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SHIRE OF QUAIRADING

LOCAL LAWS

ACTIVITIES IN THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2016

CEMETERY LOCAL LAW 2016

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

PEST PLANTS LOCAL LAW 2016

REPEAL LOCAL LAW 2016

LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

ACTIVITIES IN THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2016

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LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

ACTIVITIES IN THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Quairading resolved on 24th November 2016to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Quairading Activities in Thoroughfares and Trading in Thoroughfares 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

This local law applies throughout the district.

1.4 Repeal

The *Shire of Quairading Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, as published in the *Government Gazette* on 23 May 2001 is repealed.

1.5 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

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;

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

built-up area has the meaning given to it in the *Road Traffic Code 2000*;

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*;

CEO means the Chief Executive Officer of the local government;

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

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

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;

district means the district of the local government;

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

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

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 Quairading*;*

local government property means anything except a thoroughfare—

(a) which belongs to the local government;

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

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

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

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

owner or ***occupier*** in relation to land does not include the local government;

nuisance means—

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

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

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

permissible verge treatment means any 1 of the 4 treatments described in clause 2.6(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises means a building or similar structure, but does not include a carpark or a similar place;

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

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

(b) local government property;

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

Schedule means a Schedule to this local law;

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

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

townsite means the townsites within the district which are—

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

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

vehicle includes—

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

(b) an animal being ridden or driven,

but excludes—

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

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

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

1.6 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* (Cth).

PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

Division 1—General

2.1 General prohibitions

A person shall not—

(a) plant any plant, except grass or a similar plant, within 6m of an intersection;

(b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden 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) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;

(d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;

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

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

(g) within a verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

2.2 Activities allowed with a permit—general

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

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

(b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only 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 as 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) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;

(h) fell any tree onto a thoroughfare;

(i) unless installing a permissible verge treatment—

(i) lay pipes under or provide taps on any verge; or

(ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;

(j) 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;

(k) on a public place use anything or do anything so as to create a nuisance;

(l) place or cause to be placed on a thoroughfare a bulk rubbish container; or

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

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

2.3 No possession and consumption of liquor on thoroughfare

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

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

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

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

Division 2—Verge treatments

Subdivision 1—Preliminary

2.4 Interpretation

In this Division, unless the context otherwise requires, ***acceptable material*** means any material which will create a hard surface, and which appears in Schedule 2.

2.5 Application

This Division only applies to the townsite.

Subdivision 2—Permissible verge treatments

2.6 Permissible verge treatments

(1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

(2) The permissible verge treatments are—

(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; and

(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;

(c) the installation of an acceptable material; or

(d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.7 Only permissible verge treatments to be installed

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) 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 2.8.

2.8 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall—

(a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge are not obstructed by the verge treatment;

(b) not place any obstruction on or around the verge treatment;

(c) not disturb a footpath on the verge;

(d) ensure the verge treatment does not cause an obstruction to the sight of any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;

(e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree planted by the local government; and

(f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—

(i) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons, and

(ii) do not otherwise present a hazard to pedestrians or other persons.

2.9 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

Subdivision 3—Existing verge treatments

2.10 Transitional provision

(1) In this clause, ***former provisions*** means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(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 former provisions;

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

Subdivision 4—Public works

2.11 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 acceptable material or other hard surface; or

(ii) sprinklers, pipes or other reticulation equipment.

Division 3—Property numbers

Subdivision 1—Preliminary

2.12 Interpretation

In this Division, unless the context requires otherwise, ***number*** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

2.13 Assignment of numbers

The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

Division 4—Fencing

2.14 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act

The following places are specified as a public place for the purpose of item 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 5—Signs erected by the local government

2.15 Signs

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

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

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.16 Transitional provisions

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 2.15 if—

(a) the sign specifies a condition of use relating to the public place 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.

Division 6—Driving on a closed thoroughfare

2.17 No driving on closed thoroughfare

(1) In this clause, ***closed thoroughfare*** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

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

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

(b) the person has first obtained a permit.

PART 3—ADVERTISING SIGNS ON THOROUGHFARES

Division 1—Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires—

advertising sign means a sign used for the purpose of advertisement and includes an ***election sign***;

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

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or local government election;

portable direction sign means a portable free standing direction sign; and

portable sign means a portable free standing advertising sign.

Division 2—Permit

3.2 Advertising signs and portable direction signs

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

(a) erect or place an advertising sign on a thoroughfare; or

(b) post any bill or paint, place or affix any advertisement on a thoroughfare.

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

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

(a) on a footpath;

(b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;

(c) on or within 3m of a carriageway;

(d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or

(e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

(a) any other written law regulating the erection or placement of signs within the district;

(b) the dimensions of the sign;

(c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;

(d) whether or not the sign will create a hazard to persons using a thoroughfare; and

(e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3—Conditions on permit

3.4 Conditions on portable sign

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

(a) the portable sign shall—

(i) not exceed 1m in height;

(ii) not exceed an area of 1m^2 on any side;

(iii) relate only to the business activity described on the permit;

(iv) contain letters not less than 200mm in height;

(v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;

(vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;

(vii) be secured in position in accordance with any requirements of the local government;

(viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and

(ix) be maintained in good condition; and

(b) no more than 1 portable sign shall be erected in relation to the 1 building or business.

3.5 Conditions on election sign

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 the election to which it relates has been officially announced;

(g) being removed within 24 hours of the close of polls on voting day;

(h) not being placed within 100m of any works on the thoroughfare;

(i) being securely installed;

(j) not being an illuminated sign;

(k) not incorporating reflective or fluorescent materials; and

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

PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1—Animals and vehicles

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

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

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

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

4.2 Prohibitions relating to animals

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

(a) an owner of it;

(b) a person in possession of it;

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

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

(2) An owner of an animal shall not—

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

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

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

(d) subject to subclause (4), allow an animal to excrete on a thoroughfare.

