

**LOCAL LAW**



**LOCAL GOVERNMENT ACT 1995**

**CITY OF MANDURAH**

**LOCAL GOVERNMENT  
PROPERTY AND PUBLIC PLACES**

**LOCAL LAW 2016**

(Government Gazette 101, 26 May 2017)



**DETERMINATIONS UNDER THE  
LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016**

The following determinations are taken to be made by Council at its meeting held 28 November 2017, under Part 2 of the *Local Government Property and Public Places Local Law 2016*.

These determinations take effect as of the 28 November 2017.

| No. | Matter  | Determination  |
|-----|---|--|
| 1   | Taking, riding or driving a vehicle or a particular class of vehicle  | A person shall not, except with a permit or local government approval or upon an area specified by a sign erected on the local government property. Take, ride or drive a vehicle on any local government property.  |
| 2   | The playing or practice of: <ul style="list-style-type: none"> <li>○ golf, archery, pistol or rifle shooting; or</li> <li>○ 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</li> </ul> | A person shall not except with a permit or local government approval: <ul style="list-style-type: none"> <li>(a) play or practice golf on any local government property;</li> <li>(b) aim, shoot or throw an arrow or similar projectile on any local government property; or</li> <li>(c) have in their possession any gun or rifle or means of discharging any projectile that may cause injury or damage to a person or property on local government property.</li> </ul> |

For further information, please contact Governance Services on 9550 3278.

**Mark R Newman**  
*Chief Executive Officer*

LOCAL GOVERNMENT ACT 1995

CITY OF MANDURAH

**LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016**

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# LOCAL GOVERNMENT ACT 1995

## CITY OF MANDURAH

### LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW 2016

Under the power conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on 9 May 2017 to make the following local law.

#### PART 1—PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *City of Mandurah 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

- (1) This local law applies throughout the district.
- (2) Part 5, Division 2 of this local law applies to—
  - (a) rivers, water courses, tidal and non-tidal waters, in or outside but adjoining the district; and
  - (b) without limiting the generality of clause 1.3(2)(a), in the sea adjoining the district for a distance of 200 metres seaward from the low water mark at ordinary spring tides.

##### 1.4 Repeal

The following local laws are repealed—



- (a) Divisions 1, 2, 3 and 4 of Part III, Part IV, Division 1 of Part V, Part XIII, Part XV and Part XIX of the *City of Mandurah Consolidated Local Laws* published in the *Government Gazette* of 13 February 1998; and
- (b) Part XII and Part XIV of the *City of Mandurah Consolidated Local Laws* published in the *Government Gazette* of 6 December 2000.

## 1.5 Definitions

In this local law, unless the context otherwise requires—

**Act** means the *Local Government Act 1995* (WA);

**advertising sign** means a sign or advertisement used for the purposes of advertising or drawing attention to a product, business, person or event and includes election advertising and portable signs;

**alfresco dining area** means an area in which tables, chairs and other temporary structures are provided for the purpose of the supply of food or beverages or both by the public or the consumption of food or beverages or both by the public;

**animal** means any animal other than a dog;

**AS or AS/NZS** means an Australian or New Zealand Standard as published by Standards Australia and amended from time to time;

**authorised person** means 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;

**attendant** means an employee of the local government with responsibility for the control and management of persons in a public swimming pool or recreation facility which is local government property;

**bathing appliance** means a float of any material, including surf skis, surf boards, sea kayaks, kickboards, Malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of being used for bathing or surf riding but does not include a boat or personal watercraft

**beach** means the area of the sea adjoining the district for a distance of 200 metres seawards from the low-water mark at ordinary spring tides to either the toe of the sand dune or the commencement of vegetation or a man-made structure;

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

- (a) personal watercraft; and
- (b) bathing appliances;

**Building Act** means the *Building Act 2011* (WA);

**Building Code Australia** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

**camera device** means an apparatus for taking photographs or moving pictures and includes a mobile phone when used for this purpose;

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

**change room** means a room designated for the changing of clothes and may include showers, toilets and hand washing basins;

**charitable organisation** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other similar nature and from which no member receives any pecuniary profit except where the member is an employee or the profit is an honorarium;

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

**closed thoroughfare** means a thoroughfare wholly or partially closed by the local government under sections 3.50 or 3.50A of the Act;

**commencement day** means the day on which this local law commences under clause 1.2;

**Commissioner of Main Roads WA** means the person appointed under section 7 of the *Main Roads Act 1930* (WA) to be the Commissioner;

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

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

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

- (a) private land; or
- (b) a private thoroughfare serving private land;

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

**detrimental to the property** includes—

- (a) removing any thing from the local government property such as a rock, plant, fixture, fitting, chattel, equipment or furniture provided for the use, enjoyment or safety of any person;
- (b) destroying, defacing or damaging a building or any thing on the local government property, such as a plant, fixture, chattel, equipment or furniture provided for the use, enjoyment or safety of any person; and
- (c) causing environmental harm or nuisance on the local government property;

**development approval** means an approval issued under the local government's planning scheme;

**display home sign** means a portable sign erected and displayed to advertise that a display home is open for inspection;

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

**drunk** has the meaning provided in the *Liquor Control Act 1988*;

**election advertising** means any sign or advertisement which encourages persons to vote for a candidate, political party or referenda or matter relating to any federal, state or local government election;

**election date** means the date on which a federal, state or local government election is held;

**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 members;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur;

**Firearms Act** means the *Firearms Act 1973* (WA);

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

**flora** means all vascular plants other than plants recognised as weeds;

**Food Act** means the *Food Act 2008* (WA);

**food business** has the same meaning as given in the Food Act;

**footpath** has the meaning given in the *Road Traffic Code 2000* and includes a shared and dual use path;

**foreshore area** means the land along the edge of a body of water from the low-water mark at ordinary spring tides to either the toe of the sand dune or the commencement of vegetation or a man-made structure, but does not include a beach;

**gaming** means has the same meaning as in the *Gaming and Wagering Commission Act 1987*;

**garage sale sign** means a portable sign erected and displayed to advertise goods for sale at residential premises on a one-off or occasional basis;

**home open sign** means a portable sign erected and displayed to advertise that a home for sale is open;

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

**liquor** has the meaning given to it by the Liquor Act;

**Liquor Act** means the *Liquor Control Act 1988* (WA);

**local government** means the City of Mandurah;

**local government policy** means a policy or standard adopted by the local government;

**local government property** means any thing except a thoroughfare which—

- (a) is owned by the local government;
- (b) is vested in the local government;
- (c) is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997* (WA); or
- (d) is an ‘otherwise unvested facility’ within the meaning of section 3.53 of the Act;

**local public notice** means notice given in accordance with the procedure set out in section 1.7 of the Act;

**major event day** means a date on which one of the ‘major events’ set out in Schedule 2 is held;

**major event location** means a location set out in Schedule 3;

**manager** means the person for the time being employed, contracted or appointed by the local government to manage any swimming pool or recreation facility, 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 common law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the meaning given to it by the Act, but does not include the local government;

**off-road vehicle** has the meaning given to that term by the *Control of Vehicles (Off-road Areas) Act 1978* (WA);

**other portable sign** means a portable sign other than a home open sign, display home sign or garage sale sign;

**owner** has the meaning given to it by the Act;

**permissible verge treatment** has the meaning given to it in clause 7.7;

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

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

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

**permitted area** means the area or areas, specified in a permit for the purpose of street entertaining, in which the permit holder may perform;

**permitted time** means the time or times, specified in a permit for the purpose of street entertaining, during which the permit holder may perform;

**person responsible for the works** in the context of Part 7, Division 2 means—

- (a) the applicant named on a building approval certificate, building permit or demolition permit issued under the Building Act; or
- (b) the owner or occupier of the lot, if no building approval certificate, building permit or demolition permit has been issued under the Building Act;

**personal watercraft** means any vessel designed for the transport of 1 to 3 persons, other than a bathing appliance, 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;

**planning scheme** has the same meaning as “local planning scheme” in the *Planning and Development Act 2005*;

**portable sign** means a free standing portable advertising sign not permanently attached to a structure or fixed to the ground or pavement, and includes a ‘A’ frame sign;

**premises** for the purposes of clauses 2.8(1)(a) and 4.6 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;

**prohibited drug** has the meaning given to it in the *Misuse of Drugs Act 1981* (WA);

**promotional activity** means the advertising of, promotion of, or raising of funds for, a particular group, product or service;

**public interest sign** means an advertising sign for an event that is open to the public to attend at no cost and is of significant interest to persons within, and visitors to, the district, and which is being held on local government property or in a public place, but does not include election advertising;

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

- (a) premises on private property from which trading is lawfully conducted under a written law; or
- (b) local government property;

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

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

**seafood business** means a business selling seafood of which 80% of the seafood that is to be sold was caught in the waters of the district;

**seafood sign** means an advertising sign for a seafood business;

**shopping trolley** means a container or receptacle on wheels provided by a retailer to enable a person to transport goods;

**smoke** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

**solicit** in relation to money, means actively seeking or calling for a donation from another person, but does not include a non-verbal invitation by a holder of a permit approved under clause 10.3 to place a donation in a receptacle within the permitted area;

**street entertaining** means any form of theatrical, artistic, musical, audio or visual performance and includes busking;

**street market** means a collection of stalls, stands and displays on local government property or a public place for the purposes of selling goods, wares, merchandise, produce or services, or carrying out any other transaction;

**street numbering** means a number or numbers with or without an alphabetical suffix assigned to identify the street address of a property;

**street tree** means any tree or tall plant that has a wooden trunk and branches that grow from its upper part, planted or self-sown in the street, of an appropriate species and in an appropriate location for the purpose of contributing to the streetscape;

**synthetic grass** refers to artificial fibres made to look like natural grass;

**surf lifesaving club** means a surf lifesaving club affiliated with Surf Life Saving Western Australia Inc.;

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

**tobacco product** has the meaning given to it in the *Tobacco Products Control Act 2006* (WA);

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

**trading** means—

- (a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for, goods or services in a public place or on local government property;
- (b) displaying goods in a public place or local government property for the purpose of—

- (i) offering them for sale or hire;
- (ii) inviting offers for their sale or hire;
- (iii) soliciting orders for them; or
- (iv) carrying out any other transaction in relation to them,

and includes the setting up of a stall, or the conducting of a business at a stall;

**Tree Protection Zone** has the meaning given in “AS 4970-2009 Protection of trees on development sites” as amended from time to time;

**vehicle** includes—

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

but excludes—

- (c) a wheelchair or any device designed for use by physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device;
- (e) a bicycle or wheeled recreational device;
- (f) a shopping trolley; and
- (g) a boat;

**verge** means that part of a thoroughfare that is between the carriageway and a lot which abuts the thoroughfare and includes a nature strip;

**Western Power** means the body corporate known as the Electricity Networks Corporation established under section 4 of the *Electricity Corporations Act 2005* (WA) or such other entity established or constituted in its place or by which its functions have become exercisable;

**wheeled recreational device** means a wheeled device built to transport a person which is propelled by human power or gravity and ordinarily used for recreation or play, including—

- (a) in-line skaters, rollerskates, a skateboard or similar wheeled device;
- (b) a scooter being used by a person 12 years of age or older; and
- (c) a unicycle,

but excludes a goffer, golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

## 1.6 Transitional

Any permit, licence, consent or authorisation issued in accordance with a local law listed in clause 1.4—

- (a) is taken to be a permit granted under this local law;

- (b) is to be valid for the period specified on the permit, licence, consent or authorisation; and
- (c) may be earlier cancelled or suspended in accordance with this local law.

### **1.7 Application as to assistance animals**

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

## **PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY**

### *Division 1—Determinations*

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

The local government may make a determination in accordance with clause 2.2—

- (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
- (c) as to the matters in clauses 2.7(2) and 2.8(2); and
- (d) as to any matter ancillary or necessary to give effect to a determination.

