

# **LOCAL GOVERNMENT ACT 1995**

## **SHIRE OF BROOME**

### **LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2012**

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF BROOME

### LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Broome resolved on 9 August 2012 to make the following local law.

#### Part 1 – Preliminary

##### 1.1 Title

This local law may be referred to as the *Shire of Broome Local Government Property and Public Places Local Law 2012*.

##### 1.2 Commencement

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

##### 1.3 Application of local law

This local law applies except where indicated otherwise throughout the district and in the sea adjoining the district for a distance of 200 metres seawards of the local government's western district boundary which is bound by the low water mark of the Indian Ocean, as approved by the Governor under section 3.6 of the Act, per notice published in the *Government Gazette*, gazette number 124, 13 July 2012 page 3227.

##### 1.4 Repeal

The *Shire of Broome Local Government Property and Public Places Local Law 2003* as published in the *Government Gazette* on 28 November 2003 and as amended and published in the *Government Gazette* on 5 July 2005 is repealed.

##### 1.5 Definitions

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

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

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

**applicant** means a person who has lodged an application for a permit;

**application for a permit** means an application for a permit referred to in clause 3.2;

**approval** means an application for a permit which has been approved by the local government under clause 3.3(1)(a);

**article** in respect of lost property, includes money;

**attendant** means an employee of the local government duly authorised to perform duties in connection with a pool premises;

**authorised person** means -

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

(b) any member of the Western Australian Police Force;

**bathing** means the act of entering the sea, a swimming pool or other water body, to swim or use a bathing appliance and includes the act of emerging there from;

**bathing appliance** means a float of any material, including kick boards, paddle boards, body boards, or any other device used or capable of being used for the purpose of bathing;

**beach** includes so much of the sea adjoining the beach as is within the application of this local law;

**boat** means any structure vessel, excluding personal water craft, whether motorised or not and made or used to travel or float on water or travel under water;

**Broome townsite area** means the area of the district constituted as the Broome townsite under the *Land Administration Act 1997*;

**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;

**closed thoroughfare** means a thoroughfare wholly or partly closed under section 3.50 or section 3.50A of the Act;

**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;

**fishing** means to use any line, lure, rod, pot or other method for the purpose of catching marine life;

**footpath** means an area that is open to the public that is designated for, or has as one of its main uses, use by pedestrians;

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

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) it is organised by or on behalf of a club;
- (d) payment of a fee is required for attendance; and
- (e) there is systematic recurrence in relation to the day, time and place;

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

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

**large animal** includes a cow, horse, pig, sheep, goat or camel;

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

**life saving club** means a life saving club affiliated with Surf Lifesaving WA Inc;

**life saving gear** means any gear or appliance for use in life saving or for use in the training of members of a life saving club;

**life saving patrol** means a patrol comprising such members of a life saving club as are appointed by that club from time to time to provide life saving services in an area and the term includes any beach inspector or local government employee appointed or authorised to perform any of the functions in clause 7.3;

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

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

**local government property** means anything -

- (a) which belongs to, is owned by or is under the care, control and management of the local government;
- (b) which is an "otherwise unvested facility" within section 3.53 of the Act; or
- (c) of which the local government is the management body under the *Land Administration Act 1997*, but does not include a thoroughfare;

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

**lot** has the meaning given to it in section 4 of the *Planning and Development Act*

2005;

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

**nuisance** means -

- (a) any activity, thing, condition, circumstance or state of the affairs caused or contributed to by a person which is dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of another person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or
- (c) anything a person does on public or private land which unreasonably detracts from or interferes with the enjoyment or value of land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

**patrol flag** means a flag or notice ordinarily erected at the limits of a bathing area to indicate the extremities of that area;

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

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

**person** does not include an authorised person performing a function of the local government;

**personal watercraft** means any vessel designed for the transport of 1, 2, or 3 persons that -

- (a) is propelled by means of an inboard motor powering a water jet pump; and
- (b) is designed to be steered by means of handlebars by a person sitting, standing or kneeling on the vessel and not within it;

**pool premises** means and includes any swimming pool or water park that is local government property and all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the swimming pool facility or used in connection with it;

**public place** means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, park lands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all local government property which the public are allowed to use;

**retailer** means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop;

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

**sandboard** means a board designed to be used for sliding down a slope of land or a sand dune or any similar device;

**shopping trolley** means a container or receptacle on wheels provided by a retailer for its customers to transport goods;

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

**surf board** means flotation device designed and used for the purpose of riding waves that includes one or more fins, capable of or may endanger the safety of swimmers;



**thoroughfare** means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;  
**verge** means that part of a thoroughfare that lies between the front of a property and the edge of the carriageway and between imaginary lines extended at a 90 degree angle with the carriageway, from the edge of the carriageway to meet the side boundaries at the front of the property;

**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, driven or led, but excludes -
  - (i) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
  - (ii) a pram, a stroller or a similar device; and
  - (iii) a boat or personal water craft;

**vehicle crossing** means a crossing giving access from a public thoroughfare to either private land or a private thoroughfare serving private land; and

**zoned** means zoned under a local planning scheme.

(2) In this local law, a reference to local government property or a public place includes the reference to any part, respectively, of that local government property or public place.

## **Part 2 – Determinations in Respect of Local Government Property**

### *Division 1 - Determinations*

#### **2.1 Determinations as to use of local government property**

- (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.

#### **2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or

- (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to –
  - (a) consider those submissions; and
  - (b) decide –
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

### **2.3 Discretion to erect sign**

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

### **2.4 Determination to be complied with**

A person shall comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### **2.6 Amendment or revocation of a determination**

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

#### *Division 2 - Activities which may be pursued or prohibited under a determination*

### **2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
  - (a) bring, ride or drive an animal;
  - (b) take, ride or drive a vehicle, or a particular class of vehicle;
  - (c) fly or use a motorised model aeroplane;
  - (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
  - (e) 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.

