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SHIRE OF PERENJORI

LOCAL GOVERNMENT ACT 1995

STANDING ORDERS LOCAL LAW 2000

LOCAL GOVERNMENT PROPERTY LOCAL LAW

LOCAL LAWS RELATING TO FENCING

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

LOCAL LAWS RELATING TO THE REPEAL OF OBSOLETE LOCAL LAWS

CEMETERIES ACT 1986

LOCAL LAWS RELATING TO THE PERENJORI AND LATHAM CEMETERIES

LOCAL GOVERNMENT ACT 1995

SHIRE OF PERENJORI

STANDING ORDERS LOCAL LAW 2000

PART 1—PRELIMINARY

1.1 Citation

(1) This Local Law may be cited as the *Shire of Perenjori Standing Orders Local Law 2000.*

(2) In the clauses to follow, this Local Law is referred to as "the Standing Orders."

1.2 Application

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders.

1.3 Interpretation

(1) In these Standing Orders unless the context otherwise requires—

"CEO" means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Perenjori;

"committee" means a committee of the Council;

"Council" means the Council of the Shire of Perenjori;

"presiding member" means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act;

"Regulations" means the *Local Government (Administration) Regulations 1996*;

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

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

(2) Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations.

PART 2—BUSINESS OF THE MEETING

2.1 Business to be Specified on Notice Paper

(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 person presiding or a decision of the Council.

(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 or given in the notice as the purpose 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 notice 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.

2.2 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—

(a) Declaration of opening/Announcement of visitors

(b) Record of attendance/Apologies/Leave of absence (previously approved)

(c) Response to previous public questions taken on notice

(d) Public question time

(e) Applications for leave of absence

(f) Petitions

(g) Confirmation of minutes
(h) Announcements by the person presiding without discussion
(i) Matters for which meeting may be closed
(j) Reports
(k) Motions of which previous notice has been given
(l) Questions by members of which due notice has been given
(m) Urgent business approved by the person presiding or by decision
(n) Matters behind closed doors
(o) 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.

2.3 Public Question Time

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

(2) A question may be taken on notice by the Council or committee for later response.

(3) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.

2.4 Petitions

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 1996* if it is—
  (i) a proposal to change the method of filling the office of ***"President"***
  (ii) a proposal to create a new district or the boundaries of the Local Government;
  (iii) a request for a poll on a recommended amalgamation;
  (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

2.5 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.

2.6 Announcements by the Person Presiding Without Discussion

(1) At any meeting of the Council or a committee the person presiding 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 person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

2.7 Matters for which Meeting May be Closed

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.

2.8 Motions of which Previous Notice has been Given

(1) Unless the Act, Regulations or these Standing Orders 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.

(2) A notice of motion under subclause (1) is to be given at least seven (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 notice paper any notice of motion deemed to be out of order; or

(b) may on his or her own initiative 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) No notice of motion is to be out of order because the policy involved is considered to be objectionable.

(6) 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.

(7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(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.

2.9 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 seven (7) 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 person presiding.

2.10 Urgent Business Approved By the Person Presiding or by Decision

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

2.11 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 five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; 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.

PART 3—PUBLIC ACCESS TO AGENDA MATERIAL

3.1 Inspection Entitlement

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

3.2 Confidentiality of Information Withheld

(1) Information withheld by the CEO from members of the public under Regulation 14.2, of 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"; and

(b) marked "confidential" in the agenda.

(2) A member of the Council or a committee or an employee of the Council in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

Penalty $5,000

PART 4—QUORUM

4.1 Quorum to be Present

(1) The Council or a committee is not to transact business at a meeting unless a quorum is present.

4.2 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 section 5.69 of the Act; or

(b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding 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 the Standing Orders 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 apply when the debate is resumed.

PART 5—KEEPING OF MINUTES

5.1 Content of Minutes

In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.

5.2 Preservation of Minutes

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

PART 6—CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS

6.1 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.

6.2 Members to Occupy Own Seats

At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each councillor and the councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

6.3 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 person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

6.4 Adverse Reflection

(1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.

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

Penalty $1,000

(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 person presiding 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.

6.5 Recording of Proceedings

(1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.

(2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

6.6 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 person presiding whenever called upon to do so.

Penalty $1,000

(2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

Penalty $1,000

6.7 Distinguished Visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the person presiding may invite such person to sit beside the person presiding or at the Council table.

PART 7—CONDUCT OF MEMBERS DURING DEBATE

7.1 Members Wishing to Speak

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council.

7.2 Priority

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

7.3 The Person Presiding to Take Part in Debates

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

7.4 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.

7.5 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 except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

7.6 Limitation of Duration of Speeches

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

7.7 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 person presiding.

7.8 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 10.16; or

(d) to move a motion under clause 11(1)(e).

7.9 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 8—PROCEDURES FOR DEBATE OF MOTIONS

8.1 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.

8.2 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 Regulation 10 of the Regulations.

8.3 Unopposed Business

(1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.

(2) If no member signifies opposition to the motion the person presiding 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.

8.4 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.

8.5 Breaking Down of Complex Questions

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

8.6 Order of Call in Debate

The person presiding 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;
(h) Mover takes right of reply which closes debate.

8.7 Limit of Debate

The person presiding 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.

8.8 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.

8.9 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.

8.10 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.

8.11 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.

8.12 Mover of Motion Not to Speak on Amendment

On an amendment being moved, any member may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person.

8.13 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.

8.14 Withdrawal of Motion and 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.

8.15 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.

8.16 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 makes a personal explanation, no reference is to be made to matters unnecessary for that purpose.

8.17 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.

8.18 Ruling on Questions of Personal Explanation

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

8.19 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.