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

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice must 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 under clause 2.2(2)(c), the local government is to decide—
  - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) to amend the proposed determination, in which case clause 2.2(5) will apply; or
  - (c) not to continue with the proposed determination.



- (4) If submissions are received under clause 2.2(2)(c), the local government—
  - (a) is to consider those submissions; and
  - (b) is to decide—
    - (i) whether to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the local government decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effects of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the local government 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 amendment is to have effect as a determination on and from the date of publication of the local public notice referred to in clauses 2.2(3), 2.2(5) and 2.2(6).
- (8) A decision under clauses 2.2(3) or 2.2(4) is not to be delegated by Council.

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

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

### **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 clause 2.5(1) and for that purpose, the register is taken to be information within section 5.94(u)(i) of the Act.

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

- (1) The local government 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 local government revokes a determination, it must give local public notice of the revocation and the determination will cease to have effect on and from the date of publication.

*Division 2—Activities which may be pursued or prohibited on specified local government property as a result of 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 aircraft, car, ship, glider or rocket;
  - (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, retrieve 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 compliance of that person with the Firearms Act; 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 and damage to a person or property; or
  - (i) ride a bicycle, a wheeled recreational device, a sandboard or similar device; or
  - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in clause 2.7(1) may be pursued and in particular—
  - (a) the days and times during which the activity may be pursued;
  - (b) that any 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 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 in premises;
  - (b) riding a bicycle, a wheeled recreational device, 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 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 clause 2.7(1) and, in particular—
  - (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.

### *Division 3—Transitional*

## **2.9 Existing signs to have effect as a determination**

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

## **PART 3—ACTIVITIES ON LOCAL GOVERNMENT PROPERTY**

### *Division 1—When a permit is required*

#### **3.1 Activities needing a permit—general**

- (1) Subject to this local law, a person must not without a permit granted in accordance with Part 12—
- (a) hire local government property;
  - (b) cut, break, damage, injure, deface, pull up, pick, remove, or destroy any tree, shrub, flower, grass, plant or flora of any kind on any local government property;
  - (c) cut, collect or remove any timber, firewood, stone, sand or other materials on local government property;
  - (d) plant any plant or sow any seeds on local government property;
  - (e) erect any sign on local government property;
  - (f) erect on local government property a structure for public amusement or for any other performance, whether for gain or otherwise;
  - (g) erect a building or a refuelling site on local government property;
  - (h) make any excavation on, erect a fence on or remove a fence from, local government property;
  - (i) 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;
  - (j) deposit or store any thing on local government property;
  - (k) depasture, tether, drive or ride any animal on local government property;
  - (l) launch an aircraft or helicopter from, or land an aircraft or helicopter into, local government property;
  - (m) camp on or lodge at local government property for the purpose of sleeping on local government property;
  - (n) occupy any structure, including a vehicle, at night for the purpose of sleeping on local government property;
  - (o) erect a 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;
  - (p) teach, coach or train for profit any person, animal or dog on or in local government property;
  - (q) conduct a function, or undertake any promotional activity, on local government property;

- (r) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a charitable organisation;
  - (s) light a fire on local government property except in a facility provided for that purpose;
  - (t) light or set off any fireworks or conduct a fireworks display on local government property;
  - (u) parachute, hang glide, abseil or base jump from or onto local government property;
  - (v) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly on local government property; or
  - (w) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property, other than those used by a surf lifesaving club in the performance of its functions.
- (2) The local government may exempt by written notice—
- (a) a person from compliance with clause 3.1(1) or any part thereof on the application by that person; or
  - (b) specified local government property or a class of local government property or any part thereof from the application of clause 3.1(1).

### **3.2 Possession and/or consumption of liquor**

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

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

#### *Division 2—Hiring local government property*

### **3.3 Application for a permit to hire local government property**

- (1) The local government may hire local government property to a person who makes an application for a permit for the hire of local government property under Part 12 and who pays the hire fee determined by the local government.
- (2) The local government may—
  - (a) determine that the requirements of this local law do not apply to the hiring of particular local government property or a class of local government property; and
  - (b) waive the requirement to pay a hire fee or any part thereof on the application of the person seeking a permit.

### **3.4 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, in its absolute discretion, which, if any, applicant shall be granted a permit to hire the local government property.

### **3.5 Responsibilities of a permit holder**

The holder of a permit must—

- (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 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) comply with a direction from the Chief Executive Officer or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (f) report any damage or defacement of the local government property to the local government;
- (g) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Act for that purpose; and
- (h) comply with any other direction imposed by the local government.

### **3.6 Conditions on use and hire**

In addition to the conditions described in clause 12.4, the local government may impose conditions on the hire of local government property relating to—

- (a) the purpose for which the local government property may be hired;
- (b) the use of furniture, plants and effects;
- (c) restrictions on the erection of decorations inside and outside any building which is local government property;
- (d) the number of persons that may attend any function in or on local government property;
- (e) the right of the local government to cancel a booking at any time during the course of an annual or seasonal booking;
- (f) securing and locking up local government property at the end of each hire period;

- (g) the prohibition of gaming unless a gaming approval has been obtained under the *Gaming and Wagering Commission Act 1987* (WA);
- (h) 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* (WA); or
- (i) any other matter that the local government considers fit or appropriate.

*Division 3—Camping on local government property*

**3.7 Camping on local government property**

- (1) The maximum period for which the local government may approve an application for a permit in respect of the activities set out in clauses 3.1(1)(m) and 3.1(1)(o) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997* (WA).
- (2) Any tent, camp, hut or similar structure erected in contravention of clause 3.1(1)(o) and associated goods may, subject to regulation 29 of the Regulations, be impounded.

**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 must not, in or on local government property, behave in a manner which—

- (a) is likely to or does interfere with, interrupt or disturb the enjoyment of a person who might use the property or who is using the property;
- (b) causes or is likely to cause a disturbance to nearby residents;
- (c) otherwise creates a nuisance; or
- (d) places the public at risk or interferes with the safety of others.

**4.2 Behaviour detrimental to property**

A person must not, in or on local government property, behave in a way which is or might be detrimental to the property unless authorised by the local government.

**4.3 Taking or injuring any fauna**

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 unless that person is authorised under a written law to do so.

#### **4.4 Drunk persons not to enter local government property**

A person must not enter or remain on local government property while drunk or under the influence of a prohibited drug.

#### **4.5 No prohibited drugs**

A person must not take a prohibited drug onto or consume or use a prohibited drug on local government property.

#### **4.6 No smoking**

A person must not smoke within a 5 metre radius of any entrance, exit or aperture of premises on local government property.

#### **4.7 Appropriate behaviour and adequate clothing**

- (1) A person over the age of 6 years shall not on or in any local government property—
  - (a) appear in public unless properly dressed in clothing which covers the body to prevent indecent exposure, except where the property is set aside for the wearing of no clothes under clause 2.7(1)(j);
  - (b) loiter outside or act in an inappropriate manner in any portion of a toilet block or change room facility; or
  - (c) without the consent of the occupier, enter or attempt to enter any toilet or other compartment which is already occupied.
- (2) Where an authorised person, an attendant or a manager considers that the clothing of any person on local government property is not proper or adequate to cover the body so as to prevent indecent exposure, the authorised person may direct that person to put on adequate clothing and that person shall comply with that direction immediately.

#### **4.8 Entry to local government property**

A person, other than an authorised person performing a function or a 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.

#### **4.9 Refusal of entry to local government property**

- (1) Subject to clauses 5.3 and 5.4, an authorised person, manager or attendant may refuse to allow entry, or suspend admission, to any local government property to any



person whom he or she reasonably suspects has behaved in a manner contrary to the provisions of this Part.

- (2) A refusal or suspension under subclause (1) can be for any period of up to 12 months as determined by an authorised person.
- (3) Subclause (1) does not apply to a venue where Council or Committee meetings are held.

#### *Division 2—Signs*

#### **4.10 Signs**

- (1) The 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 clause 4.10(1).
- (3) A condition of use specified on a sign erected under clause 4.10(1) must not be inconsistent with any provision of this local law or any determination.

### **PART 5—SPECIFIC MATTERS RELATING TO TYPES OF LOCAL GOVERNMENT PROPERTY**

#### *Division 1—Public swimming pools and other recreation facilities*

#### **5.1 General prohibitions**

A person shall not—

- (a) obstruct an authorised person, manager or attendant in carrying out his or her duties;
- (b) fail to comply with a direction given by an authorised person, manager or attendant—
  - (i) refusing admission to a person;
  - (ii) directing a person to leave the public swimming pool or recreational facility;  
or
  - (iii) directing a person in relation to his or her use of the public swimming pool or recreation facility;
- (c) fail to comply with a direction given by an authorised person or manager suspending admission to a person;
- (d) permit an animal to enter or remain in or about a public swimming pool or recreational facility where such entry is prohibited by a sign;
- (e) consume any food or drink in an area where consumption is prohibited by a sign;  
or
- (f) foul or pollute the water in a public swimming pool.

## **5.2 Use of all or part of a public swimming pool or recreation facility**

An authorised person, manager or attendant may—

- (a) direct that all or part of a public swimming pool or recreation facility is for the use of certain persons to the exclusion of others; and
- (b) direct a person as to that person's use of the public swimming pool or recreation facility.

## **5.3 When entry and use may be refused**

(1) An authorised person, manager or attendant may—

- (a) refuse admission to;
- (b) direct to leave; or
- (c) cause to be removed from,

a public swimming pool, the water at a public swimming pool or recreation facility any person where any of the requirements set out in clause 5.3(2) are not being complied with or for any reason set out in clause 5.3(3).

(2) For the purposes of clause 5.3(1), the requirements are—

- (a) children under the age of 5 years must be accompanied into the public swimming pool or recreation facility by a responsible adult who is at least 16 years of age, and must be supervised by that responsible adult within arms' length at all times while within the public swimming pool or recreation facility;
- (b) a responsible adult can only be responsible for a maximum of 3 children under the age of 5 years at any one time; and
- (c) subject to clause 5.3(2)(a), children under the age of 12 years must be accompanied into the public swimming pool or recreation facility by a responsible adult who is at least 16 years of age, and must be supervised by that responsible adult within line of sight at all times while within the public swimming pool or recreation facility.

(3) For the purposes of clause 5.3(1), the reasons are—

- (a) where the authorised person, manager or attendant reasonably suspects the person is—
  - (i) suffering from any gastrointestinal disease, contagious, infectious or cutaneous disease or complaint or has unhealed wounds;
  - (ii) in an unclean condition;
  - (iii) wearing unclean clothes; or
  - (iv) under the influence of liquor a prohibited drug; or
- (b) if in the opinion of the authorised person, manager or attendant—

- (i) such action is necessary or desirable to prevent a contravention of this local law; or
- (ii) the person is committing a breach of any provision of this local law;
- (c) by reason of his or her past or present conduct within or about the public swimming pool or recreation facility, has created or is creating a nuisance.

#### **5.4 Suspension of admission**

An authorised person or manager may suspend admission for a minimum period of one day to any person who has committed a breach of any provision of this local law in relation to the public swimming pool or recreation facility.

#### **5.5 Carnivals**

- (1) A person, club, organisation or association shall not conduct controlled swimming or other sporting 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 withdraw that consent at any time.
- (3) A person, club, organisation or association conducting a carnival or event at a public swimming pool or recreation facility 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 public swimming pool or recreation facility; and
  - (c) ensure that this local law is observed by all competitors, officials and spectators.

### *Division 2—Beaches and foreshore areas*

#### **5.6 General prohibitions**

On a beach or foreshore area, a person shall not obstruct, disturb, insult or neglect to obey the lawful directions of any authorised person or member of an on duty surf lifesaving club patrol.

#### **5.7 Compliance with signs and directions**

A person shall—

- (a) comply with any sign erected on a beach or foreshore area;
- (b) comply with any lawful direction given by an authorised person, a patrol captain or a patrolling member of a surf lifesaving club patrolling the beach; and
- (c) not enter any area designated as being used for any surf lifesaving activity, training, competition or carnival.