## **2.8 Activities which may be prohibited on specified local government property**

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on 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*

**2.9 Signs taken to be determinations**

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

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

**Part 3 - Permits**

*Division 1 - Preliminary*

**3.1 Application of Part**

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

*Division 2 - Applying for a permit*

**3.2 Application for permit**

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

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

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

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

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

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

**3.3 Decision on application for permit**

(1) The local government may –

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

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

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

### **3.4 Factors relevant to the determination of an application**

(1) In determining an application for a permit the local government must satisfy itself that the undertaking of the activity subject of the application –

- (a) will not result in harm to human health or safety or personal injury;
- (b) will not result in property damage or a loss of amenity;
- (c) will not result in environmental harm or environmental nuisance;
- (d) will not result in a nuisance; and
- (e) complies with the provisions of legislation that regulates the undertaking of the activity.

(2) Before the local government decides an application for a permit, an authorised person may –

- (a) inspect any vehicle, equipment, animal, plant or thing to be involved in the undertaking of the activity; and
- (b) measure, weigh, sample, test or otherwise examine anything that may be inspected.

### *Division 3 - Conditions*

### **3.5 Conditions which may be imposed on a permit**

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

- (a) the payment of a fee;
- (b) compliance with a standard or a policy of the local government adopted by the local government;
- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (f) the approval of another application for a permit which may be required by the local government under any written law;
- (g) the area of the district to which the permit applies;
- (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.

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

- (a) when fees and charges are to be paid;
- (b) payment of a bond against possible damage or cleaning expenses or both;
- (c) restrictions on the erection of material or external decorations;
- (d) rules about the use of furniture, plant and effects;
- (e) limitations on the number of persons who may attend any function in or on local government property;
- (f) the duration of the hire;
- (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
- (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;

- (i) whether or not the hire is for the exclusive use of the local government property;
- (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### **3.6 Imposing conditions under a policy**

(1) In this clause –

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

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

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

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

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

### **3.7 Compliance with and variation of conditions**

(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*

### **3.8 Agreement for building**

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.

### **3.9 Duration of permit**

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

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.13.

### **3.10 Renewal of permit**

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

(2) The provisions of this Part shall apply to an application for the renewal of a permit with appropriate modifications.

### **3.11 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) Subject to clause 16.1, 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 or refuses the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.
- (5) Where the local government refuses to approve the application for the transfer of a permit the permit holder, if not wishing to continue as the permit holder, shall return the permit as soon as practicable to the CEO.

### **3.12 Production of permit**

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

### **3.13 Cancellation of permit**

- (1) Subject to clause 16.1, a permit may be cancelled by the local government if the permit holder has not complied with a –
  - (a) condition of the permit; or
  - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder -
  - (a) shall return the permit as soon as practicable to the CEO; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

## *Division 5 - When a permit is required*

### **3.14 Activities needing a permit**

- (1) A person shall not without a permit –
  - (a) subject to subclause (3), hire local government property;
  - (b) advertise anything by any means on local government property;
  - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
  - (d) teach, coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property;
  - (e) plant any plant or sow any seeds on local government property;
  - (f) carry on any trading on local government property unless the trading is conducted -
    - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
    - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
  - (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose -

- (i) drive or ride or take any vehicle on to local government property;
  - (ii) park or stop any vehicle on local government property; or
  - (iii) take or ride a large animal or large animals on local government property;
  - (h) conduct a function on local government property ;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) parachute, hang glide, abseil or base jump from or on to local government property;
  - (l) erect a building or a refuelling site on local government property;
  - (m) make any excavation on or erect or remove any fence on local government property;
  - (n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
  - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
  - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
  - (q) land an aircraft or helicopter on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### **3.15 Permit required to camp outside a facility**

(1) In this clause –

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

**goods** has the same meaning as is given to it in section 3.38 of the Act.

(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;
- (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; or
- (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.

(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*.

(5) Any tent, camp, hut or similar structure erected in contravention of paragraph (b) of subclause (3) and associated goods may, subject to Regulation 29 of the Regulations, be impounded.

(6) A vehicle parked in contravention of paragraph (c) of subclause (3) may, subject to the provisions of Regulation 29 of the Regulations, be impounded by immobilising the vehicle by the use of wheel clamps.

(7) An authorised person who impounds a vehicle under subclause (5) shall attach a notice to a vehicle advising the owner of the vehicle that the vehicle will be released



upon payment of the costs of impounding and the place where and hours during which the costs can be paid.

(8) The notice attached to the impounded vehicle under subclause (6) shall also advise the owner that if the impounding costs are not paid within 24 hours the vehicle may be removed to the local government pound.

(9) Notices issued under this clause shall be in the form determined by the CEO.

### **3.16 Permit required for possession and consumption of liquor**

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

- (a) that is permitted under the *Liquor Control Act 1988*; and
- (b) a permit has been obtained for that purpose.

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

## **Part 4 - Behaviour on all Local Government Property**

### *Division 1 - Behaviour on and interference with local government property*

#### **4.1 Behaviour which interferes with others**

A person shall not in or on any local government property behave in a manner which—

- (a) is likely to cause injury to or interrupt, disturb, interfere with or is likely to interfere with the enjoyment of a person who might use the property;
- (b) causes or is likely to cause a disturbance to nearby residents; or
- (c) creates a nuisance.

#### **4.2 Behaviour detrimental to property or public place**

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

(2) In subclause (1) –

“**detrimental to the property or place**” includes –

- (a) removing any thing from the local government property or public place such as a rock, a plant or a seat provided for the use of any person;
- (b) destroying, defacing or damaging any thing on the local government property or public place, such as a plant, a seat provided for the use of any person or a building; and
- (c) causing environmental harm or nuisance on the local government property or public place.

#### **4.3 Adequate clothing and loitering outside toilets**

(1) A person over the age of 6 years shall not on or in any local government property or public place –

- (a) be present unless dressed in a manner which prevents indecent exposure except where the local government property is set aside for the wearing of no clothes under clause 2.7;
- (b) loiter outside or act in an unacceptable manner, in any portion of a toilet or dressing room designated for the opposite or same sex; or
- (c) without the consent of the occupier, attempt to enter any dressing room or other compartment which is already occupied.

(2) Where an authorised person considers that a person on or in local government property is not dressed in a manner which prevents indecent exposure, an authorised person may direct that person to put on adequate clothing which prevents indecent exposure, and that person shall comply with the direction immediately.

