
  - (ii) remove any objects, including timber, firewood, compost or pot plants in accordance with a direction from an EHO.

*Division 6—European Wasps***6.17 Interpretation**

In this Division, unless the context otherwise requires—

**European Wasp** means a wasp belonging to the species *Vespula germanica*.

**6.18 Measures to be taken to keep premises free from European Wasp nests**

An owner or occupier of premises shall ensure that the premises are kept free from European Wasp nests and shall—

- (a) follow any direction of an EHO for the purpose of destroying the European Wasps and their nests; and
- (b) assist an EHO, or his or her representative, to trace any nest that may be present in, on or about the premises.

*Division 7—Arthropod vectors of disease***6.19 Interpretation**

In this Division, unless the context otherwise requires—

**arthropod vectors of disease** includes—

- (a) fleas (Siphonaptera);

- (b) bedbugs (*Cimex lectularius*);
- (c) pubic lice (*Phthirus pubis*);
- (d) body lice (*Pediculus humanus humanus*, also known as *Pediculus humanus corporis*); and
- (e) head lice (*Pediculus humanus capitis*).

### **6.20 Responsibility of the owner or occupier**

The owner or occupier of premises shall—

- (a) take reasonable steps to keep the premises and any person residing in or on the premises, free from any arthropod vectors of disease; and
- (b) comply with the direction of an EHO to treat the premises, or anything on the premises, for the purpose of destroying any arthropod vectors of disease.

## **PART 7—INFECTIOUS DISEASES**

### *Division 1—General provisions*

#### **7.1 Requirements on owner or occupier to clean, disinfect and disinfest**

(1) The local government or an EHO may, by notice in writing, direct an owner or occupier of premises, within the time and in the manner specified in the notice, to clean, disinfect and disinfest—

- (a) the premises; or
- (b) such things in or on the premises as are specified in the notice,

or both, to the satisfaction of the EHO.

(2) An owner or occupier shall comply with a notice given under subclause (1).

#### **7.2 EHO may disinfest or disinfect premises**

(1) Where the local government or the medical officer is satisfied that any case of infectious disease has occurred on any premises, the local government or the medical officer may direct an EHO, other local government officer or other person to disinfest and disinfect the premises or any part of the premises and anything in or on the premises.

(2) An owner or occupier of premises shall permit, and provide access to enable an EHO, other local government officer or other person to carry out the direction given under subclause (1).

(3) The local government may recover, in a court of competent jurisdiction, the cost of carrying out the work under this clause from the owner or occupier of the premises in or on which the work was carried out.

(4) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

#### **7.3 Insanitary houses, premises and things**

(1) An owner or occupier of any house or premises shall maintain the house or premises free from any insanitary condition or thing.

(2) Where the local government considers that a house is insanitary, it may, by notice in writing, direct an owner of the house, within the time and in the manner specified in the notice, to destroy or amend the house.

(3) Where an EHO considers that—

- (a) a house or premises is not being maintained in a sanitary condition; or
- (b) any thing is insanitary,

the EHO may, by notice in writing, direct, as the case may be—

- (i) the owner or occupier of the house or premises to amend any insanitary condition; or
- (ii) the owner or occupier of the thing to destroy or amend it,

within the time and in the manner specified in the notice.

(4) A person to whom a notice has been given under subclauses (2) or (3) shall comply with the terms of the notice.

#### **7.4 Persons in contact with an infectious disease sufferer**

If a person in any house is, or is suspected of, suffering from an infectious disease, any occupant of the house or any person who enters or leaves the house—

- (a) shall obey such instructions or directions as the local government or the medical officer may issue; and
- (b) may be removed, at the direction of the local government or the medical officer to isolation in an appropriate place to prevent or minimise the risk of the infection spreading and if so removed, shall remain in that place until the medical officer otherwise directs.

#### **7.5 Declaration of infected house or premises**

(1) To prevent or check the spread of infectious disease, the local government or the medical officer may from time to time declare any house or premises to be infected.

(2) A person shall not enter or leave any house or premises declared to be infected, without the written consent of the medical officer or an EHO.

### 7.6 Destruction of infected animals

(1) An EHO, upon being satisfied that an animal is or may be infected or is liable to be infected or to convey infection may, by notice in writing, direct that the animal be examined by a registered veterinary officer and all steps taken to enable the condition to be controlled or eradicated or the animal destroyed and disposed of—

- (a) in the manner and within the time specified in the notice; and
- (b) by the person in whose possession, or upon whose premises, the animal is located.

(2) A person who has in his or her possession or upon premises occupied by him or her, an animal which is the subject of a notice under subclause (1), shall comply with the terms of the notice.

### 7.7 Disposal of a body

(1) An occupier of premises in or on which is located the body of a person who has died of an infectious disease shall, subject to subclause (2), cause the body to be buried or disposed of in such manner, within such time and with such precautions as may be directed by the medical officer.

(2) A body shall not be removed from premises where death occurred except to a cemetery or morgue.

### 7.8 Local government may carry out work and recover costs

(1) Where—

- (a) a person is required under this Division or by a notice given under this Division, to carry out any work; and
- (b) that person fails or neglects to comply with the requirement,

that person commits an offence and the local government may carry out the work or arrange for the work to be carried out by another.

(2) The costs and expenses incurred by the local government in the execution of a power under this clause may be recovered in a court of competent jurisdiction from the person referred to in subclause (1)(a).

(3) The local government shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the local government under this clause, except to the extent the person has suffered unreasonable loss or damage because the action taken by the local government was negligent or in breach of its duty.

#### *Division 2—Disposal of used condoms and needles*

### 7.9 Disposal of used condoms

(1) An occupier of premises on or from which used condoms are produced shall ensure that the condoms are—

- (a) placed in a sealed impervious container and disposed of in a sanitary manner; or
- (b) disposed of in such a manner as may be directed by an EHO.

(2) A person shall not dispose of a used condom in a public place except in accordance with subclause (1).

### 7.10 Disposal of used needles

A person shall not dispose of a used hypodermic syringe or needle in a public place unless it is placed in an impenetrable, leak-proof container and deposited in a refuse receptacle.

## PART 8—LODGING HOUSES

### *Division 1—Registration*

#### 8.1 Interpretation

(1) In this Part, unless the context otherwise requires—

**bed** means a single sleeping berth only, and a double bed provided for the use of couples has the same floor space requirements as two single beds;

**bunk** means a sleeping berth comprising one of two beds arranged vertically;

**dormitory** means a building or room utilised for sleeping purposes at a short term hostel or a recreational campsite;

**Food Standards Code** means the Australia New Zealand Food Standards Code as defined in the Commonwealth *Food Standards Australia New Zealand Act 1991*;

**keeper** means a person whose name appears on the register of keepers, in respect of a lodging house, as the keeper of that lodging house;

**laundry unit** means a group of facilities consisting of—

- (a) a washing machine with a capacity of not less than 4 kilograms weight of dry clothing;
- (b) one wash trough of not less than 36 litres capacity, connected to both hot and cold water;
- (c) either an electric drying cabinet or not less than 30 metres of clothes line; and
- (d) a hot water system that—
  - (i) is capable of delivering an adequate supply of water at a temperature of at least 65 degrees Celsius for each washing machine provided with the communal facilities; and
  - (ii) has a delivery rate of not less than 0.076 litres per second to each washing machine;

- lodger** means a person who obtains, for hire or reward, board or lodging in a lodging house;
- lodging house** includes a recreational campsite, a serviced apartment, a short term hostel and any premises used for transient workforce accommodation;
- lodging house manager** means a person duly appointed by the keeper in accordance with this Division to reside in, and have the care and management of, a lodging house;
- recreational campsite** means a lodging house—
- (a) situated on a campsite principally used for—
    - (i) recreational, sporting, religious, ethnic or educational pursuits; or
    - (ii) conferences or conventions; and
  - (b) where the period of occupancy of any lodger is not more than 14 consecutive days, and includes youth camps, youth education camps, church camps and riding schools but does not include a camp or caravan within the meaning of the *Caravan Parks and Camping Grounds Act 1995*;
- register of lodgers** means the register kept in accordance with section 157 of the Act and this Part;
- resident** means a person other than a lodger, who resides in a lodging house;
- serviced apartment** means a lodging house in which each sleeping apartment, or group of sleeping apartments in common occupancy, is provided with its own sanitary conveniences and may have its own cooking facilities;
- short term hostel** means a lodging house where the period of occupancy of any lodger is not more than 14 consecutive days and includes a youth hostel or a backpacker hostel; and
- vectors of disease** means an arthropod or rodent that transmits, by biological or mechanical means, an infectious agent from a source or reservoir to a person, and includes fleas, bedbugs, crab lice, body lice and head lice.

