

LOCAL GOVERNMENT ACT 1995

SHIRE OF BROOME

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016

LOCAL GOVERNMENT ACT 1995
SHIRE OF BROOME
LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016

CONTENTS

Part 1 - Preliminary

- 1.1 Title
- 1.2 Commencement
- 1.3 Application of local law
- 1.4 Repeal
- 1.5 Definitions
- 1.6 Assistance animals

Part 2 – Determinations in respect of local government property

Division 1 - Determinations

- 2.1 Determinations as to use of local government property
- 2.2 Procedure for making a determination
- 2.3 Discretion to erect sign
- 2.4 Determination to be complied with
- 2.5 Register of determinations
- 2.6 Amendment or revocation of a determination

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

- 2.7 Activities which may be pursued on specified local government property
- 2.8 Activities which may be prohibited on specified local government property

Division 3 - Transitional

- 2.9 Signs taken to be determinations

Part 3 - Permits

Division 1 - Preliminary

- 3.1 Application of Part

Division 2 - When a permit is required

- 3.2 Activities needing a permit
- 3.3 Permit required to camp outside a facility
- 3.4 Permit required for possession and consumption of liquor

Division 3 Applying for a permit

- 3.5 Application for permit
- 3.6 Decision on application for permit
- 3.7 Factors relevant to the determination of an application

Division 4 - Conditions

- 3.8 Conditions which may be imposed on a permit
- 3.9 Compliance with and variation of conditions

Division 5 - General

- 3.10 Duration of permit
- 3.11 Renewal of permit
- 3.12 Transfer of permit
- 3.13 Production of permit
- 3.14 Cancellation of permit

Division 6 – Responsibilities of permit holder

- 3.15 Responsibilities of permit holder

Part 4 - Behaviour in public places

Division 1 - Behaviour on and interference with local government property

- 4.1 Behaviour which interferes with others
- 4.2 Behaviour detrimental to a public place
- 4.3 Adequate clothing and loitering outside toilets
- 4.4 Taking or injuring any fauna
- 4.5 Entry to local government property

Division 2 - Fees for use of local government property

- 4.6 Payment of applicable fees for entry or participation
- 4.7 No refund of fees

Division 3 - Signs

- 4.8 Signs

Part 5 – Hiring of local government property

- 5.1 Application for hire
- 5.2 Decision on application where 2 or more applicants
- 5.3 Conditions of hire and use
- 5.4 Responsibilities of hirer

Part 6 – Swimming pools and water parks

- 6.1 Use of all or part of a pool premises
- 6.2 When entry to and use of pool premises will be refused
- 6.3 When entry to and use of pool premises may be refused
- 6.4 Person to comply with direction
- 6.5 Decency
- 6.6 Objection or Appeal against refusal of admission
- 6.7 Carnivals
- 6.8 Closure of pool premises
- 6.9 Limitations on use
- 6.10 Ticket or membership card not transferable

Part 7 – Beaches and bathing

- 7.1 Sandboarding and sand dune protection
- 7.2 Boat launching
- 7.3 Surf life saving activities
- 7.4 Identification of life saving patrol
- 7.5 Compliance with signs and directions
- 7.6 Fishing
- 7.7 Surfboards and boats
- 7.8 Authority of local government authorised employee to prevail

Part 8 – Activities on verges and footpaths

Division 1 - Verge treatments

- 8.1 Interpretation
- 8.2 Verge treatment
- 8.3 Permissible verge treatments
- 8.4 Owner's or occupier's responsibilities for verge treatments
- 8.5 Installation of hardstand surface on a verge for the parking of cars
- 8.6 Enforcement

Division 2 - Vehicle crossings

- 8.7 Standard vehicle crossings

Division 3 - Protection of footpaths

- 8.8 Footpath protection

Part 9 - Advertising signs on local government property and thoroughfares

Division 1- Preliminary

- 9.1 Definitions
- 9.2 Person taken to own advertising sign

Division 2- Permit

- 9.3 Permit required for advertising signs and portable direction signs
- 9.4 Matters to be considered in determining application for permit