8.20 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 at the conclusion of the vote on any amendments;

(c) the mover of any amendment does not have a right of reply;

(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 9—PROCEDURAL MOTIONS

9.1 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 person presiding be disagreed with;

(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 section 5.23 of the Act.

9.2 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.

9.3 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.

9.4 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 10—EFFECT OF PROCEDURAL MOTIONS

10.1 Council (or Committee) to Proceed to the Next Business—Effect of Motion

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

10.2 Question to be Adjourned—Effect of Motion

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

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

(a) the names of members who have spoken on the matter are to be recorded in the minutes; and

(b) the provisions of clause 9.5 apply when the debate is resumed.

10.3 Council (or Committee) to Now Adjourn—Effect of Motion

(1) The motion "that the Council (or committee) now adjourn", if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding 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.

10.4 Question to be Put—Effect of Motion

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

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

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

10.5 Member to be No Longer Heard—Effect of Motion

The motion "that the member be no longer heard", if carried, causes the person presiding 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.

10.6 Ruling of the Person Presiding Disagreed With—Effect of Motion

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

10.7 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 person presiding, 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 under section 5.21 of the Act.

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

Penalty $5,000

PART 11—MAKING DECISIONS

11.1 Question—When Put

When the debate upon any question is concluded and the right of reply has been exercised the person presiding 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.

11.2 Question—Method of Putting

If a decision of the Council or a committee is unclear or in doubt, the person presiding 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 12—PRESERVING ORDER

12.1 The Person Presiding to Preserve Order

The person presiding 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.

12.2 Demand for Withdrawal

A member at a meeting of the Council or a committee may be required by the person presiding, 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 person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

12.3 Points of Order—When to Raise—Procedure

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking while the person presiding listens to the point of order.

12.4 Points of Order—When Valid

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

(a) that the discussion is of a matter not before the Council or committee;

(b) that offensive or insulting language is being used;

(c) drawing attention to the violation of any written law, or policy of the Local Government, provided that the member making the point of order states the written law or policy believed to be breached.

12.5 Points Of Order—Ruling

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

12.6 Points of Order—Ruling Conclusive, Unless Dissent Motion is Moved

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

12.7 Points of Order Take Precedence

Notwithstanding anything contained in these Standing Orders 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.

12.8 Right of the Person Presiding to Adjourn Without Explanation to Regain Order

(1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

(2) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting—

(a) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and

(b) the provisions of clause 9.5 apply when the debate is resumed.

PART 13—ADJOURNMENT OF MEETING

13.1 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.

13.2 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.

13.3 Unopposed Business—Motion for Adjournment

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business.

13.4 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.

13.5 Time To Which Adjourned

The time to which a meeting is adjourned for want of a quorum, by the person presiding 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 14—COMMITTEES OF THE COUNCIL

14.1 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.

14.2 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.

14.3 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.

14.4 Reports of Committees—Questions

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 recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.

14.5 Permissible Motions on Recommendation From Committee

A recommendation made by or contained in the minutes of a committee may be adopted by the Council 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 the committee for further consideration.

14.6 Standing Orders Apply to Committees

Where not otherwise specifically provided, these Standing Orders apply generally to the proceedings of committees, except that the following Standing Orders do not apply to the meeting of a committee—

(a) Clause 8.2, in regard to seating;

(b) Clause 9.5, limitation on the number of speeches.

PART 15—ADMINISTRATIVE MATTERS

15.1 Suspension of Standing Orders

(1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.

(2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension.

15.2 Cases not Provided for in Standing Orders

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

PART 16—COMMON SEAL

16.1 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 the ***President*** and the CEO or a senior employee authorised by him or her.

(3) The common seal of the local government is to be affixed to any local law which is made by the local government.

(4) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.

Penalty $1,000

Dated this Twenty First day of December 2000.

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

B. T. BAXTER, President.

B. R. THOMPSON, CEO.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PERENJORI

LOCAL GOVERNMENT PROPERTY LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Perenjori resolved on the Twenty First day of December 2000 to make the following local law.

PART 1—PRELIMINARY

Citation

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

Definitions

1.2 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;

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

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

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

(a) hall or room;

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

(c) jetty;

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

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

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

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

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

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

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

(a) formal organisation and preparation;

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

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

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

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

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

"**local government**" means the Shire of Perenjori;

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

(a) which belongs to the local government;

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

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

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

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

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

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

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

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

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

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

(a) offering them for sale or hire;

(b) inviting offers for their sale or hire;

(c) soliciting orders for them; or

(d) carrying out any other transaction in relation to them; and

"**vehicle**" includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and

(b) an animal being ridden or driven,

but excludes—

(c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;

(d) a pram, a stroller or a similar device; and

(e) a boat.

Interpretation

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

Application

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

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

(a) hire local government property to any person; or

(b) enter into an agreement with any person regarding the use of any local government property.

Repeal

1.5 (1) The following local laws are repealed—

Local Laws Relating to—

General, published in the *Government Gazette* of 15 August 1930, as amended in the *Government Gazette* of 2 September 1988; and

Management of the Perenjori Swimming Pool, published in the *Government Gazette* of 31 December 1982.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

Determinations as to use of local government property

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

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

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

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

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

(2) The determinations in Schedule 2—

(a) are to be taken to have been made in accordance with clause 2.2;

(b) may be amended or revoked in accordance with clause 2.6; and

(c) have effect on the commencement day.

Procedure for making a determination

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

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

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

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

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

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

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

(b) amend the proposed determination, in which case subclause (5) will apply; or

(c) not continue with the proposed determination.

(4) If submissions are received in accordance with subclause (2)(c) the Council is to –

(a) consider those submissions; and

(b) decide—

(i) whether or not to amend the proposed determination; or

(ii) not to continue with the proposed determination.

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

(a) of the effect of the amendments; and

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

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

(7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

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

Discretion to erect sign

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

Determination to be complied with

2.4 A person shall comply with a determination.

Register of determinations

2.5 (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.