#### **4.4 Taking or injuring any fauna**

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

(2) In this clause –

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

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

#### **4.5 Entry to local government property**

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

- (a) enter or leave any local government property other than by the public entrance or exit, except in an emergency;
- (b) enter or remain on any local government property except on those days and during those times when access is available to the public; or
- (c) enter any place that has been fenced off or closed to the public.

#### *Division 2 - Fees for use of local government property*

#### **4.6 Payment of applicable fees for entry or participation**

Where a fee is payable for entry to local government property or participation in an activity on or in any local government property, a person shall not enter that property or participate in the activity without first paying the applicable fee, unless that person has been exempted by the local government from paying that fee.

#### **4.7 No refund of fees**

A person shall not be entitled to a refund of any fee paid for –

- (a) bathing or using any facilities provided for public use in a pool premises; or
- (b) the hire of local government property where that hire is cancelled but the local government may authorise repayment of a part or all of the amount paid.

#### *Division 3 - Signs*

#### **4.8 Signs**

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

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

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

- (a) not to be inconsistent with any provision of this local law or any determination; and
- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

## **Part 5 – Hiring of Local Government Property**

### **5.1 Application for hire**

(1) The local government may hire local government property to a person who makes an application for a permit for the hire of the local government property under clause 3.2 and who pays the hire fee, if the local government approves the application under clause 3.3.

(2) The local government may determine that the requirements of subclause (1) do not apply to the hiring of particular local government property or a class of local government property.

### **5.2 Decision on application where 2 or more applicants**

In the event of 2 or more applications being made for the hire of the same local government property for the same date and time, the local government may determine which, if any, applicant shall be granted an approval to hire.

### **5.3 Conditions of hire and use**

The conditions that may relate to a permit for hire of local government property include –

- (a) when fees and charges are to be paid and the amount of them;
- (b) the purpose for which the local government property may be used;
- (c) the duration of the hire;
- (d) payment of a bond against possible damage, cleaning or other expenses;
- (e) restrictions on the erection of decorations inside and outside any building which is local government property;
- (f) restrictions on use of furniture, plants and effects;
- (g) the number of persons that may attend any function in a building which is local government property;
- (h) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (i) the prohibition of the consumption of liquor unless an approval has been issued by the local government;
- (j) the prohibition of the sale and supply of liquor unless a liquor licence has been obtained under the *Liquor Control Act 1988* for that purpose;
- (k) securing and locking up local government property at the end of each hire period;
- (l) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987*;
- (m) restrictions on the type of container (whether of glass, metal, plastic or other) that drinks may be provided and served in or consumed from;
- (n) requiring that the amplification of any noise or any noise emitted during the hire complies at all times with the *Environmental Protection (Noise) Regulations 1997*; and
- (o) any other condition that the local government considers fit.

### **5.4 Responsibilities of hirer**

The permit holder in relation to a permit for the hire of local government property shall –

- (a) take reasonable steps to maintain law and order by all in attendance at any function for which the local government property has been hired;
- (b) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the local government property or enforcing any provision of this local law;
- (c) prevent overcrowding;

- (d) leave the local government property in a clean and tidy condition after its use;
- (e) prevent the sale and consumption of any liquor unless a licence has been obtained under the *Liquor Control Act 1988* for that purpose, and the local government has issued an approval for the consumption;
- (f) report any damage or defacement to the local government property to the local government; and
- (g) ensure compliance with all conditions upon which the permit was issued.

## **Part 6 – Swimming Pools and Water Parks**

### **6.1 Use of all or part of a pool premises**

The manager or attendant of a pool premises may –

- (a) set aside all or part of the pool premises for the use of certain persons to the exclusion of others; and
- (b) direct a person as to that person's use of the pool premises.

#### **6.1A When entry to and use of pool premises shall be refused**

The manager or attendant of a pool premises shall refuse admission to, direct to leave or shall remove, or cause to be removed from the pool premises any person who in the opinion of the manager or attendant –

- (a) is under the age of 10 years and who is unaccompanied by a responsible person over the age of 16 years; or
- (b) is -
  - (i) suffering from any contagious, infectious or cutaneous disease or complaint; or
  - (ii) in an unclean condition; or
  - (iii) wearing unclean clothes; or
  - (iv) is under, or apparently, under the influence of intoxicating liquor or drugs; or
- (c) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

#### **6.1B When entry to and use of pool premises may be refused**

The manager or attendant of a pool premises may –

- (a) temporarily suspend admission to, direct to leave or remove from the pool premises all persons or any person, if in her or his opinion such action is necessary or desirable;
- (b) refuse admission to, direct to leave or remove, or cause to be removed from the pool premises any person who, in the opinion of the manager or attendant –
  - (i) is committing a breach of any provision of this local law; or
  - (ii) is by reason of her or his past, or present conduct, within or about the pool premises, has created or is creating a nuisance; and
- (c) suspend admission for a minimum period of one week to any person who has committed a breach of any provision of this local law in relation to the pool premises.

### **6.2 Person to comply with direction**

If a manager or an attendant of a pool premises has refused admission to a person, directed a person to leave the pool premises or otherwise directed a person in relation to her or his use of the pool premises, then that person shall accept that refusal or direction.

### **6.3 Decency**

If a person appearing in public is not dressed in a manner which prevents indecent exposure the manager or attendant shall direct that person to put on a bathing costume or other clothing that prevents indecent exposure, and that person shall comply with that direction immediately.

### **6.4 Objection or appeal against refusal of admission**

(1) Where a manager or attendant refuses admission to a person or directs a person to leave pool premises under clause 6.1B(b), that refusal or direction is a decision to which Division 1 of Part 9 of the Act applies, and the person is an affected person for the purposes of that Division.

(2) Subclause (1) does not apply to a suspension under clause 6.1B(c).

### **6.5 Carnivals**

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

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

(3) A person, club, organisation or association conducting a carnival or event at the pool premises shall take reasonable steps to –

- (a) prevent overcrowding;
- (b) ensure that no damage is done to the buildings or fencing or any other portion of the pool premises; and
- (c) ensure that this local law is observed by all competitors, officials and spectators attending the function.

### **6.6 Closure of pool premises**

(1) The local government may, for such periods and reasons that it determines, close a pool premises on giving 7 days' local public notice under section 1.7 of the Act.