(2) Where in this Part an act is required to be done or forbidden to be done in relation to any lodging house, the keeper of the lodging house has, unless the contrary intention appears, the duty of causing the act to be done, or of preventing the act so forbidden from being done, as the case may be.

### 8.2 Lodging house not to be kept unless registered

A person shall not keep or cause or allow to be kept a lodging house unless—

- (a) the lodging house is constructed in accordance with the requirements of this Part;
- (b) the lodging house is registered by the local government under clause 8.4;
- (c) the name of the person keeping or proposing to keep the lodging house is entered in the register of keepers; and
- (d) when required by the local government either—
  - (i) the keeper; or
  - (ii) a lodging house manager who, with the written approval of an EHO, has been appointed by the keeper to have the care and management of the lodging house, resides or intends to reside continuously in the lodging house whenever there is one or more lodgers in the lodging house.

### 8.3 Application for registration

An application for registration of a lodging house shall be—

- (a) in the form approved by the local government from time to time;
- (b) duly completed and signed by the proposed keeper; and
- (c) accompanied by—
  - (i) the approved fee as fixed from time to time by the local government under section 344C of the Act; and
  - (ii) detailed plans and specifications of the lodging house.

### 8.4 Approval of application

The local government may approve, with or without conditions, an application by issuing to the applicant a certificate of registration in the form approved by the local government from time to time.

### 8.5 Renewal of registration

A person who keeps a lodging house which is registered under this Part shall—

- (a) during the month of June in each year apply to the local government for the renewal of the registration of the lodging house in the form approved by the local government from time to time; and
- (b) pay the approved fee as fixed from time to time by the local government under section 344C of the Act at the time of making each application for renewal.

### 8.6 Notification upon sale or transfer

If the owner of a lodging house sells or transfers, or agrees to sell or transfer, the lodging house to another person, he or she shall, within 14 days of the date of sale, transfer or agreement, give to the local government, in the form approved by the local government from time to time, written notice of the full name, address and occupation of the person to whom the lodging house has been, or is to be, sold or transferred.

**8.7 Revocation of registration**

- (1) Subject to subclause (3), the local government may, at any time, revoke the registration of a lodging house for any reason which, in the opinion of the local government, justifies the revocation.
- (2) Without limiting the generality of subclause (1), the local government may revoke a registration upon any one or more of the following grounds—
- (a) that the lodging house has not, to the satisfaction of the local government, been kept free from vectors of disease or remained in a clean and sanitary condition;
  - (b) that the keeper has—
    - (i) been convicted of an offence against this local law in respect of the lodging house;
    - (ii) not complied with a requirement of this Part; or
    - (iii) not complied with a condition of registration;
  - (c) that the local government, having regard to a report from the Police Service, is satisfied that the keeper or lodging house manager is not a fit and proper person; and
  - (d) that, by reason of alterations or additions or neglect to repair and renovate, the condition of the lodging house is such as to render it, in the opinion of the local government, unfit to remain registered.
- (3) Before revoking the registration of a lodging house under this local law, the local government shall give notice to the keeper requiring him or her, within a time specified in the notice, to show cause why the registration should not be revoked.
- (4) Whenever the local government revokes the registration of a lodging house, it shall give the keeper notice of the revocation and the registration shall be revoked as from the date on which the notice is served on the keeper.

*Division 2—Construction and use requirements***8.8 General construction requirements**

The construction of a lodging house shall comply with the Building Code and the Act.

**8.9 Sanitary conveniences**

- (1) A keeper shall maintain in good working order and condition and in convenient positions on the premises—
- (a) toilets; and
  - (b) bathrooms, each fitted with a hand wash basin and either a shower or a bath,
- in accordance with the requirements of the Building Code.
- (2) A bathroom or toilet which is used as a private bathroom or toilet to the exclusion of other lodgers or residents shall not be counted for the purposes of subclause (1).
- (3) Each bath, shower and hand wash basin shall be provided with an adequate supply of hot and cold water.
- (4) The walls of each shower and bath shall be of an impervious material to a minimum height of 1.8 metres above the floor level.
- (5) Each toilet and bathroom shall—
- (a) be so situated, separated and screened as to ensure privacy;
  - (b) be apportioned to each sex;
  - (c) have a distinct sign displayed in a prominent position denoting the sex for which the toilet or bathroom is provided; and
  - (d) be provided with adequate electric lighting and ventilation.
- (6) Paragraphs (b) and (c) of subclause (5) do not apply to a serviced apartment.

**8.10 Laundry**

- (1) A keeper shall—
- (a) subject to subclause (2)—
    - (i) in the case of a recreational campsite, provide on the premises a laundry consisting of at least one 45 litre stainless steel trough; and
    - (ii) in any other case, provide on the premises a laundry unit for each 15 lodgers;
  - (b) at all times maintain each laundry or laundry unit in a proper sanitary condition and in good repair;
  - (c) provide an adequate supply of hot and cold water to each wash trough, sink, or washing machine; and
  - (d) ensure that the floor area of each laundry or laundry unit is properly surfaced with an even fall to a floor waste.
- (2) An EHO may approve the provision of a reduced number of laundry units if suitable equipment of a commercial type is installed.

**8.11 Kitchen**

A keeper of a lodging house shall provide in that lodging house a kitchen—

- (a) which has a minimum floor area of—
  - (i) where lodgers prepare their own meals—0.65 square metres per person; or

- (ii) where meals are provided by the keeper or lodging house manager—0.35 square metres per person; or
- (iii) where a kitchen and dining room are combined—1 square metre per person, but in any case not less than 16 square metres;
- (b) which has adequate—
  - (i) food storage facilities and cupboards to prevent contamination of food, or cooking or eating utensils, by dirt, dust, flies or other vectors of disease of any kind; and
  - (ii) refrigerator space for storage of perishable goods; and
- (c) complies with the requirements of Standard 3.2.3—Food Premises and Equipment of the *Food Standards Code* as amended from time to time.

### 8.12 Dining room

The keeper of a lodging house shall provide in that lodging house a dining room—

- (a) located in close proximity to, or combined with, the kitchen;
- (b) the floor area of which shall be 0.5 square metres per person or not less than 10 square metres whichever is the greater; and
- (c) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### 8.13 Lounge room

The keeper of a lodging house shall provide in that lodging house, a lounge room—

- (a) with a floor area of—
  - (i) where the lounge is not combined with the dining room, not less than 0.6 square metres per person; or
  - (ii) where the lounge room is combined with a dining room, not less than 1.2 square metres per person,but in either case having a minimum of 13 square metres; and
- (b) which shall be—
  - (i) adequately furnished to accommodate, at any one time, half of the number of lodgers; and
  - (ii) provided with a suitable floor covering.

### 8.14 Fire prevention and control

(1) The keeper of a lodging house must—

- (a) in each passage in the lodging house provide an emergency light—
  - (i) in the position and pattern approved by an EHO; and
  - (ii) which must be kept separate from the general lighting system and kept illuminated during the hours of darkness;
- (b) provide an approved fire blanket positioned within 2 metres of the cooking area in each kitchen;
- (c) ensure that each exit sign and fire-fighting appliance is clearly visible, accessible and maintained in good working order at all times;
- (d) ensure all fire-fighting equipment and fire detection and alarm systems are adequately maintained at all times in such a condition as will enable their proper performance; and
- (e) ensure that a lodger or other person does not smoke in any dormitory, kitchen, dining room, or other enclosed public place within a lodging house.

(2) The keeper of a lodging house must ensure that all buildings comprising the lodging house are fitted with fire protection equipment in accordance with the Building Code.

### 8.15 Obstruction of passages and stairways

A keeper shall not cause or allow furniture, fittings or other things to be placed either temporarily or permanently in or on—

- (a) a stairway, stair landing, fire-escape, window or common passageway; or
- (b) part of the lodging house in common use or intended or adapted for common use,

in such a manner as to form an obstruction to the free passage of lodgers, residents or persons in or occupying the lodging house.

### 8.16 Fitting of locks

A person shall not fit, or cause or permit to be fitted, to an exit door a lock or other device which prevents the door being opened from within a lodging house.