Division 3- Conditions on permit

- 9.5 Conditions on portable sign
- 9.6 Conditions on election sign

Part 10 – Damage to and closed thoroughfares

Division 1 - Damage to thoroughfares

- 10.1 Notice to repair damage to thoroughfare

Division 2 - No driving on closed thoroughfares

- 10.2 No access without consent

Part 11 – Shopping trolleys

- 11.1 Name of owner of shopping trolley
- 11.2 Shopping trolleys in public places
- 11.3 Shopping trolley to be removed by retailer
- 11.4 Retailer taken to own shopping trolley

Part 12 – Secured sum

- 12.1 Security for restoration and reinstatement

Part 13 – Remedy for breach

- 13.1 Notice requiring works to be done

Part 14 - Miscellaneous

- 14.1 Public liability insurance and indemnity
- 14.2 Directions of authorised person
- 14.3 Disposal of lost and found property

Part 15 – Offences and penalties

- 15.1 Offences
- 15.2 Infringement and infringement withdrawal notices
- 15.3 Offence description and modified penalty

Part 16 - Objections and review

- 16.1 Application of Division 1, Part 9 of the Act

Schedule 1 – Prescribed Offences

Schedule 2 – Determinations

Schedule 3 – Definition of “weed”

LOCAL GOVERNMENT ACT 1995

SHIRE OF BROOME

LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Broome resolved on [insert date] 2016 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 2016*.

1.2 Commencement

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

1.3 Application 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.

1.4 Repeal

The *Shire of Broome Local Government Property and Public Places Local Law 2012* as published in the *Government Gazette* on 23 October 2012 and as amended on 20 September 2013 and 6 January 2015 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 3.5;

approval means an application for a permit which has been approved by the local government under clause 3.6(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 therefrom;

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

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;

development approval means approval granted by the local government in accordance with the *Planning and Development Act 2005*;

district means the district of the local government;

event means an occurrence held within the district by a person(s)/group/organisation, where people assemble at a given time for entertainment, recreation or community purposes and includes but is not limited to -

- (a) concerts and events run as a commercial activity;
- (b) ceremonies and processions;
- (c) sporting and competitor events such as marathons, triathlons, organised swims and other similar events;
- (d) shows and fairs including circuses, carnivals and other customised venue based events;
- (e) festivals, exhibitions and expos; and
- (f) community events and fundraisers;

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 1 of its main uses, use by pedestrians;

garden means any part of a verge planted, developed or treated otherwise than as a lawn, with 1 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;

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

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 may 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 Life Saving Western Australia;

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 local government employee 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 facility means any building, function room, hall, sports field or premises that is owned or managed by the local government and made available for

use by arrangement or during certain opening hours;

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, but does not include a thoroughfare; or

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

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

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

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

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 -

(a) any thoroughfare or local government property; or

(b) any place which the public is allowed to use, whether the place is or is not on private land, including park lands, squares, reserves, beaches, the intertidal zone and other land designated as being for the use and enjoyment of the public;

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;

surfboard means flotation device designed and used for the purpose of riding waves that includes 1 or more fins, which is capable of or may endanger the safety of swimmers;

thoroughfare means a road or other thoroughfare including parking areas, 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;

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise and an animal being ridden, driven or led, but excludes -

- (a) a wheelchair or any device designed for use by a physically impaired person on a footpath;
- (b) a pram, stroller or similar device; and
- (c) a boat or personal watercraft;

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

weed has the meaning specified in Schedule 3; 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.

1.6 Assistance animals

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

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) must not 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 must 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 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 must give local public notice of the revocation and the determination ceases 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;
- (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 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 or a particular class of vehicle on the property;
- (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 by limiting the traversing of sand dunes or land to 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 a public place:

- (a) under a written agreement with the local government to do so; or
- (b) subject to a licence issued in accordance with the local government's *Trading, Outdoor Dining and Street Entertainment Local Law 2016*.

