

**LOCAL GOVERNMENT ACT 1995 (WA)(CKI)**

**SHIRE OF COCOS (KEELING) ISLANDS**

**PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020**

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# LOCAL GOVERNMENT ACT 1995 (WA)(CKI)

## SHIRE OF COCOS (KEELING) ISLANDS

### PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995 (CKI)* and under all other relevant powers, the Council of the Shire of Cocos (Keeling) Islands resolved on \_\_\_\_\_ to adopt the following local law.

#### PART 1 - PRELIMINARY

##### 1.1 Citation

This local law may be cited as the *Shire of Cocos (Keeling) Islands Public Places and Local Government Property Local Law 2020*.

##### 1.2 Commencement

The local law comes into operation 14 days after it is published as a Notifiable Instrument in the Australian Government Federal Register of Legislation.

##### 1.3 Application

- (1) In accordance with section 4(1) of the *Local Government (Transition) Ordinance 1992*, the Territory is a shire for the purposes of the Act.
- (2) In accordance with section 8A and subject to section 8B of the *Cocos (Keeling) Islands Act 1955* (Commonwealth), Western Australian legislation is applied to the Territory in accordance with –
  - (a) the *Cocos (Keeling) Islands Applied Laws Ordinance 1992*; and
  - (b) the Schedule of applied laws as tabled in the Commonwealth Parliament from time to time.
- (3) In accordance with section 8G of the *Cocos (Keeling) Islands Act 1955* (Commonwealth), the power or authority is vested in the Minister where a power or authority under any Western Australian law is vested in –
  - (a) a Minister of Western Australia; or
  - (b) the Governor of Western Australia; or
  - (c) the Governor-in-Council of Western Australia.
- (4) This local law applies to the whole of the district.

##### 1.4 Repeal

The *Shire of Cocos (Keeling) Islands Local Law – Camping 2009* published in the *Indian Ocean Territories Government Gazette* on 1 February 2010 is repealed.

##### 1.5 Transitional provisions

- (1) An application for, or the renewal of a permit or other authorisation made under a repealed local law that has not been finally determined before the commencement day is to be dealt with and determined as if it were an application under this local law.
- (2) A permit or other authorisation under a repealed local law that is in force before the commencement day is to be regarded on and after that day as a permit under this local law and may be dealt with accordingly.

##### 1.6 Definitions

In this local law –

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

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

**application** means an application for a permit;

**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;

**building** means any building which is local government property and includes any –

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

**bulk rubbish container** means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

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

**children's playground** means an area set aside for use by children and noted by the presence of any of the following –

- (a) dedicated children's playground equipment,
- (b) the presence of either sand or other form of soft fall surface; or
- (c) a sign indicating the area is a children's playground;

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

**costs** means all expenses directly associated with reinstatement or replacement, and includes administrative expenses, associated with reinstatement or replacement;

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

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

**district** means the Territory as defined by section 4(1) of the *Cocos (Keeling) Islands Act 1955* (Commonwealth);

**entertainment** means conduct any form of theatrical, artistic, musical, audio or visual performance and includes busk;

**food** has the meaning given by the *Food Act 2008*;

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

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

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

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

**hire** includes offer to hire and expose for hire;

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

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

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

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

**local government** means the Shire of Cocos (Keeling) Islands;

**local government property** means anything except a thoroughfare –

- (a) which is owned by or is leased by the local government;
- (b) which is vested in the local government;
- (c) which is otherwise under the care, control or management of the local government, including under the *Land Administration Act 1997*; or
- (d) which is an otherwise unvested facility within section 3.53 of the Act; and
- (e) includes a reference to any part of local government property.

**local public notice** has the meaning given to it in section 1.7 of the Act;

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

**market** means a collection of stalls, stands or displays erected for the purpose of selling or hiring goods or services or carrying out any other transaction;

**nuisance** means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which –

- (a) is injurious or dangerous to the health of another person of normal susceptibility;

(b) which has a disturbing effect on the state of reasonable physical, mental or social well being of another person; or

(c) is detrimental or likely to be detrimental to the natural environment;

**occupier** has the meaning given to it in section 1.4 of the Act but does not include the local government;

**owner** has the meaning given to it in section 1.4 of the Act but does not include the local government;

**permit** means a permit or approval in writing issued by the local government under this local law;

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

**permitted verge treatment** means any one of the treatments described in clause 6.7(3), and includes any reticulation pipes and sprinklers;

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

**prohibited drug** is given its meaning under section 3 of the *Misuse of Drugs Act 1981*;

**public place** means –

(a) a thoroughfare;

(b) any local government property; or

(c) a place to which the public have access, including a beach or foreshore;

**repealed local law** means a local law repealed under clause 1.4;

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

**sell** includes –

(a) offer or attempt to sell;

(b) display for sale;

(c) send, forward or deliver for sale or on sale;

(d) barter or exchange;

(e) dispose, by lot or chance or by auction;

(f) supply, or offer, agree or attempt to supply –

(i) in circumstances which the supplier derives or would be likely to derive a direct or indirect pecuniary benefit; or

(ii) gratuitously, but with a view to gaining or maintaining custom or other commercial advantage; or

(g) authorise, direct, cause or permit to be done any act referred to in this definition;