## **5.8 Use of off-road vehicles on beaches and foreshore areas**

A person must not drive or operate an off-road vehicle on a beach or foreshore area unless that person is authorised to do so under any written law.

## **5.9 Surf lifesaving activities and identification of surf lifesaving patrol**

- (1) An authorised person, patrol captain or patrolling member of a surf lifesaving club authorised by that club to carry out duties set out in this clause may perform the following functions in the interests of maintaining safety at beaches in the district—
  - (a) patrol any beach;
  - (b) take onto any beach any lifesaving gear, including vehicles or boats that are used for lifesaving activities;
  - (c) indicate by signs or patrol flags, any areas of a beach or adjacent water beyond the beach where bathing is permitted;
  - (d) indicate by signs any areas of a beach or the adjacent water beyond the beach where—
    - (i) riding of surfboards or any other bathing appliance is prohibited;
    - (ii) driving of boats is prohibited; or
    - (iii) fishing is prohibited;
  - (e) regulate or designate any areas for the following activities—
    - (i) conduct of training or surf lifesaving club carnivals; or
    - (ii) establishing a first aid or command post;
  - (f) direct any person to bathe within the designated permitted bathing area indicated by signs or patrol flags;
  - (g) close any beach or part of any beach during any period of potential dangerous conditions or sighting of a shark; and
  - (h) direct any person to leave the water if, in the opinion of the authorised person, patrol captain or patrolling member, the person is in immediate life threatening danger.
- (2) When any beach or part of any beach is closed in accordance with clause 5.9(1)(g) an authorised person or patrol captain of a surf lifesaving club shall advise the Chief Executive Officer as soon as practicable.
- (3) A person who is not a patrolling member of a surf lifesaving patrol on duty shall not give the impression that they are a patrolling member of a surf lifesaving patrol on duty.

## **5.10 Fishing**

- (1) A person shall not fish in any area—

- (a) where fishing is prohibited by the local government and the prohibition is designated by signs;
  - (b) designated by an authorised person or member of a surf lifesaving club patrol as a designated permitted bathing area.
- (2) A person who is not a disabled person shall not fish in an area which is designated and marked for use for fishing by disabled persons unless there are no disabled persons wanting to use that area at that time.

### **5.11 Boat launching**

- (1) A person shall not launch a boat into the sea or from a foreshore area into any other body of water other than at a boat launching ramp designed, constructed and approved for that purpose or from the beach or foreshore area where this activity is permitted and designated by signs.
- (2) A person shall not launch a personal watercraft into the sea or from a foreshore area into any other body of water other than at a boat launching ramp designated, constructed and approved for that purpose, unless that person has the written consent of the local government to launch a personal watercraft from another location.
- (3) Clauses 5.11(1) and 5.11(2) do not apply to any member of a surf lifesaving club or lifesaving patrol in the course of their duties, training or competition.

#### *Division 3—Fenced or closed property*

### **5.12 No entry to fenced or closed local government property**

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise unless authorised by the local government.

#### *Division 4—Toilet blocks and change rooms*

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

- (1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—
- (a) females, then a person of the male gender must not use that entry to the toilet block or change room; or
  - (b) males, then a person of the female gender must not use that entry to the toilet block or change room.
- (2) Clause 5.13 does not apply to a child, when accompanied by a parent, guardian or caregiver where the child is—
- (a) under the age of 6 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

#### **5.14 Hire of lockers**

- (1) A person may hire a locker in or near a change room for the purpose of safekeeping articles.
- (2) A person must not store in any locker a firearm or an offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of 'dangerous goods' under the *Dangerous Goods Safety Act 2004* (WA).
- (3) An authorised person, manager or attendant may open and inspect the contents of a locker at any time, where the authorised person, manager or attendant reasonably suspects that a breach of this local law has occurred.

#### **5.15 Use of showers**

A person may use a shower in a change room provided that—

- (a) the facilities must only be used by the person for the purpose of cleansing, bathing and washing themselves; and
- (b) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

#### **5.16 No use of camera devices in toilet blocks or change rooms**

A person must not operate a camera device in any portion of a toilet block or change room to record or transmit an image.

#### **5.17 Behaviour on major event locations**

Except with the written consent of the local government a person shall not on a major event day at any major event location—

- (a) smoke a tobacco product; or
- (b) bring, or allow to remain, any animal or dog.

### **PART 6—FEES FOR ENTRY ONTO LOCAL GOVERNMENT PROPERTY**

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

- (1) Subject to clause 6.1(2), 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.
- (2) The local government may exempt a person from compliance with clause 6.1(1) on the application of that person.

## **PART 7—ACTIVITIES IN PUBLIC PLACES**

### *Division 1—General*

#### **7.1 General prohibitions**

Subject to this local law, a person shall not—

- (a) plant any plant on a thoroughfare—
  - (i) within the vicinity of an intersection that creates a sight line hazard in relation to pedestrians or drivers of vehicles using that intersection and which is not maintained at or below 0.5 metres in height; or
  - (ii) so that it is within 2 metres of a carriageway, except in the case of grass or a similar plant to grass;
- (b) damage a lawn or garden on or in a public place or remove any plant or part of a plant from a lawn or garden on or in a public place unless—
  - (i) the person is the owner or occupier of the lot abutting that portion of the thoroughfare and the lawn, garden or the particular plant was installed or planted by that owner or occupier; or
  - (ii) the person is acting under the authority of a written law;
- (c) on a verge, repair or service any vehicle;
- (d) place, allow to be placed or allow to remain on a thoroughfare or verge any thing that results in a hazard for any person using the thoroughfare or verge;
- (e) cause or permit any water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians;
- (f) play or participate in any game or sport so as to—
  - (i) cause danger to any person on a thoroughfare; or
  - (ii) obstruct the movement of vehicles or persons on a thoroughfare;
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, wheeled recreational device or similar device; or
- (h) use anything or do anything so as to create a nuisance on or in a public place.

#### **7.2 Activities requiring a permit**

(1) Subject to clause 7.2(2), a person must not without a permit—

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) damage a street tree or remove a street tree or part of a street tree, including the roots, which is on or in a public place irrespective of whether the street tree was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government unless the person is acting under the authority of a written law;

- (c) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for the purpose of removal by the local government under a bulk rubbish collection and then only in accordance with the terms and conditions and during the period of time advertised by the local government in connection with that collection;
  - (d) damage, remove or interfere with any part of a thoroughfare, kerb, footpath or any structure or sign erected on or in a thoroughfare by the local government or a person acting under written authority;
  - (e) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (f) cause any obstruction to a water channel or a water course, including drainage swales, in a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare or verge;
  - (h) unless installing, or in order to maintain, a permissible verge treatment—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install, on any part of a thoroughfare, any thing such as crushed limestone, gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust, including for the purposes of storage or stockpiling;
  - (i) provide, erect, install or use in or on any building, structure or land abutting a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (j) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
  - (k) drive any vehicle over or across a kerb or footpath except at a vehicle crossing;
  - (l) drive a vehicle or permit a vehicle to be driven across a kerb or footpath if such vehicle is so heavy or is of such a nature that it causes or is likely to cause damage to the kerb or the paving of the footpath; and
  - (m) drive or take a vehicle on a closed thoroughfare unless it is in accordance with any limit or exception specified in an order made under section 3.50 of the Act.
- (2) The local government may exempt a person from compliance with clause 7.2(1) on the application of that person.

### **7.3 Obstructions**

Where any thing is deposited or an obstruction is caused to a thoroughfare, kerb or footpath contrary to clauses 7.1 and 7.2, the local government may—

- (a) remove or cause to be removed such deposit or obstruction; and
- (b) recover the costs of doing so as a debt due to it.



## *Division 2—Vehicle crossings*

### **7.4 Temporary crossing**

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works must obtain a permit for the construction and use of a temporary crossing to protect the existing carriageway, kerb, drains and footpath where—
  - (a) a crossing does not exist; or
  - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) If the local government approves an application for a permit for the purpose of clause 7.4(1), the permit is taken to be issued on the condition that, until such time as the temporary crossing is removed, the permit holder must keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

### **7.5 Removal of a redundant crossing**

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring him or her to—
  - (a) remove any part of or all of a crossing which does not give access to the lot; and
  - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice.

## *Division 3—Verge treatments*

### **7.6 Interpretation**

In this Division 3, unless the context otherwise requires—

- (a) **acceptable material** means any of the following—
  - (i) organic mulch of a particle size not greater than 25 millimetres;
  - (ii) semi-permeable materials such as—
    - (A) compacted limestone with particle size not greater than 10 millimetres;
    - (B) compacted gravel with particle size not greater than 10 millimetres;

- (C) synthetic grass onto a compacted aggregate or roadbase which has a particle size no greater than 10 millimetres with the synthetic grass being pegged down or held in place in such a manner that there are no protrusions or trip hazards;
- (iii) impermeable materials such as—
  - (D) coloured concrete of earthy tones and which is not grey to a minimum thickness of 75 millimetres and maximum thickness of 100 millimetres; or
  - (E) brick paving installed to the manufacturer's specifications including recommended compacted subgrade and edge restraints, provided that—
    - (F) the semi-permeable materials set out in (A) to (C) shall be compacted to such a degree that there are no loose stones on the verge surface;
    - (G) materials such as compacted gravel, crushed compacted rock or stabilised limestone cannot cover more than 50% of the verge area including the crossover and footpath without—
      - (I) having one or more street trees planted by or approved in writing by the local government; or
      - (II) some reasonable planting installed, within that gravel, crushed rock or limestone area; and
    - (H) the finished level of the compacted gravel, rock or limestone material is to be between 5 millimetres and 15 millimetres below the adjacent concrete edge;
- (b) **hardstand** includes concrete, asphalt and paving;
- (c) **small format pavers** include cobblestones, brick sized pavers and pavers up to 300 millimetres x 300 millimetres; and
- (d) **verge treatment** means any of the 3 treatments permitted by this local law and shall include any reticulation, pipes and sprinklers.

## 7.7 Permissible verge treatments

- (1) The owner or occupier of land abutting a street may, on the verge in front of such land, install any one of the following 3 verge treatments—
  - (a) **Treatment One**  
Plant and maintain a natural lawn that is not made of synthetic grass.
  - (b) **Treatment Two**  
Plant and maintain a garden provided that—

- (i) clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway, and landscaping inhibiting visibility may be removed at the discretion of the local government;
- (ii) no plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard;
- (iii) unobstructed pedestrian access of a stable material along the full length of the verge and to a minimum width of 2 metres adjacent to the kerblines where no footpaths or alternative pathways exist is maintained;
- (iv) unobstructed access around signs, water meters, telecommunication pits, fire hydrants and manhole covers is maintained; and
- (v) there is adequate access to the letterbox for mail delivery.

(c) **Treatment Three**

Install hardstand over no more than 50% of the area of the verge, including any cross-over or footpath, with an acceptable material and plant and maintain either a lawn or garden on the balance provided that—

- (i) the lawn is a natural lawn and is not synthetic grass;
- (ii) semi permeable or impermeable paved areas are not to provide formal verge parking, unless approved in writing by the local government;
- (iii) clear sight visibility must be maintained at all times for pedestrians and motorists in the vicinity of intersection corners and bends in the roadway, and landscaping inhibiting visibility may be removed at the discretion of the local government;
- (iv) no plant or other vegetation making up the garden is of a thorny or poisonous nature or may otherwise create a hazard;
- (v) unobstructed pedestrian access of a stable material along the full length of the verge and to a minimum of 2 metres adjacent to the kerblines where no footpaths or alternative pathways exist is maintained;
- (vi) unobstructed access around signs, water meters, telecommunications pits, fire hydrants and manhole covers must be maintained; and
- (vii) there is adequate access to the letterbox for mail delivery.