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

(4) An owner of an animal does not commit an offence under (2)(d) if the excreta is immediately removed.

4.3 Removal of vehicle or Animal

Pursuant to regulation 29(1)(b) of the Regulations, an authorised person may impound an animal or vehicle left in contravention of clause 4.1.

Division 2—Shopping trolleys

4.4 Definitions

In this Division—

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

shopping trolley means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.5 Shopping trolley to be marked

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

4.6 Person not to leave trolley in public place

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

4.7 Retailer to remove abandoned trolley

(1) If a shopping trolley is found in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.

(2) A retailer must remove a shopping trolley within 24 hours of being so advised under subclause (1).

4.8 Impounding of abandoned trolley

An authorised person may impound a shopping trolley that is—

(a) left on a thoroughfare, verge or local government property that is not marked in accordance with clause 4.5; or

(b) not removed by a retailer after having been so advised under clause 4.7(2).

PART 5—ROADSIDE CONSERVATION

Division 1—Preliminary

5.1 Interpretation

In this Part—

MRWA means Main Roads Western Australia;

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

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

Roadside Conservation Committee means the Roadside Conservation Committee appointed by the Minister for Environment; and

special environmental area means an area designated as such under clause 5.7.

5.2 Application

This Part does not apply to the townsite.

Division 2—Flora roads

5.3 Declaration of flora road

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

5.4 Construction works on flora roads

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the "Handbook of Environmental Practice for Road Construction and Road Maintenance Works".

5.5 Signposting of flora roads

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

5.6 Driving only on carriageway of flora roads

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

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

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

(b) there is no carriageway; or

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

Division 3—Special environmental areas

5.7 Designation of special environmental areas

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

(a) has protected flora or rare flora; or

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

5.8 Marking of special environmental areas

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

Division 4—Planting in thoroughfares

5.9 Permit to plant

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

5.10 Relevant considerations in determining application

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

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

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

Division 5—Clearance of vegetation

5.11 Permit to clear

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1.5m of that person's land without first obtaining a permit and any other approvals which may be required under any written law.

5.12 Application for permit

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person's land and the portions of the thoroughfare joining that person's land which are to be cleared.

Division 6—Fire management

5.13 Permit to burn thoroughfare

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

5.14 Application for permit

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

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

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

5.15 When application for permit can be approved

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

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

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

5.16 Prohibitions on burning

Subject to any other written law and notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government—

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

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

Division 7—Firebreaks

5.17 Permit for firebreaks on thoroughfares

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

5.18 When application for permit cannot be approved

(1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.

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

Division 8—Commercial wildflower harvesting on thoroughfares

5.19 General prohibition on commercial wildflower harvesting

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

5.20 Permit for revegetation projects

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

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

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

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

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

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

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

PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1—Stallholders and traders

Subdivision 1—Preliminary

6.1 Interpretation

In this Division, unless the context otherwise requires—

public place includes—

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

(b) local government property,

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

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

stallholder means a person in charge of a stall;

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

trader means a person who carries on trading;

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

trading includes—

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

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

(i) offering them for sale or hire;

(ii) inviting offers for their sale or hire;

(iii) soliciting orders for them; or

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

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

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

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

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

but does not include—

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

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

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

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

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

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

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

Subdivision 2—Permits

6.2 Stallholder's permit

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

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

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

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

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

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

(c) specify the proposed location of the stall;

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

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

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

6.3 Trader's permit

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

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

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

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

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

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

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

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

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

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

6.4 No permit required to sell newspaper

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

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

(1) In this clause, ***commercial participant*** means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

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

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

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

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

Subdivision 3—Conduct of stallholders and traders

6.6 Conduct of stallholders and traders

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

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

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

(c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960 (Cth)*.

Division 2—Outdoor eating facilities on public places

6.7 Interpretation

In this Division—

facility means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

permit holder means the person to whom a permit has been issued for the purpose of clause 6.8; and

public place has the meaning given to it in clause 6.1.

6.8 Permit required to conduct facility

A person shall not establish or conduct a facility without a permit.

6.9 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.8, the local government may consider in addition to any other matter it considers relevant, whether or not—

(a) the facility is conducted in conjunction with and as an extension of food premises which abut on the facility, and whether the applicant is the person conducting such food premises;

(b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the local planning scheme;

(c) the facility will comply with any local law made by the local government;

(d) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;

(e) the facility would—

(i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or

(ii) impede pedestrian access; and

(f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

6.10 Obligations of permit holder

(1) The permit holder for a facility shall—

(a) ensure that the facility is conducted at all times in accordance with the provisions of this local law and any local law made by the local government;

(b) ensure that the eating area is kept in a clean and tidy condition at all times; and

(c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.

(3) In subclause (2), ***work*** includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

6.11 Removal of facility unlawfully conducted

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

6.12 Use of facility by public

(1) A person shall not occupy a chair or otherwise use the equipment in a facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the facility.

(2) A person shall leave a facility when requested to do so by the permit holder.

6.13 Temporary removal of facility may be requested

(1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 7—PERMITS

Division 1—Applying for a permit

7.1 Application for permit

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

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

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

(b) be signed by the applicant;

(c) provide the information required by the form;

(d) contain any other information required, for that particular type of permit, under this local law; and

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

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

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

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

7.2 Decision on application for permit

(1) The local government may—

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

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

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

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

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

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

7.3 Relevant considerations in determining application for permit

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

(a) any relevant policy of the local government;

(b) the desirability of the proposed activity;

(c) the location of the proposed activity; and

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

(2) The local government may refuse to approve an application for a permit on any 1 or more of the following grounds—

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

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

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

Division 2—Conditions

7.4 Conditions which may be imposed on a permit

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

(a) the payment of a fee;

(b) the duration and commencement of the permit;

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

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

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

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

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

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

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

7.5 Imposing conditions under a policy

(1) In this clause, ***policy*** means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

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

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

7.6 Compliance with and variation of conditions

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

(2) The local government may vary the conditions of a permit by giving written notice to the permit holder, and the permit holder shall comply with those conditions as varied, effective from the date the written notice is given.