(2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

Amendment or revocation of a determination

2.6 2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

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

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

Activities which may be pursued on specified local government property

2.7 (1) A determination may provide that specified local government property is set aside as an area on which a person may—

(a) bring, ride or drive an animal;

(b) take, ride or drive a vehicle, or a particular class of vehicle;

(c) fly or use a motorised model 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) launch, beach or leave a boat;

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

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

(h) play or practice—

(i) golf or archery;

(ii) pistol or rifle shooting, but subject to 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;

(i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and

(j) wear no clothing.

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

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

(b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
(c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
(d) may limit the activity to a class of vehicles, 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.

Activities which may be prohibited on specified local government property

2.8 (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
(a) smoking on premises;
(b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
(c) taking, riding or driving a vehicle 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) taking or using a boat, or a particular class of boat;
(f) 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;
(g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
(h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—
(a) the days and times during which the activity is prohibited;
(b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
(c) that an activity is prohibited in respect of a class of vehicles, 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.

(3) In this clause—
"**premises**" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3—Transitional

Signs taken to be determinations

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

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

PART 3—PERMITS

Division 1—Preliminary

Application of Part

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

Division 2—Applying for a permit

Application for permit

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

(2) An application for a permit under this local law shall—
(a) be in the form determined by the local government;
(b) be signed by the applicant;
(c) provide the information required by the form; and
(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

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

Decision on application for permit

3.3 (1) The local government may—

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

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

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

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

Division 3—Conditions

Conditions which may be imposed on a permit

3.4 (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to—

(a) the payment of a fee;

(b) compliance with a standard or a policy of the local government adopted by the local government;

(c) the duration and commencement of the permit;

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

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

(f) the approval of another application for a permit which may be required by the local government under any written law;

(g) the area of the district to which the permit applies;

(h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and

(i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—

(a) when fees and charges are to be paid;

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

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

(d) rules about the use of furniture, plant and effects;

(e) limitations on the number of persons who may attend any function in or on local government property;

(f) the duration of the hire;

(g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;

(h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;

(i) whether or not the hire is for the exclusive use of the local government property;

(j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and

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

Imposing conditions under a policy

3.5 (1) In this clause—

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

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

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

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

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

Compliance with and variation of conditions

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

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

Division 4—General

Agreement for building

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

Duration of permit

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

(a) otherwise stated in this local law or in the permit; or

(b) cancelled under clause 3.12.

Renewal of permit

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

(2) The provisions of this Part shall apply to an application for the renewal of a permit *mutatis mutandis*.

Transfer of permit

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

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee of the permit;

(c) provide such information as the local government may require to enable the application to be determined; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

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

Production of permit

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

Cancellation of permit

3.12 (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

Activities needing a permit

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

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

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

(c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;

(d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;

(e) plant any plant or sow any seeds on local government property;

(f) carry on any trading on local government property unless the trading is conducted—
  (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
  (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
(g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—
  (i) drive or ride or take any vehicle on to local government property; or
  (ii) park or stand 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; or
(o) depasture any horse, sheep, cattle, goat, camel, ass or mule 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).

Permit required to camp outside a facility

3.14 (1) In this clause—

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

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

(3) A person shall not without a permit—
(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
(b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

(4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

Permit required for possession and consumption of liquor

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

(2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6—Responsibilities of permit holder

Responsibilities of permit holder

3.16 A holder of a permit shall in respect of local government property to which the permit relates—
(a) ensure that an authorized person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
(b) leave the local government property in a clean and tidy condition after its use;
(c) report any damage or defacement of the local government property to the local government; and
(d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

Behaviour which interferes with others

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

Behaviour detrimental to property

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

(2) In subclause (1)—

"detrimental to the property" includes—

(a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

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

Taking or injuring any fauna

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

(2) In this clause—

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

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

(a) any class of animal or individual member;

(b) the eggs or larvae; or

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

Intoxicated persons not to enter local government property

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

No prohibited drugs

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

Division 2—Signs

Signs

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

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

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

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

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

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

When entry must be refused

5.1 A Manager or an authorized 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 age of 6 years and who is unaccompanied by a responsible person over the age of 14 years;

(ii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or

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

(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.

Division 2—Fenced or closed property

No entry to fenced or closed local government property

5.2 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 authorized to do so by the local government.

Division 3—Toilet blocks and change rooms

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

5.3 Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—

(a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or

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

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

No unauthorized entry to function

6.1 (1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorized, except—

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

(b) on payment of the fee chargeable for admission at the time.

(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 7—OBJECTIONS AND APPEALS

Application of Division 1, Part 9 of the Act

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

(a) grant a person a permit or consent under this local law; or

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

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 8—MISCELLANEOUS

Authorized person to be obeyed

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

Persons may be directed to leave local government property

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

Disposal of lost property

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

Liability for damage to local government property

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

(a) reinstating the property to the state it was in prior to the occurrence of the damage; or

(b) replacing that property.

(2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where—

(a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or

(b) the damage occurred under a permit, the person is the permit holder in relation to that permit.

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

PART 9—ENFORCEMENT

Division 1—Notices given under this local law

Offence to fail to comply with notice

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

Local government may undertake requirements of notice

9.2 Where a person fails to comply with a notice referred to in clause 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

Offences and general penalty

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

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

Subdivision 2—Infringement notices and modified penalties

Prescribed offences

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

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

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

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

Form of notices

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

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

(b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

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

Division 3—Evidence in legal proceedings

Evidence of a determination

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

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

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

Schedule 1

PRESCRIBED OFFENCES

Clause	Description Modified	Penalty $
2.4	Failure to comply with determination	100
3.6	Failure to comply with conditions of permit	100
3.13(1)	Failure to obtain a permit	100
3.14(3)	Failure to obtain permit to camp outside a facility	100
3.15(1)	Failure to obtain permit for liquor	100
3.16	Failure of permit holder to comply with responsibilities	100
4.2(1)	Behaviour detrimental to property	100
4.4	Under influence of liquor or prohibited drug	100
4.6(2)	Failure to comply with sign on local government property	100
5.2	Unauthorized entry to fenced or closed local government property	100
5.3	Gender not specified using entry of toilet block or change room	100
6.1(1)	Unauthorized entry to function on local government property	100
9.1	Failure to comply with notice	200

Schedule 2

DETERMINATIONS

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

PART 1—PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires—

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

Interpretation

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

Dated this Twenty First day of December 2000.