(2) Subclause (1) does not apply where the local government considers that the condition of the pool premises may affect the health of any person, in which case it may close the pool premises without giving any notice.

### **6.7 Limitations on use**

A person shall not -

- (a) enter any portion of the pool premises set apart exclusively for the opposite sex except for a person of or under the age of 6 years;
- (b) behave in a manner which creates a nuisance;
- (c) play any ball games or other aquatic sports whatsoever which shall in any way limit the enjoyment of the users of the pool premises, but this prohibition does not apply to the playing of any games or aquatic sports organized and conducted on the pool premises by any club, organization or association or other person under and in accordance with the Manager's approval;
- (d) permit any animal of which he or she is the owner or for which he or she is liable for the control of to enter or remain in or about the pool premises unless the animal is a dog and the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that section;
- (e) undress or remove any part of their bathing costume except in a dressing room or enclosure provided for that purpose;
- (f) use any soap or shampoo in any part of the pool premises other than in a shower recess or bathroom;
- (g) climb up or upon any roof, fence, wall, grandstand railings or partition on the

- pool premises;
- (h) use indecent, obscene, offensive or abusive language or expectorate or spit in the pool or on any part of the pool premises or in any way commit any nuisance on or in any part of the pool premises;
  - (i) bring onto or deposit in any part of the pool premises any filth or rubbish except in receptacles set aside for that purpose (see sections 23 and 24 of the *Litter Act 1979* and Regulations 4, 5 and 6 of the *Litter Regulations 1981*);
  - (j) consume any foodstuffs or drinks in any area in which that consumption is prohibited;
  - (k) wastefully use the water or leave any taps flowing in the dressing rooms or elsewhere in the pool premises;
  - (l) use any substance or preparation whereby the water of the swimming pool becomes discoloured or rendered turbid or otherwise unfit for the proper use of persons;
  - (m) foul or pollute water in a shower or swimming pool;
  - (n) soil, damage, injure, destroy, use improperly, disfigure or write in or upon any dressing room, cubicle or compartment or any part of the pool premises or any furniture or other article or equipment on the pool premises;
  - (o) while suffering from a contagious, infectious or cutaneous disease or skin complaint or whilst in an unclean condition enter or use or attempt to enter or use the swimming pool or pool premises;
  - (p) smoke in the pool premises; or
  - (q) operate a camera device in any portion of a dressing room or enclosure at the pool premises to record or transmit an image.

#### **6.8 Ticket or membership card not transferable**

No ticket, token, licence, membership card or receipt issued by or under the authority of the local government in respect of the use of or admission to the pool premises is transferable to another person.

### **PART 7 - BEACHES AND BATHING**

#### **7.1 Sandboarding and sand dune protection**

A person shall not -

- (a) use a sandboard or any other board or thing to slide down sand dunes on local government property;
- (b) take onto any sand dunes a sandboard or other thing used for sliding down sand dunes on local government property;
- (c) traverse sand dunes on local government property except along pathways designated by signs or fences for the purpose; or
- (d) unless authorised to do so by the local government or permitted by a sign, take a vehicle onto any beach or sand dunes on local government property.

#### **7.2 Boat Launching**

(1) A person shall not launch a boat or personal watercraft from -

- (a) local government property unless that has been set aside for the purpose under clause 2.7; or
- (b) a beach within the application of this local law unless that launching is permitted by a sign.

(2) Any prohibition in subclause (1) does not apply to any member of a surf life saving club or life saving patrol in the course of her or his duties, training or while in competition.

### **7.3 Surf lifesaving activities**

The local government may appoint a person as a beach inspector and authorise members of surf life saving clubs or any local government employee to perform all or any of the following functions in the interests of maintaining safety at beaches in the district -

- (a) patrol any beach;
- (b) take onto any beach any life saving gear including vehicles or boats that are for use in life saving activities;
- (c) indicate by signs or patrol flags, any areas of a beach and the adjacent water beyond the beach, where bathing is permitted;
- (d) indicate by signs any areas of a beach and the adjacent water beyond the beach where -
  - (i) the riding of surfboards or use of any other bathing appliance is prohibited;
  - (ii) the driving of boats or personal watercraft is prohibited;
  - (iii) fishing is prohibited; or
  - (iv) the use of skim boards, land boards, kite surfing and associated activities are prohibited;
- (e) regulate, prohibit, restrict or set aside by a sign, rope, wire, cloth or other flexible sheeting, or thing, any areas of a beach for any one or more of the following activities -
  - (i) entry or exit by any person;
  - (ii) playing of games;
  - (iii) conduct of training or surf club carnivals;
  - (iv) establishing a first aid or command post; and
- (f) direct any person to –
  - (i) bathe within the permitted bathing area indicated by signs or patrol flags under paragraph (c);
  - (ii) leave the water adjacent to a beach during any period of potential dangerous conditions or the sighting of a shark or crocodile; or
  - (iii) cease any activity not in accordance with this local law.

### **7.4 Identification of life saving patrol**

(1) A person who is a member of a life saving club shall wear a red and yellow quartered swimming cap while he or she is on duty during a life saving club live saving patrol.

(2) A person who is not a member of an on duty life saving patrol shall not wear a red and yellow quartered swimming cap or give the impression they are a member of an on duty life saving patrol.

(3) A person appointed by the local government to patrol any beach shall wear a patrol uniform in the colours and style as determined by the local government.

(4) A vehicle used for a lifesaving patrol must have a logo or decal on the vehicle to indicate that it is a vehicle being used for that purpose.

### **7.5 Compliance with signs and directions**

A person attending at any beach shall -

- (a) comply with any sign erected on the beach;
- (b) comply with any lawful direction given by an authorised person, beach inspector, member of a surf life saving club or local government employee under clause 7.3(f);
- (c) not enter any area designated for any life saving activity, training, competition or carnival conducted by a life saving club unless that person is a member of

- the club or has obtained permission to enter that area from the club; and
- (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.