(2) The following requirements also apply—

- (a) verges cannot consist of more than 50% of hardstand area, including crossovers and footpaths, except in the case of verges which are less than 1.5 metres wide

not including the width of footpath where it is not possible to maintain a natural lawn or garden;

- (b) a street tree is required where—
    - (i) a footpath abuts a property boundary and the remaining verge area width is sufficient to accommodate the tree; and
    - (ii) where hardstand is installed on the verge;
  - (c) pavers used on the verge must be heavy duty and at least 60 millimetres thick; and
  - (d) depending on tree species, a minimum distance of 1.5 metres between the trunk of a street tree and the installation of paving is required.
- (3) For the purposes of clause 7.7(2)(d), a person developing a verge may request the local government to assess the Tree Protection Zone for a thoroughfare.
- (4) An owner or occupier who installs and maintains a verge treatment shall—
- (a) be responsible for all or any damage or injury caused to any person or thing, including any street, pavement, footpath or crossing of any pipe or cable, and shall make good at such owner's or occupier's expense all such damage caused;
  - (b) keep the verge treatment in good and tidy condition and ensure where the verge treatment is a garden or a lawn that no obstruction of any sort is caused to any footpath, pavement or street;
  - (c) lay, install or pave a hard surface with an acceptable material only;
  - (d) not place any obstruction on or around any verge treatment; and
  - (e) not water or maintain a verge treatment in such a manner as to cause a nuisance or inconvenience to any other person and in particular any person using any street or footpath or access way adjoining the verge.
- (5) If an owner or occupier fails to install or maintain a verge treatment in accordance with clause 7.7(4), the local government may issue the owner or occupier with a notice requiring that person to make good any breach of clause 7.7(4).

## **7.8 Powers to carry out public works on verges**

- (1) If the owner or occupier does not comply with a notice issued in accordance with clause 7.7(5), the local government may carry out any works to make good any breach of this local law, and the local government or any other authority empowered by law to dig up a street may, without being liable to compensate any person, dig up all or any part of a street and disturb any verge treatment placed thereon by an owner or occupier.
- (2) Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

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

## **7.9 Transitional**

- (1) In this clause, **repealed provisions** means Part XIX of the *City of Mandurah Consolidated Local Laws* repealed by clause 1.4(a) which permitted certain types of verge treatments.
- (2) A verge treatment which—
  - (a) was installed prior to the commencement day; and
  - (b) on the commencement day is a type of verge treatment which was permitted under and complied with the repealed provisions,

is to be taken to be a permissible verge treatment under this local law for so long as the verge treatment remains of the same type and continues to comply with the repealed provisions.

### *Division 4—Property numbers*

## **7.10 Assignment of street numbering**

- (1) The local government or an authorised person shall assign a street number to each property in a street, thoroughfare or way in the district having regard to its policy on street numbering so as to ensure unambiguous and easy identification of every individual property.
- (2) The local government or an authorised person may from time to time assign another street number to a property instead of that which was previously assigned.

## **7.11 Street number to be displayed**

- (1) The owner or occupier of each property must display and maintain the current street number assigned by the local government in a conspicuous place on the front of the building, letterbox, fence or gate adjacent to the street fronting the property.
- (2) A sign painted on the kerb adjacent to a property depicting the street number is satisfactory for the purposes of clause 7.11(1).

## **7.12 Location of number not to be misleading**

- (1) A person shall not place or display the street number of the property in such a location as to cause confusion or be misleading.

- (2) A person shall not adopt, use or display a street number other than that street number assigned by the local government.
- (3) Where the location of a street number causes confusion or is misleading, or an unauthorised street number is being used or displayed on a property, the local government or an authorised person may serve notice in writing on the owner or occupier of the land specifying remedial action to be taken and the time within which action must be taken.

*Division 5—Fencing*

**7.13 Public place—clause 4(1) of Division 1, Schedule 3.1 of the Act**

Each of the following places is specified as a public place for the purpose of clause 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.5; and
- (b) local government property.

*Division 6—Signs erected by the local government*

**7.14 Signs**

- (1) The local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person must comply with a sign erected under clause 7.14(1).
- (3) A condition of use specified on a sign erected under clause 7.14(1) is to be for the purpose of giving notice of the effect of the provision of a local law.

**7.15 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.14 if the sign is not inconsistent with any provisions of this local law.

**PART 8—ADVERTISING DEVICES ON OR IN LOCAL GOVERNMENT  
PROPERTY OR PUBLIC PLACES**

**8.1 Relationship with planning scheme**

The provisions of the local government's planning scheme and the terms of any development approval issued pursuant to that planning scheme will prevail over the provisions of Part 8 of this local law in the event of any inconsistency.

## **8.2 General prohibitions**

- (1) A person must not erect, place, post, paint or affix any advertising sign on, in or over local government property or a public place other than in accordance with this local law.
- (2) Subject to clauses 8.3 to 8.7, a person must not, unless authorised by the local government in writing or a written law, erect or place an advertising sign on or in local government property or a public place—
  - (a) within 30 metres of a similar or identical advertising sign erected or placed for the same purpose;
  - (b) over any footpath where the resulting vertical clearance between the advertising sign is less than 2.5 metres;
  - (c) on any roundabout;
  - (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge;
  - (e) on—
    - (i) the estuary bridge on Mandurah Road;
    - (ii) the Old Mandurah Bridge, or its replacement;
    - (iii) all fencing on the intersection of Mandurah Terrace and Pinjarra Road; or
    - (iv) on any pedestrian overpass bridges in the District; or
  - (f) in any location where, in the opinion of the local government, the advertising sign or portable direction sign is likely to—
    - (i) obstruct or impede the reasonable use of a thoroughfare or access to a place by any person;
    - (ii) obstruct a line of sight of drivers of vehicles along a thoroughfare, verge or vehicle crossing; or
    - (iii) create a hazard for any person using the thoroughfare or verge, including by obstructing or impeding the vision of a driver of a vehicle entering or leaving a thoroughfare or vehicle crossing.
- (3) Public liability insurance in respect of the erection or placement of the advertising sign must be obtained if required by the local government.

## **8.3 Public interest signage**

- (1) Public interest signage is subject to the general prohibitions outlined in clause 8.2.
- (2) A person must not erect or display a public interest sign on or in any local government property or a public place unless that person has a permit issued by the local government for that purpose.

- (3) A permit holder must not erect or display on or in local government property or a public place—
- (a) subject to clause 8.3(3)(b), more than 6 public interest signs for one event at any one time within the district;
  - (b) more than 10 public interest signs for one event on the day on which the event is taking place within the district;
  - (c) more than one public interest sign for one event on or in the same location, including an intersection, within the district;
  - (d) subject to clause 8.3(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;
  - (e) a public interest sign for an event that occurs on a regular basis for a period longer than 3 days prior to the day on which the event takes place within the district;
  - (f) a public interest sign which is, at the absolute discretion of the local government, not of a professional standard and quality;
  - (g) a public interest sign in a position which—
    - (i) creates a hazard for pedestrians; or
    - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic, unless permitted by the terms and conditions of a permit;
  - (h) a public interest sign with colours that may cause confusion for motorists approaching an intersection controlled by traffic lights;
  - (i) a public interest sign which is not maintained in a good and orderly manner for the duration of the period that the public interest sign is on display;
  - (j) a public interest sign that exceeds dimensions of 2 metres long x 1 metre high, unless permitted by the terms and conditions of a permit;
  - (k) on a verge, a public interest sign which is—
    - (i) less than 3 metres from the kerb line;
    - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
    - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
  - (l) a public interest sign which is tied or secured to power poles or street lights, unless permitted by Western Power.
- (4) The local government may approve an advertising sign, that is not public interest signage, associated with an event in accordance with this local law, subject to any condition imposed by the local government.



#### **8.4 Home open signs, display home signs and garage sale signs**

- (1) Home open signs, display home signs and garage sale signs are subject to the general prohibitions outlined in clause 8.2.
- (2) A person must not erect or display a home open sign, display home sign or garage sale sign—
  - (a) which is constructed from a hard or sharp material that may create a hazard to pedestrians or road users should the sign be hit, knocked or blown over in the wind;
  - (b) which exceeds 0.6 square metres in area per sign face;
  - (c) which contains more than 2 sign faces;
  - (d) which exceeds 0.9 metres in height above the surrounding ground level or pavement;
  - (e) within 10 metres from any intersection;
  - (f) within 2 metres of any vehicle crossover;
  - (g) which exceeds 3 signs per individual home open, display home or garage sale, including the sign placed on the property on which the sale is being conducted or displayed;
  - (h) which is not free-standing and is affixed to any existing sign, post, power or light pole, or other structure;
  - (i) at a time other than—
    - (i) when the relevant home is open for inspection or garage sale is manned and goods are being offered for sale; and
    - (ii) one hour before and after the home is open for inspection of garage sale is manned and goods are being offered for sale;
  - (j) on a constructed footpath or within one metre of the road edge;
  - (k) which is more than 1 kilometre away from the property which is open for inspection or which is holding the garage sale; and
  - (l) within the road reserves of Pinjarra Road, Mandurah Road, Old Coast Road, Mandjoogoordap Drive or in the centre of a road where the road is divided by a traffic island.
- (3) The local government may exempt a person from the requirements of clause 8.4(1) on the application of that person.

#### **8.5 Other Portable Signs**

- (1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.
- (2) Subject to clause 8.7 any other portable sign shall—
  - (a) not exceed 1.2 metres in height above the finished ground or pavement level;

- (b) not contain more than 2 sign faces;
  - (c) not exceed 1 square metre total area on any single sign face;
  - (d) not be illuminated or incorporate reflective or fluorescent materials;
  - (e) not have moving parts once the sign is in place;
  - (f) contain writing that is of a professional standard and quality, and is appropriately maintained;
  - (g) in the case of any other portable sign relating to a business, only incorporate the name of the businesses operating from the lot and must not incorporate brand advertising;
  - (h) only be erected and displayed on pedestrian areas with the sign faces directed at pedestrians and not at drivers;
  - (i) not be erected and displayed within regional road reservations, as defined by the local government's planning scheme;
  - (j) in the case of an other portable sign relating to a business—
    - (i) be displayed in a location immediately adjacent to the business premises to which the sign relates; and
    - (ii) be removed at the close of trading each day and not displayed again until the business opens for trading the next day;
  - (k) not be erected or displayed so as to impede the reasonable use of local government property or a public place;
  - (l) not be erected or displayed within 1.8 metres of an intersection or crossover;
  - (m) not be fixed or attached to a building, wall, fence, pole, tree or other structure within a road reserve; and
  - (n) be removed and relocated at the request of a person authorised for the purpose of a special event, parade, road or footpath works, or other event.
- (3) A person can only erect one other portable sign per business.
- (4) A person can only erect an other portable sign on a verge of a road which is under the care, control and management of the local government if—
- (a) that person has provided the local government with a current certificate for public liability insurance to an amount not less than \$10 million, which notes that the cover extends to any sign that is located within a road reserve, and maintains that public liability insurance for the duration that the portable sign is so displayed;
  - (b) the portable sign is to be erected and displayed adjacent to and between the front of the business premises and the nearest kerb, as approved by the local government in writing;

- (c) no part of the sign is to be less than 600 millimetres from the face of the nearest kerb or, if no kerb, from the edge of the nearest road surface or car parking bay; and
- (d) the effective width of a footpath, pedestrian access way or similar access route is not reduced to less than 2 metres effective width.