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

B. T. BAXTER, President
B. R. THOMPSON, CEO.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PERENJORI

LOCAL LAWS RELATING TO FENCING

Under the powers conferred by the *Local Government Act 1995* and by all other powers the Council of the Shire of Perenjori resolved to make the following local laws on the Twenty First day of December 2000.

PART 1—PRELIMINARY

Citation

1. These Local Laws may be cited as the *Shire of Perenjori Local Laws Relating to Fencing.*

Repeal

2. The Shire of Perenjori By-laws Relating to Fencing and Obstructions at Intersections published in the *Government Gazette* of 31 December, 1982, are repealed.

Interpretation

3. In these Local Laws, unless the context requires otherwise—

"Act" means the *Dividing Fences Act 1961;*

"boundary fence" has the meaning given to it for the purposes of the Act;

"Building Surveyor" means a Building Surveyor of the local government;

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

"Commercial Lot" means a lot where a commercial use—

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

"dangerous" in relation to any fence means a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

"dividing fence" has the meaning given to it in and for the purposes of the Act;

"electrified fence" means a fence carrying or designed to carry an electric charge;

"fence" means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

"height" in relation to a fence means the vertical distance between—

(a) the top of the fence at any point; and

(b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

"Industrial Lot" means a lot where an industrial use—

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

"lot" has the meaning given to it in and for the purposes of the *Town Planning and Development Act 1928*;

"notice of breach" means a notice referred to in clause 16(1);

"Residential Lot" means a lot where a residential use—

(a) is or may be permitted under the town planning scheme; and

(b) is or will be the predominant use of the lot;

"retaining wall" means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

"Schedule" means a Schedule to these Local Laws;

"setback area" has the meaning given to it for the purposes of the town planning scheme;

"sufficient fence" means a fence described in clause 11; and

"town planning scheme" means a town planning scheme of the local government made under the *Town Planning and Development Act 1928.*

Application

4. These Local Laws apply within the townsites of the Shire of Perenjori.

PART 2—GENERAL

Notice to owner to suitably enclose land

5. (1) For the purposes of Item 4 of Schedule 3.1 of the Local Government Act 1995,

the local government may by notice in writing require the owner of land which adjoins a public thoroughfare, or any other public place, to suitably enclose the land to prevent, to the extent practicable—

(a) the entry of any person or livestock on to the land where, in the opinion of the local government, injury may be caused to any person or livestock;

(b) the escape of noise, dust, paint spray or any offensive substance from the land;

(c) the escape of livestock from the land;

(d) the escape of sand from the land;

(e) the escape of indigenous fauna from the land, where in the opinion of the local government, that fauna may cause a hazard to traffic; or

(f) the spread of dieback, another fungal disease or a pest plant from the land.

(2) Under subclause (1) the local government may require an owner to enclose land with a closed fence so as to prevent the escape of sand and dust from the land onto a public thoroughfare or a public place.

(3) For the purposes of subclause (1) "public place" includes any place which the public are allowed to use whether or not the place is on private property.

Front Boundary Fence

6. (1) In determining an application for a building licence in respect of a fence, the Building Surveyor may approve the erection of a fence of a height greater than 750mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(2) The provision of sub-clause (1) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

Fences Within Front Setback Areas

7. A person shall not, without the written consent of the Building Surveyor erect, or repair a freestanding fence constructed of fibre cement or steel sheeting within the front set-back area of a lot within the district.

Fences on a Residential Lot

8. A person shall not without the written consent of the Local Government, erect a dividing fence on a Residential Lot, at a height in excess of 1800mm.

Maintenance of Fences

9. Subject to Regulation 8 of the Local Government (Uniform Local Provisions) Regulations 1996, an owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, unsightly or prejudicial to the amenity of the locality.

General Discretion of the Local Government

10. (1) The local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on—

(a) the safe or convenient use of any land; or

(b) the safety or convenience of any person.

PART 3—SUFFICIENT FENCES

Sufficient Fences

11. (1) A person shall not erect a dividing fence that is not a sufficient fence.

(2) Subject to sub-clause (3) a sufficient fence—

(a) on a Residential Lot is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;

(b) on a Commercial Lot and on an Industrial Lot is a dividing constructed and maintained in accordance with the specifications and requirements of the Second Schedule.

(3) Where a dividing fence is erected between—

(a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;

(b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule.

(4) Notwithstanding any other provisions in these Local Laws, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where—

(a) it is greater than 1800mm in height; or

(b) the Building Surveyor so requires.

PART 4—FENCING MATERIALS AND ELECTRIFIED FENCES

Secondhand Material

12. On a Residential Lot, a Commercial Lot or an Industrial Lot, a person may only use pre-used materials in the construction of a fence with the approval of the Building Surveyor, which approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

Barbed Wire Fences

13. A fence wholly or partly of barbed wire complying with these Local Laws may only be erected—

(i) on an Industrial Lot and Commercial Lot if no barbed wire is used below a height of 1800mm from the ground; or

(ii) on a Residential Lot with the written approval of the local government.