Division 2 - When a permit is required

3.2 Activities needing a permit

(1) A permit is required to undertake the following activities –

- (a) subject to subclause (3), hire local government property;
- (b) advertise anything by any means on local government property or a thoroughfare;
- (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, within a public place;
- (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 or a thoroughfare, except where this is done to establish a permissible verge treatment in accordance with clause 8.3;

- (f) carry on any trading within a public place unless the trading is conducted with the consent of a person who holds a permit to conduct an event and the trading is carried out in accordance with the permit; or
 - (g) unless undertaken by 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 within a public place;
 - (h) conduct an event within a public place;
 - (i) *clause deleted*
 - (j) light a fire except in a facility provided for that purpose;
 - (k) parachute, hang glide, abseil or base jump from or on to local government property or a thoroughfare;
 - (l) erect a building or a refuelling site on local government property or a thoroughfare;
 - (m) make any excavation on or erect or remove any fence on local government property or a thoroughfare;
 - (n) undertake any works on local government property or a thoroughfare including but not limited to constructing a crossover, constructing a footpath, landscaping, roadworks and works to install sewerage, water, power and communications infrastructure;
 - (o) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property or a thoroughfare;
 - (p) conduct or take part in any gambling game or contest or bet, or offer to bet, from local government property or a thoroughfare;
 - (q) use or set off fireworks; or
 - (r) land an aircraft or helicopter on local government property or a thoroughfare.
- (2) A person must not undertake an activity listed in subclause (1) without a permit.
- (3) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (4) The local government may exempt specified places or a class of local government property from the application of subclause (1)(a).

3.3 Permit required to camp outside a facility

(1) In this clause –

camping means to carry out activities associated with habitation including but not limited to sleeping, cooking, laundry, ablutions or other domestic tasks.

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 must not without a permit -

- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping in a public place;
- (b) undertake camping in a public place;
- (c) erect any tent, camp, hut or similar structure in a public place 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
- (d) park a vehicle in a public place for the purpose of camping in or around the vehicle.

(4) The maximum period for which the local government may approve an application for a permit in respect of paragraphs (a), (b) or (c) 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 paragraphs (b) or (c) of subclause (3) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

(6) A vehicle used or parked in contravention of paragraphs (b) or (d) 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 (6) must attach a notice to the vehicle advising the owner of the vehicle that:

- (a) the vehicle will be released upon payment of the costs of impounding;
- (b) the place where and hours during which the costs can be paid; and
- (c) that if the impounding costs are not paid within 24 hours, the vehicle may be removed to the local government pound.

(8) Notices issued under this clause will be in the form determined by the CEO.

3.4 Permit required for possession and consumption of liquor

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

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

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

Division 3 - Applying for a permit

3.5 Application for permit

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

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

- (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 the application fee.

(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).

3.6 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 will 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 will give written notice of that refusal to the applicant.

3.7 Factors relevant to the determination of an application

- (1) In deciding whether to approve an application for a permit, the local government:
 - (a) may assess the application for a permit in accordance with the provisions of any relevant policy that applies to the proposed use or occupation of the public place;
 - (b) must satisfy itself that the proposed use or occupation of the public place –
 - (i) will not result in harm to human health or safety or personal injury;
 - (ii) will not result in property damage or a loss of amenity;
 - (iii) will not result in environmental harm or environmental nuisance; and
 - (iv) will not result in a nuisance.
- (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 4 - Conditions

3.8 Conditions which may be imposed on a permit

- (1) Without limiting the generality of clause 3.6(1)(a), the local government may approve an application for a permit subject to conditions relating to -
 - (a) the payment of a fee and the timing for the payment of that fee;
 - (b) compliance with the provisions of any relevant policy that applies to the proposed use or occupation of the public place;
 - (c) the duration and commencement of the permit;
 - (d) the commencement of the permit being contingent upon an occurrence;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the requirement for approval 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;
 - (i) payment of a bond for cleaning expenses;
 - (j) restrictions on the erection of material or external decorations;
 - (k) rules about the use of furniture, plant and effects;
 - (l) limitations on the number of persons who may attend an event;
 - (m) the duration of the hire of local government property and whether or not the hire is for the exclusive use of the local government property;
 - (n) 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;
 - (o) the prohibition on the sale, supply or consumption of liquor;
 - (p) the provision of an indemnity from the applicant, 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 proposed use or occupation of the public place; and
 - (q) the obtaining of a policy of insurance in an amount and on terms reasonably required by the local government.

3.9 Compliance with and variation of conditions

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

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

Division 5 - General

3.10 Duration of permit

A permit is valid for 1 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 3.15.

3.11 Renewal of permit

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

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

3.12 Transfer of permit

(1) An application for the transfer of a valid permit must –

- (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.

(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 conditions.

(3) 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.