## **7.6 Fishing**

- (1) A person shall not fish on or from any local government property or public place –
  - (a) where fishing is prohibited and the prohibition is designated by a sign; or
  - (b) in any permitted bathing area indicated by signs or patrol flags under clause 7.3(c).
- (2) A person shall not, whether fishing is permitted or not –
  - (a) leave or deposit dead fish or fish offal on any beach; or
  - (b) leave or deposit dead fish or fish offal in the sea within 200 metres of any part of a beach; or
  - (c) fish for sharks by the use of set or buoyed lines or use blood, offal or any other lure for the purpose of attracting sharks within 200 metres of any part of a beach.

## **7.7 Surfboards and boats**

- (1) A person shall not ride a surfboard or drive a personal watercraft or boat in any permitted bathing area indicated by signs or patrol flags under clause 7.3(c).
- (2) A person shall not drive or ride on any personal watercraft within 50 metres of any person bathing.
- (3) In this clause “surfboard” includes a windsurfer and surf kite.

## **7.8 Authority of local government authorised employee to prevail**

If the local government has authorised a person under clause 7.3 and member of a surf life saving club under clause 7.3 in relation to the same beach, where they could perform a function referred to in clause 7.3 or 7.5 contemporaneously, the authority of an authorised person employed by the local government under clause 7.3 is to prevail.

# **PART 8 - ACTIVITIES ON VERGES AND FOOTPATHS**

## *Division 1 - Verge treatments*

### **8.1 Interpretation**

In this Division, the following terms have the following meaning -  
“**acceptable material**” means any material that will create a dust free, moisture retentive, erosion resistant surface and is prescribed in clause 8.3(c); and  
“**permissible verge treatment**” means a verge treatment specified in clause 8.3.

### **8.2 Verge treatment**

The owner or occupier of land adjacent to a verge shall not install or maintain a verge treatment on the verge which is not a permissible verge treatment and in any event shall not -

- (a) alter the finished level of the verge; or
- (b) cover, obstruct or otherwise adversely affect the intended purpose of any manhole, inspection pit, constructed drain or other facility or installation placed or constructed by a public body in any part of or adjacent to a thoroughfare.

### **8.3 Permissible verge treatments**

For the purpose of clause 8.1, the permissible verge treatments are as follows –

- (a) Plant and maintain a lawn; or



- (b) Plant and maintain a garden provided that no part of the vegetation –
  - (i) is greater than 600 millimetres in height within 20 metres of an intersection;
  - (ii) restricts the clear sight visibility of a person using the thoroughfare or using a driveway abutting the thoroughfare;
  - (iii) inhibits or interferes with street lighting and visibility of signage;
  - (iv) is of a thorny or poisonous nature or which may otherwise create a hazard for pedestrians eg Bougainvillea, Agave;
  - (v) is a declared weed species;
  - (vi) produces large heavy fruits, eg coconuts, unless the owner or occupier installs appropriate fall protection devices;
  - (vii) restricts a 2-metre clear and safe pedestrian access way where there is no existing footpath;
  - (viii) is no more than 600 millimetres in height within 1.2 metres of either side of a footpath or access way;
  - (ix) intrude on a 3-metre clearance zone above a footpath or access way or a 4.5-metre clearance zone above a roadway; and
  - (x) no water pipes or connections protrude above the surface of the garden; or
- (c) Installation of Surface Treatments using one of the following materials where the treatment is installed and levelled to 15 millimetres below a containment border or garden kerb –
  - (i) treated timber, plastic or concrete garden edge kerbing flush with infill or garden bed;
  - (ii) Stone/rock-mulch treatments using –
    - River-washed rounded stone  $D_{50} < 40$  millimetres
    - Crushed rock  $D_{50} < 40$  millimetres
    - Crusher dust  $D_{50} < 10$  millimetres
  - (iii) Organic mulch;
- (d) Installation of statues and/or boulder rockwork provided they do not –
  - (i) exceed 600 millimetres in height when within 20 metres of an intersection;
  - (ii) restrict clear visibility for a person using the thoroughfare or driveway abutting the thoroughfare;
  - (iii) inhibit or interfere with adequate street lighting and visibility of signage;
  - (iv) occur within 2.75 metres of the back of kerb or travelled path on roads without kerbing; or
  - (v) require electricity; or
- (e) A combination of (a) to (d) above.

#### **8.4 Owner's or occupier's responsibilities for verge treatments**

An owner or occupier of land adjacent to a verge who installs or maintains a permissible verge treatment on the verge shall -

- (a) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath, pavement or carriageway;
- (b) create a hard surface with an acceptable material only;
- (c) not place any obstruction on or around any verge treatment;
- (d) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using the adjacent footpath, accessway or carriageway; and
- (e) not extend the verge treatment beyond the verge immediately adjacent to the land owned or occupied by the owner or occupier, without the written approval of the owner of the adjoining property, immediately adjacent to the verge to be treated.

### **8.5 Installation of hardstand surface on a verge for the parking of cars**

An owner or occupier shall not install an impervious concrete, bitumen or brick-paved hardstand surface on a verge for the purpose of parking vehicles without first obtaining written approval of the local government.

### **8.6 Enforcement**

The local government may give a notice under clause 13.1, requiring the owner or occupier of any land adjacent to a verge to –

- (a) make good within the time period specified in the notice any breach of a provision of this Division; or
- (b) within the time specified in the notice, give a satisfactory reason to the local government why the verge treatment should be retained without alteration, or why the owner or occupier should be given extra time in which to comply with the notice.

## *Division 2 - Vehicle crossings*

### **8.7 Vehicle crossing treatment**

Vehicle crossings are dealt with in regulations 12 to 16 of the *Local Government (Uniform Local Provisions) Regulations 1996*.