**set fee** refers to fees and charges imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act;

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

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold and includes a vehicle;

**street tree** means any tree planted or self sown in a thoroughfare, of an appropriate species and in an appropriate location, for the purposes of contributing to the appearance of the thoroughfare;

**thoroughfare** means any highway, thoroughfare or land used for vehicular or pedestrian traffic, and includes all the land lying between property lines, including the verge and footpath;

**trading** means selling or hiring goods or services and includes the setting up of a stall and conducting business at a stall;

**vehicle** includes –

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

(b) where the context permits, an animal being ridden or driven,

but excludes –

(c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and

(d) a pram, stroller or similar device;

**UAV** means unmanned aircraft, other than a balloon or kite;

**verge** means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath; and

**waste** includes matter –

(a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or

- (b) prescribed by regulations under the *Waste Avoidance and Resource Recovery Act 2007* to be waste.

### **1.7 Types of permit**

For the purposes of this local law –

- (a) a permit which authorises trading on any thoroughfare or local government property is to be referred to as a trading permit;
- (b) a permit which authorises the conduct or setting up of a market on any thoroughfare or local government property is to be referred to as a market permit;
- (c) a permit which authorises entertainment on any thoroughfare or local government property is to be referred to as an entertainment permit; and
- (d) a permit which authorises the sale of food on any thoroughfare or local government property is to be referred to as a food sales permit.

### **1.8 Assistance animals**

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

### **1.9 Overriding power to hire and agree**

Despite anything to the contrary in this local law, an authorised person, on behalf of the local government, may –

- (a) hire local government property to any person; or
- (b) enter into an agreement with any person regarding the use of any local government property.

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

### **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(1);
- (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8(1) 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 the local government intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the local government is to decide to –
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) is to apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the local government is to –
  - (a) consider those submissions; and
  - (b) decide –
    - (i) whether or not to amend the proposed determination; or

- (ii) whether or 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 effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the 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 determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the council.

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

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

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

A person must comply with a determination.

### **2.5 Register of determinations**

- (1) The local government is to keep a register of determinations made under clause 2.2, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

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

- (1) The 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 is to give local public notice of the revocation and the determination is to cease to have effect on the date specified in the notice.

### **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) take, ride or drive a vehicle, or a particular class of vehicle;
  - (b) fly or use a UAV;
  - (c) 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;
  - (d) launch, beach or leave a boat;
  - (e) take or use a boat, or a particular class of boat;
  - (f) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
  - (g) play or practise –
    - (i) golf or archery;
    - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*;
    - or
    - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and
  - (h) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
  - (a) the days and times during which the activity may be pursued;
  - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;



- (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
- (d) may limit the activity to a class of vehicles, equipment or things, or may extend it to all vehicles, 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) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
  - (b) taking, riding or driving a vehicle on the property or a particular class of vehicle;
  - (c) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
  - (d) taking or using a boat ,or a particular class of boat;
  - (e) the playing or practice of –
    - (i) golf, archery, pistol shooting or rifle shooting; or
    - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
  - (f) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
  - (g) the traversing of land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
  - (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, equipment or things, or all vehicles, 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.

## **2.9 Sign under repealed local law taken to be determination**

- (1) Where a sign erected on local government property has been erected under a repealed local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

# **PART 3 - ACTIVITIES ON LOCAL GOVERNMENT PROPERTY REQUIRING A PERMIT**

## **3.1 Activities requiring a permit**

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

- (g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose –
    - (i) drive or ride or take any vehicle on to local government property; or
    - (ii) park or stop any vehicle on local government property;
  - (h) conduct a function or entertainment event on local government property;
  - (i) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
  - (j) light a fire on local government property except in a facility provided for that purpose;
  - (k) light or set off any firework or conduct a fireworks display on local government property;
  - (l) fly or use a UAV;
  - (m) parachute, hang glide, abseil or base jump from or on to local government property;
  - (n) erect a building or a refuelling site on local government property;
  - (o) make any excavation on or erect or remove any fence on local government property;
  - (p) 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;
  - (q) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly; or
  - (r) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

### **3.2 Permit to erect structures or camp**

- (1) This clause does not apply to a caravan park or camping ground operated by the local government.
- (2) A person must not without a permit –
  - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;
  - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day; or
  - (c) park a vehicle on local government property, thoroughfare or public place for the purpose of sleeping in the vehicle.
- (3) The maximum period for which the local government may approve an application for a permit in respect of subclause (2)(a) or (b) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.
- (4) Any tent, camp, hut or similar structure erected in contravention of subclause (2)(b) and associated goods may, subject to Regulation 29 of the *Local Government (Functions and General) Regulations 1996*, be impounded.
- (5) Notices issued under this clause shall be in the form determined from time to time by the local government.

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

- (1) A person, on local government property, must not consume any liquor, have in her or his possession or under her or his control, or sell any liquor, unless –
  - (a) permitted under the *Liquor Control Act 1988*; and
  - (b) a permit has been obtained for that purpose from the local government.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

## **PART 4 - BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY AND THOROUGHFARES**

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

In or on any local government property or thoroughfare, a person must not, behave in a manner which –

- (a) is likely to interfere with the enjoyment of a person who might use or who might be on the property or thoroughfare; or
- (b) interferes with the enjoyment of a person using the property or thoroughfare.