Division 3—General

7.7 Duration of permit

A permit is valid for 1 year from the date on which it is issued, unless it is—

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

(b) cancelled under clause 7.11.

7.8 Renewal of permit

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

(2) The provisions of—

(a) this Part; and

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

shall apply, with appropriate modifications, to an application for the renewal of a permit.

7.9 Transfer of permit

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

(a) be made in writing;

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

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

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

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

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

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

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

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

7.10 Production of permit

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

7.11 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any 1 or more of the following grounds—

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

(i) condition of the permit; or

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

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

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

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

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

(2) On the cancellation of a permit the permit holder is to be taken to have forfeited any fees paid in respect of the permit.

PART 8—OBJECTIONS AND REVIEW

8.1 Application of Part 9 Division 1 of Act

Division 1 of Part 9 of the Act and regulation 33 of the Regulations applies when the local government makes a decision—

(a) under clause 7.2(1); or

(b) as to whether it will renew, vary, or cancel a permit that a person has under this local law.

PART 9—MISCELLANEOUS NOTICES

9.1 Notice to redirect or repair sprinkler

Where a lawn or a 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 may give a notice to the owner or the occupier of the land abutting on 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.

9.2 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 on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

(2) Subclause (1) does not apply where the plant was planted by the local government.

9.3 Notice to repair damage to thoroughfare

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

9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 10—ENFORCEMENT

Division 1—Notices given under this local law

10.1 Offence to fail to comply with notice

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

10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

10.3 Offences

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

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

10.4 Prescribed offences

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

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

10.5 Forms

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

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

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

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

Schedule 1

PRESCRIBED OFFENCES

[Clause 10.4]

Item	Clause	Description	Modified Penalty $
1	2.1(a)	Plant of 0.75m in height on thoroughfare within 6m of intersection	125
2	2.1(b)	Damaging lawn or garden	125
3	2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
4	2.1(d)	Placing hazardous substance on footpath	200
5	2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
6	2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
7	2.1(g)	Riding of bicycle, skateboard or similar device on mall or verandah of shopping centre	125
8	2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
9	2.2(1)(b)	Throwing or placing anything on a verge without a permit	200
10	2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
11	2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
12	2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
13	2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
14	2.2(1)(h)	Felling tree onto thoroughfare without a permit	200
15	2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
16	2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
17	2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	200
18	2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	200
19	2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200

Item	Clause	Description	Modified Penalty $
20	2.3(1)	Consumption or possession of liquor on thoroughfare	200
21	2.7(1)	Installation of verge treatment other than permissible verge treatment	250
22	2.8	Failure to comply with the obligations of owner or occupier	200
23	2.15(2)	Failure to comply with sign on public place	125
24	2.17(2)	Driving or taking a vehicle on a closed thoroughfare	350
25	3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare or verge	125
26	3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
27	4.1(1)	Animal or vehicle obstructing a public place or local government property	125
28	4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
29	4.2(2)(b)	Animal in public place with infectious disease	125
30	4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	125
31	4.2(2)(d)	Failure to remove animal excreta	125
32	4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
33	5.6(1)	Driving a vehicle on other than the carriageway of a flora road	300
34	5.9	Planting in a thoroughfare without a permit	300
35	5.11	Failure to obtain a permit to clear a thoroughfare	500
36	5.13	Burning of a thoroughfare without a permit	500
37	5.17	Construction of firebreak on thoroughfare without a permit	500
38	5.19	Commercial harvesting of native flora on thoroughfare	500
39	5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
40	6.2(1)	Conducting of stall in public place without a permit	350
41	6.3(1)	Trading without a permit	350
42	6.6(1)(a)	Failure of stallholder or trader to display or carry permit	125
43	6.6(1)(b)	Stallholder or trader not displaying valid permit	125
44	6.6(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
45	6.8	Establishment or conduct of outdoor eating facility without a permit	350
46	6.10	Failure of permit holder of outdoor eating facility to comply with obligations	200
47	6.12(1)	Use of equipment or outdoor eating facility without purchase of food or drink from facility	125
48	6.12(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	125
49	7.6	Failure to comply with a condition of a permit	200
50	7.10	Failure to produce permit on request of authorised person	125
51	10.1	Failure to comply with notice given under local law	200
52	10.3	All other offences not specified	125

Schedule 2

ACCEPTABLE MATERIAL

[Clause 2.4]

1. General

All forms of loose aggregate materials such as pebbles, stones, crushed brick and gravel are acceptable. The materials shall be no larger than 50mm and no smaller than 20mm in diameter. The material must be contained within the verge area at all times.

2. Paving

The verge may be fully paved subject to a street tree being planted in the verge if one does not already exist. Where street trees are present there must be an area of open space a minimum of 1 metre in diameter from the edge of the tree to the edge of the paving.

Paving is to consist of porous pavers or similar material is to be installed in a manner that can easily be removed to access underground services.

In situations where it is found by the Shire that 100% paving of the verge is causing flooding the Shire may require the area of paving to be reduced.

Dated 24th November 2016.

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

B. CAPORN, Shire President.

G. FARDON, Chief Executive Officer.

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

CEMETERY LOCAL LAW 2016

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Quairading resolved on 24th November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law is cited as the *Shire of Quairading Cemetery 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 Repeal of local law

The *Shire of Quairading Cemeteries Local Law 2000*, as published in the *Government Gazette* on 23 May 2001 is repealed.