### **8.8 Standard vehicle crossings**

For the purpose of regulation 15 of the *Local Government (Uniform Local Provisions) Regulations 1996*, a standard crossing in the district is as follows -

- (a) where the land to which access will be provided from a thoroughfare is zoned residential a vehicle crossing will be a standard crossing if it –
  - (i) is constructed from either brick paving, bitumen seal or concrete in accordance with the local government's residential vehicle crossing specifications as determined by the local government and varied by it from time to time; and
  - (ii) has a minimum width of 3 metres at the boundary line between the verge and the adjacent property and a minimum of 7 metres at the edge of the carriageway;
- (b) where land to which access will be provided from a thoroughfare is zoned industrial/commercial/mixed use, a vehicle crossing will be a standard crossing if it –
  - (i) is constructed from brick paving, bitumen seal or concrete in accordance with the local government's commercial/industrial vehicle crossing specifications as determined by the local government and varied by it from time to time; and
  - (ii) has a width at the boundary line between the verge and the adjacent property and at the edge of the carriageway in accordance with Main Roads Western Australia standards as adopted by the local government; or
- (c) where land to which access will be provided from a thoroughfare is zoned rural a vehicle crossing will be a standard crossing if it –
  - (i) is constructed from either asphalt, chip seal, concrete or brick paving in accordance with the local government's rural vehicle crossing specifications as determined by the local government and varied by it from time to time; and
  - (ii) has a minimum width of 3 metres at the boundary line between the verge

and the adjacent property and a minimum of 9 metres at the edge of the carriageway.

### *Division 3 - Protection of footpaths*

#### **8.9 Footpath protection**

(1) The owner, occupier, licensee or contractor who undertakes works on land adjacent to a footpath, shall –

- (a) take all necessary precautions to ensure that the footpath is not damaged during the course of the works; and
- (b) notify the local government of any existing damage to the footpath prior to the commencement of the works.

(2) A person who carries out any building or other operations or works necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, shall ensure that –

- (a) all reasonable precautions are taken to prevent damage to the footpath during the course of the works; and
- (b) heavy vehicles that access the land, are to cross the footpath at the designated area for the proposed vehicle crossing.

(3) Any person who causes damage to a footpath during works undertaken on the land or works within the thoroughfare shall pay the costs of the local government to repair the damage.

## **PART 9 — ADVERTISING SIGNS ON THOROUGHFARES**

### *Division 1—Preliminary*

#### **9.1 Definitions**

In this Part, unless the context otherwise requires—

**advertisement** means the use or intention of use for the purpose of advertising any premises, services, business, function, event, product or thing;

**advertising device** means an object on which words, numbers or figures are written, placed, affixed or painted for the purpose of advertising any business, function, operation, event, undertaking, product, or thing and includes a vehicle or trailer or other similar object placed or located so as to serve the purpose of advertising a business, function, operation, event, undertaking, product or thing;

**advertising sign** means a sign used for the purpose of advertisement and includes an election sign, advertising device, portable direction sign and real estate sign;

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

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

**portable direction sign** means a direction sign that is portable;

**portable sign** means a sign not permanently attached to the ground or to a structure, wall, fence or building and includes but is not limited to a sandwich board sign consisting of 2 sign boards attached to each other at the top or elsewhere by hinges or other means;

**property disposal sign** means a sign indicating that the premises whereon it is affixed or erected, are for sale, for letting or to be auctioned; and

**sign** includes a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation.

## *Division 2—Permit*

### **9.2 Permit required for advertising signs and portable direction signs**

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

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

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

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

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2,700 millimetres;
- (b) on or within 500 millimetres from the kerb;
- (c) in any other location where, in the opinion of the local government or an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

### **9.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clauses 3.3 and 9.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of advertising signs or advertisements within the district;
- (b) the dimensions of the advertising signs or advertisements;
- (c) whether the siting, design and general appearance of the advertising sign detracts from the visual amenity and character of the area;
- (d) other advertising signs already approved or erected in the vicinity of the proposed location of the advertising signs or advertisements;
- (e) whether or not the advertising signs or advertisements will create a hazard to persons using a thoroughfare; and
- (f) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

## *Division 3—Conditions on permit*

### **9.4 Conditions on portable sign**

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

- (a) the portable sign shall—
  - (i) not exceed 1,000 millimetres in height;
  - (ii) not exceed an area of 0.8 square metres on any side;
  - (iii) relate only to the business activity described on the permit;
  - (iv) not be placed in any position other than immediately in front of the building or the business to which the sign relates and be located not closer than 500 millimetres to the kerb or further than 1,200 millimetres from the kerb so as to ensure the free passage of persons using the footpath;
  - (v) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;

- (vi) be secured in position in accordance with any requirements of the local government;
  - (vii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person or the sight line of any vehicle drivers; and
  - (viii) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.
- (2) The permit holder of a permit for a portable sign shall comply with each of the conditions in subclause (1).

### **9.5 Conditions on election sign**

- (1) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—
- (a) being erected at least 30 metres from any intersection;
  - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
  - (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (e) being maintained in good condition;
  - (f) not being erected until the election to which it relates has been officially announced;
  - (g) being removed within 24 hours of the close of polls on voting day;
  - (h) not being placed within 100 metres of any works on the thoroughfare;
  - (i) being securely installed;
  - (j) not being an illuminated sign;
  - (k) not incorporating reflective or fluorescent materials; and
  - (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.
- (2) The permit holder of a permit for the erection or placement of an election sign shall comply with each of the conditions in subclause (1).

## **PART 10 – DAMAGE TO AND CLOSED THOROUGHFARES**

### *Division 1 - Damage to thoroughfares*

#### **10.1 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.

### *Division 2 - No driving on closed thoroughfares*

#### **10.2 Act and Regulations deal with closing of thoroughfares**

Sections 3.50 and 3.50A of the Act and regulations 4 to 6 of the Regulations and the *Road Traffic Act 1974* deal with the closing of certain thoroughfares to vehicles.

#### **10.3 No access without consent**

A person shall not drive or take a vehicle on or cause a vehicle to be driven or taken on a closed thoroughfare –

- (a) unless it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) without an approval.

## **PART 11 - SHOPPING TROLLEYS**

### **11.1 Name of owner of shopping trolley**

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

### **11.2 Shopping trolleys in public places**

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

### **11.3 Shopping trolley to be removed by retailer**

Where a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, and the retailer whose name is marked on the trolley has been advised verbally or in writing of its location by the local government, the retailer shall remove the shopping trolley from the public place within 24 hours of being advised.

### **11.4 Retailer taken to own shopping trolley**

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

## **PART 12 - SECURED SUM**

### **12.1 Security for restoration and reinstatement**

(1) The local government may require payment of a bond for a sum determined by the local government for the purpose of ensuring that –

- (a) hired local government property, including fixtures and fittings in a building can be cleaned or repaired;
- (b) a footpath damaged during the construction of any building on an adjacent lot, can be repaired or reinstated; or
- (c) conditions of an approval, in so far as they relate to local government property or a public place, are complied with.