#### **4.2 Behaviour detrimental to property**

A person must not behave in or on local government property or thoroughfare in a way which is or might be detrimental to the property, including but not limited to –

- (a) removing any thing from the local government property or thoroughfare including a rock, a plant or a seat provided for the use of any person; and
- (b) destroying, defacing or damaging any thing on the local government property or thoroughfare, including a plant, a seat provided for the use of any person or a building.

#### **4.3 No unauthorised entry to function**

- (1) A person must not enter local government property on such days or during such times as the property is set aside for a function, except –
  - (a) through the proper entrance for that purpose; and
  - (b) on payment of any fee chargeable for admission as determined by the hirer at the time.
- (2) An authorised person may exempt a person from compliance with subclause (1)(b).

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

- (1) In this clause –

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

- (a) any class of animal or individual member;
  - (b) the eggs or larvae; or
  - (c) the carcass, skin, plumage or fur unless it has been shed or discarded by the fauna in a normal or natural manner.
- (2) A person must not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property or thoroughfare, unless that person is authorised under a written law to do so.

#### **4.5 Flora**

- (1) In this clause –

**flora** means all vascular plants, seeds and other flora, whether living or dead.

- (2) On or above any local government property or thoroughfare, unless authorised to do so under a written law or with the written approval of an authorised person, a person must not –
  - (a) remove, damage or interfere with any flora; or
  - (b) plant or deposit any flora.

#### **4.6 Animals**

On any local government property or thoroughfare, a person must not –

- (a) tether any animal other than a dog, to an object or tree; or
- (b) permit any animal other than a dog, to enter unless authorised.

#### **4.7 Waste**

A person must not deposit or discard waste on local government property or thoroughfare except –

- (a) in a place or receptacle set aside by an authorised person for that purpose, and in accordance with any conditions that may be specified on the receptacle or a sign; or
- (b) at a waste disposal facility, and subject to directions issued from time to time by an authorised person for the orderly and proper use of those waste facilities in relation to –
  - (i) hours of business;
  - (ii) separation of waste into designated receptacles;
  - (iii) prohibition of the deposit of certain types of refuse or waste; and
  - (iv) conduct of persons, including persons in charge of vehicles, while on the site.

#### **4.8 Glass**

Unless authorised by a permit or by the local government, a person must not take glass within any area of local government property as indicated by a sign.

#### **4.9 Intoxicated persons not to enter local government property**

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

#### **4.10 Vehicles on local government property**

- (1) Unless authorised by a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
  - (a) subject to subclause (3), the local government property is clearly designated as a road, access way, or car park;
  - (b) the vehicle is driven by a local government employee, authorised person or contractor engaged by the local government, who is engaged in –
    - (i) providing a service or making a delivery in connection with the local government property; or
    - (ii) maintaining the local government property;
  - (c) the person is driving an emergency vehicle in the course of his or her duties;
  - (d) the vehicle is –
    - (i) used in accordance with the conditions set down by the local government or an authorised person; and
    - (ii) of a type allowed to be taken onto the local government property by the local government or an authorised person; or
  - (e) the vehicle is a motorised wheelchair, and the driver of that vehicle is a person with a disability.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property –
  - (i) at a speed exceeding 20 kilometres per hour or as otherwise indicated by a sign; or
  - (ii) in such a manner as to cause danger to any person or a nuisance.
- (3) Other than in accordance with subclause (1)(b), (c), (d) or (e) a person must not drive a vehicle on local government property or part of it that is being used for a function for which a permit has been obtained unless permitted to do so by the permit holder or an authorised person.

#### **4.11 UAVs**

A person must not use a UAV on or from local government property except where a permit or determination specifies a particular local government property.

#### **4.12 Archery, pistol or rifle shooting**

A person must not play or practise archery, pistol or rifle shooting on local government property except on land which is reserved by the local government for that purpose, or as otherwise provided by a determination or permit.

#### **4.13 Playing or practising golf**

A person must not play or practise golf on local government property except where a permit or determination specifies a particular local government property.

### **PART 5 - MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY**

#### *Division 1 - General*

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

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

## **5.2 Only specified gender to use 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 of the toilet block or change room;
  - (b) males – then a person of the female gender must not use that entry of the toilet block or change room; or
  - (c) families – then, where the toilet block or change room is being used by a family, only an immediate member of that family may use that entry of the toilet block or change room.
- (2) Subclause (1)(a) and (b) do not apply to a child, when accompanied by a parent, guardian or caregiver, where the child is –
  - (a) under the age of 8 years; or
  - (b) otherwise permitted by an authorised person to use the relevant entry.

## **5.3 Use of shower or bath facilities**

A person may use a shower or bath facility in change rooms only on conditions that –

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

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

## **5.4 Use of vehicles on beaches and foreshore areas**

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

## **5.5 Surf lifesaving activities**

- (1) An authorised person 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 flags, any areas of a beach or adjacent water beyond the beach where swimming 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 appliance is prohibited;
    - (ii) launching or driving of boats or personal watercraft is prohibited; or
    - (iii) fishing is prohibited;
  - (e) regulate or designate any areas for the following activities –
    - (i) conduct of surf lifesaving activities; or
    - (ii) establishing a first aid or command post;
  - (f) direct any person to swim within the designated permitted swimming 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, the person is in immediate life threatening danger.
- (2) When any beach or part of any beach is closed in accordance with clause 5.7(1)(g) an authorised person shall advise the chief executive officer of the local government as soon as practicable.