(4) Where the local government refuses to approve the application for the transfer of a permit and the permit holder does not wish to continue as the permit holder, the permit holder must return the permit as soon as practicable to the CEO.

3.13 Production of permit

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

3.14 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 relates to the activity regulated by the permit.

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

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

Division 6 - Responsibilities of permit holder

3.15 Responsibilities of permit holder

A holder of a permit must -

- (a) ensure that an authorised person has unobstructed access to any public place for the purpose of inspecting the public place or enforcing any provision of this local law;
- (b) where the permit relates to an activity on local government property or a thoroughfare:
 - (i) leave the local government property or thoroughfare in a clean and tidy condition after its use;
 - (ii) report any damage or defacement of the local government property or thoroughfare to the local government;
 - (iii) take steps to repair or rectify any damage or defacement of the local government property or thoroughfare as directed by the local government; and
 - (iv) prevent the consumption of any liquor on the local government property or thoroughfare unless –
 - A. the permit allows it; and
 - B. if applicable, a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

Part 4 - Behaviour in public places

Division 1 - Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

A person must not, in a public place, behave in a manner which—

- (a) is likely to interfere with the enjoyment of a person who might use the place;
- (b) interferes with the enjoyment of a person using the place or nearby private land;
- or
- (c) creates a nuisance.

4.2 Behaviour detrimental to a public place

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

(2) In subclause (1) –

detrimental to the place includes –

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

4.3 Adequate clothing and loitering outside toilets

(1) A person over the age of 6 years must not in any 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; 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 a public place 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 must comply with the direction immediately.

4.4 Taking or injuring any fauna

(1) A person must not take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, 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 a contractor of the local government carrying out a contracted duty, must 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 must 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

(1) A person will not be entitled to a refund of any fee paid for bathing or using any facilities provided for public use in a pool premises.

(2) Where the hire of local government property is cancelled, the local government may, at its sole discretion, authorise repayment of 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 must comply with a sign erected under subclause (1).

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

- (a) not be inconsistent with any provision of this local law or any determination; and
- (b) 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 3.6.

(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 will 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) the amount of any fees and charges and when they are to be paid;
- (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 event 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 or any restrictions on the sale and supply of liquor;
- (k) securing and locking up local government property at the end of each hire period;
- (l) the prohibition of gaming;
- (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 duration of 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 holder of a permit for the hire of local government property must –

- (a) take reasonable steps to maintain law and order by all in attendance at any event 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 approved the sale and consumption of the liquor;
- (f) report any damage or defacement to the local government property to the local government forthwith;
- (g) take steps to repair or rectify any damage or defacement to the local government property as directed by the local government; and
- (h) ensure compliance with all conditions and relevant laws 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.

6.2 When entry to and use of pool premises will be refused

The manager or attendant of a pool premises will refuse admission to, direct to leave or will 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 or appears to be 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.

6.3 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 1 week to any person who has committed a breach of any provision of this local law in relation to the pool premises.

6.4 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 must accept that refusal or direction.

6.5 Decency

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

6.6 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 6.3(b), the person may seek a review of that refusal or direction by the CEO.

6.7 Carnivals

(1) A person, club, organisation or association must 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 must 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.

6.8 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.

6.9 Limitations on use

A person must not -

- (a) enter any portion of the pool premises set apart exclusively for the opposite sex unless the person is 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 would in any way limit the enjoyment of the users of the pool premises, unless as part of any games or aquatic sports undertaken 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 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;
- (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 recording device to record or transmit images of any person without that person's knowledge or consent.

6.10 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 must 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 must not launch a boat or personal watercraft from -

- (a) a local government property unless it has been set aside for that 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 a 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 life saving activities

The local government may 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 1 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; and
 - (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 will wear a red and yellow quartered swimming cap while he or she is on duty during a life saving club life saving patrol.
- (2) A person who is not a member of an on duty life saving patrol must 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 must wear a patrol uniform in the colours and style as determined by the local government.
- (4) A vehicle used for a life saving 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 must -

- (a) comply with any sign erected on the beach;
- (b) comply with any lawful direction given by an authorised person, 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 must not fish on or from any 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 must not, whether fishing is permitted or not –
 - (a) leave or deposit dead fish or fish offal on any beach;
 - (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 must 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 must 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 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 must not -