1.4 Purpose and effect

(1) The purpose of this local law is to provide for the orderly management of those Cemeteries in accordance with established plans and to create offences for inappropriate behaviour within cemetery grounds.

(2) The effect of this local law is that all persons in the administration of the cemeteries, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this Local Law.

1.5 Application

This local law applies to the cemeteries located in the district.

1.6 Interpretation

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

Act means the *Cemeteries Act 1986*;

animal means a live vertebrate, other than a human or a fish;

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

assistance animal has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

authorised officer means an employee of the Board appointed by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

Board means the Shire of Quairading;

burial has the same meaning given to it in the Act;

cemetery means any one or any part of the public cemeteries in the district of the Board, which the Governor, by order, has placed under the care control and management of the Board;

CEO means the Chief Executive Officer of the Board;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site;

Commissioner of Police means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity in the absence of the Commissioner of Police;

dead body has the same meaning given to it in the Act;

district means the district of the Shire of Quairading;

funeral has the meaning given to it in the *Cemeteries Act 1986*;

funeral director means a person holding a current funeral director's licence issued by the Board under section 17 of the Act;

funeral director's licence means a licence issued by the Board in accordance with clause 4.2, which entitles the holder to conduct funerals at the cemeteries;

grant means a grant issued by the Board, of an exclusive right of burial in a grave;

grave means a specified area of the cemetery for burial;

holder in relation to a grant includes—

(a) a person issued with a grant by the Board; or

(b) a person for the time being appearing to the Board to be the holder of a grant;

memorial has the meaning given to it in the *Cemeteries Act 1986*;

Minister means the Minister for Local Government;

monument includes a tombstone, vault, enclosure or other approved form of memorial;

monumental mason licence means a licence issued under clause 7.14(1);

monumental work includes the erection, alteration or removal of or other working upon a monument on a grave;

personal representative means—

(a) the administrator or executor of an estate of a deceased person;

(b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or

(c) a person having the lawful custody of a dead body;

Schedule means a Schedule to this local law;

set fee refers to fees and charges set by a resolution of the Board in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995* and published in the *Government Gazette*, under section 53 of the Act;

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

vehicle has the same meaning as is given to that word in the *Road Traffic Act 1974*, as amended from time to time, and includes trail bikes, beach buggies and other recreational vehicles licensed or unlicensed, but excludes a wheelchair being used by a physically impaired person.

(2) Unless otherwise defined herein, the terms and expressions used in this local law shall have the same meaning given to them in the Act.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

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

PART 3—APPLICATION FOR FUNERALS

3.1 Grant of right of burial

The Board may issue to a person a grant of right of burial, for the term specified in the Act from time to time, upon—

(a) written application by that person; and

(b) payment of the set fee.

3.2 Application for burial

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

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

3.3 Applications to be accompanied by certificates etc

An application referred to in clause 3.2 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of the dead body.

3.4 Certificate of identification

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

(a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or

(b) after reasonable effort, the funeral director is unable to arrange for a person to identify the dead body.

(2) Where—

(a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or

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

then the funeral director shall complete a certificate in the form determined by the Board from time to time.

3.5 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least 2 working days prior to the time proposed for burial on the application, otherwise an extra charge may be made.

3.6 Time for burials

(1) Subject to subclause (2), a person shall only carry out a burial between the hours of 6:00 a.m. and 6:00 p.m. Monday to Sunday.

(2) A person shall not carry out a burial—

(a) on Christmas Day; or

(b) on Good Friday.

PART 4—FUNERAL DIRECTORS

4.1 Directing a funeral

A person shall not direct a funeral within a cemetery or otherwise make use of the cemetery for any purpose connected with directing the funeral unless that person is—

(a) the funeral director;

(b) an employee of the funeral director; or

(c) a holder of a single funeral permit.

4.2 Funeral director's licence

(1) The Board may, upon the receipt of an application in writing in the form determined by the Board from time to time and upon payment of a set fee, issue to an applicant a funeral director's licence authorising a holder to direct funerals within a cemetery at such times and on such days and subject to such conditions as the Board shall specify and in compliance with the provisions of this local law.

(2) If the application referred to in subclause (1) is approved by the Board, the Board shall issue to the applicant a licence in the form determined by the Board from time to time.

(3) A person who is the holder of a current funeral director's licence may apply for a new licence for the following year by lodging with the Board an application form and upon payment of the set fee.

4.3 Funeral director's licence expiry

A funeral director's licence shall expire on 30 June in each year.

4.4 Cancellation of a funeral director's licence

(1) The Board may, by notice in writing to a holder of a funeral director's licence, cancel a licence if—

(a) the holder of the licence or any employee of the holder has committed a breach of this local law, the Act or any of the conditions upon which the licence was issued;

(b) in the opinion of the Board, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct a funeral within a cemetery, is inappropriate or unbecoming;

(c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;

(d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;

(e) the fee for the funeral director's licence is due and unpaid;

(f) the holder of the funeral director's licence is convicted of an offence against the Act or this local law; or

(g) the Board is no longer satisfied that the holder of the funeral director's licence—

(i) is of good repute and is fit to hold the funeral director's licence; or

(ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.

(2) Upon the cancellation of the licence pursuant to subclause (1), no part of any fee paid for the issue of that licence is refundable by the Board.

4.5 Application for a single funeral permit

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

4.6 Application may be refused

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

4.7 Review of decision

An aggrieved person whose licence has been cancelled or suspended under this part may appeal to the State Administrative Tribunal against a decision of the Board under this part and in the manner stated in section 19 of the Act.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for funerals and coffins

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

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

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

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

5.2 Funeral processions

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

5.3 Vehicle access and speed limitations

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

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

(3) Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed limit indicated by signs.

5.4 Offenders may be ordered to leave

A person committing an offence under subclause 5.3(3) may be ordered to leave the cemetery by the CEO or an authorised officer.