## **5.6 Fishing**

A person shall not fish in any area –

- (a) where fishing is prohibited as is designated by signs;
- (b) designated by an authorised person as a designated permitted swimming area.

## **5.7 Boat launching etc.**

Unless approved by an authorised person, a person shall not launch a boat or personal watercraft into the sea or from a foreshore area into any other body of water in areas as indicated by signs.

# **PART 6 - ACTIVITIES IN THOROUGHFARES**

## *Division 1 – General*

### **6.1 General prohibitions**

A person must not –

- (a) plant, or allow to remain, in a thoroughfare a plant that by virtue of its height, position or density obstructs a reasonable sight line for a driver of any vehicle negotiating or using the thoroughfare;
- (b) damage a lawn or a garden, or remove any plant or part of a plant from a lawn or a garden, in a thoroughfare unless –
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;
- (c) damage, or remove a street tree, or part of a street tree, irrespective of whether it was planted by the owner or occupier of the lot abutting the thoroughfare or by the local government, unless –
  - (i) the damage to, or removal of, the street tree is authorised by an authorised person in writing; or
  - (ii) the person is acting under authority of written law;
- (d) except as permitted by this local law place, or allow to be placed or remain, on a thoroughfare any thing (except water) that –
  - (i) obstructs the thoroughfare; or
  - (ii) results in a hazard for any person using the thoroughfare;
- (e) unless at the direction of an authorised person, damage, remove or interfere with any part of a thoroughfare, or any structure erected on a thoroughfare, by the local government or a person acting under the authority of a written law; or
- (f) play or participate in any game or sport so as to cause danger to any person or thing or unreasonably impede the movement of vehicles or persons on a thoroughfare.

### **6.2 Activities allowed with a permit**

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

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) throw, place or deposit any thing on a verge except for 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 in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) fell or damage any street tree;
- (h) fell any tree onto a thoroughfare;
- (i) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose;
- (j) unless installing, or in order to maintain, a permitted 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 gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (k) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (l) on a thoroughfare use anything or do anything so as to create a nuisance;

- (m) place or cause to be placed on a thoroughfare a bulk rubbish container;
  - (n) interfere with the soil of, or anything in, a thoroughfare or take anything from a thoroughfare;
  - (o) carry on any trading on a thoroughfare;
  - (p) conduct or set up a market on a thoroughfare; or
  - (q) conduct an entertainment event on a thoroughfare.
- (2) An authorised person may exempt a person from compliance with subclause (1) on the application of that person.

### **6.3 Assignment of numbers**

- (1) In this clause –  
**number** means a number with or without an alphabetical suffix indicating the street address of land as assigned by the local government from time to time, in accordance with this local law.
- (2) An authorised person may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

### **6.4 No driving on closed thoroughfare**

A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless –

- (a) it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

### **6.5 Fencing of public place – Item 4(1) of Division 1, Schedule 3.1 of Act**

A public place, as that term is defined in clause 1.6, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

#### *Division 2 – Permitted verge treatments*

### **6.6 Permitted verge treatments**

- (1) A person must not install or maintain a verge treatment which is not a permitted verge treatment.
- (2) An owner or occupier of land which abuts on a verge may install a permitted verge treatment, on that part of the verge directly in front of her or his land.
- (3) A permitted verge treatment is–
- (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that –
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
    - (iii) it does not include a wall or built structure; and
    - (iv) is not of a thorny, poisonous or hazardous nature; and
  - (c) subject to subclause (4), the installation of material which do not detract from the amenity of the area, including but not limited to –
    - (i) bituminous surface or in-situ concrete, subject to reduction of area shedding of storm water or flooding ;
    - (ii) use of paving bricks or concrete slabs; and
    - (iii) all forms of loose aggregate materials such as pebbles, stones and gravel, not larger than 50mm and contained within the verge area at all times; and
  - (d) other treatment approved by the local government.
- (4) Where installation of material which would create a hard surface has been installed or is intended, an authorised person may by written notice, require –
- (i) a reduction of area covered or to be covered, if shedding of storm water or flooding is likely to cause a nuisance to neighbours or users of a thoroughfare; and
  - (ii) an area of open space to a maximum of 1m from the edge of a street trees.

- (5) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 6.7.

### **6.7 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permitted verge treatment must –

- (a) keep the permitted verge treatment in a good and tidy condition and, where the verge treatment is a garden or lawn, ensure that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) ensure that clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in a carriageway, or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare;
- (c) not place any obstruction on or around the verge treatment;
- (d) not disturb a footpath on the verge;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, galley, inspection pit, channel, kerb, footpath or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment –
  - (i) do not protrude above the level of the lawn or verge treatment when not in use;
  - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons; and
  - (iii) do not otherwise present a hazard to pedestrians or other persons.

### **6.8 Transitional provision**

- (1) In this clause –

**former provisions** means the provisions of the repealed local laws which permitted certain types of verge treatments, whether with or without the consent of the local government.