Prohibited Fencing Materials

14. A person shall not erect a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material.

Electrified Fence to be Approved

15. A person may not have and use an electrified fence other than with the approval of the local government, which approval may be granted unconditionally, or subject to conditions, or may be refused by the local government.

PART 5—NOTICES OF BREACH

Notices of Breach

16 (1) Where a breach of any provision of these Local Laws has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').

(2) A notice of breach shall—

(a) specify the provision of these Local Laws which has been breached;

(b) specify the particulars of the breach; and

(c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

(3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

PART 6—OFFENCES

Offences and Penalties

17. (1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of $5000 and, if the offence is a continuing offence, a maximum daily penalty of $500.

(2) A person who fails to comply with or who contravenes any provision of these Local Laws commits an offence and is liable to a maximum penalty of $5000 and, if the offence is a continuing offence, a maximum daily penalty of $500.

Modified Penalties

18. (1) An offence against any provision of these Local Laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.

(2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of these local laws is $100.

Form of Notices

19. For the purposes of these Local Laws—

(a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;

(b) the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

First Schedule

Clause 11(2)(a)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

Each of the following is a "sufficient fence" on a Residential Lot—

A. A galvanised wire mesh fence which satisfies the following specifications—
   (a) 50mm galvanised steel posts to be sunk into the ground not less than 500mm and enclosed in concrete 150mm x 600mm;
   (b) rails to be 50mm galvanised iron;
   (c) the height of the fence to be 1000mm; or

B. A fence constructed of fibre reinforced cement sheeting having an indented or profiled lateral cross-section which satisfies the following specifications—
   (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
   (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement sheet;
   (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
   (d) the height of the fence to be a minimum of 1500mm.

C. A fence constructed of steel sheeting having an indented or profiled lateral cross-section fixed to manufacturer's specifications.

Second Schedule

Clause 11(2)(b)

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT AND AN INDUSTRIAL LOT

Each of the following is a "sufficient fence" on a Commercial Lot and an Industrial Lot—

A. A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications:
   (a) corner posts to be minimum 50mm normal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
   (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
   (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post;
   (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together;
   (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm; and
   (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

B. A fence of fibre reinforced cement sheet constructed to the minimum specifications referred to in Item B of the First Schedule, the height of the fence to be a minimum 1800mm.

C. A fence constructed of painted or galvanised steel or aluminium sheeting provided that this is used behind the building line to maximum height of 2400mm when supported on posts and rails.

D. Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

Dated this Twenty First day of December 2000.

The Common Seal of the Shire of Perenjori was affixed in the presence of—

B. T. BAXTER, President.
B. R. THOMPSON, CEO.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PERENJORI

ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Perenjori resolved on the Twenty First day of December 2000 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Perenjori Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*

1.2 Definitions

In this local law unless the context otherwise requires—

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

"**applicant**" means a person who applies for a permit;

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

"**built-up area**" has the meaning given to it in the *Road Traffic Code 1975*;

"**carriageway**" means the paved or made portion of a thoroughfare used or intended for use by vehicles;

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

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

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

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

"**footpath**" means the paved or made portion of a thoroughfare used or intended for use by pedestrians and cyclists;

"**kerb**" includes the edge of a carriageway;

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

"**local government**" means the Shire of Perenjori;

"**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;

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

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

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

"**premises**" for the purpose of the definition of "public place" in both this clause and clause 5.1, means a building or similar structure, but does not include a carpark or a similar place;

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

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

(b) local government property;

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

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

"**townsite**" means the townsites of Perenjori and Latham which are—

(a) constituted under section 26(2) of the *Land Administration Act 1997*; or

(b) referred to in clause 37 of Schedule 9.3 of the Act;

"vehicle" includes—

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and

(b) an animal being ridden or driven,

but excludes—

(a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and

(b) a pram, a stroller or a similar device; and

1.3 Application

This local law applies throughout the district.

1.4 Repeal

(1) The following local laws are repealed—

Local Laws Relating to—

Removal and Disposal of Obstructing Animals or Vehicles, published in the *Government Gazette* of 9 March 1970.

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

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

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

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

(b) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.

2.2 Activities allowed with a permit—general

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

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

(b) damage a thoroughfare;

(c) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 4.13;

(d) fell any tree onto a thoroughfare; or

(e) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

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

2.3 No possession and consumption of liquor on thoroughfare

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

(a) that is permitted under the *Liquor Licensing Act 1988* or under another written law; or

(b) the person is doing so in accordance with a permit.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2—Driving on a closed thoroughfare

2.4 No driving on closed thoroughfare

(1) A person shall not drive or take a vehicle on a closed thoroughfare unless—

(a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or

(b) the person has first obtained a permit.

(2) In this clause—

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

PART 3—OBSTRUCTING ANIMALS OR VEHICLES

Division 1—Animals and vehicles

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

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

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

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

3.2 Prohibitions relating to animals

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

(a) an owner of it;

(b) a person in possession of it;

(c) a person who has control of it; and

(d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

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

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

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

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

PART 4—ROADSIDE CONSERVATION

Division 1—Preliminary

4.1 Interpretation

In this Part—

"MRWA" means Main Roads Western Australia;

"protected flora" has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

"rare flora" has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

"Roadside Conservation Committee" means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

"special environmental area" means an area designated as such under clause 4.7.

4.2 Application

This Part does not apply to the townsite.

Division 2—Flora roads

4.3 Declaration of flora road

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

4.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the 'Code of Practice for Roadside Conservation and Road Maintenance' prepared by the Roadside Conservation Committee.

4.5 Signposting of flora roads

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

4.6 Driving only on carriageway of flora roads

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

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

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

(b) there is no carriageway; or

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

Division 3—Special environmental areas

4.7 Designation of special environmental areas

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

(a) as protected flora or rare flora; or

(b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

4.8 Marking of special environmental areas

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

Division 4—Planting in thoroughfares

4.9 Permit to plant

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

4.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 4.9, the local government is to have regard to—

(a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and

(b) the diversity of species and the prevalence of the species which are to be planted or sown.