### 8.17 Restriction on use of rooms for sleeping

(1) Subject to subclause (3) and clause 8.31, a keeper shall not use or permit to be used as a sleeping apartment, a room in a lodging house—

- (a) which contains food;

- (b) which contains or is fitted with a cooking appliance or kitchen sink;
  - (c) which is used as a kitchen, scullery, storeroom, dining room, general sitting room or lounge room, or for the preparation or storage of food;
  - (d) which is not reasonably accessible without passing through a sleeping or other room in the private occupation of another person;
  - (e) which, except in the case of a short term hostel or a recreational campsite, contains less than 5.5 square metres of clear space for each lodger occupying the room;
  - (f) which is naturally illuminated by windows having a ratio of less than 0.1 square metres of unobstructed glass to every 1.0 square metre of floor area;
  - (g) which is ventilated at a ratio of less than 0.5 square metres of unobstructed ventilating area to every 10 square metres of floor area;
  - (h) in which the lighting or ventilation referred to in paragraphs (f) and (g) is obstructed or is not in good and efficient order;
  - (i) which is not free from internal dampness;
  - (j) of which any part of the floor is below the level of the adjoining ground; or
  - (k) the floor of which is not fitted with an approved carpet or vinyl floor covering or other floor treatment approved by an EHO.
- (2) For the purposes of this clause, 2 children under the age of 10 years are counted as 1 lodger.
- (3) Paragraphs (a), (b) and (c) of subclause (1) do not apply to a serviced apartment.

### **8.18 Sleeping accommodation—short term hostels and recreational campsites**

- (1) A keeper of a short term hostel or recreational campsite shall provide clear floor space of not less than—
- (a) 4 square metres per person in each dormitory utilising beds; and
  - (b) 2.5 square metres per person in each dormitory utilising bunks.
- (2) The calculation of floor space in subclause (1) shall exclude the area occupied by any large items of furniture, such as wardrobes, but may include the area occupied by beds.
- (3) The minimum height of any ceiling in a short term hostel or recreational campsite shall be 2.4 metres in any dormitory utilising beds, and 2.7 metres in any dormitory utilising bunks.
- (4) The minimum floor area requirements in subclause (1) will only apply if there is ventilation, separation distances, fire egress and other safety requirements in accordance with the Building Code.
- (5) The keeper of any short term hostel or recreational campsite shall provide—
- (a) fixed outlet ventilation at a ratio of 0.15 square metres to each 10 square metres of floor area of the dormitories, and shall ensure that dormitories are provided with direct ventilation to the open air from a point within 230 millimetres of the ceiling level through a fixed open window or vents, carried as direct to the open air as is practicable; and
  - (b) mechanical ventilation in lieu of fixed ventilation, subject to the approval of the local government.
- (6) The keeper of any short term hostel or recreational campsite shall provide—
- (a) beds with a minimum size of—
    - (i) in short term hostels—800 millimetres x 1.9 metres; and
    - (ii) in recreational campsites—750 millimetres x 1.85 metres; and
  - (b) storage space for personal effects, including backpacks, so that cleaning operations are not hindered and access spaces are not obstructed.
- (7) The keeper of any short term hostel or recreational campsite shall—
- (a) arrange at all times a distance of 750 millimetres between beds, and a distance of 900 millimetres between bunks;
  - (b) ensure that, where bed or bunk heads are placed against the wall on either side of a dormitory, there is a passageway of at least 1.35 metres between each row of beds and a passageway of at least 2 metres between each row of bunks, and shall ensure that the passageway is kept clear of obstruction at all times; and
  - (c) ensure all doors, windows and ventilators are kept free of obstruction.
- (8) The keeper of a short term hostel or recreational campsite shall ensure that—
- (a) materials used in dormitory areas comply with AS 1530.2—1993 and AS/NZS 1530.3:1999 as follows—
    - (i) Drapes, curtains, blinds and bedcovers—
      - a maximum Flammability Index of 6;
    - (ii) Upholstery and bedding—
      - a maximum Spread of Flame Index of 6; and
      - a maximum Smoke Developed Index of 5;
    - (iii) Floor coverings—
      - a maximum Spread of Flame Index of 7; and
      - a maximum Smoke Developed Index of 5;

- (b) Fire retardant coatings used to make a material comply with the indices set out in subclause (8)(a) must be—
  - (i) certified by the manufacturer as approved for use with the fabric to achieve the required indices;
  - (ii) certified by the manufacturer to retain its fire retardative effect after a minimum of 5 commercial dry cleaning or laundering operations carried out in accordance with AS 2001.5.4—2005, Procedure 7A, using ECE reference detergent; and
  - (iii) certified by the applicator as having been carried out in accordance with the manufacturer's specification;
- (c) emergency lighting is provided in accordance with the Building Code;
- (d) a lodger or other person does not smoke in any kitchen, dining room or other enclosed public place within a short term hostel or recreational campsite; and
- (e) all mattresses in a short term hostel or recreational campsite are fitted with a mattress protector.

### **8.19 Furnishing of rooms**

- (1) A keeper shall—
  - (a) furnish each sleeping room with a sufficient number of beds and sufficient bedding of good quality;
  - (b) ensure that each bed—
    - (i) has a bed head, mattress and pillow; and
    - (ii) is provided with a pillow case, mattress cover, two sheets, a blanket or rug and, from 1 May to 30 September, not less than one additional blanket or rug; and
  - (c) furnish each bedroom so that there are adequate storage facilities for belongings within the room.
- (2) A keeper shall not cause or allow any tiered beds or bunks to be used in a sleeping apartment.
- (3) The sheets and blankets required to be provided by subclause (1)(b)(ii), shall be deemed to have been provided by the keeper, where the keeper offers them for hire to the lodgers. In such circumstances, each lodger must either provide his own clean sheets or hire them from the keeper.
- (4) In a short-term hostel or recreational campsite, the storage facilities required by subclause (1)(c) may be located in a separate secure storage room or locker room.

### **8.20 Ventilation**

If, in the opinion of an EHO, a kitchen, bathroom, toilet, laundry or habitable room is not adequately or properly ventilated, he or she may direct the keeper to provide a different or additional method of ventilation.

### **8.21 Numbers to be placed on doors**

- (1) A keeper shall number each room available to a lodger or provide an alternative means of identification approved by an EHO.
- (2) The number or alternate means of identification is to be legible and easily identified.

#### *Division 3—Management and care*

### **8.22 Keeper or lodging house manager to reside in the lodging house**

No keeper of a lodging house shall absent himself from such house, unless he leaves some reputable person in charge thereof.

### **8.23 Register of lodgers**

- (1) A keeper shall keep a register of lodgers in the form approved by the local government from time to time.
- (2) The register of lodgers shall be—
  - (a) kept in the lodging house; and
  - (b) open to inspection at any time on demand by any member of the Police Service or by an EHO.

### **8.24 Keeper report**

A keeper shall, whenever required by the local government, report to the local government, in the form approved by the local government from time to time, the name of each lodger who lodged in the lodging house during the preceding day or night.

### **8.25 Certificate in respect of sleeping accommodation**

- (1) An EHO may issue to a keeper, a certificate, in respect of each room, which shall be in the form approved by the local government from time to time.
- (2) The certificate issued under subclause (1) shall specify the maximum number of persons permitted to occupy each room of a sleeping apartment at any one time.
- (3) When required by an EHO, a keeper shall exhibit the certificate issued under this clause in a conspicuous place in the room to which it refers.
- (4) A person shall not cause or allow a greater number of persons than is specified on a certificate issued under this clause to occupy the room to which it refers.

**8.26 Duplicate keys and inspection**

Each keeper and lodging house manager of a lodging house shall—

- (a) retain possession of a duplicate key to the door of each room; and
- (b) when required by an EHO, open the door of any room for the purposes of inspection by the EHO.

**8.27 Room occupancy**

(1) A keeper of a lodging house shall not—

- (a) cause or allow more than the maximum number of persons permitted by the certificate of registration of the lodging house to be lodged at any one time in the lodging house;
- (b) cause or allow to be placed or kept in any sleeping apartment—
  - (i) a larger number of beds; or
  - (ii) larger quantity of bedding, than is required to accommodate and provide for the maximum number of persons permitted to occupy the sleeping apartment at any one time; and
- (c) use, or cause, or allow to be used, for sleeping purposes, a room that—
  - (i) has not been certified for that purpose; and
  - (ii) the local government has forbidden to be used as a sleeping apartment.