- (2) A verge treatment is to be taken to be a permitted verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions 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 former provisions.

### **6.9 Power to carry out public works on verge**

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 material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

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

### **7.1 Vehicles in public place**

- (1) 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 or is authorised to do so under a written law.
- (2) A person does not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

## **PART 8 - TEMPORARY SIGNS**

### **8.1 Definitions**

In this Part, unless the context otherwise requires –



**temporary sign** means a sign used for the purpose of advertisement or notification of a business, or products or services for commercial gain, whether free standing or requiring to be affixed to a structure of any type, and includes –

- (a) a bill, poster and the like;
- (b) an advertising sign; and
- (c) an event sign.

## **8.2 Application**

- (1) This Part applies to temporary signs complying with clause 8.5.
- (2) Any temporary sign that is to be a permanent structure or fixture is to comply with –
  - (a) the Building Code as defined in section 3 of the *Building Regulations 2012*;
  - (b) any Local Planning Scheme; and
  - (c) any other written law regulating of signs within the district.

## **8.3 Temporary signs**

- (1) A person shall not on local government property or in a thoroughfare, without a permit –
  - (a) place an temporary sign; or
  - (b) post any bill or paint, place or affix any advertisement.
- (2) Notwithstanding subclause (1), a permit is not required for one temporary sign which complies in all other respects with clauses 8.5 and 8.6.

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

In determining an application for a permit for the purpose of clause 8.3(1), matters the local government is to have regard to include –

- (a) any other written law regulating the construction or placement of signs within the district;
- (b) the dimensions, appearance and materials of the sign;
- (c) whether or not the sign may create a hazard to persons using a thoroughfare;
- (d) other signs already approved or erected in the vicinity of the proposed location of the sign;
- (e) whether the applicant has obtained public liability insurance; and
- (f) payment of the set fee.

## **8.5 Requirements for temporary signs**

- (1) Temporary signs shall –
  - (a) be portable and free-standing;
  - (a) have dimensions of –
    - (i) less than 1 square metre ;
    - (ii) less than 750mm horizontally;
    - (iii) more than 300mm in height;
  - (b) be secured in position in accordance with any requirements of the local government;
  - (c) be placed against the property boundary;
  - (d) be placed so as not to impede or obstruct either vehicle or pedestrian traffic, or access to a place by any person;
  - (e) be placed so as not to obstruct lines of sight for vehicle traffic;
  - (f) maintained in good condition;
  - (g) relate only to the business activity, or placed with the consent of the owner or occupier of the adjoining premises; and
  - (h) be in place only during the hours of the business activity or the event being advertised.
  - (i) only contain content relating to the business or business activity; and
  - (j) be in compliance with any limitation of the number of signs notified in writing by the local government.
- (2) Temporary signs shall not –
  - (a) -be unduly distracting, in the opinion of an authorised person;
  - (b) be illuminated, rotating or incorporating reflective or fluorescent materials; or
  - (c) display only part of a message which is to be read with other separate signs in order to obtain the whole message.

## **8.6 Prohibition on placement of temporary signs**

An temporary sign shall not be placed or affixed –

- (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5 metres;
- (b) within 30 metres of an intersection;
- (c) so as to obstruct or impede the reasonable use of a thoroughfare, verge or footpath;
- (d) to any existing post, power or light pole or similar structure;
- (e) on any natural feature, including a rock or tree, on a thoroughfare; or
- (f) on any bridge or the structural approaches to a bridge.

## **PART 9 - PERMITS**

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

#### **9.1 Application for permit**

- (1) Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must –
  - (a) be in the form determined from time to time by the local government;
  - (b) be signed by the applicant;
  - (c) provide the information required by the form; and
  - (d) be forwarded to the local government together with any set fee.
- (3) An authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) An authorised person may require an applicant to give local public notice of the application for a permit.
- (5) An authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

#### **9.2 Decision on application for permit**

- (1) An authorised person may –
  - (a) approve an application for a permit unconditionally or subject to any conditions; or
  - (b) refuse to approve an application for a permit.
- (2) If an authorised person approves an application for a permit, the permit is to be issued to the applicant in the form determined from time to time by the local government.
- (3) If an authorised person refuses to approve an application for a permit, written notice of that refusal is to be given to the applicant.
- (4) An authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

#### **9.3 General restrictions on grant of permit**

- (1) An authorised person must not grant a permit if there are reasonable grounds for believing that the provision of the activity to which the application relates would constitute an unacceptable risk to the safety of the public.
- (2) An authorised person must not grant a permit unless an authorised person is satisfied that –
  - (a) the applicant is capable of carrying on the activity in accordance with this local law and the terms and conditions of the permit;
  - (b) the public place at which the activity is to be provided is suitable for that purpose;
  - (c) a permit or similar authority granted or issued to the applicant has not been cancelled in the period of 5 years before the application is made; and
  - (d) the applicant is a fit and proper person to carry on the activity.