## **8.6 Seafood signage**

- (1) Seafood signage is subject to the general prohibitions outlined in clause 8.2.
- (2) A person must not erect or display a seafood sign—
  - (a) which is not, at the absolute discretion of the local government, of a professional standard and quality;
  - (b) in a position which—
    - (i) creates a hazard for pedestrians; or
    - (ii) causes interference with the clear visual lines of sight required by motorists for the safe movement of vehicular traffic;
  - (c) with colours that cause confusion for motorists approaching an intersection controlled by traffic lights;
  - (d) which is not maintained in a good and orderly manner for the duration of the period that the seafood sign is on display;
  - (e) that exceeds dimensions of 2 metres long x 1 metre high, unless otherwise authorised in writing by the local government;
  - (f) on a verge, which is—
    - (i) less than 3 metres from the kerb line;
    - (ii) if there is no kerb line, less than 3 metres from the edge line or the edge of the seal where there is no edge line; and
    - (iii) less than 80 metres from the projection of the nearest kerb line of any intersecting road; or
  - (g) a seafood sign which is tied or secured to power poles or street lights, unless permitted by Western Power.
- (3) A person must not erect or display a seafood sign which is a direction sign to a seafood business—
  - (a) unless the premises at which the fresh local seafood is being sold has all required approvals from the local government;
  - (b) unless the premises at which the fresh local seafood is being sold is not in, or part of a retail building or complex which permits greater levels of signage on the building and property;

- (c) unless there is a clear sign displayed at the premises at which the fresh local seafood is being sold in accordance with any written law and the local government's planning scheme;
- (d) unless the seafood business operates for no less than 5 days per week during a fishing season, of which one of those days must be a weekend day;
- (e) during any period where the seafood business is intended to be closed for more than one month, unless otherwise authorised in writing by the local government;
- (f) if the direction sign is to be installed on a road that is under the care and control of the Commissioner of Main Roads WA, without the approval of the Commissioner of Main Roads WA for the installation of the direction sign;
- (g) if there is already one direction sign for the same purpose at any intersection, except where the road on which the direction sign is being erected or displayed is a divided road, in which case 2 signs may be considered; and
- (h) on a maximum of two intersections providing directions to the premises at which the seafood business operates, unless otherwise authorised in writing by the local government.

## **8.7 Election advertising**

- (1) Election advertising is subject to the general prohibitions outlined in clause 8.2.
- (2) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—
  - (a) being erected at least 30m from any intersection;
  - (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
  - (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
  - (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
  - (e) being maintained in good condition;
  - (f) not being erected until 6 weeks prior to the election to which it relates has been officially announced;
  - (g) being removed within 72 hours of the close of polls on voting day;
  - (h) not being placed within 100m of any works on the thoroughfare;
  - (i) being securely installed;
  - (j) not being an illuminated sign;
  - (k) not incorporating reflective or fluorescent materials; or

- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

### **8.8 Notification regarding removal and impounding of advertising signs**

- (1) An authorised person may issue a person who has erected or placed an advertising sign on or in local government property or a public place with a notice requiring that person to remove the advertising sign within 24 hours, or earlier if, at the absolute discretion of the local government or an authorised person, the advertising sign is a potential hazard or nuisance to members of the public.
- (2) An authorised person may remove or impound an advertising sign that has been erected or placed on or in local government property or a public place contrary to this local law.

### **8.9 Advertising sign to be marked**

Each advertising sign erected in or on local government property or a public place shall be clearly marked with the name of the person, organisation or business who erected the advertising sign.

### **8.10 Person or business 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, organisation or business whose name is marked on the advertising sign.

### **8.11 Insurance**

If a person is required by the local government to hold public liability insurance in respect of the erection or placement of an advertising sign on or in local government property or a public place, that person must present an authorised person with a current certificate of public liability insurance upon the direction of the authorised person.

## **PART 9—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS ON OR IN LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES**

### *Division 1—Animals*

### **9.1 Leaving an animal on local government property or in a public place**

A person must not leave an animal on local government property or a public place so that it obstructs the use of any part of that local government property or public place unless that person—

- (a) has first obtained a permit; or

- (b) is authorised to do so under a written law or a determination made under this local law.

## **9.2 Prohibitions relating to animals**

- (1) In this clause, **owner** in relation to an animal includes—
  - (a) the owner of the animal;
  - (b) a person who has the animal in his or her possession or under his or her control; or
  - (c) the occupier of any premises where the animal is ordinarily kept or ordinarily permitted to live.
- (2) An owner of an animal must not—
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare and unless it is led, ridden or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in or on local government or a public place;
  - (c) train or race the animal on a thoroughfare; or
  - (d) subject to clause 9.2(4), allow the animal to defecate on local government property or in a public place.
- (3) An owner of a horse must not lead, ride or drive the horse on a thoroughfare in a built-up area, unless the person does so under a permit or under the authority of a written law.
- (4) An owner of an animal does not commit an offence if the defecation is immediately removed.

## **9.3 Removal of animals**

An authorised person may impound an animal left on or in local government property or a public place contrary to clause 9.1.

### *Division 2—Vehicles*

## **9.4 Leaving a vehicle in a public place**

A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit from the local government or is authorised to do so under a written law.

### *Division 3—Shopping trolleys*

#### **9.5 Shopping trolley to be marked**

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

#### **9.6 Person not to leave shopping trolley in a public place**

A person shall not leave or discard a shopping trolley on local government property or in a public place other than in an area designated for the storage of shopping trolleys.

#### **9.7 Abandoned shopping trolley**

If a shopping trolley is found discarded on local government property or in a public place, other than in an area designated for the storage of shopping trolleys, the local government may assume that the shopping trolley has been abandoned.

#### **9.8 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 shopping trolley.

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

Where a shopping trolley is found abandoned on local government property or in a public place and the retailer 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 3 hours of being advised.

#### **9.10 Impounding of abandoned shopping trolley**

An authorised person may impound a shopping trolley that is—

- (a) left on a thoroughfare, verge or local government property that is found to be abandoned in accordance with clause 9.7; and
- (b) marked in accordance with clause 9.5.

#### **9.11 Retailer to be notified**

The retailer shall be notified in writing prior to the disposal of the shopping trolley.

## PART 10—TRADING IN PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY

### *Division 1—Traders and street markets*

#### **10.1 Restrictions and requirement to obtain a permit**

- (1) A person must not carry on trading on local government property or in a public place unless—
  - (a) subject to clause 10.1(2), that person is—
    - (i) the holder of a permit for that purpose; or
    - (ii) an assistant specified in a permit for trading; and
  - (b) if required by the local government, public liability insurance in respect of the trading activity has been taken out by the relevant permit holder; and
  - (c) if the person is trading in food, the place of trading must have access to a supply of potable water and/or a sewer for the disposal of waste water.
- (2) The local government may by written notice exempt a person or class of persons from the need to obtain a permit.
- (3) In determining whether to grant an exemption under clause 10.1(2), the local government may have regard to the matters set out in any local government policy.

#### **10.2 Exemptions from requirement to pay a fee**

- (1) The local government may waive any fee required to be paid by an applicant for a permit for the purpose of trading on the application if the trading is carried on—
  - (a) at a portion of local government property or a public place adjoining the normal place of business of the applicant; or
  - (b) by a charitable organisation that—
    - (i) does not sublet space to commercial participants;
    - (ii) does not involve commercial participants in the conduct of the stall or trading; and
    - (iii) operates under a permit where any assistants specified in the permit are members of that charitable organisation.
- (2) In this clause 10.2, **commercial participant** means any person who is involved in operating or in conducting any trading activity for personal gain or profit.

#### **10.3 Insurance**

If required by the local government to hold public liability insurance in respect of the permit holder's trading activities, a permit holder must produce to an authorised person a current certificate of insurance upon the direction of that authorised person.



#### **10.4 When a permit is required for a street market**

A person must not conduct a street market on a public place or on local government property—

- (a) without a valid permit for that purpose; and
- (b) unless, if required by the local government, the holder of the permit has taken out public liability insurance in respect of the street market.

#### *Division 2—Street entertainers*

#### **10.5 When a permit is required**

A person must not perform on or in local government property or a public place without a permit for the purpose of street entertaining.

#### **10.6 Variation of permitted area and permitted time**

- (1) The local government may by notice in writing to a person holding a permit for the purpose of street entertaining vary—
  - (a) the permitted area;
  - (b) the permitted time; or
  - (c) both the permitted area and the permitted time.
- (2) The local government or an authorised person may direct a holder of a permit for street entertaining to move from one permitted area to another permitted area if more than one area is specified in the permit.

#### **10.7 Duration of a permit for street entertaining**

A permit for street entertaining is valid for the period of time specified in the permit, unless it is cancelled earlier in accordance with this local law.

#### **10.8 Cancellation of a permit for street entertaining**

The local government may cancel a permit for street entertaining if, in its opinion or in the opinion of an authorised person—

- (a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons or businesses in a public place; or
- (b) the performance otherwise constitutes a nuisance.

#### **10.9 Obligations of a permit for street entertaining**

A person holding a permit for street entertaining shall not, except with the written approval of the local government, in a public place or on local government property—

- (a) perform wearing dirty or ragged clothing;

- (b) use or fire any weapon or object with sharp edges;
- (c) perform any act that endangers the safety of the public;
- (d) perform any act of cruelty to an animal or dog;
- (e) have more than 4 people perform, unless otherwise authorised by the permit;
- (f) unless otherwise authorised by the permit, allow any person under the age of 14 years to perform—
  - (i) during school hours on school days; and
  - (ii) between 7.00pm and 6.00am;
- (g) sell or permit the sale of any music tapes, recordings, compact discs or merchandise unless authorised by the local government;
- (h) act in an offensive or obscene manner;
- (i) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier—
  - (i) other than in the permitted area; and
  - (ii) unless the musical instrument or device is specified in the permit; or
- (j) solicit money from members of the public.

## **PART 11—ALFRESCO DINING ON OR IN LOCAL GOVERNMENT PROPERTY OR PUBLIC PLACES**

### **11.1 Permit required for alfresco dining area**

- (1) In clause 11.1(2)(c)(ii), '**private property**' means any property which is not local government property or a public place.
- (2) Subject to clause 11.1(3), a person must not establish or conduct an alfresco dining area in or on local government property or a public place—
  - (a) unless the person has a permit for that purpose;
  - (b) unless the person is the proprietor of a food business or is acting on behalf of the proprietor of a food business;
  - (c) other than in a portion of local government property or a public place which—
    - (i) adjoins a food business; or
    - (ii) is adjacent to or in the immediate vicinity of a food business, provided that if the portion of local government property or public place is adjacent to private property, the person has the permission of the owner and occupier of that private property to establish and conduct an alfresco dining area on that adjacent portion of local government property or public place; and
  - (d) unless the person has public liability insurance in respect of the establishment and conduct of the alfresco dining area; and
  - (e) other than in accordance with a permit.

- (3) The local government may exempt a person from any requirements in clause 11.1 on the application of that person.

### **11.2 Matters to be considered in determining an application**

In determining an application for a permit to establish or conduct an alfresco dining area, the local government may consider, in addition to the relevant considerations described in clause 12.3, whether or not—

- (a) the abutting food businesses are registered in accordance with the Food Act and whether the use of the food premises is permitted under the planning scheme;
- (b) the alfresco dining area will comply with any other local law made by the local government under the Act;
- (c) users of the alfresco dining area will have access to proper and sufficient sanitary and ablutionary conveniences as per the Building Code of Australia;
- (d) the alfresco dining area would—
  - (i) obstruct the visibility or clear sight lines for pedestrians and motorists at an intersection of thoroughfares; or
  - (ii) impede pedestrian access;
- (e) the proposed furniture is unsuitable, including whether or not the tables, chairs and other equipment to be used may obstruct or impede the use of the local government property or public place for the purposes for which it was designed;
- (f) any abutting food businesses provide sufficient car parking bays for customers of the alfresco dining area; and
- (g) the applicant is a fit and proper person.