(2) For the purpose of this clause, 2 children under 10 years of age shall be counted as 1 lodger.

**8.28 Maintenance of a room by a lodger or resident**

(1) A keeper may permit, or contract with, a lodger or resident to service, clean or maintain the room or rooms occupied by the lodger or resident.

(2) Where permission is given or a contract entered into under subclause (1), the keeper shall—

- (a) inspect each room the subject of the permission or agreement at least once a week; and
- (b) ensure that each room is being maintained in a clean condition.

(3) A lodger or resident who contracts with a keeper to service, clean or maintain a room occupied by him or her, shall maintain the room in a clean condition.

**8.29 Cleaning and maintenance requirements**

(1) In this clause—

*bed linen* includes sheets, pillow cases and mattress covers.

(2) A keeper of a lodging house shall—

- (a) maintain in a clean, sound and undamaged condition—
  - (i) the floor, walls, ceilings, woodwork and painted surfaces;
  - (ii) the floor coverings and window treatments; and
  - (iii) the toilet seats;
- (b) maintain in a clean condition and in good working order—
  - (i) all fixtures and fittings; and
  - (ii) windows, doors and door furniture;
- (c) ensure that the internal walls of each bathroom and toilet are painted so as to maintain a smooth impervious washable surface;
- (d) ensure that all floors are kept clean at all times;
- (e) ensure that—
  - (i) all bed linen, towels, and house linen in use are washed at least once a week;
  - (ii) within a reasonable time of a bed having been vacated by a lodger or resident, or prior to the room being re-let, the bed linen is removed and washed;
  - (iii) a person does not occupy a bed which has been used by another person unless the bed has been provided with clean bed linen;
  - (iv) all beds, bedsteads, blankets, rugs, covers, bed linen, towels and house linen are kept clean, in good repair and free from vectors of disease;
  - (v) when any vectors of disease are found in a bed, furniture, room or sleeping apartment, immediate effective action is taken to eradicate the vectors of disease; and
  - (vi) a room which is not free from vectors of disease is not used as a sleeping apartment;
- (f) when so directed by an EHO, ensure that—
  - (i) a room, together with its contents, and any other part of the lodging house, is cleaned and disinfected; and
  - (ii) a bed or other article of furniture is removed from the lodging house and properly disposed of;
- (g) ensure that the yard is kept clean at all times;
- (h) provide all bedrooms, passages, common areas, toilets, bathrooms and laundries with adequate lighting; and
- (i) comply with any direction, whether orally or in writing, given by an EHO.

### 8.30 Responsibilities of lodgers and residents

A lodger or resident shall not—

- (a) use any room available to lodgers—
  - (i) as a shop, store or factory; or
  - (ii) for manufacturing or trading services;
- (b) keep or store in or on the lodging house any goods or materials that are inflammable or offensive;
- (c) use a bath or hand wash basin other than for ablutionary purposes;
- (d) use a bathroom facility or fitting for laundry purposes;
- (e) use a sink installed in a kitchen or scullery for any purpose other than the washing and cleaning of cooking and eating utensils, other kitchenware and culinary purposes;
- (f) deposit rubbish or waste food other than into a proper rubbish receptacle;
- (g) in a kitchen or other place where food is kept—
  - (i) wash or permit the washing of clothing or bedding; or
  - (ii) keep or permit to be kept any soiled clothing or bedding;
- (h) subject to clause 8.31—
  - (i) keep, store, prepare or cook food in any sleeping apartment; or
  - (ii) unless sick or invalid and unable to leave a sleeping apartment for that reason, use a sleeping apartment for dining purposes;
- (i) place or keep, in any part of a lodging house, any luggage, clothing, bedding, or furniture that is infested with vectors of disease;
- (j) store or keep such a quantity of furniture, material or goods within the lodging house—
  - (i) in any kitchen, living or sleeping apartment so as to prevent the cleaning of the floors, walls, fittings or fixtures; or
  - (ii) in a sleeping apartment so as to decrease the air space to less than the minimum required by this Part;
- (k) obstruct or prevent the keeper or lodging house manager from inspecting or examining the room or rooms occupied by the lodger or resident; or
- (l) fix any fastener or change any lock to a door or room without the written approval of the keeper.

### 8.31 Approval for storage of food

- (1) An EHO may—
  - (a) approve the storage of food within a refrigerator or sealed container in a sleeping apartment; and
  - (b) withdraw the approval if a nuisance or vectors of disease infestation is found to exist in the lodging house.
- (2) The keeper of a serviced apartment may permit the storage and consumption of food within that apartment if suitable storage and dining facilities are provided.

## PART 9—OFFENSIVE TRADES

### *Division 1—General*

#### 9.1 Interpretation

In this Part, unless the context otherwise requires—

**occupier** in relation to premises includes the person registered as the occupier of the premises specified in the certificate of registration;

**offensive trade** means any 1 or more of the trades, businesses or occupations usually carried on, in, or connected with, the following works or establishments—

- (a) fat rendering premises;
- (b) fish processing establishments (not including retail fish shops) in which whole fish are cleaned and prepared on site;
- (c) shellfish and crustacean processing establishments (not including retail fish shops) where shellfish and crustaceans are processed, cleaned or prepared on site;
- (d) flock factories;
- (e) laundries, dry cleaning premises;
- (f) fellmonger, not including a premises where pre-treated skins and hides are sorted and boxed for distribution; and
- (g) any trade as defined in section 186 of the Act; and

**premises** includes houses.

#### 9.2 Consent to establish an offensive trade

A person seeking the consent of the local government under section 187 of the Act to establish an offensive trade shall make an application in the form approved by the local government from time to time and in accordance with the local government's local planning scheme.

**9.3 False statement**

A person who makes a false statement in an application under clause 9.2 commits an offence.

**9.4 Registration of premises**

An application for the registration of premises pursuant to section 191 of the Act shall be—

- (a) in the form approved by the local government from time to time;
- (b) accompanied by the fee prescribed in the *Health (Offensive Trades Fees) Regulations 1976*; and
- (c) lodged with the local government.

**9.5 Certificate of registration**

Upon the registration of premises for the carrying on of an offensive trade, the local government shall issue to the applicant a certificate in the form approved by the local government from time to time.

**9.6 Change of occupier**

Where there is a change of occupier of the premises registered pursuant to this Division, the new occupier shall forthwith notify the CEO in writing of such change.

**9.7 Alterations to premises**

While any premises remain registered under this Division, a person shall not, without the written permission of the local government, make or permit any change or alteration whatever to the premises.

*Division 2—General duties of an occupier*

**9.8 Interpretation**

In this Division, unless the context otherwise requires—

**occupier** means the occupier, or where there is more than one occupier, each of the occupiers of the premises in or upon which an offensive trade is carried on; and

**the premises** means those premises in or upon which an offensive trade is carried on.

**9.9 Cleanliness**

The occupier shall—

- (a) ensure the premises is kept and maintained in a clean and sanitary condition and that floors, walls, ceilings and other portions of the premises are kept in a state of good repair;
- (b) ensure all fittings, fixtures, appliances, machinery, implements, shelving, furniture, bins, sinks, drain boards, grease traps, tubs, vessels and other things used on or in connection with the premises are kept in a clean and sanitary condition and in a good state of repair;
- (c) keep the premises free from any offensive odour arising from the premises;
- (d) maintain in a clean and tidy condition, all yards, footpaths, passageways, paved areas, stores or outbuildings used in connection with the premises; and
- (e) clean daily, and at all times keep and maintain all sanitary conveniences and all sanitary fittings and grease traps on the premises, in a clean and sanitary condition.

**9.10 Rats and other vectors of disease**

The occupier shall take reasonable steps to—

- (a) ensure that the premises are kept free from rodents, cockroaches, flies and other vectors of disease; and
- (b) provide in and on the premises all effective means and methods for the eradication and prevention of rodents, cockroaches, flies and other vectors of disease.

**9.11 Sanitary conveniences and hand wash basins**

The occupier shall provide on the premises, in an approved position, sufficient sanitary conveniences and hand wash basins, each with an adequate supply of hot and cold water, for use by employees and by all other persons lawfully upon the premises.

**9.12 Painting of walls etc**

The occupier shall cause the internal surface of every wall, the underside of every ceiling or roof, and all fittings as may be directed in and on the premises, to be cleaned and painted when instructed by an EHO.