#### **9.4 Examples of conditions**

- (1) Examples of the conditions that an authorised person may impose on a permit under clauses 9.2(1)(a) or 9.7(1)(a) are conditions relating to –

- (a) the payment of a set fee;
  - (b) compliance with a standard or a policy adopted by the local government;
  - (c) the duration and commencement of the permit;
  - (d) the commencement of the permit being contingent on the happening of an event;
  - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
  - (f) the approval of another application for a permit which may be required by the local government under any written law;
  - (g) the area of the district to which the permit applies;
  - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
  - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by an authorised person.
- (2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include –
- (a) when set fees and charges are to be paid;
  - (b) payment of a bond against possible damage or cleaning expenses or both;
  - (c) restrictions on the erection of material or external decorations;
  - (d) rules about the use of furniture, plant and effects;
  - (e) limitations on the number of persons who may attend any function in or on local government property;
  - (f) the duration of the hire;
  - (g) the right of an authorised person to cancel a booking during the course of an annual or seasonal booking, if an authorised person sees fit;
  - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor permit is first obtained for that purpose under the *Liquor Control Act 1988*;
  - (i) whether or not the hire is for the exclusive use of the local government property;
  - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
  - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

### 9.5 Imposing conditions under a policy

- (1) In this clause –
- policy** means a local government policy adopted by the council under section 2.7(2)(b) of the Act containing conditions subject to which an application for a permit may be approved under clause 9.2(1)(a).
- (2) Under clause 9.2(1)(a) an authorised person may approve an application subject to conditions by reference to a policy.
- (3) An authorised person must give to the permit holder a copy of the policy the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 9.2(2).
- (4) An application for a permit is not to be taken to have been approved subject to the conditions contained in a policy until an authorised person gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a policy is deemed to be information within section 5.94(u)(i) of the Act.

### 9.6 Compliance with conditions

Where an application for a permit has been approved subject to conditions, the permit holder must comply with each of those conditions, as amended.

### 9.7 Variation of permit

- (1) The local government may, by written notice given to the permit holder, vary a permit –
  - (a) imposing any new condition; or
  - (b) change or remove any existing condition.
- (2) An amendment may be made on application made by the permit holder or on the local government's initiative.
- (3) An amendment will come into effect on the day that written notice is given to the permit holder, or some other date as specified in the notice.

#### *Division 2 – Duration of permits*

#### **9.8 Duration of permit**

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

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

#### **9.9 Renewal of permit**

- (1) A permit holder may apply to the local government for the renewal of a permit.
- (2) An application for renewal must –
  - (a) be in the form determined from time to time by the local government;
  - (b) be signed by the permit holder;
  - (c) provide the information required by the form;
  - (d) be forwarded to the local government no later than 28 days before the expiry of the permit, or within a shorter period that the local government in a particular case permits; and
  - (e) be accompanied by any set fee.
- (3) The provisions of this Part that apply to an application for a permit also apply to an application for the renewal of a permit as though it were an application for a permit.

#### **9.10 Transfer of permit**

- (1) An application for the transfer of a valid permit is –
  - (a) to be made in writing;
  - (b) to be signed by the permit holder and the proposed transferee of the permit;
  - (c) to include such information as an authorised person may require to enable the application to be determined; and
  - (d) to be forwarded to the local government together with any set fee.
- (2) An authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where an authorised person approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by an authorised person.
- (4) Where an authorised person approves the transfer of a permit, the local government is not required to refund any part of any set fee paid by the former permit holder.

#### **9.11 Suspension of permit**

- (1) The local government may, subject to clause 9.12, by written notice given to the permit holder, suspend a permit if there are reasonable grounds for believing that –
  - (a) the permit holder has contravened a term or condition of a permit;
  - (b) the permit holder has contravened a provision of this local law; or
  - (c) the continued provision of the activity authorised by the permit constitutes or will constitute an unacceptable risk to the safety, health or welfare of the public.
- (2) The suspension notice must –
  - (a) state the day, or the day and time, on or at which the suspension takes effect;
  - (b) state the reasons for the local government's decision to suspend the permit; and
  - (c) where appropriate, indicate what steps need to be taken to ensure that there is compliance with the relevant provision, term or condition or that there is no longer a risk as described in subclause (1)(c); and

- (d) inform the permit holder that the permit holder has a right to apply under the Act for a review of the local government's decision to suspend the permit.

#### **9.12 Proposed suspension of permit**

- (1) If the local government proposes to suspend a permit under clause 9.11(1)(a), the local government must give written notice to the permit holder of the proposed suspension.
- (2) The notice must –
  - (a) state that the local government proposes to suspend the permit;
  - (b) state the reasons for the proposed suspension; and
  - (c) inform the permit holder that the permit holder is entitled to make representation to the local government in respect of the proposed suspension within 7 days after the day on which the permit holder is given the notice.
- (3) In considering whether to suspend the permit, the local government must have regard to any representations made by the permit holder within the period referred to in subclause (2)(c).

#### **9.13 Revocation of suspension of permit**

- (1) The local government must, by written notice given to the permit holder revoke the suspension of a permit if the local government is satisfied that the steps specified in the suspension notice have been taken.
- (2) The local government may, by written notice given to the permit holder, revoke the suspension of the permit if it is appropriate to do so in the circumstances of a particular case.

#### **9.14 Period of suspension of permit**

The suspension of a permit has effect on the day, or the day and time, specified in the suspension notice until one of the following happens –

- (a) the suspension is revoked under clause 9.13;
- (b) the permit is cancelled under clause 9.15 or expires; or
- (c) the permit is surrendered in accordance with the provisions of this local law.