Division 5—Clearance of vegetation

4.11 Permit to clear

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

4.12 Application for permit

In addition to the requirements of clause 6.1(2), a person making an application for a permit for the purpose of clause 4.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

4.13 Permit to burn thoroughfare

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

4.14 Application for permit

In addition to the requirements of clause 6.1(2), an application for a permit for the purposes of clause 4.13 shall—

(a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and

(b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

4.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 4.13 only if the burning of the particular part of the thoroughfare will—

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

(b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

4.16 Prohibitions on burning

Notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 4.13 is not to be approved by the local government—

(a) for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna; or

(b) in any year to any person for any part of a thoroughfare which is on the opposite side of the carriageway to that portion of the thoroughfare for which a permit to burn has been approved in the same year.

Division 7—Firebreaks

4.17 Permit for firebreaks on thoroughfares

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

4.18 When application for permit cannot be approved

(1) The local government is not to approve an application for a permit for the purpose of clause 4.17 where the thoroughfare is less than 20m wide.

(2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

Division 8—Commercial wildflower harvesting on thoroughfares

4.19 General prohibition on commercial wildflower harvesting

Subject to clause 4.20, a person shall not commercially harvest native flora on a thoroughfare.

4.20 Permit for revegetation projects

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

(2) The local government may approve an application for a permit under subclause (1) only where—

(a) the seed is required for a revegetation project in any part of the district; and

(b) the thoroughfare, or the relevant part of it, is not a special environmental area.

(3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—

(a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and

(b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

PART 5—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

5.1 Interpretation

In this Division, unless the context otherwise requires—

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

"**public place**" includes—

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

(b) local government property,

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

"**stall**" means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

"**stallholder**" means a person in charge of a stall;

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

"**trader**" means a person who carries on trading;

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

"**trading**" includes—

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

(b) displaying goods in any public place for the purpose of—

(i) offering them for sale or hire;

(ii) inviting offers for their sale or hire;

(iii) soliciting orders for them; or

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

(c) the going from place to place, whether or not public places, and—

(i) offering goods or services for sale or hire;

(ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or

(iii) carrying out any other transaction in relation to goods or services,

but does not include—

(d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;

(e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;

(f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and

(g) the selling or hiring or the offering for sale or hire of—

(i) goods by a person who represents a manufacturer of the goods; or

(ii) services by a person who represents a provider of the services,

which are sold directly to consumers and not through a shop.

Subdivision 2—Permits

5.2 Stallholder's permit

(1) A person shall not conduct a stall on a public place unless that person is—

(a) the holder of a valid stallholder's permit; or

(b) an assistant specified in a valid stallholder's permit.

(2) Every application for a stallholder's permit shall—

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

(b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;

(c) specify the proposed location of the stall;

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

(e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and

(f) be accompanied by an accurate plan and description of the proposed stall.

5.3 Trader's permit

(1) A person shall not carry on trading unless that person is—

(a) the holder of a valid trader's permit; or

(b) an assistant specified in a valid trader's permit.

(2) Every application for a trader's permit shall—

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

(b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;

(c) specify the location or locations in which the applicant proposes to trade;

(d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;

(e) specify the proposed goods or services which will be traded; and

(f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

(3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

5.4 No permit required to sell newspaper

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

5.5 Relevant considerations in determining application for permit

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

(a) any relevant policies of the local government;

(b) the desirability of the proposed activity;

(c) the location of the proposed activity;

(d) the principles set out in the Competition Principles Agreement; and

(e) such other matters as the local government may consider to be relevant in the circumstances of the case.

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

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

(b) that the applicant is not a desirable or suitable person to hold a permit;

(c) that—

(i) the applicant is an undischarged bankrupt or is in liquidation;

(ii) the applicant has entered into any composition or arrangement with creditors; or

(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or

(d) that the needs of the district, or the part for which the permit is sought, are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall; or

(e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

5.6 Conditions of permit

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include—

(a) the place, the part of the district, or the thoroughfare to which the permit applies;

(b) the days and hours during which a permit holder may conduct a stall or trade;

(c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;

(d) the goods or services in respect of which a permit holder may conduct a stall or trade;

(e) the number of persons and the names of persons permitted to conduct a stall or trade;

(f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;

(g) whether and under what terms the permit is transferable;

(h) any prohibitions or restrictions concerning the—

(i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;

(ii) the use of amplifiers, sound equipment and sound instruments;

(iii) the use of signs; and

(iv) the use of any lighting apparatus or device;

(i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

(j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;

(k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;

(l) the acquisition by the stallholder or trader of public risk insurance;

(m) the period for which the permit is valid; and

(n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

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

(1) In this clause—

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

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

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

(a) on a portion of a public place adjoining the normal place of business of the applicant; or

(b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

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

Subdivision 3—Conduct of stallholders and traders

5.8 Conduct of stallholders and traders

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

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

(b) not display a permit unless it is a valid permit; and

(c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Weights and Measures Act 1915*.

(2) A stallholder or trader shall not—

(a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or trader;

(b) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

(c) act in an offensive manner;

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

(e) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

PART 6—PERMITS

Division 1—Applying for a permit

6.1 Application for permit

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

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

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

(b) be signed by the applicant;

(c) provide the information required by the form; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

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

6.2 Decision on application for permit

(1) The local government may—

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

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

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

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

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

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

Division 2—Conditions

6.3 Conditions which may be imposed on a permit

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

(a) the payment of a fee;

(b) the duration and commencement of the permit;

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

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

(e) the approval of another application for a permit which may be required by the local government under any written law;

(f) the area of the district to which the permit applies;

(g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;

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

(i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

6.4 Imposing conditions under a policy

(1) In this clause—

"**policy**" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.2(1)(a).