**9.13 Effluvia, vapours, gases or dust**

The occupier shall—

- (a) provide, use and maintain in a state of good repair and working order, appliances and preventive measures capable of effectively destroying, or of rendering harmless, all offensive effluvia, vapours, dust or gases arising in any process of his or her business or from any material, residue or other substance which may be kept or stored upon the premises; and
- (b) manage and operate the premises such that odours emanating from the premises do not unreasonably interfere with the health, welfare, convenience, comfort or amenity of any person.

#### 9.14 Offensive material

The occupier shall—

- (a) provide on the premises, impervious receptacles of sufficient capacity to receive all offensive material and trade refuse produced upon the premises in any one day;
- (b) keep airtight covers on the receptacles, except when it is necessary to place something in or remove something from them;
- (c) cause all offensive material and trade refuse to be placed immediately in the receptacles;
- (d) cause the contents of the receptacles to be removed from the premises at least once in every working day or at such other intervals as may be approved or directed by an EHO; and
- (e) cause all receptacles after being emptied to be cleaned immediately with an efficient disinfectant.

#### 9.15 Storage of materials

The occupier shall cause all material on the premises to be stored so as not to be offensive or injurious to health whether by smell or otherwise and so as to prevent the creation of a nuisance.

#### 9.16 Specified offensive trades

(1) For the purposes of this clause, *specified offensive trade* means one or more of the offensive trades carried on, in, or connected with, the following works or premises—

- (a) fish processing premises, fish curing premises, and shellfish and crustacean processing establishments; and
- (b) laundries, dry cleaning premises and dye works.

(2) Where premises are used for, or in relation to, a specified offensive trade, the occupier shall—

- (a) cause the floor of the premises to—
  - (i) be properly paved and drained with impervious material;
  - (ii) have a smooth surface; and
  - (iii) have a fall to a bucket trap or spoon drain in such a way that all liquids falling on the floor shall be conducted by the trap or drain to a drain inlet situated inside the building where the floor is situated;
- (b) cause the angles formed by the walls with any other wall, and by the wall with the floor, to be coved to a radius of not less than 25 millimetres; and
- (c) cause all liquid refuse to be—
  - (i) cooled to a temperature not exceeding 26 degrees Celsius and in accordance with the *Water Services Act 2012*, before being discharged into any drain outlet from any part of the premises; and
  - (ii) directed through such screening or purifying treatment as an EHO may from time to time direct.

#### 9.17 Directions

(1) An EHO may give to the occupier, directions to prevent or diminish the offensiveness of a trade or to safeguard the public health.

(2) The occupier shall comply with any directions given under this clause.

#### 9.18 Other duties of occupier

In addition to the requirements of this Division, the occupier shall comply with all other requirements of this Part that apply to the particular offensive trade or trades conducted on the premises.

### *Division 3—Fish premises*

#### 9.19 Interpretation

In this Division, unless the context otherwise requires—

*fish premises* may include a fish-processing establishment, fish curing establishment and a shellfish and crustacean-processing establishment.

#### 9.20 Duties of an occupier

The occupier of a fish premises shall—

- (a) not suffer or permit any decomposing fish to be kept on the premises where his trade is carried on for a longer period than is reasonably necessary to dispose of them;
- (b) cause all decomposing fish to be immediately deposited in an impervious receptacle furnished with an airtight cover; and
- (c) cause the brine of pickle to be removed as often as is necessary to prevent it from becoming offensive.

#### 9.21 Disposal of waste

The occupier of a fish premises shall cause all offal and wastes, all rejected and unsaleable fish and any rubbish or refuse which is likely to be offensive or a nuisance to be—

- (a) placed in the receptacles referred to in clause 9.14 and disposed of in accordance with that clause; or
- (b) kept in a frozen state in an approved enclosure before its removal from the premises.

**9.22 Fish containers**

The occupier of a fish premises shall not allow any container used for the transport of fish to—

- (a) remain on the premises longer than is necessary for it to be emptied; or
- (b) be kept so as to cause a nuisance or to attract flies.

*Division 4—Laundries, dry cleaning establishments and dye works*

**9.23 Interpretation**

In this Division, unless the context otherwise requires—

**dry cleaning establishment** means premises where clothes or other articles are cleaned by use of solvents without using water, but does not include premises in which perchlorethylene or arklone is used as dry cleaning fluid in a machine operating on a full cycle and fully enclosed basis;

**dye works** means a place where articles are commercially dyed, but does not include dye works in which provision is made for the discharge of all liquid waste into a public sewer;

**exempt laundromat** means a premises in which—

- (a) laundering is carried out by members of the public using, on payment of a fee, machines or equipment provided by the owners or occupiers of those establishments;
- (b) laundering is not carried out by those owners or occupiers for or on behalf of other persons; and
- (c) provision is made for the discharge of all liquid waste into a public sewer;

**laundromat** means a public place with coin operated washing machines, spin dryers or dry cleaning machines; and

**laundry** means any place where articles are laundered with commercial grade machinery but does not include an exempt laundromat.

**9.24 Receiving depot**

An owner or occupier of premises shall not use or permit the premises to be used as a receiving depot for a laundry, dry cleaning establishment or dye works except with the written permission of an EHO who may at any time by written notice withdraw such permission.

**9.25 Reception room**

(1) The occupier of a laundry or dry cleaning establishment or dye works shall—

- (a) provide a reception room in which all articles brought to the premises for treatment shall be received and shall not receive or permit to be received any such articles except in that room; and
- (b) cause such articles as may be directed by an EHO to be thoroughly disinfected to the satisfaction of the officer.

(2) A person shall not bring or permit food to be brought into the reception room referred to in this clause.

**9.26 Walls and floors**

The occupier of a laundry, dry cleaning establishment or dye works shall cause—

- (a) the internal surfaces of all walls to be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 metres and to be devoid of holes, cracks or crevices;
- (b) the floor to be impervious, constructed of concrete and finished to a smooth surface; and
- (c) every floor and wall of any building on the premises to be kept at all times in good order and repair, so as to prevent the absorption of any liquid which may be splashed or spilled or may fall or be deposited on it.

**9.27 Laundry floor**

The occupier of a laundry shall provide in front of each washing machine, a non-corrosive grating, at least 910 millimetres in width and so constructed as to prevent any person from standing in water on the floor.

**9.28 Escape of dust**

The occupier of a dry cleaning establishment shall provide effective means to prevent the escape into the open air of all dust or other material from the premises.

**9.29 Precautions against combustion**

The occupier of a dry cleaning establishment where volatile liquids are used shall take all proper precautions against combustion and shall comply with all directions given by an EHO for that purpose.

**9.30 Trolleys**

The occupier of a laundry or dry cleaning establishment shall—

- (a) provide trolleys for the use of transporting dirty and clean linen; and
- (b) ensure that each trolley is—
  - (i) clearly designated to indicate the use for which it is intended;

- (ii) lined internally with a smooth, impervious, non-absorbent material that is easily cleaned; and
- (iii) thoroughly cleaned and disinfected on a regular basis.

### 9.31 Sleeping on premises

A person shall not use or permit any room in a laundry, dry cleaning establishment or dye works to be used for sleeping purposes.

## PART 10—OFFENCES AND PENALTIES

### *Division 1—General*

#### 10.1 Offences and penalties

- (1) A person who contravenes a provision of this local law commits an offence.
- (2) A person who commits an offence under subclause (1) is liable—
  - (a) to a penalty which is not more than \$2 500 and not less than—
    - (i) in the case of a first such offence, \$250;
    - (ii) in the case of a second such offence, \$500; and
    - (iii) in the case of a third or subsequent such offence, \$1 250; and
  - (b) if the offence is a continuing offence a daily penalty which is not more than \$250 and not less than \$125.

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Passed at the Ordinary Meeting of the Shire of Gnowangerup held on the 27 day of July 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.

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Consented to—

Professor TARUN WEERAMANTHRI, Executive Director, Public Health.