#### **9.15 Cancellation of permit**

A permit may be cancelled by the local government if –

- (a) the permit was obtained improperly;
- (b) the permit holder has persistently or frequently contravened a term or condition of the permit, or a provision of this local law, whether or not the permit is or has been suspended on the grounds of a contravention; or
- (c) there are reasonable grounds for believing that the continued provision of the activity constitutes or would constitute an unacceptable risk to the safety of the public, whether or not the permit has been suspended on the grounds of that risk.

#### **9.16 Surrender of permit**

A permit holder may, at any time by notice in writing to the local government, surrender the permit.

### *Division 3 – Responsibilities of permit holders and others*

#### **9.17 Production of permit**

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

#### **9.18 Production of permit document for amendment**

If the local government amends or renews a permit, the permit holder must, if required by the local government, produce the permit document to the local government for amendment within the period specified by the local government.

### **9.19 Advertising**

A person must not advertise, or otherwise hold out in any way, that the person conducts a commercial activity in any public place unless that person holds a permit authorising that commercial activity.

### **9.20 False or misleading statement**

A person must not make a false or misleading statement in connection with an application in respect of a permit under this local law.

### **9.21 Other responsibilities of permit holder**

A permit holder must, in respect of local government property to which the permit relates –

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) comply with an instruction from an authorised person to take the action specified in the instruction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use;
- (d) report any damage or defacement of the local government property to an authorised person; and
- (e) take all reasonable action to prevent the consumption of any liquor on the local government property unless the permit allows it and a permit has been obtained under the *Liquor Control Act 1988* for that purpose.

## **PART 10 - SIGNS AND POWERS TO GIVE DIRECTIONS**

### **10.1 Signs installed by the local government**

- (1) The local government may install a sign in public places, on local government property or in thoroughfares specifying any conditions of use which apply to that property or thoroughfare.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is –
  - (a) not to be inconsistent with any provision of this local law or any determination; and
  - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

### **10.2 Pre-existing signs**

Where a sign in a public place, property or thoroughfare or has been erected under a repealed local law then, on and from the commencement day, it is to be taken to be a sign erected under clause 10.1 if –

- (a) the sign specifies a condition of use relating to the thoroughfare which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

### **10.3 Authorised person to be obeyed**

- (1) A person on or in local government property that is given a lawful direction by an authorised person shall comply with that direction.
- (2) A person shall not obstruct or hinder an authorised person in the performance of that person's duties.

### **10.4 Refusal of entry and removal**

- (1) An authorised person may refuse to allow entry, or suspend admission, to a specific venue of local government property except for the venue where local government council meetings are held, by any person who he or she believes has behaved in a manner contrary to the provisions of this Part.
- (2) If an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part or reasonably suspects that a person has contravened a provision of a written law, the authorised person may direct the person to leave the local government property.
- (3) A person who has been refused entry or who has been directed to leave under subclause (1) or (2) must immediately leave the local government property quickly and peaceably.
- (4) If a person fails to comply with subclause (1) or (2), an authorised person may remove the person, or arrange for the person to be removed, from the local government property.
- (5) This refusal or suspension of entry can be for any period of up to 12 months as decided by that authorised person.

### **10.5 Disposal of lost property**

An article left on any local government property, and not claimed within a period of 2 months, may be disposed of by the local government in any manner it thinks fit.

## **PART 11 - OBJECTIONS AND REVIEW**

### **11.1 Objection and review rights**

Division 1 of Part 9 of the Act applies to a decision under this local law in respect of the grant, renewal, transfer, amendment, suspension or cancellation of a permit or consent.

## **PART 12 - NOTICES**

### **12.1 Notice to remedy non-compliance**

Where any thing is required to be done or not permitted to be done by this local law, an authorised person may give a notice in writing –

- (a) to the owner or the occupier of the property which abuts that portion of the thoroughfare where the thing has been done or not done; or
- (b) to any other person who may be responsible for the thing done or not done, requiring the person to comply with the requirements of this local law.

### **12.2 Notice regarding damage to local government property**

If a person unlawfully removes, damages or interferes with local government property or portion of a thoroughfare, an authorised person may give the person a notice requiring that person to do any one or more of the following (at the local government's option) –

- (a) reinstate the property to the state it was in before the removal, damage or interference;
- (b) replace that property; or
- (c) pay for the costs of reinstatement or replacement.

### **12.3 Notice requirements**

A notice given must –

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken; and
- (c) the time within which the work or action is to be undertaken.

### **12.4 Local government may undertake requirements of notice**

If a person fails to comply with a notice referred to in clauses 12.1 or 12.2, the local government may –

- (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference;
- (a) take whatever remedial action it considers appropriate to put the local government in the position it would have been in if the breach or failure had not occurred; and
- (b) recover all costs from the person, as a debt.

### **12.5 Offence to fail to comply with notice**

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

## **PART 13 - OFFENCES AND PENALTIES**

### **13.1 Offences and general penalty**

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

### 13.2 Prescribed offences

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

### 13.3 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 *Local Government (Functions and General) Regulations 1996*;
  - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; 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 *Local Government (Functions and General) Regulations 1996*.
- (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.