(2) Under clause 6.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 6.2(2).

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

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

6.5 Compliance with and variation of conditions

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

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

Division 3—General

6.6 Duration of permit

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

(a) otherwise stated in this local law or in the permit; or

(b) cancelled under clause 6.10.

6.7 Renewal of permit

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

(2) The provisions of—

(a) this Part; and

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

shall apply to an application for the renewal of a permit *mutatis mutandis*.

6.8 Transfer of permit

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

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee of the permit;

(c) provide such information as the local government may require to enable the application to be determined; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

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

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

(a) an endorsement on the permit signed by the CEO; or

(b) issuing to the transferee a permit in the form determined by the local government.

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

6.9 Production of permit

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

6.10 Cancellation of permit

(1) Subject to clause 7.1, a permit may be cancelled by the local government on any one or more of the following grounds—

(a) the permit holder has not complied with a—

(i) condition of the permit; or

(ii) provision of any written law which may relate to the activity regulated by the permit; or

(b) if it is relevant to the activity regulated by the permit –

(i) the permit holder has become bankrupt, or gone into liquidation;

(ii) the permit holder has entered into any composition or arrangement with creditors; or

(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.

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

(a) shall return the permit as soon as practicable to the local government; and

(b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 7—OBJECTIONS AND APPEALS

7.1 Application of Part 9 Division 1 of Act

When the local government makes a decision—

(a) under clause 6.2(1); or

(b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the Regulations apply to that decision.

PART 8—MISCELLANEOUS NOTICES

8.1 Notice to repair damage to thoroughfare

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

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 the person fails to comply with the notice, the 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 that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

9.3 Offences

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

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

Subdivision 2—Infringement notices and modified penalties

9.4 Prescribed offences

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

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

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

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.5 Forms

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

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

(b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

Schedule 1

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty $
2.1(a)	Damaging or interfering with signpost or structure on thoroughfare	300
2.1(b)	Playing games so as to impede vehicles or persons on thoroughfare	100
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	100
2.2(1)(c)	Lighting a fire on a thoroughfare without a permit	300
2.2(1)(d)	Felling tree onto thoroughfare without a permit	100
2.2(1)(e)	Interfering with anything on a thoroughfare without a permit	100
2.3(1)	Consumption or possession of liquor on thoroughfare	100
2.4(1)	Driving or taking a vehicle on a closed thoroughfare	300
3.1(1)	Animal or vehicle obstructing a public place or local government property	100
3.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	100
3.2(2)(b)	Animal on public place with infectious disease	100
3.2(2)(c)	Training or racing animal on thoroughfare in built-up area	100
3.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	100
4.6(1)	Driving a vehicle on other than the carriageway of a flora road	200
4.9	Planting in thoroughfare without a permit	200
4.11	Failure to obtain permit to clear a thoroughfare	500
4.13	Burning of thoroughfare without a permit	500
4.17	Construction of firebreak on thoroughfare without a permit	500
4.19	Commercial harvesting of native flora on thoroughfare	500
4.20(1)	Collecting seed from native flora on thoroughfare without a permit	300
5.2(1)	Conducting of stall in public place without a permit	300
5.3(1)	Trading without a permit	300
5.8(1)(a)	Failure of stallholder or trader to display or carry permit	100
5.8(1)(b)	Stallholder or trader not displaying valid permit	100
5.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	100
5.8(2)	Stallholder or trader engaged in prohibited conduct	100
6.5	Failure to comply with a condition of a permit	100
6.9	Failure to produce permit on request of authorized person	100
9.1	Failure to comply with notice given under local law	100

Dated this Twenty First day of December 2000.

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

B. T. BAXTER, President.

B. R. THOMPSON, CEO.

LOCAL GOVERNMENT ACT 1995

SHIRE OF PERENJORI

LOCAL LAWS RELATING TO THE REPEAL OF OBSOLETE LOCAL LAWS

Under the powers conferred by the Local Government Act 1995 and all other powers, the Local Government the Shire of Perenjori resolved to make the following Local Law on 21st December 2000.

Repeal—

The following Local Laws are repealed—

By-Laws relating to

	GAZETTED
Cemeteries	13 July 1984
Caravan Parks	12 October 1965
Fencing	31 December 1982
Management of the Perenjori Swimming Pool	31 December 1982
Appointment of Employees	7 November 1941
Long Service Leave	29 April 1949
Heavy Traffic	2 May 1947
General By-Laws	15 August 1930
Noxious Weeds	17 December 1982
Poundage Fees and Sustenance Charges	25 August 1933

Dated 21st December 2000.

The Common Seal of the Shire of Perenjori was affixed in the presence of—

B. T. BAXTER, President.

B. R. THOMPSON, Chief Executive Officer.

CEMETERIES ACT 1986

SHIRE OF PERENJORI

LOCAL LAWS RELATING TO THE PERENJORI AND LATHAM CEMETERIES

Under the powers conferred by the Local Government Act 1995 and all other powers, the Local Government of the Shire of Perenjori resolved to make the following Local Law on Twenty First day of December 2000.

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the *Shire of Perenjori Cemeteries Local Law 2000.*

1.2 Interpretation

In this Local Law unless the context otherwise requires—

"ashes" means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

"authorised officer" means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this Local Law;

"CEO" means the chief executive officer for the time being, of the Board;

"Funeral Director" means a person holding a current funeral director's licence;

"Board" means the Shire of Perenjori;

"mausoleum" means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

"monumental mason" means a person holding a current monumental mason's licence;

"personal representative" means the administrator or executor of an estate of a deceased person;

"set fee" refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

"single funeral permit" means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit;

"vault" means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

1.3 Repeal

The following Local Law is repealed—

The Perenjori and Latham Cemeteries By-laws, published in the Government Gazette of 29 May, 1963, as amended.