- (a) install or maintain a verge treatment on the verge which is not a permissible verge treatment;
- (b) alter the finished level of the verge; or
- (c) 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;
- (b) plant and maintain a garden provided that no part of the vegetation –
 - (i) is greater than 400 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;
- (v) is a weed;
- (vi) produces large heavy fruits, eg coconuts;
- (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;
- (c) installation of surface treatments using 1 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 –
 - A. river-washed rounded stone $D_{50} < 40$ millimetres; or
 - B. crushed rock or gravel $20\text{mm} < D_{50} < 40$ millimetres, limited to an area no greater than 20 square metres unless otherwise approved in accordance with a development approval;
 - (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 must -

- (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 access way, 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, access way or carriageway;
- (e) keep the verge free of weeds; and
- (f) 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 must 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 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 a vehicle crossing constructed in accordance with the local government's residential vehicle specifications as determined by the local government and varied by it from time to time.

Division 3 - Protection of footpaths

8.8 Footpath protection

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

- (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 must 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, 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 must reinstate the footpath to the satisfaction of the local government.

Part 9 — Advertising signs on local government property and 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 a 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 portable freestanding advertising sign;

real estate 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.

9.2 Person taken to own advertising sign

In the absence of any proof to the contrary, an advertising sign is to be taken to belong to the person—

- (a) whose name is marked on the sign; or
- (b) who owns the business or is identified in the local government's records as in control of the company or business marked on the sign.

Division 2—Permit

9.3 Permit required for advertising signs and portable direction signs

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

- (a) erect or place an advertising sign on local government property or a thoroughfare; or
- (b) post any bill or paint, place or affix any advertisement on local government property or 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 must not erect or place an advertising sign—

- (a) on a footpath, or where there is no existing footpath, in a way that restricts a 2 metre clear and safe pedestrian access way;
- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (c) on or within 3 metres of a carriageway;
- (d) 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
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

9.4 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clauses 3.6 and 9.3(1), the local government may 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;
- (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

9.5 Conditions on portable sign

(1) Without limiting the generality of clause 3.6(1)(a), the local government may approve an application for a permit for a portable sign subject to conditions relating to—

- (a) the portable sign —
 - (i) not exceeding 1,000 millimetres in height;
 - (ii) not exceeding an area of 0.8 square metres on any side;
 - (iii) relating only to the business activity described on the permit;
 - (iv) not being placed in any position other than immediately in front of the building or the business to which the sign relates, and being located no 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, if the sign is advertising an adjacent business or activity;
 - (v) being 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, if the sign is advertising an adjacent business or activity;
 - (vi) being secured in position in accordance with any requirements of the local government;
 - (vii) being placed so as not to obstruct or impede the reasonable use of a thoroughfare or place by any person or the sight line of any vehicle drivers; and
 - (viii) being maintained in good condition; and
- (b) the number of portable signs being erected in relation to the 1 building or business.

(2) The permit holder of a permit for a portable sign must comply with any conditions imposed in accordance with subclause (1).

9.6 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 local government property or 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 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 a 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 must 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 No access without consent

(1) A person must 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) the person has first obtained approval from the local government under this local law or another written law.

(2) In this clause –***closed thoroughfare*** means a thoroughfare wholly or partly closed under section 3.50 or 3.50A of the Act.

Part 11 - Shopping trolleys

11.1 Name of owner of shopping trolley

A retailer must 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 must not leave a shopping trolley in a public place, other than in an area approved by the local government for this purpose and 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 approved by

the local government for this purpose and 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 an authorised person, the retailer must remove the shopping trolley from the public place within 12 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) any local government asset damaged during works in a public place, works adjacent to a public place or the construction of a building on land adjacent to a public place, can be repaired or reinstated; or
- (c) conditions of an approval, in so far as they relate to a public place, are complied with.

(2) A bond required under subclause (1) must be deposited 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 law 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 must 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, this public liability insurance must indemnify 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.

(2) The public liability insurance policy referred to in subclause (1) must be kept current for the duration of the approval and –

- (a) must be 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;
- (b) include a clause which prevents the policy from being cancelled without the written consent of the local government;
- (c) include a clause 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
- (d) be available for inspection by an authorised person at the request of the authorised person.