### 13.4 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) If evidence of a determination is provided under subclause (1), it is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

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## SCHEDULE – PRESCRIBED OFFENCES

[cl.13.2]

Offences in respect of which a modified penalty applies

Item	Clause	Nature of offence	Modified penalty \$
<b>Part 2 – Determination in respect of local government property</b>			
1	2.4	Failure to comply with a determination	100
<b>Part 3 – Activities on local government property</b>			
2	3.1	Undertaking activity on local government property without a permit	100
3	3.2(2)	Camping on local government property without approval or erecting an unauthorised structure	100
4	3.3(1)	Failure to obtain permit to possess, consume or sell liquor	100
<b>Part 4 – Behaviour on all local government property and thoroughfares</b>			
5	4.1	Behaviour interfering with others	100
6	4.2	Behaviour detrimental to property	200
7	4.3	Unauthorised entry to function	100
8	4.4(2)	Taking or injuring fauna without authorisation	200
9	4.5(2)	Removing, damaging or depositing flora without authorisation	200



10	4.6	Animal on local government property or thoroughfare without authorisation	100
11	4.7(a)	Improper disposal of waste on local government property	100
12	4.8	Taking glass into prohibited area	100
13	4.9	Under influence of liquor or prohibited drug on local government property	100
14	4.10(1)	Unauthorised vehicle on local government property	100
15	4.10(2)(i)	Unauthorised driving of a vehicle at more than 20km/hr on local government property	100
16	4.10(2)(ii)	Driving of a vehicle on local government property so as to cause a nuisance	100
17	4.10(3)	Unauthorised driving of a vehicle on local government property during a function	100
18	4.11	Unauthorised use of a UAV	50
19	4.12	Unauthorised archery, pistol or rifle shooting on local government property	100
20	4.13	Unauthorised playing or practising golf on local government property	100
<b>Part 5 – Matters relating to particular local government property</b>			
21	5.1	Unauthorised entry to closed or fenced local government property	100
22	5.2	Unauthorised entry to gender specific toilet block or change room	200
23	5.3	Unauthorised use of showers or bath facilities in change room	50
24	5.4	Unauthorised use of a vehicle on a beach or foreshore	100
25	5.6	Fishing in an unauthorised area	100
26	5.7	Launching a boat or personal watercraft in an unauthorised area	100
<b>Part 6 – Activities in thoroughfares</b>			
27	6.1(a)	Planting or allowing plant or verge treatment in thoroughfare to become a sightline hazard	100
28	6.1(b)	Damaging a lawn or garden in a thoroughfare	100
29	6.1(c)	Damaging or removing whole or part of a street tree without authorisation	200
30	6.1(d)	Obstruction of or permitting a hazard in a thoroughfare	100
31	6.1(e)	Damaging, removing or interfering with thoroughfare, part of thoroughfare, sign or structure in a thoroughfare without authorisation	100
32	6.1(f)	Playing games in thoroughfare so as to impede vehicles or persons	100
33	6.2(1) (a),(d), (e),(f), (g),(j)	Unauthorised activity in a thoroughfare causing damage	200
34	6.2(1) (b),(c), (h),(i), (k),(l), (m),(n), (o),(p), (q)	Unauthorised activity in a thoroughfare causing inconvenience	100

35	6.4	Driving on a closed thoroughfare	100
36	6.6(1)	Installation of an unauthorised verge treatment	
37	6.7(a), (b),(d), (e)	Failure to keep permitted verge treatment in good and tidy condition, obstruct a thoroughfare, footpath, drain, or driveway	100
38	6.7(c)	Placing an obstruction on or around a verge treatment	50
39	6.7(f)	Failure to ensure sprinklers or reticulation pipes do not protrude, do not cause inconvenience to pedestrians, or present a hazard	100
<b>Part 7 – Activities in public places</b>			
40	7.1(1)	Vehicle obstructing public place without authorisation	100
<b>Part 8 – Temporary signs</b>			
41	8.3(1)	Placement of non-compliant temporary sign, or posting a bill or painting, or placing an advertisement without authorisation	100
42	8.5	Failure to comply with requirements for a temporary sign	100
43	8.6	Placement of a temporary sign in a prohibited location	100
<b>Part 9 – Permits</b>			
44	9.6	Failure to comply with permit condition	100
45	9.17, 9.18	Failure to produce permit for inspection or amendment when required	100
46	9.19	Advertising of commercial activity in a public space without holding a permit	200
47	9.20	False or misleading statement in application for a permit	200
<b>Part 10 – Signs and powers to give directions</b>			
48	10.1(2)	Failure to comply with condition of use indicated by a sign	100
49	10.3(1)	Failure to comply with direction of authorised person	100
50	10.3(2)	Obstruction or hindrance of an authorised person	100
51	10.4(3)	Failure to leave a venue when instructed by an authorised person	200
52	10.4(5)	Failure to comply with period of refusal or suspension	200
<b>Part 12 – Notices</b>			
53	12.5	Failure to comply with notice	100
<b>Part 13 – Offences and penalties</b>			
54	13.1	Offence not elsewhere specified	100

Dated \_\_\_\_\_

The Common Seal of the Shire of Cocos (Keeling) Islands was affixed by authority of a resolution of Council in the presence of –

Aindil MINKOM, President

Andrea SELVEY, Chief Executive Officer.