(2) A bond required under subclause (1) is to be paid into an account established by the local government for the purpose of this clause.

## **PART 13 - REMEDY FOR BREACH**

### **13.1 Notice requiring works to be done**

(1) Where the local government requires works to be done to rectify a breach of any approval or a condition of an approval or a provision of this local law, the local government may give a notice in writing to the approval holder or person who has breached this local law -

- (a) advising details of the breach of the approval, condition or local laws and of the works required to rectify the breach;
- (b) requiring the approval holder or person to do the works required within the time specified in the notice; and
- (c) advising that where the approval holder or person fails to comply with the requirements of the notice within the time specified, the local government may

do the required works.

(2) An approval holder or person shall comply with a notice given to her or him under subclause (1).

(3) Where the approval holder or person referred to in subclause (1) fails to comply with the requirements of a notice given under subclause (1), the local government may by its employees, agents or contractors carry out all works and do all things necessary to comply with the requirements of the notice.

(4) The local government may recover the expenses incurred in carrying out the works under subclause (3) –

- (a) as a charge against any secured sum lodged for the purpose by the approval holder or person who has breached this local law under clause 13.1; or
- (b) from the approval holder or person who has breached this local law in a court of competent jurisdiction.

## **PART 14 - MISCELLANEOUS**

### **14.1 Public liability insurance and indemnity**

(1) Where, as a condition of an approval, an approval holder or person is required to obtain public liability insurance, indemnifying the local government against all actions, suits, claims, damages, losses and expenses made against or incurred by the local government arising from any activity, action or thing performed or erected in accordance with the approval, and to keep that insurance current for the duration of the approval, the approval holder or person shall –

- (a) enter into an agreement with the local government to provide and maintain the required public liability insurance;
- (b) take out a public liability insurance policy in the name of the approval holder or person and the local government, for a minimum value of \$10 million or such other amount as the local government considers appropriate for the risk involved;
- (c) include a clause in the policy under paragraph (b) which prevents the policy from being cancelled without the written consent of the local government;
- (d) include a clause in the policy under paragraph (b) which requires both the approval holder or person and the insurance company, to advise the local government if the policy lapses, is cancelled or is no longer in operation; and
- (e) on the request of an authorised person, provide for inspection, a certificate of currency for the insurance policy required under paragraph (b).

(2) An approval holder or person who refuses or cannot provide a certificate of currency within 2 working days of a request under subclause (1)(a) commits an offence.

### **14.2 Directions of authorised person**

(1) An authorised person may direct any person on local government property or a public place to -

- (a) stop doing anything which the authorised person considers on reasonable grounds the person on the property or place is in the process of doing, which is contrary to this local law or any other local law applying in the district;
- (b) leave that property or place; or
- (c) assist the authorised person or another person in the case of an emergency.

(2) A person who is given a lawful direction under subclause (1) shall comply with that direction.

### **14.3 Disposal of lost and found property**

(1) This clause does not apply to an article which is subject to Subdivision 4 of Division 3

of Part 3 of the Act.

(2) A person finding an article left on or in local government property or a public place shall give that article to the local government, an authorised person or a manager or attendant.

(3) The local government shall register a description of the article and all particulars relating to it in a lost property register to be kept for that purpose.

(4) A person claiming the article who satisfies the local government, an authorised person, or manager or attendant that he or she is the lawful owner of the article shall, on return of the article, by way of acknowledging its receipt, write her or his name and address and provide their signature in the lost property register.

(5) An article not claimed within a period of 3 months from the date it is entered in the lost property register shall be disposed of by the local government as it considers fit and the proceeds from any sale shall belong to the local government.

(6) Where an article which is perishable is given to the local government, an authorised person or a manager or attendant under subclause (2), the local government may dispose of that article at any time without entering that in the register under subclause (3).

## **PART 15 - OFFENCES AND PENALTIES**

### **15.1 Offences**

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

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

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

### **15.2 Infringement and infringement withdrawal notices**

(1) For the purposes of this local law -

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

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

### **15.3 Offence description and modified penalty**

The amount appearing in the final column of the Schedule directly opposite an offence described in the Schedule 1 is the modified penalty for that offence.

### **15.4 Records to be kept**

The local government shall cause adequate records to be kept of all infringement notices served and modified penalties received.



## **PART 16 - OBJECTIONS AND APPEALS**

### **16.1 Application of Division 1, Part 9 of the Act**

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 regulation 33 of the Regulations applies to that decision.

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**Schedule 1 – Prescribed Offences**

[cl 15.1(2)]

Item No	Clause No	General Description of Offence	Modified Penalty \$
1	2.4	Failure to comply with a determination	125
2	3.7(1)	Failing to comply with conditions of a permit	125
3	3.7(2)	Failing to comply with conditions of permit as varied	125
4	3.14(1)	Failing to obtain a permit	125
5	3.15(3)	Failure to obtain permit to camp outside facility	125
6	3.16(1)	Failure to obtain permit for liquor	125
7	4.1(a)	Behaviour likely to interrupt, disturb or interfere with enjoyment of other persons	125
8	4.1(b)	Behaviour which interrupts, disturbs or interferes with enjoyment of other persons	125
9	4.2(1)	Behaviour detrimental to property	125
10	4.3(1)(c)	Without consent of the occupier, entering or attempting to enter a dressing room already occupied	125
11	4.4(1)	Taking, killing or injuring any fauna	125
12	4.5(a)	Entering or leaving any local government property or building other than by the public entrance or exit	60
13	4.5(b)	Entering or remaining on any local government property except during times access is available to the public	60
14	4.5(c)	Entering any place that has been fenced off, or closed to the public	125
15	4.6	Entering local government property without first paying the applicable fee or charge	60
16	4.8(2)	Failure to comply with sign on local government property	125
17	5.4(g)	Failing to meet responsibilities of hirer of local government property	125
18	6.2	Failing to leave pool premises when directed to do so	60
19	6.7	Failing to meet limitations on use of swimming pool	125
20	7.1(a)	Using a sandboard, other board or thing to slide down sand dunes	125
21	7.1(c)	Traversing sand dunes other than along designated paths	125
22	7.1(d)	Taking a vehicle onto any beach or sand dunes	125
23	7.2(1)	Launching a boat into sea from area not approved or not permitted by signs	125
24	7.5(a)	Failing to comply with a sign erected on a beach	125
25	7.6(1)(a)	Fishing in an area where fishing is prohibited and designated by signs	100
26	7.6(1)(b)	Fishing in a permitted bathing area	100
27	7.6(2)(a)	Leaving or depositing dead fish or fish offal on any beach	60
28	7.6(2)(b)	Leaving or depositing dead fish or fish offal in the sea within 200m of any beach	60
29	7.7(1)	Riding a surfboard, driving a personal watercraft or	100