### **11.3 Obligations of a permit holder for an alfresco dining area**

- (1) A holder of a permit for an alfresco dining area must—
- (a) display the permit in a conspicuous place in the alfresco dining area or in the abutting food business and when requested by an authorised person or employee of the local government, produce the permit to him or her;
  - (b) ensure that the alfresco dining area is conducted at all times in accordance with the provisions of—
    - (i) this local law;
    - (ii) any other local law made under the Act; and
    - (iii) the Food Act;
  - (c) ensure that the alfresco dining area is kept in a clean and tidy condition, including by maintaining the chairs, tables and other structures in the alfresco dining area in a good, clean and serviceable condition at all times;

- (d) on the cancellation of the permit, the permit holder shall at his or her cost, reinstate or restore the local government property or public place on which the alfresco dining area is established or conducted, to a condition consistent with the condition prior to the commencement of the alfresco dining area; and
  - (e) present an authorised person with a copy of a current certificate of public liability insurance upon the request of the authorised person.
- (2) If, at the absolute discretion of the local government, any work is required to be carried out to an alfresco dining area, the local government may give notice to the permit holder to carry out that work specified within the notice within the time specified in the notice.
- (3) In this part, “work” includes the removal, alteration, repair, reinstatement or construction of a street or footpath or any part of a street or footpath arising from or in connection with the setting up or conduct of an alfresco dining area.

#### **11.4 Conditions on an alfresco dining area**

In addition to the conditions described in clause 12.4, the local government may impose conditions or grant an exemption on the grant of a permit for an alfresco dining area relating to—

- (a) the permit holder having non-exclusive rights to establish and conduct an alfresco dining area in the relevant area;
- (b) the colour, number, type, form and construction, as the case may be, of any furniture which may be used in the alfresco dining area;
- (c) the care, maintenance and cleaning of any furniture used in the alfresco dining area;
- (d) the removal and storage of all furniture used in the alfresco dining area prior to the close of business of the abutting food business on any day that the alfresco dining area is operating;
- (e) the removal of all furniture used in the alfresco dining area for the purposes of events or other activities of the local government;
- (f) the requirement to maintain pedestrian access between the alfresco dining area and an abutting food business;
- (g) the alfresco dining area not impeding or obstructing any local government property or public place used by either pedestrians or vehicles;
- (h) the obtaining of public liability insurance in an amount and or terms reasonably required by the local government;
- (i) the requirement to maintain clear sight lines for vehicles entering or leaving local government property, a thoroughfare or a vehicle crossing; and

- (j) the payment of costs associated with the local government preparing the local government property or public place for use as an alfresco dining area including the reshaping of footpaths and marking the boundaries of the alfresco dining area.

### **11.5 No smoking areas**

Subject to this local law if a permit is granted under this local law in respect of an alfresco dining area—

- (a) the alfresco dining area is deemed to be a no smoking area; and
- (b) a person shall not smoke a tobacco product while in the alfresco dining area.

### **11.6 Removal of an unlawfully conducted alfresco dining area**

- (1) Where an alfresco dining area is conducted without a permit or in contravention of the terms or condition of a permit—
  - (a) an authorised person may direct a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment; and
  - (b) any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.
- (2) If an authorised person directs a person or the holder of the permit to remove any tables, chairs, umbrellas or other equipment, that person must comply with the direction of the authorised person.

### **11.7 Temporary removal of an alfresco dining area**

- (1) The holder of a permit for an alfresco dining area must temporarily remove the alfresco dining area when requested to do so on reasonable grounds by an authorised person or a member of the police service or an emergency service.
- (2) The holder of a permit for an alfresco dining area may replace the alfresco dining area removed under clause 11.7(1) as soon as the person who directed him or her to remove it allows it to be replaced.

### **11.8 Change of ownership of an alfresco dining area**

Where the ownership of a food business subject to an alfresco dining permit changes, the new owner must notify the local government within 2 weeks of the change of ownership.

### **11.9 Terms and validity of an alfresco dining permit**

Except where otherwise stated in the local law or on the permit an alfresco dining permit remains valid until—

- (a) the proprietor of the food business changes;

- (b) approved changes are made to an existing licence, including increase or reduction in area subject of the licence, or conditions under which the licence was granted;
- (c) the public liability insurance policy required in accordance with 11.4(h) lapses, is cancelled or is no longer in operation;
- (d) the permit is cancelled by the local government.

## **PART 12—PERMITS**

### *Division 1—Applying for a permit*

#### **12.1 Application for a permit**

- (1) A person who is required to obtain a permit under this local law must apply for the permit in accordance with clause 12.1(2).
- (2) An application for a permit under this local law must—
  - (i) be in the form determined by the local government;
  - (ii) state the full name and address of the applicant;
  - (iii) be signed by the applicant;
  - (iv) in the case of an application for a permit for an alfresco dining area, be signed by the proprietor of the abutting food business adjacent to the portion of the local government property or public place to which the application relates;
  - (v) contain the information required by the form;
  - (vi) contain any other information required for that particular type of permit under this local law; and
  - (vii) be forwarded to the local government 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) An application for a permit for the purposes of conducting trading or a street market on or in local government property or a public place must contain the following additional information (as applicable)—
  - (a) the proposed number of assistants, if any, to be engaged by the applicant in trading or the street market, as well as their full names and addresses;
  - (b) details of any location in which the applicant proposes to trade or conduct a street market;
  - (c) the period of time for which the permit is sought, together with the proposed days and hours of operation of the street market;
  - (d) the proposed goods and services which will be traded or sold by the trader or at a street market; and

- (e) details of any proposed structure, stall or vehicle which may be used in conducting the trading or street market and a plan showing where any such structure, stall or vehicle will be located.
- (4) An application for a permit for the purposes of an alfresco dining area must contain the following additional information—
- (a) two copies of a plan and specifications of the proposed alfresco dining area on a scale of 1:50 showing—
    - (i) the location and dimensions of the proposed alfresco dining area and the means by which the alfresco dining area is to be separated from the balance of the local government property or public place; and
    - (ii) the position of all tables, chairs and other structures proposed to be provided in the alfresco dining area and which of such items, if any, are to be retained within the alfresco dining area at all times;
  - (b) a colour photograph(s) or brochure(s) of the tables, chairs and other structures to be set up in the alfresco dining area;
  - (c) a description of the manner in which foodstuffs and other dining accessories are to be conveyed to, and protected from contamination within, the alfresco dining area; and
  - (d) details regarding the public liability insurance taken out or to be taken out by the applicant in respect of the alfresco dining area.
- (5) The local government may refuse to consider an application for a permit which does not satisfy the requirements within clause 12.1(2).
- (6) The local government may require an applicant to give local public notice of the application for the permit.

## **12.2 Decision on application for permit**

- (1) The local government may—
- (a) approve an application for a permit;
  - (b) approve an application for a permit subject to conditions; or
  - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit with or without conditions, it must issue to the applicant a permit in the form approved by the local government.
- (3) Where the local government approves an application for a permit for an alfresco dining area with or without conditions, the local government must attach to the permit a plan showing the area where the alfresco dining area may be conducted, which will then form part of the permit.

- (4) If the local government refuses to approve an application for a permit, it must give written notice of that refusal to the applicant.
- (5) Where a clause of this local law refers to conditions which may be imposed on a permit or the grounds on which an application for a permit may be refused, the clause does not limit the power of the local government to impose other conditions on the permit or to refuse the application for a permit on other grounds.

### **12.3 Relevant considerations in determining application for granting a permit**

- (1) In determining an application for a permit, the local government is to have regard to—
  - (a) any relevant local government policies;
  - (b) the Competition Principles Agreement;
  - (c) the desirability of the proposed activity;
  - (d) the location of the proposed activity, including safety and health requirements, and the character and function of, the location; and
  - (e) such other matters as the local government considers relevant.
- (2) A local government may refuse to approve an application for a permit on any one or more of the following grounds—
  - (a) the application is inconsistent with a local government policy or would result in an activity being carried out contrary to this local law or any other written law;
  - (b) the applicant has committed a breach of any provision of this local law or of any other written law relevant to the activity in respect of which the permit is sought;
  - (c) the applicant is not a desirable or suitable person to hold a permit;
  - (d) the applicant is insolvent or under administration;
  - (e) the activity may result in traffic and pedestrian safety being adversely impacted;
  - (f) the activity is not in keeping with the surrounding land uses; or
  - (g) such other grounds as the local government considers relevant.

#### *Division 2—Conditions on a permit*

### **12.4 Examples of conditions**

The local government may impose conditions on a permit relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit, including the days and hours within which the activity the subject of the permit may be carried out or is prohibited;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;



- (e) the area or specific location within the district to which the permit applies, including any set back distances applicable to the activity;
- (f) the payment of a bond against possible damage, cleaning or other expenses;
- (g) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government;
- (h) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place or local government property by the permit holder;
- (i) if the permit relates to the trading of food, the provisions to be made for the storage of cooked and uncooked food, and the storage and disposal of waste water; and
- (j) any other matter that the local government considers fit or appropriate.

#### **12.5 Compliance with and variations to terms and conditions**

- (1) A permit holder must comply with any terms and conditions imposed on a permit, including any conditions as varied.
- (2) A permit holder may apply to the local government to vary or remove any conditions imposed on a permit.
- (3) In determining whether to vary any condition imposed on a permit, the local government must have regard to any relevant local government policy.

#### *Division 3—General*

#### **12.6 Duration of permit**

- (1) 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 terms and conditions of the permit; or
  - (b) cancelled under clause 12.10.

#### **12.7 Renewal of permit**

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of a permit.
- (2) The provisions of this Part 12 regarding an application for a permit apply to an application for the renewal of a permit with any necessary modifications.

#### **12.8 Transfer of permit**

- (1) An application may be made to the local government to transfer a valid permit.
- (2) An application to transfer a permit must—
  - (i) be made in writing;

- (ii) be signed by the permit holder and the proposed transferee for the permit;
  - (iii) provide such information as the local government may require to enable the application to be determined; and
  - (iv) be forwarded to the local government 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—
- (i) approve an application for the transfer of a permit;
  - (ii) approve an application for the transfer of a permit subject to conditions; or
  - (iii) refuse an application to transfer a permit.
- (4) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (i) an endorsement on the permit signed by the Chief Executive Officer or an authorised person; or
  - (ii) issuing to the transferee a permit in the form determined by the local government.
- (5) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.
- (6) Alfresco dining permits are non-transferable.

### **12.9 Production of permit**

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

### **12.10 Cancellation or suspension of permit**

- (1) Subject to clause 13.1, a permit may be cancelled by the local government if—
- (a) the permit holder has not complied with a condition of the permit;
  - (b) the permit holder has not complied with a provision of any written law which relates to the activity regulated by the permit; or
  - (c) the permit holder has transferred or assigned or sought to transfer or assign the permit without the approval of the local government; or
  - (d) a law is amended or repealed in a manner which is inconsistent with the terms and conditions of the permit and which renders the permit invalid, ineffective or contrary to law.
- (2) If a permit is cancelled under clause 12.10(1), the permit holder—
- (a) must return the permit to the local government as soon as practicable; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

- (3) The local government may cancel or suspend a permit if the local government or a utility requires access to or near the place to which a permit applies for the purposes of carrying out works in or near the vicinity of that place.
- (4) On the cancellation or suspension of a permit under clause 12.10(3), the permit holder is, subject to clause 12.10(5), to be taken to have forfeited any fees paid in respect of the permit.
- (5) Where a permit is cancelled or suspended under clause 12.10(3) through no fault of the permit holder, the local government may refund to the permit holder all or part of the fees paid in respect of what would otherwise have been the remaining term of the permit.

#### **12.11 Nominee of permit holder**

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

## **PART 13—OBJECTIONS AND APPEALS**

### **13.1 Objection and appeal rights**

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

- (a) grant a person a permit or consent; 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 apply to that decision.

## **PART 14—MISCELLANEOUS**

### *Division 1—Authorised person*

#### **14.1 Authorised person to be obeyed**

A person in or on local government property or a public place—

- (a) must obey any lawful direction of an authorised person; and
- (b) must not in any way obstruct or hinder an authorised person in the execution of his or her duties.

#### **14.2 Persons may be directed to leave local government property or a public place**

An authorised person may direct a person to leave local government property or a public place where he or she reasonably suspects that the person has contravened a provision of this local law.

#### *Division 2—Notices*

#### **14.3 Liability for damage to local government property or a public place**

- (1) Where a person unlawfully damages local government property or a public place, the local government may by notice in writing to that person require that person within the time specified in the notice to, at the option of the local government, pay the costs of—
  - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
  - (b) replacing that property.
- (2) On a failure to comply with a notice issued under clause 14.3(1), the local government may recover the costs referred to in the notice as a debt due to it.