5.5 Conduct of funeral by Board

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

(a) require a person to lodge with the Board a written request for the Board to conduct a funeral;

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

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

(d) bury a dead body within a cemetery under the delegation of the Board and in conjunction with the Act;

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

(f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and

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

Division 2—Placement of Ashes

5.6 Disposal of ashes

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

(a) niche wall;

(b) scattering to the winds; or

(c) other memorials approved by the Board.

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

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

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

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

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

PART 6—BURIALS

6.1 Depth of graves

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

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

(b) in any circumstances less than 600mm.

(2) The permission of the Board or the authorised officer in subclause (1)(a) will only be granted where in the opinion of the Board or the authorised officer, exceptional circumstances require granting of that permission.

6.2 Re-opening a grave

If for the purpose of re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

6.3 Exhumation of a coffin

(1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of re-burial within 12 months after the date of its interment.

(2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

(3) Subject to subclause (1) and (2) and prior to any other exhumation**,** the holder of a grant must have applied in writing to the Board requesting the exhumation and the Board must have authorised the exhumation.

6.4 Opening of coffin

(1) A person shall not open a coffin in the cemetery unless—

(a) the coffin is opened for the purposes of the exhumation of a dead body; or

(b) that person has produced to the Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for monumental work

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

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations as determined by the Board.

7.3 Removal of rubbish

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

7.4 Operation of work

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

7.5 Removal of sand, soil or loam

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

7.6 Hours of work

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

7.7 Unfinished work

Should any work by masons or others be not completed before 6:00 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave without the prior approval of the Board.

7.9 Plants and trees

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

7.10 Supervision

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

7.11 Minor maintenance and repair works

Persons shall be permitted to carry out minor maintenance and repair works, not of a structural nature, such as cleaning, touch up painting, etc, on graves, without seeking the approval of the Board.

7.12 Placing of glass domes and vases

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

Division 2—Memorial Plaque Section

7.13 Requirements of a memorial plaque

All memorials, placed in a memorial plaque section of the cemetery set aside by the Board, shall be supplied by the Board.

Division 3—Licensing of Monumental Masons

7.14 Monumental mason's licence

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

(2) A licence issued under subclause (1) authorises the holder to carry out monumental work within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

7.15 Expiry date, non-transferability

A monumental mason's licence—

(a) shall, subject to clause 7.18, be valid from the date specified therein until 30 June the next following year; and

(b) is not transferable.

7.16 Carrying out monumental work

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

(a) is the holder of a current monumental mason's licence issued pursuant to clause 7.14 or does so as the employee of a person who holds such a licence;

(b) is authorised by the Board to do so; or

(c) has received from the Board permission to do so during a funeral service.

7.17 Responsibilities of the holder of a monumental mason's licence

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

7.18 Cancellation of a monumental mason's licence

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

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

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

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

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

PART 8—GENERAL

8.1 Assistance animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an assistance animal as defined in section 9(2) of the *Disability Discrimination Act 1992 (Cth)* or with the approval of the CEO or an authorised officer.

8.2 Damaging and removing of objects

Subject to clause 8.3(3), a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.3 Flowers

(1) All flowers must be placed in vases or receptacles.

(2) No person shall plant trees, shrubs or plants in the cemetery without the prior approval of the Board.

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

8.4 Littering and vandalism

A person shall not—

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

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

8.5 Advertising

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

8.6 Obeying signs and directions

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

8.7 Removal from the cemetery

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

8.8 Fireworks or firearms

(1) A person shall not bring any fireworks into or discharge any fireworks within the cemetery.

(2) A person shall not bring any firearms into or discharge any firearms within the cemetery.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding $500 and if the offence is a continuing one, to a further penalty not exceeding $20 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

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

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in column 4 of Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.

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

Schedule 1

PRESCRIBED OFFENCES

Modified Penalties

[Clause 9.2(1)&(2)]

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.3(3)	Exceeding speed limit	$50
2	5.3(3)	Not driving on constructed vehicle roadways	$50
3	7.3	Not removing rubbish and surplus materials	$50
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	$50
5	8.1	Unauthorised animal within cemetery	$50

Item No.	Clause	Nature of Offence	Modified Penalty
6	8.4	Littering and vandalism	$50
7	8.5	Unauthorised advertising or trading	$50
8	8.6	Disobeying sign or lawful direction	$50
9	9.1	All other offences not specified	$50

Schedule 2

Form 1

INFRINGEMENT NOTICE

[Clause. 9.2(3)]

TO: .....
(Name)

.....
(Address)

.....

It is alleged that at ..... : ..... hours on.....day

of .....20 ..... at .....

.....

you committed the offence indicated below by an (x) in breach of clause ..... of the *Shire of Quairading Cemetery Local Law 2016*.

.....
(Authorised Officer)

Offence

- ❑ Unauthorised animal within cemetery [Clause 8.1]
- ❑ Not removing rubbish and surplus materials [Clause 7.3]
- ❑ Exceeding speed limit [Clause 5.3(3)]
- ❑ Leaving uncompleted works in an untidy or unsafe condition [Clause 7.7]
- ❑ Littering and vandalism [Clause 8.4]
- ❑ Unauthorised advertising or trading [Clause 8.5]
- ❑ Not driving on constructed vehicle areas [Clause 5.3(3)]
- ❑ Disobeying sign or lawful direction [Clause 8.6]
- ❑ Other Offence .....

$ .....

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Quairading at 10 Jennaberring Road Quairading between the hours of 9:00 a.m. to 4.30 p.m. Monday to Friday.

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

The Chief Executive Officer
Shire of Quairading
PO Box 38
QUAIRADING WA 6383

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

Schedule 3

Form 2

WITHDRAWAL OF INFRINGEMENT NOTICE

[Clause 9.2(4)]

No. .....

..... Date ..... / ..... / .....

To [1] .....