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

14.2 Directions of authorised person

(1) An authorised person may direct any person in a public place to -

- (a) stop doing anything which the authorised person considers on reasonable grounds the person 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 place; or
- (c) assist the authorised person in the case of an emergency.

(2) A person who is given a lawful direction under subclause (1) must 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 at or in a local government facility must give that article to the local government, an authorised person or a manager or attendant.

(3) The local government must 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 must, 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 must be disposed of by the local government as it considers fit and the proceeds from any sale 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), 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 without reasonable excuse, commits an offence.

(2) An offence against a clause specified in 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 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 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

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

(2) The amount appearing in the final column in the table in Schedule 1 directly opposite an offence described in Schedule 1 is the modified penalty which applies each day or part of each day during which the offence continues.

Part 16 - Objections and review

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 approval under this local law; or

(b) renew, vary, or cancel a permit or approval 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.

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 | 175 |
| 2 | 3.2(2) | Undertaking an activity without a permit | 175 |
| 3 | 3.3(3) | Failure to obtain permit to camp outside facility | 175 |
| 4 | 3.4(1) | Failure to obtain permit for liquor | 175 |
| 5 | 3.9(1) | Failing to comply with conditions of a permit | 175 |
| 6 | 3.9(2) | Failing to comply with conditions of permit as varied | 175 |
| 7 | 4.1(a) | Behaviour likely to interrupt, disturb or interfere with enjoyment of other persons | 175 |
| 8 | 4.1(b) | Behaviour which interrupts, disturbs or interferes with enjoyment of other persons | 175 |
| 9 | 4.1(c) | Behaviour which creates a nuisance | 175 |
| 10 | 4.2(1) | Behaviour detrimental to the place | 175 |
| 11 | 4.3(1)(c) | Without consent of the occupier, entering or attempting to enter a dressing room already occupied | 175 |
| 12 | 4.4(1) | Taking, killing or injuring any fauna | 175 |
| 13 | 4.5(a) | Entering or leaving any local government property or building other than by the public entrance or exit | 110 |
| 14 | 4.5(b) | Entering or remaining on any local government property except during times access is available to the public | 110 |
| 15 | 4.5(c) | Entering any place that has been fenced off, or closed to the public | 175 |
| 16 | 4.6 | Entering local government property without first paying the applicable fee or charge | 110 |
| 17 | 4.8(2) | Failure to comply with sign on local government property | 175 |
| 18 | 5.4 | Failing to meet responsibilities of hirer of local government property | 175 |
| 19 | 6.4 | Failing to accept a refusal or direction in relation to the pool premises | 110 |
| 20 | 6.9 | Failing to meet limitations on use of swimming pool | 175 |
| 21 | 7.1(a) | Using a sandboard, other board or thing to slide down sand dunes | 175 |
| 22 | 7.1(c) | Traversing sand dunes other than along designated paths | 175 |
| 23 | 7.1(d) | Taking a vehicle onto any beach or sand dunes without local government authorisation | 175 |
| 24 | 7.2(1) | Launching a boat or personal watercraft from local government property or a beach not set aside for that purpose or approved by a sign | 175 |
| 25 | 7.5(a) | Failing to comply with a sign erected on a beach | 175 |
| 26 | 7.6(1)(a) | Fishing in an area where fishing is prohibited and designated by signs | 150 |
| 27 | 7.6(1)(b) | Fishing in a permitted bathing area indicated by | 150 |