PART 2—ADMINISTRATION

2.1 Powers and Functions of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

PART 3—APPLICATION FOR FUNERALS

3.1 Application for Burial

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be Accompanied by Certificates etc

All applications referred to in clauses 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where—

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;

or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

3.4 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application Refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for Funerals and Coffins

A person shall not bring a dead body into the cemetery unless—

(a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this Local Law;

(b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;

and

(c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral Processions

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

5.3 Vehicle Entry Restricted

(1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle Access and Speed Limitations

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of 25km per hour.

5.5 Offenders may be Expelled

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

5.6 Conduct of Funeral by Board

When conducting a funeral under section 22 of the Act the Board may—

(a) require a written request for it to conduct a funeral to be lodged with it;

(b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

(c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;

(d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;

(e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Local Law;

(f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Placement of Ashes

5.7 Disposal of Ashes

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

Niche Wall

Family Grave

Scattering to the Winds

Other memorials approved by the Board

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided—

(a) the person requesting the placement of the ashes has the permission of the Board; and

(b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

PART 6—BURIALS

6.1 Depth of Graves

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—

(a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or

(b) in any circumstances less than 600mm.

(2) The permission of the authorised officer in sub-clause (1) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except—

(a) in a closed coffin; and

(b) in a soundly constructed chamber; and

(c) in accordance with sub-clause (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for Monumental Work

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of Rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of Work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

7.5 Removal of Sand, Soil or Loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

7.6 Hours of Work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished Work

Should any work by masons or others be not completed before 6pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of Wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

7.9 Plants and Trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

7.11 Australian War Graves

Notwithstanding anything in this Local Law to the contrary, the Office of Australian War Graves—

(a) may place a memorial on a military grave; and

(b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments:outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act.

Division 2—Licensing of Monumental Masons

7.13 Monumental Mason's Licence

(1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.

(2) A licence issued under sub-clause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Local Law and such conditions as the Board shall specify upon the issue of that licence.

7.14 Expiry Date, Non-Transferability

A monumental mason's licence—

(a) shall, subject to clause 7.22, be valid from the date specified therein until the 30th day of June next following; and

(b) is not transferable.

7.15 Carrying out Monumental Work

A person shall not carry out monumental work within the cemetery unless that person—

(a) is the holder of a current monumental mason's licence issued pursuant to clause 7.18 or does so as the employee of a person who holds such a licence; or

(b) is authorised by the Board to do so.

7.16 Responsibilities of the Holder of a Monumental Mason's Licence

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this Local Law, the Act and any other written law which may affect the carrying out of monumental works.

7.17 Cancellation of a Monumental Mason's Licence

(1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds—

(a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this Local Law, the Act or any other written law which may affect the carrying out of monumental works;

(b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or

(c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

(3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.

PART 8—GENERAL

8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised officer.

8.2 Guide Dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and Removing of Objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered Flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and Vandalism

A person shall not—

(a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;

(b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.7 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

8.8 Removal from the Cemetery

Any person failing to comply with any provisions of this Local Law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this Local Law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this Local Law commits an offence and shall on conviction be liable to a penalty not exceeding $500.00 and if the offence is a continuing one to a further penalty not exceeding $20.00 for every day or part of a day during which the offence has continued.

9.2 Modified Penalties

(1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

First Schedule

CEMETERIES ACT 1986

Shire of Perenjori

Cemeteries Local Law 2000

MODIFIED PENALTIES

Item No	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed	$50.00
2	5.4	Unauthorised use—driving of vehicles	$50.00
3	7.3	Placing and removal of rubbish and surplus materials	$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	$50.00
5	8.1	Animal at large	$50.00
6	8.5	Dumping of Rubbish	$50.00
7	8.6	Unauthorised advertising, and/or trading	$50.00
8	8.7	Disobeying sign or lawful direction	$50.00

Second Schedule

CEMETERIES ACT 1986

Shire of Perenjori

Cemeteries Local Law 1999

INFRINGEMENT NOTICE

TO: .....

(Name)

.....

(Address)

.....

It is alleged that at .....hours on.....day of .....19..... at .....

.....

.....

you committed the offence indicated below by an (x) in breach of clause.....of the Shire of Perenjori Cemeteries Local Law 1999.

.....

(Authorised Person)

Offence:

Animal at large

Dumping rubbish

Excessive speed in vehicle

Leaving uncompleted works in an untidy or unsafe condition

Non removal of rubbish

Unauthorised advertising or trading

Unauthorised vehicle use

Disobeying sign or lawful direction

Other offence:.....

$.....

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Perenjori at Fowler Street, Perenjori, between the hours of 9am to 4:30pm Monday to Friday.

Please make cheques payable to Shire of Perenjori. Payments by mail should be addressed to—

The Chief Executive Officer
Shire of Perenjori
PO Box 22
PERENJORI WA 6620

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

Third Schedule

CEMETERIES ACT 1986

Shire of Perenjori

Cemeteries Local Law 1999

WITHDRAWAL OF INFRINGEMENT NOTICE

No. .....

..... Date: ...../...../.....

To (1) .....

Infringement Notice No. .....dated...../...../.....for the alleged offence of (2)

.....

Penalty (3) $..... is withdrawn.

(Delete whichever does not apply)

* No further action will be taken

* It is proposed to institute court proceedings for the alleged offence.

---

(1) Insert name and address of alleged offender

(2) Insert short particulars of offence alleged

(3) Insert amount of penalty prescribed

.....

(Authorised Person)

Dated this Twenty First day of December 2000.

The Common Seal of the Shire of Perenjori was affixed in the presence of—

B. T. BAXTER, President.

B. R. THOMPSON, CEO.

2001000249G