Infringement Notice No ..... dated ..... / ..... / ..... for the alleged offence of [2]

.....

Penalty [3] $ ..... is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

[1] Insert name and address of alleged offender.

[2] Insert short particulars of offence alleged.

[3] Insert amount of penalty prescribed.

.....
(Authorised Officer)

Dated 24th November 2016.

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

B. CAPORN, Shire President.

G. A. FARDON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Quairading resolved on 24th November 2016 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Quairading Local Government Property Local Law 2016*.

1.2 Purpose and effect

(1) The purpose of this local law is to provide for the regulation, control and management of activities and facilities on local government property within the district.

(2) The effect of this local law is to establish the requirements with which any persons using or being on local government property within the district must comply.

1.3 Commencement

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

1.4 Repeal

The following local laws are repealed—

(a) *The Municipality of the Shire of Quairading By-laws Relating to Management Of The Quairading District Memorial Swimming Pool*, as published in the *Government Gazette* on 24 December 1996; and

(b) *Shire of Quairading Local Government Property Local Law*, as published in the *Government Gazette* on 23 May 2001.

1.5 Application

This local law applies throughout the district.

1.6 Definitions

In this local law unless the context otherwise requires—

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit under clause 3.2;

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 a—

(a) hall or room;

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

(c) jetty;

CEO means the Chief Executive Officer of the local government;

children's playground means an area set aside for use by children and noted by the presence of dedicated children's playground equipment and the presence of either sand or other form of soft fall surface;

Code means the Code of Practice for the Design, Operation, Management and Maintenance of Aquatic Facilities as published by the Executive Director Public Health, from time to time, pursuant to the provisions of section 344A(2) of the Health Act;

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

costs of the local government include its administrative costs;

Council means the council of the local government;

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

determination means a determination made under clause 2.1;

district means the district of the local government;

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

(a) formal organisation and preparation;

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

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

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

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

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

Health Act means the *Health Act 1911*;

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

local government means the Shire of Quairading*;*

local government property means anything except a thoroughfare—

(a) which belongs to the local government;

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

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

local public notice has the same meaning as in section 1.7 of the Act;

nuisance means—

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

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

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

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

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

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

prohibited drug is given its meaning under section 4 of the *Misuse of Drugs Act 1981;*

Schedule means a Schedule to this local law;

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

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

(a) offering them for sale or hire;

(b) inviting offers for their sale or hire;

(c) soliciting orders for them; or

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

vehicle includes—

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

(b) an animal being ridden or driven,

but excludes—

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

(d) a pram, a stroller, shopping trolley or a similar device.

1.7 Interpretation

In this local law, a reference to local government property includes a reference to any part of that local government property.

1.8 Overriding power to hire or agree

Despite anything to the contrary in this local law, the local government may—

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

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

1.9 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 (Cth)*.

PART 2—DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1—Determinations

2.1 Determinations as to use of local government property

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

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

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

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

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

(2) The determinations in Schedule 2—

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

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

(c) have effect on the commencement day.

2.2 Procedure for making a determination

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

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

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

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

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

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

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

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

(c) not continue with the proposed determination.

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

(a) consider those submissions; and

(b) decide—

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

(ii) not to continue with the proposed determination.

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

(a) of the effect of the amendments; and

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

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

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

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

2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

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

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

2.6 Amendment or revocation of a determination

(1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

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

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

2.7 Activities which may be pursued on specified local government property

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

(a) bring, ride or drive an animal;

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

(c) fly or use a motorised model aeroplane;

(d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;

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

(f) play or practice—

(i) golf or archery;

(ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or

(iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property; and

(g) 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, 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) In this clause—

premises means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

(2) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—

(a) smoking on premises;

(b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;

(c) taking, riding or driving a vehicle on the property or a particular class of vehicle;

(d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;

(e) 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) bring, ride or drive an animal.

(3) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular—

(a) the days and times during which the activity is prohibited;

(b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;

(c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;

(d) that an activity is prohibited in respect of a class of persons or all persons; and

(e) may distinguish between different classes of the activity.

Division 3—Transitional

2.9 Signs taken to be determinations

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

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

PART 3—PERMITS

Division 1—Preliminary

3.1 Application of Part

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

Division 2—Applying for a Permit

3.2 Application for permit

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

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

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

(b) be signed by the applicant;

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

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

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

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

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

3.3 Decision on application for permit

(1) The local government may—

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

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

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

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

(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect when written notice of the amendment is given to the permit holder.

Division 3—Conditions

3.4 Conditions which may be imposed on a permit

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

(a) the payment of a fee;

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

(c) the duration and commencement of the permit;

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

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

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

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

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

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

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

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

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

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

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

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

(f) the duration of the hire;

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

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

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

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

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

3.5 Imposing conditions under a policy

(1) In this clause—

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

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

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

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

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

3.6 Compliance with conditions

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

Division 4—General

3.7 Duration of permit

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

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

(b) it is cancelled under clause 3.11.

3.8 Renewal of permit

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

(2) The provisions of this Part apply to an application for the renewal of a permit as though it were an application for a permit.

3.9 Transfer of permit

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

(a) be made in writing;

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

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

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

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

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

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

3.10 Production of permit

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

3.11 Cancellation of permit

(1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a—

(a) condition of the permit; or

(b) determination or a provision of any written law which may relate to the activity regulated by the permit.

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

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

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

Division 5—When a permit is required

3.12 Activities needing a permit

(1) A person shall not without a permit—

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

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

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

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

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

(f) carry on any trading on local government property unless the trading is conducted—

(i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or

(ii) by a person who has a licence or permit to carry on trading on local government property under any written law;

(g) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose—

(i) drive or ride or take any vehicle on to local government property; or

(ii) park or stop any vehicle on local government property;

(h) conduct a function on local government property ;

(i) charge any person for entry to local government property;

(j) light a fire on local government property except in a facility provided for that purpose;

(k) parachute, hang glide, abseil or base jump from or on to local government property;

(l) erect a building or a refuelling site on local government property;

(m) make any excavation on or erect or remove any fence on local government property;

(n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;

(o) de-pasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;

(p) deposit or store any thing on local government property;

(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).