Dated this 22nd day of August 2016.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF GNOWANGERUP

**LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016**

## CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions
- 1.6 Interpretation
- 1.7 Overriding power to hire and agree
- 1.8 Application as to assistance animals

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

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

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

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

*Division 3—Transitional*

- 2.9 Signs taken to be determinations

**PART 3—PERMITS***Division 1—Preliminary*

- 3.1 Application of Part 3

*Division 2—Applying for a permit*

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

*Division 3—Conditions*

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

*Division 4—General*

- 3.7 Duration of permit
- 3.8 Renewal of permit
- 3.9 Transfer of permit
- 3.10 Production of permit
- 3.11 Cancellation of permit

*Division 5—When a permit is required*

- 3.12 Activities needing a permit

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

*Division 6—Responsibilities of permit holder*

- 3.15 Responsibilities of permit holder

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

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

- 4.1 Behaviour which interferes with others
- 4.2 Behaviour detrimental to property
- 4.3 Taking or injuring any fauna
- 4.4 Intoxicated persons not to enter local government property
- 4.5 No prohibited drugs
- 4.6 No smoking

*Division 2—Signs*

- 4.7 Signs

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

*Division 1—Swimming pool areas*

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

*Division 2—Fenced or closed property*

- 5.3 No entry to fenced or closed local government property

*Division 3—Toilet blocks and change rooms*

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

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

- 6.1 No unauthorised entry to function

**PART 7—OBJECTIONS AND APPEALS**

- 7.1 Objections and review

**PART 8—MISCELLANEOUS**

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

**PART 9—ENFORCEMENT**

*Division 1—Notices given under this local law*

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

*Division 2—Offences and penalties*

Subdivision 1—General

- 9.3 Offences and general penalty

Subdivision 2—Infringement notices and modified penalties

- 9.4 Prescribed offences
- 9.5 Form of notices

*Division 3—Evidence in legal proceedings*

- 9.6 Evidence of a determination

**Schedule 1—Prescribed offences**

## LOCAL GOVERNMENT ACT 1995

## SHIRE OF GNOWANGERUP

## LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

Under the powers conferred by *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law may be cited as the *Shire of Gnowangerup Local Government Property Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Shire of Gnowangerup Local Government Property Local Law* published in the *Government Gazette* of the 28 November 2003 is repealed.

**1.5 Definitions**

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

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

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

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

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

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

(a) hall or room; and

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

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

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

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

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

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

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

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

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

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

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

(a) formal organisation and preparation;

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

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

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

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

**local government** means the Shire of Gnowangerup;

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

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

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

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

**nuisance** means—

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

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

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

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

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

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

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

**Schedule** means a schedule in this local law;

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

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

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

**vehicle** includes—

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

## 1.6 Interpretation

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

## 1.7 Overriding power to hire and agree

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

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

## 1.8 Application as to assistance animals

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

**PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY***Division 1—Determinations***2.1 Determinations as to use of local government property**

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

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

**2.2 Procedure for making a determination**

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

**2.3 Discretion to erect sign**

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

**2.4 Determination to be complied with**

A person shall comply with a determination.

**2.5 Register of determinations**

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

**2.6 Amendment or revocation of a determination**

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

*Division 2—Activities which may be pursued or prohibited under a determination***2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
  - (a) bring, ride or drive an animal;

- (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (f) play or practice—
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
  - (g) ride a bicycle, a skateboard, rollerblades, a sand board or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
- (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
  - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
  - (e) may specify that the activity can be pursued by a class of persons or all persons; and
  - (f) may distinguish between different classes of the activity.

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

- (1) In this clause—

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

- (2) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
- (a) smoking on premises;
  - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (e) the playing or practice of—
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
  - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property.
- (3) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
- (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.

### *Division 3—Transitional*

## 2.9 Signs taken to be determinations

- (1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

**PART 3—PERMITS***Division 1—Preliminary***3.1 Application of Part 3**

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

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

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

**3.3 Decision on application for permit**

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

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

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—
  - (a) the payment of a fee;
  - (b) compliance with a standard or a policy of the local government adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
  - (a) when fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of material or external decorations;
  - (d) rules about the use of furniture, plant and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;

- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### 3.5 Imposing conditions under a policy

(1) In this clause—

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

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

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

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

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

### 3.6 Compliance with and variation of conditions

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

#### *Division 4—General*

### 3.7 Duration of permit

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.11.

### 3.8 Renewal of permit

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

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

### 3.9 Transfer of permit

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

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

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

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

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

### 3.10 Production of permit

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

### 3.11 Cancellation of permit

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

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

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

*Division 5—When a permit is required*

**3.12 Activities needing a permit**

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

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

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

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

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

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

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

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) shall take all reasonable steps to prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

**PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY***Division 1—Behaviour on and interference with local government property***4.1 Behaviour which interferes with others**

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

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

**4.2 Behaviour detrimental to property**

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

(2) In subclause (1)—

*detrimental to the property* includes—

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

**4.3 Taking or injuring any fauna**

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

(2) In subclause (1)—

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

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

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

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

**4.5 No prohibited drugs**

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

**4.6 No smoking**

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

*Division 2—Signs***4.7 Signs**

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

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

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

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

**PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY***Division 1—Swimming pool areas***5.1 When entry must be refused**

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

- (a) in her or his opinion is—
  - (i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code;
  - (ii) under the minimum age that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person;
  - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
  - (iv) under the influence of liquor or a prohibited drug.
- (b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must—

- (a) direct the person to leave; and
- (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

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

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

*Division 2—Fenced or closed property***5.3 No entry to fenced or closed local government property**

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

*Division 3—Toilet blocks and change rooms***5.4 Only specified gender to use entry of toilet block or change room**

(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

- (a) females—then a person of the male gender shall not use that entry of the toilet block or change room;
- (b) males—then a person of the female gender shall not use that entry of the toilet block or change room; or
- (c) families—then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry or the toilet block or change room.

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

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

**PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY****6.1 No unauthorised entry to function**

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except—

- (a) through the proper entrance for that purpose; and
- (b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

**PART 7—OBJECTIONS AND APPEALS****7.1 Objections and review**

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

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

**PART 8—MISCELLANEOUS****8.1 Authorised person to be obeyed**

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

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

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

**8.3 Disposal of lost property**

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

**8.4 Liability for damage to local government property**

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

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

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

**PART 9—ENFORCEMENT***Division 1—Notices given under this local law***9.1 Offence to fail to comply with notice**

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

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

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

*Division 2—Offences and penalties**Subdivision 1—General***9.3 Offences and general penalty**

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

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

*Subdivision 2—Infringement notices and modified penalties***9.4 Prescribed offences**

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

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

**9.5 Form of notices**

(1) For the purposes of this local law—

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

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

*Division 3—Evidence in legal proceedings***9.6 Evidence of a determination**

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

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

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

**SCHEDULE 1—PRESCRIBED OFFENCES AND MODIFIED PENALTIES**

[Clause 9.4]

<b>Item</b>	<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
1	2.4	Failure to comply with determination	125
2	3.6	Failure to comply with conditions of permit	125
3	3.12(1)	Failure to obtain a permit	125
4	3.13(3)	Failure to obtain permit to camp outside a facility	125
5	3.14(1)	Failure to obtain permit for liquor	125
6	3.15	Failure of permit holder to comply with responsibilities	125
7	4.2(1)	Behaviour detrimental to property	125
8	4.3(1)	Taking injuring or killing any fauna or attempting to take, injure or kill any fauna	250
9	4.4	Entering or remaining on local government property while under the influence of liquor or a prohibited drug	125
10	4.5	Taking a prohibited drug onto, or consuming or using a prohibited drug on, local government property	125
11	4.6	Smoking within a 5 metre radius of any entrance, exit or aperture of premises on local government property	125
12	4.7(2)	Failure to comply with sign on local government property	125
13	5.2	Consuming food or drink in prohibited area	125
14	5.3	Unauthorised entry to fenced or closed local government property	125
15	5.4	Gender not specified using entry of toilet block or change room	125
16	6.1(1)	Unauthorised entry to function on local government property	125
17	9.1	Failure to comply with notice	250
18	9.3(1)	All other offences not specified	125

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Dated 10 August 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.