| | | | |
|----|-----------|--|-----|
| | | signs or patrol flags | |
| 28 | 7.6(2)(a) | Leaving or depositing dead fish or fish offal on any beach | 110 |
| 29 | 7.6(2)(b) | Leaving or depositing dead fish or fish offal in the sea within 200m of any beach | 110 |
| 30 | 7.7(1) | Riding a surfboard, driving a personal watercraft or boat in a designated permitted bathing area | 150 |
| 31 | 8.2(a) | Installation of verge treatment other than permissible verge treatment | 150 |
| 32 | 8.2(b) | Alteration of the finished level of a verge | 150 |
| 33 | 8.2(c) | Covering, obstructing or adversely affecting any manhole, inspection pit, constructed drain, other facility or installation on a verge | 150 |
| 34 | 8.4(a) | Failing to keep verge treatment in good and tidy condition and avoid obstruction of any sort | 150 |
| 35 | 8.4(c) | Placing any obstruction on or around any verge treatment | 150 |
| 36 | 8.4(d) | Watering or maintaining a verge treatment so as to cause a nuisance or hazard to a person using the adjacent footpath, access way or carriageway | 150 |
| 37 | 8.8(1)(a) | Failing to take necessary precautions to ensure footpath is not damaged during works | 150 |
| 38 | 8.8(1)(b) | Failing to notify local government of existing footpath damage prior to commencement of works | 110 |
| 39 | 9.3(1) | Failure to obtain permit for an advertising sign or advertisement | 175 |
| 40 | 9.5(2) | Failure to comply with conditions of permit for a portable sign | 175 |
| 41 | 9.6(2) | Failure to comply with conditions of permit for an election sign | 175 |
| 42 | 10.2(1) | Driving on a closed thoroughfare | 200 |
| 43 | 11.2 | Leaving a shopping trolley in a public place not set aside for storage of trolleys | 110 |
| 44 | 11.3 | Failure of owner to remove shopping trolley within 12 hours of being advised by local government | 150 |
| 45 | 13.1(2) | Failing to comply with a notice | 300 |
| 46 | 14.2(2) | Failing to comply with a lawful direction of an authorised person | 175 |

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 2016*.

(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 has 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 must 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 of playing or practicing 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 must have a trading licence issued by the local government under its *Trading, Outdoor Dining and Street Entertainment Local Law 2003*;
- (b) camel operators must only access Cable Beach via the approved route from the approved place of stabling camels, unless otherwise approved by the local government;
- (c) only gelded male camels and/or cow camels are permitted for commercial camel activities on Cable Beach;
- (d) a maximum of 18 camels per operator is allowed on Cable Beach at any 1 time, unless otherwise approved by the local government for extraordinary circumstances, eg. cruise ships and corporate/conference functions;
- (e) camel operators will at all times identify their own camels with the same coloured and patterned blankets, which must be easily distinguishable from the colours and patterns used by other operators of commercial activities on Cable Beach;
- (f) 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;
- (g) each licence holder is responsible for the effective control of their respective camel trains at all times and:
 - (i) at all times during the tours being conducted on Cable Beach, a competent staff member must lead the camel train whilst walking and holding onto the reins of the lead camel;
 - (ii) where a camel train exceeds 4 camels:
 - A. 2 competent staff members must be in attendance;
 - B. at all times a competent staff member must lead the camel train whilst walking and holding onto the reins of the lead camel; and
 - C. the other staff member may ride a camel in the train to and from the beach but not whilst undertaking a camel tour on the beach;
 - (iii) During morning sessions only, and where 4 or less camels form the camel train:
 - A. only 1 competent staff member is required to be in attendance; and
 - B. on the route to and from the beach, the competent staff member may either lead the camel by walking and holding the reins or may ride the lead camel at walking pace.
- (h) 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;
- (i) all camels must be fitted with manure collection devices and any manure that may escape the manure collection devices must be collected immediately along the local government approved access route and along the entire distance of the tour;
- (j) front and rear camels must be fitted with lights facing to the front and the rear and every second camel must have a reflective tape to each saddle and/or stirrup; and
- (k) camel operators must ensure there is 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.

Schedule 3 – Definition of “weed”

[cl 1.5]

For the purposes of this local law, the following plant species are weeds:

| Botanical name | Common name |
|-----------------------------------|---------------------|
| <i>Alternanthera pungens</i> | Khaki Weed |
| <i>Azadirachta indica</i> | Neem |
| <i>Cenchrus biflorus</i> | Gallon’s Curse |
| <i>Cenchrus ciliaris</i> | Buffel Grass |
| <i>Hyptis suaveolens</i> | Mint Bush |
| <i>Jatropha gossypifolia</i> | Bellyache Bush |
| <i>Leucaena leucocephala</i> | Coffee Bush |
| <i>Macroptilium atropurpureum</i> | Siratro |
| <i>Merremia aegyptia</i> | Hairy Morning Glory |
| <i>Merremia dissecta</i> | Noyau Vine |
| <i>Passifora foetida</i> | Bush Passionfruit |
| <i>Tribulus terrestris</i> | Caltrop |

Dated 6 June 2017

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

R J JOHNSTON, Shire President

S MASTROLEMBO, Chief Executive Officer