3.13 Permit required to camp outside a facility

(1) In this clause—

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

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

(3) Except in accordance with a determination or a permit, a person must not—

(a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or

(b) erect any tent, camp, hut or similar structure on local government property.

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

3.14 Permit required for possession and consumption of liquor

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

(a) that is permitted under the *Liquor Control Act 1988*; and

(b) a permit has been obtained for that purpose.

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

3.15 Responsibilities of permit holder

A holder of a permit shall 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) leave the local government property in a clean and tidy condition after its use;

(c) report any damage or defacement of the local government property to the local government; and

(d) shall take all reasonable steps to 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 Control Act 1988* for that purpose.

PART 4—BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

Division 1—Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

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

(a) interferes with, or is likely to interfere with, the enjoyment of a person who might use the property; or

(b) causes or is likely to cause a disturbance to nearby residents; or

(c) creates a nuisance.

4.2 Behaviour detrimental to property

(1) In this clause—

detrimental to the property includes—

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

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

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

4.3 Taking or injuring any fauna

(1) In this clause—

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

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

(a) any class of animal or individual member;

(b) the eggs or larvae; or

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

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

4.4 Intoxicated persons not to enter local government property

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

(2) A person found in contravention of subclause (1) may be removed from local government property by an authorised person or a member of the Police Service.

4.5 No prohibited drugs

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

4.6 Refusal of entry to local government property

(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) This refusal or suspension can be for any period of up to 12 months as decided by that authorised person.

(3) A decision made under this clause is a decision to which clause 7.1 applies.

Division 2—Signs

4.7 Signs

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

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

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

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

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

PART 5—MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1—Swimming pool areas

5.1 When entry must be refused

(1) A pool manager or an authorised person shall refuse admission to a pool area , to any person who—

(a) in her or his opinion is—

(i) under the minimum age of that specified in the Code and who is unaccompanied by a responsible person over the age of that specified in the Code; or

(ii) under the minimum age of that specified in the Code and who is accompanied by a responsible person over the age of that specified in the Code where the responsible person is incapable of, or not providing, adequate supervision of, or care, for that person; or

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

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

(b) is to be refused admission under and in accordance with a decision of the local government for breaching a clause of this local law.

(2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a pool manager or an authorised person must—

(a) direct the person to leave; and

(b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

A person must not consume any food or drink in an area where consumption is prohibited by a sign.

Division 2—Fenced or closed property

5.3 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 the local government.

Division 3—Toilet blocks and change rooms

5.4 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 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) Paragraphs (a) and (b) of subclause (1) do not apply to a child under the age of 7 years that is accompanied by a parent, guardian or care giver, of the gender specified on the particular entry of the toilet block or change room as the gender that may use that entry of the toilet block or change room.

5.5 Use of shower facilities

(1) A person may use a shower facility in change rooms on condition that—

(a) the facilities must be used by the person only for the purposes of cleansing and washing themselves;

(b) use of the facilities must be restricted to a maximum period of 15 minutes, or such lesser time as required by an attendant; and

(c) the facilities must not be used for the purposes of laundering or washing any clothing or other articles.

(2) If a person referred to in subclause (1) does not comply with the conditions of use of a shower, a pool manager or an authorised person must—

(a) direct the person to leave; and

(b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

Division 4—Aerodrome (Airports)

5.6 Access of animals restricted

(1) Subject to clause 1.9, a person shall not bring an animal on to an aerodrome unless—

(a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;

(b) the animal is being air freighted from the aerodrome;

(b) the animal has been air freighted to the aerodrome; or

(c) the person is authorised to do so by the local government.

(2) A person in charge of an animal shall keep the animal under control and shall not allow it to wander at large on the aerodrome.

(3) If an animal is at any time on an aerodrome in contravention of subclause (2), in addition to the person specified in that subclause, the owner of the animal at that time commits an offence against subclause (2).

PART 6—FEES FOR ENTRY ON TO LOCAL GOVERNMENT PROPERTY

6.1 No unauthorised entry to function

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

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

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

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

PART 7—OBJECTIONS AND REVIEW

7.1 Objections and review

Division 1 of Part 9 of the Act and regulation 33 of the General Regulations applies to a decision under this local law—

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

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

PART 8—MISCELLANEOUS

8.1 Authorised person to be obeyed

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

8.2 Persons may be directed to leave local government property

An authorised person may direct a person to leave, or temporarily suspend a person from, local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

8.3 Disposal of lost property

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

8.4 Liability for damage to local government property

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

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

(b) replacing that property.

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

PART 9—ENFORCEMENT

Division 1—Notices given under this local law

9.1 Offence to fail to comply with notice

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

9.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

Division 2—Offences and penalties

Subdivision 1—General

9.3 Offences and general penalty

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

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

Subdivision 2—Infringement notices and modified penalties

9.4 Prescribed offences

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

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

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

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

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

9.5 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 General Regulations;

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

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

Division 3—Evidence in legal proceedings

9.6 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 is given under subclause (1) it is presumed, unless the contrary is proven, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

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

Schedule 1

PRESCRIBED OFFENCES

[Clause 9.4]

Item	Clause	Description	Modified Penalty $
1	2.4	Failure to comply with determination	125
2	3.6	Failure to comply with conditions of permit	125
3	3.12(1)	Failure to obtain a permit	125

Item	Clause	Description	Modified Penalty $
4	3.13(3)	Failure to obtain permit to camp outside a facility	125
5	3.14(1)	Failure to obtain permit for liquor	125
6	3.15	Failure of permit holder to comply with responsibilities	125
7	4.2(2)	Behaviour detrimental to property	350
8	4.4	Entering or remaining on local government property while under influence of liquor or prohibited drug	125
9	4.7(2)	Failure to comply with sign on local government property	125
10	5.3	Unauthorised entry to fenced or closed local government property	125
11	5.4	Gender not specified using entry of toilet block or change room	125
12	6.1(1)	Unauthorised entry to function on local government property	125
13	9.1	Failure to comply with notice	250
14	9.3(1)	All other offences not specified	125

———

Schedule 2

DETERMINATIONS

[Clause 2.1(2)]

PART 1—PRELIMINARY

1.1 Definitions

In these determinations unless the context otherwise requires—

local law means the *Shire of Quairading Local Government Property Local Law 2016* made by the local government.