#### **14.4 Notice to redirect or repair sprinklers**

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

#### **14.5 Notice to remove thing unlawfully placed on thoroughfare**

Where any thing is placed on a thoroughfare contrary to this local law, the local government or an authorised person may give a notice to—

- (a) the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been placed; or
  - (b) such other person who may be responsible for the thing being so placed,
- requiring the relevant person to remove the thing.

#### **14.6 Notice to repair damage to thoroughfare**

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

## **14.7 Hazardous plants**

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting the garden to remove, cut, move or otherwise deal with that plant so as to remove that hazard.
- (2) Clause 14.7(1) does not apply where the plant was planted by the local government.

### *Division 3—Lost property*

## **14.8 Lost property and unclaimed property in a locker**

- (1) A person who finds an article which may have been left on or lost by another person on local government property must immediately deliver that article to a manager, attendant or other employee of the local government.
- (2) If an article in a locker is not claimed or collected at the expiry of the period of hire or before the close of operations of the local government property or public place on the date of hire, the article may be removed by an attendant or authorised person.
- (3) In respect of any article removed from a locker or otherwise left on local government property, an authorised person, manager or attendant must record in the unclaimed property register—
  - (a) a description of the relevant article;
  - (b) the time and date when the article was removed from the locker or identified; and
  - (c) if an original receipt exists in respect of the hire of the locker, the time and date recorded on that original receipt.
- (4) An authorised person, manager or attendant must ensure that an article removed from the locker or otherwise left on local government property is stored at a place for storing lost property determined by the local government.
- (5) An authorised person, manager or attendant may deliver to a person an article recorded in the unclaimed property register provided that the attendant or authorised person has received—
  - (a) satisfactory evidence of the person's right to obtain the article;
  - (b) an accurate description of the article being claimed; and
  - (c) payment of any outstanding fees or storage charges.
- (6) A person who receives delivery of an article from the unclaimed property register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the unclaimed property register.
- (7) If an article is not claimed or collected within a period of 1 month the local government may dispose of the article in any manner that the local government sees fit.

- (8) This clause will not apply where a local government considers an item left on local government property or a public place to be, in its absolute discretion, suspicious or dangerous.

## **PART 15—ENFORCEMENT**

### *Division 1—Notices given under this local law*

#### **15.1 Offence to fail to comply with a notice**

A person who fails to comply with a notice given to him or her under this local law commits an offence.

#### **15.2 Local government may undertake requirements of a notice**

If a person fails to comply with a notice given to him or her under this local law, the local government may do, or arrange to be done, the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in doing so.

### *Division 2—Offences and penalties*

#### **15.3 Offences and general penalty**

- (1) A person who—
- (a) fails to do anything required or directed to be done under this local law; or
  - (b) does an act or omits to do an act contrary to this local law,
- commits an offence.
- (2) A person who commits an offence under this local law is liable, upon conviction to—
- (a) a penalty not exceeding \$5,000; and
  - (b) if the offence is a continuing offence, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### **15.4 Prescribed offences**

- (1) An offence against an item specified in Schedule 1 is a prescribed offence for the purposes of section 9.16 of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the item in Schedule 1.

#### **15.5 Form of notices**

- (1) For the purposes of this local law—
- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;

- (b) the form of the infringement notice give under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

*Division 3—Person to give name and address on demand*

**15.6 Requirement to give name and address on demand**

- (1) An authorised person may—
- (a) upon finding a person committing or having committed; or
  - (b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.
- (2) A person from whom information is demanded in accordance with clause 15.6(1) commits an offence if the person—
- (a) refuses without lawful excuse to give the information; or
  - (b) gives information that is false or misleading in any material particular.
-

## SCHEDULE 1—PRESCRIBED OFFENCES

[Clause 15.4(1)]

| ITEM | CLAUSE    | DESCRIPTION  | MODIFIED PENALTY |
|------|-----------|--|------------------|
| 1.   | 2.4       | Failure to comply with a determination   | \$300            |
| 2.   | 3.1(1)(b) | Damaging a tree or plant etc. on local government property without a permit  | \$300            |
| 3.   | 3.1(1)(c) | Cutting, collecting or removing timber, firewood etc. on local government property without a permit  | \$300            |
| 4.   | 3.1(1)(d) | Planting any plant or sowing any seeds on local government property without a permit   | \$300            |
| 5.   | 3.1(1)(e) | Erecting a sign on local government property without a permit  | \$300            |
| 6.   | 3.1(1)(f) | Erecting a structure for public amusement etc. on local government property without a permit   | \$300            |
| 7.   | 3.1(1)(g) | Erecting a building or a refuelling site on local government property without a permit   | \$300            |
| 8.   | 3.1(1)(h) | Making an excavation on, erecting a fence or removing a fence on local government property without a permit                                | \$300            |
| 9.   | 3.1(1)(i) | Erecting or installing structures on local government for supplying power, water etc. services without a permit                            | \$300            |
| 10.  | 3.1(1)(j) | Depositing or storing any thing on local government property without a permit  | \$300            |
| 11.  | 3.1(1)(k) | Depasturing, tethering, driving or riding animals on local government property without a permit  | \$300            |
| 12.  | 3.1(1)(l) | Launching an aircraft or helicopter from or landing an aircraft into local government property without a permit                            | \$300            |
| 13.  | 3.1(1)(m) | Camping on or lodging at local government property for the purpose of sleeping on local government property without a permit               | \$300            |
| 14.  | 3.1(1)(n) | Occupying a structure on local government property at night for the purpose of sleeping without a permit                                   | \$300            |
| 15.  | 3.1(1)(o) | Erecting a tent, camp, hut or similar structure on local government property in certain circumstances without a permit                     | \$300            |
| 16.  | 3.1(1)(p) | Teaching, coaching or training person, animal or dog for profit in or on local government property without a permit                        | \$300            |
| 17.  | 3.1(1)(q) | Conducting a function or undertaking a promotional activity on local government property without a permit                                  | \$300            |
| 18.  | 3.1(1)(r) | Charging a person for entry to local government property without a permit  | \$300            |
| 19.  | 3.1(1)(s) | Lighting a fire on local government property without a permit  | \$300            |
| 20.  | 3.1(1)(t) | Lighting, setting off or conducting a display of fireworks on local government property without a permit                                   | \$300            |
| 21.  | 3.1(1)(u) | Parachuting, hang-gliding, abseiling or base jumping from or onto local government property without a permit                               | \$300            |
| 22.  | 3.1(1)(v) | Gambling or betting etc. on local government property without permit   | \$300            |
| 23.  | 3.1(1)(w) | Erecting, installing, operating or using devices for the emission and amplification of noise on local government property without a permit | \$300            |
| 24.  | 3.5       | Failure of permit holder to comply with responsibilities   | \$300            |
| 25.  | 4.1       | Behaviour on local government property which interferes with others  | \$300            |
| 26.  | 4.2       | Behaviour on local government property detrimental to property   | \$300            |
| 27.  | 4.3       | Taking or injuring any fauna on local government property  | \$300            |
| 28.  | 4.4       | Entering or remaining on local government property while drunk or under the influence of a prohibited drug                                 | \$300            |
| 29.  | 4.5       | Taking or consuming a prohibited drug on local government property   | \$300            |
| 30.  | 4.6       | Smoking within a 5 metre radius of an entrance, exit or aperture of premises on local government property                                  | \$300            |
| 31.  | 4.7(1)(a) | Failing to wear adequate clothing to prevent indecent exposure on local government property  | \$300            |



|     |               |   |       |
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| 32. | 4.7(1)(b)     | Loitering outside or acting in an inappropriate manner in a toilet block or change room facility on local government property                         | \$300 |
| 33. | 4.7(1)(c)     | Entering or attempting to enter an occupied toilet or other compartment without the consent of the occupier   | \$300 |
| 34. | 4.7(2)        | Failing to comply with a direction to put on adequate clothing  | \$300 |
| 35. | 4.8           | Unauthorised entry to local government property   | \$300 |
| 36. | 4.10(2)       | Failure to comply with a sign on local government property regarding conditions of use  | \$300 |
| 37. | 5.1           | Carrying out a prohibited activity at a public swimming pool or recreation facility   | \$300 |
| 38. | 5.5(1)        | Conducting a controlled swimming or other sporting event, or carnival or competition without consent at a public swimming pool or recreation facility | \$300 |
| 39. | 5.6           | Carrying out a prohibited activity at a beach or foreshore  | \$300 |
| 40. | 5.7           | Failing to comply with a sign or direction at a beach   | \$300 |
| 41. | 5.8           | Driving or operating on off-road vehicle on a beach or foreshore area   | \$300 |
| 42. | 5.9(3)        | Falsely giving the appearance of a member of a surf lifesaving patrol   | \$300 |
| 43. | 5.10          | Fishing in a prohibited area or contrary to this local law  | \$300 |
| 44. | 5.11(1)       | Launching a boat from a prohibited area   | \$300 |
| 45. | 5.11(2)       | Launching a personal watercraft in a prohibited area  | \$300 |
| 46. | 5.12          | Unauthorised entry to fenced off or closed local government property  | \$300 |
| 47. | 5.13(1)       | Gender not specified using entry of toilet block or change room on local government property  | \$300 |
| 48. | 5.14(2)       | Storing a prohibited item in a locker on local government property  | \$300 |
| 49. | 5.15          | Using a shower in a prohibited manner   | \$300 |
| 50. | 5.16          | Using a camera device to record or transmit an image in a toilet, shower or change room   | \$300 |
| 51. | 5.17          | Prohibited behaviour on major event locations   | \$300 |
| 52. | 6.1(1)        | Entering local government without paying the required fee   | \$300 |
| 53. | 7.1(a)        | Planting a plant on a thoroughfare in a prohibited manner   | \$300 |
| 54. | 7.1(b)        | Damaging a lawn or garden or removing any plant or part of a plant on or in a public place  | \$300 |
| 55. | 7.1(c)        | Repairing or servicing any vehicle on a verge   | \$300 |
| 56. | 7.1(d)        | Placing, allowing to be placed or allowing to remain on a thoroughfare or verge an obstructive or hazardous thing                                     | \$300 |
| 57. | 7.1(e)        | Causing or permitting water from a hose or sprinkler to interfere with the use of any street, way or footpath by pedestrians                          | \$300 |
| 58. | 7.1(f)        | Playing games or sport in a prohibited manner on or in a thoroughfare   | \$300 |
| 59. | 7.1(g)        | Riding a bicycle or wheeled recreational device within a mall, arcade or verandah of a shopping centre  | \$300 |
| 60. | 7.1(h)        | Creating a nuisance on or in a public place   | \$300 |
| 61. | 7.2(1)(a)     | Digging or creating a trench through or under a kerb or footpath without a permit   | \$300 |
| 62. | 7.2(1)(b)     | Damaging or removing a street tree without a permit   | \$300 |
| 63. | 7.2(1)(c)     | Throwing, placing or depositing any thing on a verge without a permit   | \$300 |
| 64. | 7.2(1)(d)     | Damaging, removing or interfering with a thoroughfare, kerb, footpath or structure or sign erected on a thoroughfare without a permit                 | \$300 |
| 65. | 7.2(1)(e)     | Causing an obstruction to a thoroughfare without a permit   | \$300 |
| 66. | 7.2(1)(f)     | Causing an obstruction to a water channel or a water course in a thoroughfare without a permit  | \$300 |
| 67. | 7.2(1)(g)     | Lighting a fire or burning any thing on a thoroughfare or verge without a permit  | \$300 |
| 68. | 7.2(1)(h)(i)  | Laying pipes under or providing taps on any verge without a permit  | \$300 |
| 69. | 7.2(1)(h)(ii) | Placing or installing prohibited materials on a thoroughfare without a permit   | \$300 |