		boat in a designated permitted bathing area	
30	8.2(b)	Covering or obstructing any manholes, gullies or inspection pits on a verge	100
31	8.2	Installation of verge treatment other than permissible verge treatment	100
32	8.4(a)	Failing to keep verge treatment in good and tidy condition and avoid obstruction of any sort	100
33	8.4(c)	Placing any obstruction on or around any verge treatment	100
34	8.4(d)	Watering or maintaining a verge treatment so as to cause a nuisance or hazard to a person using footpath, accessway or carriageway	100
35	8.9(1)(a)	Failing to take necessary precautions to ensure footpath is not damaged during works	100
36	8.9(1)(b)	Failing to notify local government of existing footpath damage prior to commencement of works	60
37	9.2(1)	Failure to obtain permit for advertising sign on thoroughfare	125
38	9.4(2)	Failure to comply with conditions of permit for portable sign	125
39	9.5(2)	Failure to comply with conditions of permit for elections sign	125
40	10.3	Driving on a closed thoroughfare	150
41	11.2	Leaving a shopping trolley in a public place not set aside for storage of trolleys	60
42	11.3	Failure of owner to remove shopping trolley within 24 hours of being advised by local government	100
43	13.1(2)	Failing to comply with a notice	250
44	14.2(2)	Failing to comply with a lawful direction of an authorised person	125

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## **Schedule 2 – Determinations**

[cl 2.1]

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

### **Part 1 – Preliminary**

#### **1.1 Definitions**

(1) In these determinations unless the context otherwise requires –

**approved place** means the land or premises specified in a trading licence as approved by the local government;

**approved route** means a route specified in a trading licence approved by the local government;

**authorised person** means a person appointed by the local government under section 9.10 of the *Local Government Act 1995* to perform any of the functions of an authorised person under this local law;

**camel operators** means those persons associated with commercial camel activities, either as the owner, the licensee or an employee;

**commercial camel activities** means those activities associated with camel tours/rides on Cable Beach;

**local government** means the Shire of Broome; and

**local law** means the *Shire of Broome Local Government Property and Public Places Local Law 2012*.

(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.

### **Part 2 – Driving Vehicles on Local Government Property**

#### **2.1 Speed of Vehicles on Reserves**

A person shall not drive a vehicle or allow a vehicle to be driven upon local government property at a speed exceeding 15 kilometres an hour, or in such a manner as to cause danger, inconvenience or annoyance to any person.

### **Part 3 – Activities Prohibited on Local Government Property**

#### **3.1 Activities prohibited on local government property**

A person is prohibited from pursuing all or any of the following activities on local government property except on land which is reserved to the local government for the purpose, or which is set aside under clause 2.7(1) of this local law for the purpose –

- (a) the playing or practice of golf, archery, pistol shooting or rifle shooting.

### **Part 4 – Activities which may be pursued on specified local government property**

#### **4.1 Activities which may be pursued on specified local government property**

(1) In this Part *Cable Beach* means that part of the beach as described in clause (2).

(2) Under clause 2.7(1)(a) of this local law commercial camel activities may be conducted in the area of Cable Beach between a point formed by the westerly prolongation to the low water mark of the northern boundary of Reserve 36477 to a point formed by the westerly prolongation to the low water mark of the Northern Boundary of Lot 405 Lullfitz Drive between the high and low water mark.

- (3) Under clause 2.7(2) of this local law the following conditions apply –
- (a) camel operators shall have a trading licence issued by the local government under its *Trading, Outdoor Dining and Street Entertainment Local Law 2003*;
  - (b) camel operators are to only access the area of application (Cable Beach) via the approved route from the approved place of stabling camels;
  - (c) only gelded male camels and/or cow camels are permitted for commercial camel activities on Cable Beach;
  - (d) at the morning session, all camels must be removed from Cable Beach by 10.00am;
  - (e) no camels shall enter Cable Beach before 2.30pm in the afternoon;
  - (f) no commercial camel activities are to take place on Cable Beach between the hours of 10.00am and 2.30pm;
  - (g) camel operators will at all times identify their own Camels with the same coloured and patterned blankets. Each operator's colours and patterns must be significantly different from each other so as to obviously distinguish each operator apart;
  - (h) camel operators must comply with any lawful direction given at any time by the CEO of the local government or his or her delegate, or an authorised person;
  - (i) camel operators must, at the conclusion of business each day, remove all and any refuse and litter associated with the operation of their activity and ensure the site is left in a clean and safe condition;
  - (j) all camels are to be fitted with manure collection devices; any manure that may escape the manure collection devices is to be collected immediately along the local government approved access route and along the entire distance of the tour;
  - (k) front and rear camels are to be fitted with lights facing to the front and the rear, every second camel to have a reflective tape to each saddle and/or stirrup;
  - (l) a minimum of 2 competent staff must be in attendance when led by walking, a camel train of 2 or more camels, 1 staff member is to lead holding the reins at all times, the other is to be positioned toward the rear of the camel train; and
  - (m) camel operators are to ensure at least 30 metres between each camel train at all times.
- (4) The local government reserves the right to close Cable Beach to commercial camel activities at any time.

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Dated 14 August 2012

The Common Seal of Shire of Broome was affixed by the authority of a resolution of Council in the presence of –

G T CAMPBELL, Shire President  
K R DONOHOE, Chief Executive Officer