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**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF GNOWANGERUP

**STANDING ORDERS LOCAL LAW 2016**

## CONTENTS

**PART 1—PRELIMINARY**

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

**PART 2—CALLING MEETINGS**

- 2.1 Ordinary and special Council meetings
- 2.2 Calling Council meetings
- 2.3 Convening Council meetings
- 2.4 Calling Committee meetings
- 2.5 Public notice of meeting
- 2.6 Production of documents
- 2.7 Conference of Committees

**PART 3—BUSINESS OF THE MEETING**

- 3.1 Business to be specified in the agenda
- 3.2 Order of business
- 3.3 Public question time
- 3.4 Petitions
- 3.5 Confirmation of minutes
- 3.6 Announcements by the Presiding Member without discussion
- 3.7 Matters for which meeting may be closed to members of the public
- 3.8 Motions of which previous notice has been given
- 3.9 Questions by members of which due notice has been given
- 3.10 Urgent business approved by the Presiding Member or by decision
- 3.11 Deputations
- 3.12 Attending Committee meetings as an observer

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

- 4.1 Inspection entitlement
- 4.2 Confidentiality of information withheld
- 4.3 Media attendance
- 4.4 Distinguished visitors

**PART 5—DISCLOSURE OF INTERESTS**

- 5.1 Disclosure of interests

**PART 6—QUORUM**

- 6.1 Quorum for meetings
- 6.2 Loss of quorum during a meeting

**PART 7—KEEPING OF MINUTES**

- 7.1 Content of minutes
- 7.2 Preservation of minutes

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

- 8.1 Official titles to be used
- 8.2 Members to occupy own seats
- 8.3 Leaving meetings
- 8.4 Adverse reflection
- 8.5 Recording of proceedings
- 8.6 Prevention of disturbance
- 8.7 Protection of employees

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

- 9.1 Members to rise
- 9.2 Priority
- 9.3 The Presiding Member to take part in debates
- 9.4 Relevance
- 9.5 Limitation of number of speeches
- 9.6 Duration of speeches
- 9.7 Members not to speak after conclusion of debate
- 9.8 Members not to interrupt
- 9.9 Re-opening discussion on decisions

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

- 10.1 Permissible motions on report recommendations
- 10.2 Motions to be stated
- 10.3 Motions to be supported
- 10.4 Unopposed business
- 10.5 Only one substantive motion considered
- 10.6 Breaking down of complex questions
- 10.7 Order of call in debate
- 10.8 Limit of debate
- 10.9 Member may require questions to be read
- 10.10 Consent of seconder required to accept alteration of wording
- 10.11 Order of amendments
- 10.12 Amendments must not negate original motion
- 10.13 Mover of motion may speak on amendment
- 10.14 Substantive motion
- 10.15 Withdrawal of motion or amendments
- 10.16 Limitation of withdrawal
- 10.17 Personal explanation
- 10.18 Personal explanation—when heard
- 10.19 Ruling on questions of personal explanation
- 10.20 Right of reply
- 10.21 Right of reply provisions

**PART 11—PROCEDURAL MOTIONS**

- 11.1 Permissible procedural motions
- 11.2 No debate on procedural motions
- 11.3 Procedural motions—closing debate—who may move
- 11.4 Procedural motions—right of reply on substantive motion

**PART 12—EFFECT OF PROCEDURAL MOTIONS**

- 12.1 Council or Committee to proceed to the next business—effect of motion
- 12.2 Question to be adjourned—effect of motion
- 12.3 Council or Committee to now adjourn—effect of motion
- 12.4 Question to be put—effect of motion
- 12.5 Member to be no longer heard—effect of motion
- 12.6 Ruling of the Presiding Member disagreed with—effect of motion
- 12.7 Council or Committee to meet behind closed doors—effect of motion

**PART 13—MAKING DECISIONS**

- 13.1 Question—when put
- 13.2 Question—method of putting

**PART 14—IMPLEMENTING DECISIONS**

- 14.1 Implementation of a decision

**PART 15—PRESERVING ORDER**

- 15.1 The Presiding Member to preserve order
- 15.2 Demand for withdrawal
- 15.3 Points of order—when to raise—procedure

- 15.4 Points of order—when valid
- 15.5 Points of order—ruling
- 15.6 Points of order—ruling conclusive, unless dissent motion is moved
- 15.7 Points of order take precedence
- 15.8 Precedence of Presiding Member
- 15.9 Right of the Presiding Member to adjourn without explanation to regain order

#### **PART 16—ADJOURNMENT OF MEETING**

- 16.1 Meeting may be adjourned
- 16.2 Limit to moving adjournment
- 16.3 Unopposed business—motion for adjournment
- 16.4 Withdrawal of motion for adjournment
- 16.5 Time to which adjourned

#### **PART 17—COMMITTEES OF THE COUNCIL**

- 17.1 Establishment and appointment of Committees
- 17.2 Appointment of deputy Committee members
- 17.3 Presentation of Committee reports
- 17.4 Reports of Committees—questions
- 17.5 This local law applies to Committees

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

- 18.1 Suspension of this local law
- 18.2 Cases not provided for in this local law

#### **PART 19—COMMON SEAL**

- 19.1 The Council's common seal

#### **PART 20—ENFORCEMENT**

- 20.1 Penalty for breach
- 20.2 Who can prosecute



## LOCAL GOVERNMENT ACT 1995

## SHIRE OF GNOWANGERUP

## STANDING ORDERS LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Gnowangerup resolved on 27 July 2016 to make the following local law.

## PART 1—PRELIMINARY

**1.1 Citation**

This local law is the *Shire of Gnowangerup Standing Orders Local Law 2016*.

**1.2 Commencement**

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

**1.3 Application**

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

**1.4 Repeal**

The *Shire of Gnowangerup Standing Orders Local Law 1999* published in the *Government Gazette* on 1 June 1999 is repealed.

**1.5 Interpretation**

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

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

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

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

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

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

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

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

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

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

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

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

**local government** means the Shire of Gnowangerup;

**member**

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

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

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

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

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

**Presiding Member** means—

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

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

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

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

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

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

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

## PART 2—CALLING MEETINGS

### 2.1 Ordinary and special Council meetings

(1) Ordinary and special Council meetings are dealt with in the Act.

(2) An ordinary meeting of the Council held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.

(3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### 2.2 Calling Council meetings

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

### 2.3 Convening Council meetings

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

### 2.4 Calling Committee meetings

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

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

### 2.5 Public notice of meeting

Public notice of meetings is dealt with in the Regulations.

### 2.6 Production of documents

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

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

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

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

### 2.7 Conference of Committees

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

## PART 3—BUSINESS OF THE MEETING

### 3.1 Business to be specified in the agenda

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

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

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

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

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

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

### 3.2 Order of business

(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

1. Opening and announcement of visitors
2. Attendance/apologies/approved leave of absence
3. Application for leave of absence

4. Response to questions taken on notice
5. Public question time
6. Declarations of financial interests and interests affecting impartiality
7. Petitions/deputations/presentations
8. Confirmation of previous meeting minutes
9. Use of common seal
10. Announcements by Elected Members without discussion
11. Reports for Decision—Committees of Council
12. Reports for Decision—Strategy and Governance
13. Reports for Decision—Corporate Services and Community Development
14. Reports for Decision—Infrastructure and Asset Management
15. Reports for Decision—Statutory Compliance
16. Reports for Decision—Finance
17. Reports for Decision—Confidential Items
18. Urgent business introduced by decision of Council
19. Motions of which previous notice has been given
20. Date of next meeting
21. Closure.

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

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

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

### **3.3 Public question time**

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

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

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

### **3.4 Petitions**

(1) A petition, in order to be effective, is to—

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

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

### **3.5 Confirmation of minutes**

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

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

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

### **3.6 Announcements by the Presiding Member**

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

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

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

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

### **3.8 Motions of which previous notice has been given**

(1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included in the agenda.

(2) A notice of motion under subclause (1) is to be given at least 7 clear working days before the meeting at which the motion is moved.

(3) A notice of motion is to relate to the good government of persons in the district.

(4) The CEO—

- (a) with the concurrence of the President, may exclude from the agenda any notice of motion deemed to be out of order or likely to involve a breach of this local law or any other written law; or
- (b) may after consultation with the member who gave notice of the motion make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
- (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

- (a) the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or
- (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses in the circumstances referred to in subclause (5)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

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

(1) A question on notice is to be given by a member in writing to the CEO at least 2 clear working days before the meeting at which it is raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the Presiding Member.

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

(1) Subject to subclauses (2) and (3), in cases of extreme urgency or other special circumstance, matters may, with the consent of the Presiding Member, or by decision of the members present, be raised without notice and decided by the meeting.

(2) Before a matter may be raised under subclause (1) the Presiding Member or a member otherwise seeking to raise the matter is to state why the matter is considered to be of extreme urgency or other special circumstance.

(3) If a member of the Council or Committee as the case requires, objects to a matter being raised without notice, any decision of the Council or Committee in regard to that matter does not have effect unless it has been made by an absolute majority.