1.2 Interpretation

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

PART 2—APPLICATION

2.1 Animals on local government property

(1) Unless authorised by a written law, or by a permit, a person must not—

(a) tether any animal to a tree, shrub, tree guard, wall or fence on local government property, unless it is an approved tethering point so indicated by a sign; or

(b) permit any animal to enter into any local government property.

(2) Subclause (1) does not apply to assistance animals as defined in section 9(2) of the *Disability Discrimination Act 1992* (Cth).

2.2 Vehicles on local government property

(1) Unless authorised by a permit, a person must not take or cause a vehicle to be taken onto or drive 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; or

(d) 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 at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger, inconvenience or annoyance to any person.

(3) Other than in accordance with paragraphs (b), (c) or (d) of subclause (1), 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.

2.3 Activities prohibited on local government property

(1) 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 permit.

(2) A person must not, on any local government property, use or ride a bicycle or wheeled recreational device, or skateboard—

(a) inside or on the curtilage to, a building; or

(b) in a pool area.

2.3 Deposit of refuse, rubbish or liquid waste

A person must not, on local government property, deposit or discard refuse, rubbish or liquid waste, except in a place or receptacle set aside by the local government for that purpose and subject to any conditions that may be specified on the receptacle or a sign in relation to the type of waste that may be deposited or other conditions.

Dated 24th November 2016.

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

B. CAPORN, Shire President.

G. A. FARDON, Chief Executive Officer.

BIOSECURITY AND AGRICULTURE MANAGEMENT ACT 2007
LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

PEST PLANTS LOCAL LAW 2016

Under the powers conferred by the *Biosecurity and Agriculture Management Act 2007*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Quairading resolved on 24th November 2016, to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Quairading Pest Plants 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 Definitions

In this local law, unless the contrary intention appears—

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

district means the district of the local government;

local government means the Shire of Quairading;

pest plant means a plant described as a pest plant in Schedule 1 of this local law; and

Schedule means a schedule in this local law.

1.4 Application

This local law applies throughout the district.

1.5 Repeal

The *Municipality of the Shire of Quairading By-Laws Relating to Pest Plants*, as published in the *Government Gazette* on 18 January 1980, is repealed.

PART 2—DESCRIPTION OF PEST PLANTS

2.1 Description of Pest Plants

Every plant described in Schedule 1 in this local law is a pest plant.

PART 3—NOTICES

3.1 Serving of Notice

(1) The local government may serve on the owner or occupier of private land within the district, a duly completed notice in the form of Schedule 2 in this local law requiring the owner or occupier to destroy, eradicate or otherwise control any pest plant on that land.

(2) A person served with a notice under subclause (1) shall comply with that notice within the time and in the manner specified therein.

3.2 Failure to comply with the notice

Where a person fails to comply with a notice issued under clause 3.1, the local government may—

(a) without payment of any compensation in respect thereof, destroy, eradicate or control, as the case may be, any pest plant, the destruction, eradication or control of which was required by the notice; and

(b) recover in a court of competent jurisdiction from the person to whom the notice is directed, the amount of the expense of such destruction, eradication or control.

Schedule 1

PEST PLANTS

[Clause 2.1]

Common Name	Scientific Name
Afghan Thistle	*Solanum hystrix R. Br.*
	Solanum hoplopetalum Bitter et Summ.

Schedule 2

PEST PLANT NOTICE

[Clause 3.1]

Shire of Quairading Pest Plants Local Laws 2016

No. .....

To .....
(Full name)

of .....
(Address)

You are given notice under the above local law that you are required to—

.....
(here specify whether required to destroy, eradicate or otherwise control)

the pest plant— ....
(Common Name) (Scientific Name)

on .....
(here specify the land)

of which you are the .....
(owner or occupier)

This notice may be complied with by .....
(here specify manner of achieving destruction, eradication or control)

Such measures shall be commenced not later than .....
(Date)

and shall be completed by .....
(Date)

Upon failure to comply with this notice within the times specified, the local government may destroy, eradicate or control, as the case may be, any specified pest plant at your expense, and if necessary recover the same in a court of competent jurisdiction.

Date of service of notice: ....
Signature of authorised person

Dated: 24th November 2016.

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

B. CAPORN, President.

G. FARDON, Chief Executive Officer.

LOCAL GOVERNMENT ACT 1995

SHIRE OF QUAIRADING

REPEAL LOCAL LAW 2016

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Quairading resolved on 30th November 2016 to make the following local law.

1 Citation

This local law is cited as the *Shire of Quairading Repeal Local Law 2016*.

2 Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

3 Repeal

The following local laws are hereby repealed—

(a) *By-laws relating to Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials*, as published in the *Government Gazette* on 3 October 1967; and

(b) *Draft Model By-laws relating to Removal and Disposal of Obstructing Animals or Vehicles No. 7*, as published in the *Government Gazette* on 26 February 1968.

Dated: 30th November 2016.

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

B. CAPORN, President.

G. FARDON, Chief Executive Officer.