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|------|-----------|--|-------|
| 70.  | 7.2(1)(i) | Providing, erecting, installing or using a hoist or other thing for use over a thoroughfare without a permit       | \$300 |
| 71.  | 7.2(1)(j) | Interfering with the soil of or anything in a thoroughfare or taking anything from a thoroughfare without a permit | \$300 |
| 72.  | 7.2(1)(k) | Driving any vehicle over or across a kerb or footpath except at a vehicle crossing without a permit                | \$300 |
| 73.  | 7.2(1)(l) | Driving a vehicle or permitting a vehicle to be driven across a kerb or footpath without a permit                  | \$300 |
| 74.  | 7.2(1)(m) | Driving or taking a vehicle on a closed thoroughfare without a permit  | \$300 |
| 75.  | 7.3       | Depositing any thing or causing an obstruction to a thoroughfare, kerb or footpath                                 | \$300 |
| 76.  | 7.4(1)    | Failure to obtain a permit for a temporary vehicle crossing  | \$300 |
| 77.  | 7.7(1)    | Installing a verge treatment other than a permissible verge treatment  | \$300 |
| 78.  | 7.7(4)    | Failure to properly maintain a verge treatment   | \$300 |
| 79.  | 7.11(1)   | Failure to properly display and maintain street number   | \$300 |
| 80.  | 7.12(1)   | Placing or display a street number in a location causing confusion or which is misleading                          | \$300 |
| 81.  | 7.12(2)   | Adopting, using or displaying a street number other than the street number assigned.                               | \$300 |
| 82.  | 7.14(2)   | Failure to comply with a sign on a public place  | \$300 |
| 83.  | 8.2(2)    | Erecting or placing etc. advertising sign in a prohibited manner   | \$300 |
| 84.  | 8.3(1)    | Erecting or displaying a public interest sign without a permit   | \$300 |
| 85.  | 8.3(3)    | Permit holder erecting or displaying a public interest sign in a prohibited manner                                 | \$300 |
| 86.  | 8.4(1)    | Erecting or displaying a home open sign, display home sign or garage sale sign in a prohibited manner              | \$300 |
| 87.  | 8.5(1)    | Erecting or displaying an other portable sign contrary to local law  | \$300 |
| 88.  | 8.5(3)    | Erecting or displaying more than one other portable sign per business  | \$300 |
| 89.  | 8.5(4)    | Erecting or displaying an other portable sign on a local government verge contrary to local law                    | \$300 |
| 90.  | 8.6(1)    | Erecting or displaying a seafood sign contrary to local law  | \$300 |
| 91.  | 8.6(3)    | Erecting or displaying a seafood sign which is a direction sign contrary to local law                              | \$300 |
| 92.  | 8.7(1)    | Erecting or placing election advertising contrary to local law   | \$300 |
| 93.  | 8.7(2)(e) | Failing to maintain election advertising in good condition   | \$300 |
| 94.  | 8.7(2)(g) | Failing to remove election advertising within 72 hours of close of polls on election date                          | \$300 |
| 95.  | 8.7(2)(i) | Failing to securely install election advertising   | \$300 |
| 96.  | 8.9       | Erecting an advertising sign without marking a name  | \$300 |
| 97.  | 9.1       | Leaving an animal in a public place or local government property without a permit or authorisation                 | \$300 |
| 98.  | 9.2(2)(a) | Allowing an animal to enter or remain on a thoroughfare  | \$300 |
| 99.  | 9.2(2)(b) | Allowing an animal with a contagious or infectious disease to enter local government property or a public place    | \$300 |
| 100. | 9.2(2)(c) | Training or racing an animal on a thoroughfare   | \$300 |
| 101. | 9.2(2)(d) | Allowing an animal to defecate on local government property or a thoroughfare and failing to remove defecation     | \$300 |
| 102. | 9.2(3)    | Leading, riding or driving a horse on a thoroughfare in a built-up area without a permit or authorisation          | \$300 |
| 103. | 9.4       | Leaving a vehicle in a public place which causes an obstruction without a permit or authorisation                  | \$300 |
| 104. | 9.5       | Failure to mark a shopping trolley with the name of its retailer   | \$300 |
| 105. | 9.6       | Leaving or discarding a shopping trolley in a public place other than an area set aside for shopping trolleys      | \$300 |

|      |            |  |       |
|------|------------|--|-------|
| 106. | 9.9        | Failing to remove shopping trolley within 3 hours  | \$300 |
| 107. | 10.1       | Carrying on trading in a restricted area without the express written consent of the local government                                 | \$300 |
| 108. | 10.1(1)    | Carrying on trading in a public place or on local government property contrary to local law  | \$300 |
| 109. | 10.4(a)    | Conducting a street market on or in a public place without a permit  | \$300 |
| 110. | 10.5       | Engaging in street entertaining on or in a public place without a permit   | \$300 |
| 111. | 10.9       | Failure of a holder of a permit for street entertaining to comply with obligations under local law                                   | \$300 |
| 112. | 11.1(2)    | Establishing or conducting an alfresco dining area contrary to local law   | \$300 |
| 113. | 11.3(1)    | Failure of a holder of a permit for an alfresco dining area to comply with obligations   | \$300 |
| 114. | 11.5(b)    | Smoking a tobacco product in an alfresco dining area   | \$300 |
| 115. | 11.6(2)    | Failure to comply with direction of authorised person to remove tables, chairs, umbrellas or other chairs in an alfresco dining area | \$300 |
| 116. | 11.8       | Failure to notify the local government of a change of ownership of an alfresco dining area   | \$300 |
| 117. | 12.5(1)    | Failure to comply with terms and conditions of a permit  | \$300 |
| 118. | 12.9       | Failure to produce permit upon request by an authorised person   | \$300 |
| 119. | 14.1(a)    | Failure to obey a lawful direction of an authorised person   | \$300 |
| 120. | 14.1(b)    | Obstructing or hindering an authorised person in the execution of his or her duties  | \$300 |
| 121. | 15.1       | Failure to comply with a notice  | \$300 |
| 122. | 15.6(2)(a) | Refusing to give name and address contrary to local law  | \$300 |
| 123. | 15.6(2)(b) | Giving false or misleading information regarding name and address etc.   | \$300 |

## SCHEDULE 2—MAJOR EVENTS

[Clause 5.17]

The following events are 'major events' for the purposes of the definition of 'major event' and Part 5, Division 5—

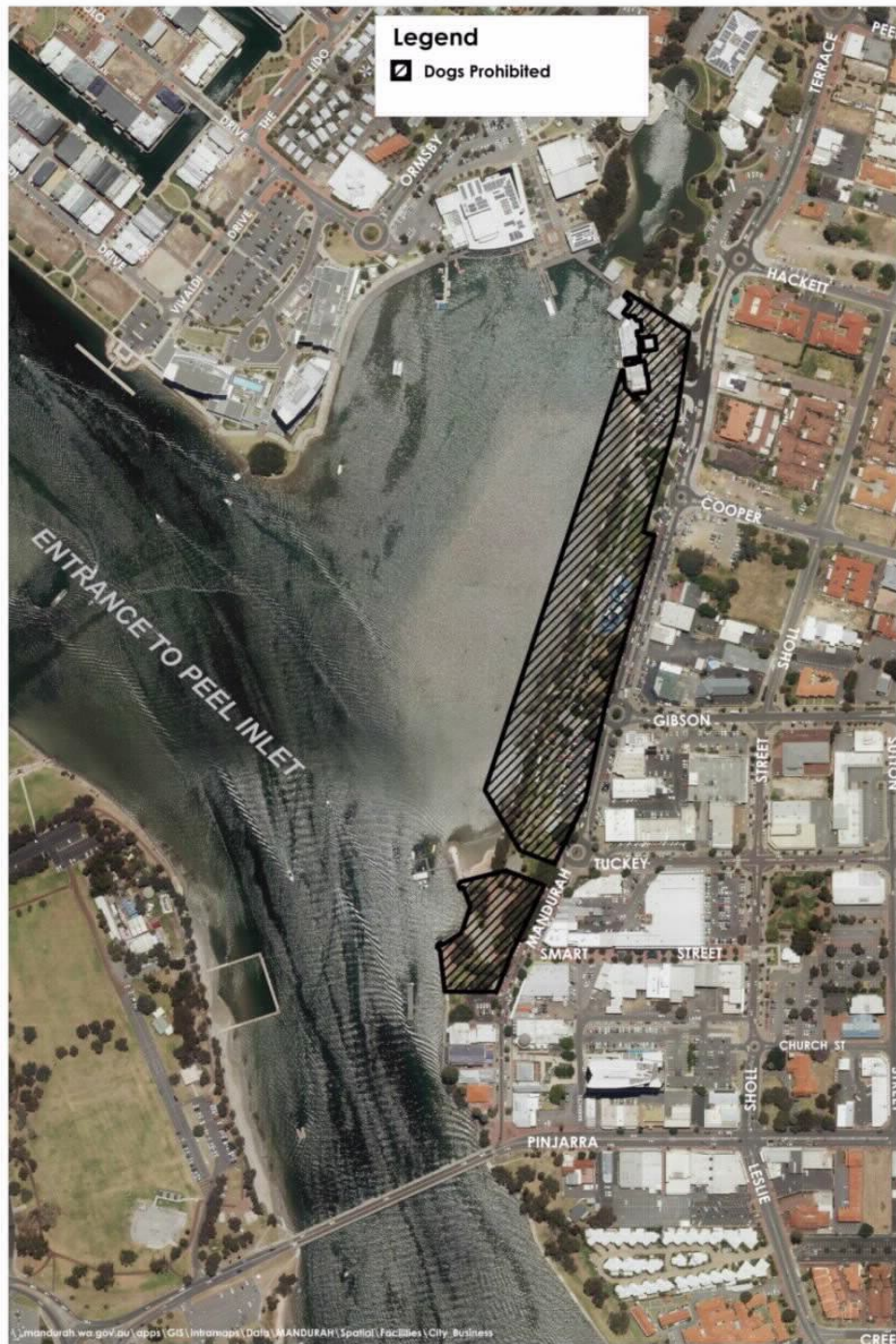
1. 'Mandurah Crab Fest', being the annual event commonly known by that name which takes place within the district;
2. 'Mandurah Children's Festival', being the annual event commonly known by that name which takes place within the district;
3. 'Community Christmas Pageant', being the annual event commonly known by that name which takes place within the district;
4. 'New Years Eve', being the annual event taking place on 31 December and 1 January of each year within the district;
5. Any other event where the following factors apply—
  - (a) audience and/or participation of more than 5000 people;
  - (b) brings significant economic and social benefits to the Mandurah and Peel Region; and
  - (c) includes significant social or community issues which require consideration (e.g. noise, road closures, safety impacts).

### **SCHEDULE 3—MAJOR EVENTS LOCATIONS**

[Clause 5.17]

1. Subject to item 2 of this Schedule 3, for the purposes of clause 5.17(1)(a) and 5.17(1)(b), for all major events the major event location is the 'Eastern Foreshore', being Reserve 14004, on lot 2050—land register 3014/604, lot 350—land register 3024/434, lot 3024—land register 435, lot 701—land register 3164/905, lot 702—land register 3164/906 and Reserve 9633, on lot 503—land register 3157/246.

2.



3. For the purposes of clause 5.17(1)(a) in relation to the 'Mandurah Crab Fest' the following are additional major event locations—

- (a) the 'Western Foreshore', being Reserve 27581 on lot 1561—land register 3014/635 and lot 1562—land register 3014/636;
- (b) the 'Keith Holmes Reserve', being Reserve 48415 and Reserve 50593 on lot 324—land register 3157/982 and lot 500—land register 3162/28;
- (c) the 'Boardwalk Precinct', being Reserve 42050 on lot 300—land register 3136/671; and
- (d) the 'Smart Street Mall'.

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Dated this 15th day of May 2017.

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of—

MARINA ELIZABETH VERGONE, Mayor.  
MARK ROBERT NEWMAN, Chief Executive Officer.

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