### **3.11 Deputations**

(1) A deputation wishing to be received by the Council or a Committee is to apply in writing to the CEO who is to forward the written request to the President, or the Presiding Member as the case may be.

(2) The President, if the request is to attend a Council meeting, or the Presiding Member of the Committee, if the request is to attend a meeting of a Committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or Committee as the case may be, or may instruct the CEO to refer the request to the Council or Committee to decide by simple majority whether or not to receive the deputation.

(3) A deputation invited to attend a Council or Committee meeting—

- (a) is not to exceed 3 persons, all of whom may address or respond to specific questions from the members of the Council or Committee; and
- (b) is not to address the Council or Committee for a period exceeding 15 minutes without the agreement of the Council or the Committee as the case requires.

(4) Any matter which is the subject of a deputation to the Council or a Committee is not to be decided by the Council or that Committee until the deputation has completed its presentation.

**3.12 Attending Committee meetings as an observer**

- (1) The President or a Councillor may attend any meeting of a Committee as an observer, even if the President or Councillor is not a member of that Committee.
- (2) A deputy to a member of a Committee appointed under clause 17.2 may attend a meeting of that Committee as an observer, even if the deputy is not acting in the capacity of the member.
- (3) The President or Councillor in the case of subclause (1), or deputy to a member attending a Committee meeting as an observer in the case of subclause (2) may, with the consent of the Presiding Member, speak, but cannot vote on any motion before the Committee.

**PART 4—PUBLIC ACCESS TO AGENDA MATERIAL****4.1 Inspection entitlement**

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

**4.2 Confidentiality of information withheld**

- (1) Information withheld by the CEO from members of the public under the Regulations, is to be—
- (a) identified in the agenda of a Council or Committee meeting under the item “Matters for which meeting may be closed to members of the public”; and
  - (b) marked “confidential” in the agenda; and
  - (c) kept confidential by members and employees until the Council or Committee resolves otherwise.
- (2) A member or an employee who has—
- (a) confidential information under subclause (1); or
  - (b) information that is provided or disclosed for the purposes of or during a meeting, or part of a meeting, that is closed to the public,

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

- (3) Subclause (2) does not prevent a member or employee from disclosing information—
- (a) at a closed meeting;
  - (b) to the extent specified by the Council and subject to such other conditions as the Council determines;
  - (c) that is already in the public domain;
  - (d) to an officer of the Department;
  - (e) to the Minister;
  - (f) to a legal practitioner for the purpose of obtaining legal advice; or
  - (g) if the disclosure is required or permitted by law.

**4.3 Media attendance**

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

**4.4 Distinguished visitors**

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

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

**PART 5—DISCLOSURE OF INTERESTS****5.1 Disclosure of interests**

Disclosure of interests is dealt with in the Act.

**PART 6—QUORUM****6.1 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

**6.2 Loss of quorum during a meeting**

- (1) If at any time during the course of a meeting of the Council or a Committee a quorum is not present—
- (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—
    - (i) a quorum is present to decide the matter; or

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

## PART 7—KEEPING OF MINUTES

### 7.1 Content of minutes

The content of minutes is dealt with in the Regulations.

### 7.2 Preservation of minutes

Minutes including the agenda of each Council and Committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the State Records Office within the Department of Culture and the Arts, in accordance with the retention and disposal policy determined by that office from time to time.

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

### 8.1 Official titles to be used

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

### 8.2 Members to occupy own seats

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

### 8.3 Leaving meetings

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

### 8.4 Adverse reflection

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

### 8.5 Recording of proceedings

- (1) No person is to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or a Committee without the written permission of the Council.
- (2) If the Council gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.
- (3) If a member of the Council or Committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

### 8.6 Prevention of disturbance

- (1) Any member of the public addressing the Council or a Committee is to extend due courtesy and respect to the Council or Committee and the processes under which they operate and must take direction from the Presiding Member whenever called upon to do so.
- (2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

### 8.7 Protection of employees

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

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

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

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

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

### **9.1 Members to rise**

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

### **9.2 Priority**

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

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

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

### **9.4 Relevance**

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

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

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

### **9.6 Duration of speeches**

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

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

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

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

No member of the Council or a Committee is to interrupt another member of the Council or Committee whilst speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.17; or
- (d) to move a motion under clause 11.1(e).

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

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

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

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

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

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

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

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

**10.3 Motions to be supported**

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

**10.4 Unopposed business**

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

**10.5 Only one substantive motion considered**

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

**10.6 Breaking down of complex questions**

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

**10.7 Order of call in debate**

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

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

**10.8 Limit of debate**

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

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

Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

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

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

**10.11 Order of amendments**

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

**10.12 Amendments must not negate original motion**

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

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

Any member may speak during debate on an amendment.

**10.14 Substantive motion**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved (subject to clause 10.12).

**10.15 Withdrawal of motion or amendments**

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

**10.16 Limitation of withdrawal**

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

**10.17 Personal explanation**

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

**10.18 Personal explanation—when heard**

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

**10.19 Ruling on questions of personal explanation**

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

**10.20 Right of reply**

(1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.

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

**10.21 Right of reply provisions**

The right of reply is governed by the following provisions—

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

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

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

- (a) that the Council or Committee proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council or Committee now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with; and
- (g) that the Council or Committee meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under the Act.

**11.2 No debate on procedural motions**

(1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion stated in each of paragraphs (d) and (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

**11.3 Procedural motions—closing debate—who may move**

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

**11.4 Procedural motions—right of reply on substantive motion**

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

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

The motion in clause 11.1(a), if carried, causes the debate to cease immediately and for the Council or Committee to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

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

- (1) The motion in clause 11.1(b), if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council—
  - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

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

- (1) The motion in clause 11.1(c), if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the Presiding Member or a simple majority of members upon vote, determine otherwise.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)—
  - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting—
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

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

- (1) The motion in clause 11.1(d), if carried during discussion of a substantive motion without amendment, causes the Presiding Member to offer the right of reply and then immediately put the matter under consideration without further debate.
- (2) The motion in clause 11.1(d), if carried during discussion of an amendment, causes the Presiding Member to put the amendment to the vote without further debate.
- (3) The motion in clause 11.1(d), if lost, causes debate to continue.

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

The motion in clause 11.1(e), if carried, causes the Presiding Member to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

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

The motion in clause 11.1(f), if carried, causes the ruling of the Presiding Member about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

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

- (1) Subject to any deferral under clause 3.7 or other decision of the Council or Committee, this motion, if carried, causes the general public and any officer or employee the Council or Committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting, the Presiding Member, unless the Council or Committee decides otherwise, is to cause the motions passed by the Council or Committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes in accordance with the Act.
- (4) A person who is a Council member, a Committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

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

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

**13.2 Question—method of putting**

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

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

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

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

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

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

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

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

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

**15.2 Demand for withdrawal**

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

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

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

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

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

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

**15.4 Points of order—when valid**

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

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

**15.5 Points of order—ruling**

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

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

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

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

**15.7 Points of order take precedence**

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

**15.8 Precedence of Presiding Member**

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

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

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

(a) If a meeting ceases to operate in an orderly manner, the Presiding Member may use discretion to adjourn the meeting for a period of up to 15 minutes without explanation, for the purpose of regaining order.

(b) Upon resumption, debate is to continue at the point at which the meeting was adjourned.

(c) If, at any one meeting, the Presiding Member has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

(d) Where debate of a motion is interrupted by an adjournment under subclause (a), in the case of a Council meeting—

- (i) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
- (ii) the provisions of clause 9.5 apply when the debate is resumed.

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

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

**16.2 Limit to moving adjournment**

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

**16.3 Unopposed business—motion for adjournment**

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

**16.4 Withdrawal of motion for adjournment**

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

**16.5 Time to which adjourned**

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

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

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

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

**17.2 Appointment of deputy Committee members**

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

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

**17.3 Presentation of Committee reports**

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

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

**17.4 Reports of Committees—questions**

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

**17.5 This local law applies to Committees**

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

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

**PART 18—ADMINISTRATIVE MATTERS****18.1 Suspension of this local law**

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

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

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

**PART 19—COMMON SEAL****19.1 The Council's common seal**

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

**PART 20—ENFORCEMENT****20.1 Penalty for breach**

A person who breaches a provision of this local law commits an offence.

Penalty: \$1,000 and a daily penalty of \$100.

**20.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

Dated 10 August 2016.

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

Cr KEITH HOUSE, President.  
SHELLEY PIKE, Chief Executive Officer.